



Key Issue: Access to Justice

A Report on Accessing Legal Aid and Support Services for LGBTIQ+ Refugees People Seeking Asylum in the United Kingdom



EXECUTIVE SUMMARY

August 2024

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This report presents an in-depth analysis of the multifaceted challenges to justice experienced by LGBTIQ+ persons seeking sanctuary within the United Kingdom asylum system. This report moves beyond a mere examination of legal frameworks, by embracing a holistic concept of access to justice. It scrutinises the systemic barriers and policies that impede fair and equitable access to justice and support for LGBTIQ+ people seeking asylum in the United Kingdom.

INTRODUCTION

Access to justice for people seeking asylum in the United Kingdom transcends the grant of refugee status by the Home Office or the immigration tribunals. It embodies a broader and more profound concept — one that encompasses the right to fair treatment, equality, and dignity throughout the asylum process. For many, justice means much more than the legal recognition by the sanctuary state; it signifies the opportunity to live without fear, to be treated with respect, and to receive the support necessary to integrate and rebuild their lives.

In this report, the African Rainbow Family defines Access to Justice as the right of people seeking asylum to fair and equal access to legal advice, medical care, housing, education and other holistic support service which everyone in society is entitled to, free from bias and additional barriers related to immigration status, method of entry, race, sexuality, gender identity, religion, or any other identity factors. This comprehensive understanding of justice is vital to ensuring that LGBTIQ+ individuals seeking asylum can navigate the complexities of the UK asylum system without facing discrimination or prejudice.

To gain deeper insights into what Access to Justice truly means for those we support, African Rainbow Family conducted a survey, asking our service users a simple yet profound question: “What does justice mean to you?” The responses we received were as varied as the individuals themselves, each shedding light on different dimensions of justice within the asylum context.

Kassa, a service user from Birmingham, described justice as “independence,” and access to justice as “a route to freedom which everybody should be able to have.” For Bob, a dedicated volunteer in London, justice represents “fair treatment and accountability in society,” with access to justice meaning a system where people seeking asylum are not at risk of detention or deportation to unsafe countries.

Faith, a transgender woman from Nigeria seeking asylum in the United Kingdom, defines justice as “fair hearing and equal treatment for each individual irrespective of their background or their nature.” Another service user from our London centre emphasised that “having access to justice is having access to what is needed and getting the respect you deserve during the asylum process.” Xolisani, also from our London centre, pointed out that injustice within the asylum system often stems from “the lack of care from the Home Office, and solicitors focusing on money over securing your safety and sanctuary in the United Kingdom.”

These voices underscore the multifaceted nature of justice for LGBTIQ+ people seeking asylum, highlighting the importance of a system that not only grants refugee status but also upholds the dignity, rights, and well-being of every individual. This report seeks to explore these dimensions of justice, analysing the barriers and successes in accessing legal advice, housing, destitution support, and other critical services, and offering recommendations to create a more equitable and just asylum system in the UK.

KEY CHALLENGES FACED IN ACCESSING JUSTICE

● LACK OF LEGAL AID

Legal aid, which is supposed to provide financial support for those unable to afford legal fees, is often unavailable or insufficient. The unavailability of legal aid leaves many LGBTIQ+ people seeking asylum without access to necessary legal resources, making it difficult for them to pursue their claims adequately.

● LACK OF PRO-BONO SERVICES

Many LGBTIQ+ people seeking asylum who are not eligible for legal aid lack the financial resources to pay for their own legal representation, making them heavily reliant on pro-bono services. The scarcity of pro-bono services severely limits their ability to obtain legal advice and representation, compromising their ability to navigate the complex asylum process effectively.

● FEAR OF HOMOPHOBIA/TRANSPHOBIA

The fear of facing homophobia or transphobia from legal professionals deters many LGBTIQ+ individuals from seeking legal assistance. This fear can lead to delays in accessing legal support, reluctance to disclose vital aspects of their identity, and ultimately a weaker asylum claim.

● LACK OF CAPACITY BY SOLICITOR(S)

Many solicitors lack the capacity to take on new cases, especially those involving complex LGBTIQ+ asylum claims. This shortage of available legal professionals exacerbates delays and increases the likelihood of people seeking asylum having to navigate the legal system without adequate representation.

● OTHER BARRIERS

Additional barriers identified by respondents include significant language challenges. Many reported difficulties in communicating with solicitors due to language differences, as well as struggles in understanding complex legal proceedings. Other barriers include a lack of trust in the legal system and financial constraints, as most people seeking asylum are not permitted to work until 12 months after their asylum claim, making it difficult to afford legal representation. In some cases, private solicitors refuse to take on clients who receive Section 95 support. Additionally, geographical barriers arise from the Home Office's "no choice" housing policy, which places people seeking asylum in NASS accommodations that are often far from accessible legal services. These factors further exacerbate the challenges faced by LGBTIQ+ people seeking asylum, severely limiting their ability to secure and maintain legal representation.

● STAGE OF ASYLUM APPLICATION

Accessing justice during the asylum process presents significant challenges at various stages. After a substantive interview has been conducted, some solicitors may be reluctant to take on cases due to the perceived reduced likelihood of success, leaving people seeking asylum without critical legal representation at a pivotal point in their process.

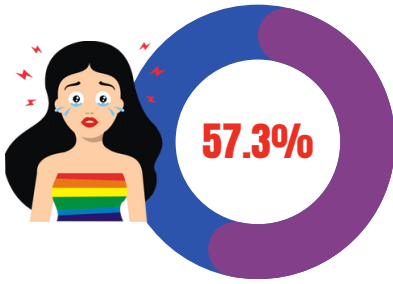
Conversely, before the substantive interview, solicitors may hesitate to commit resources without fully understanding the case, leading to delays in securing legal representation and inadequate preparation for this crucial interview. For individuals who have not yet claimed asylum, finding solicitors willing to offer free preliminary advice is often difficult, leaving them without essential legal guidance, which may undermine their claims from the outset.

● APPEALS/FRESH CLAIMS

Appeals are typically more legally intricate and require a higher level of expertise, which not all solicitors are equipped to provide. The difficulty in finding a solicitor willing or able to handle appeal cases can severely limit a person's seeking asylum chances of a successful outcome.

Fresh claims on the other hand often require significant new evidence, making them more complex and time-consuming for solicitors to handle. Solicitors may be reluctant to take on fresh claims due to their complexity, leaving people seeking asylum without critical legal support during this crucial stage.

INFOGRAPHICS OF SURVEY

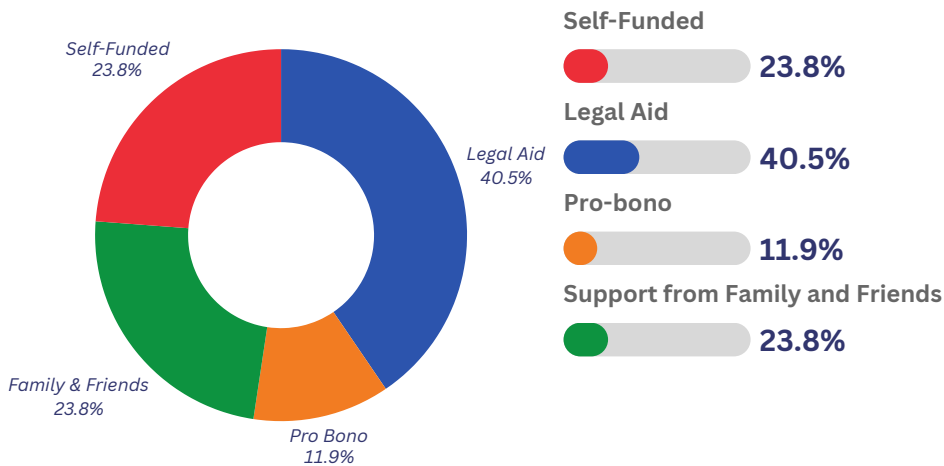


57.3% of LGBTIQ+ Persons Seeking Asylum do not have a solicitor or a caseworker

Only 38% have met or received correspondence from their solicitor or caseworker

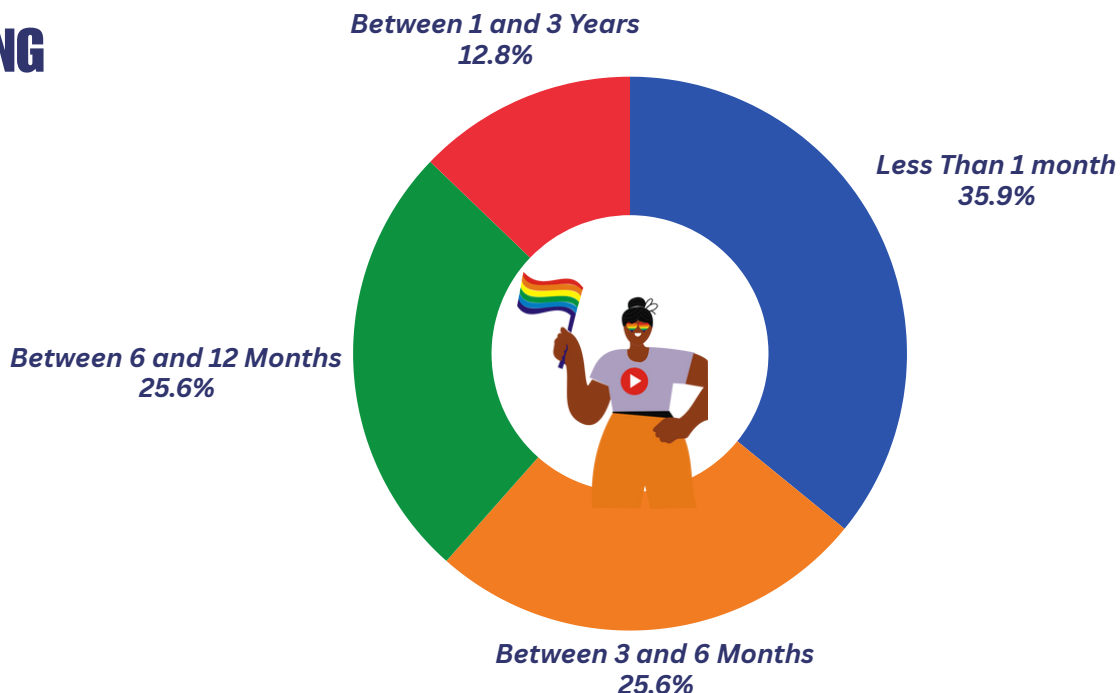


FUNDING



47.6% either funded themselves or received support from family and friends

TIMING



From our survey, it shows that 35.9% of LGBTIQ+ persons found a solicitor in less than 1 month. An equal 25.6% found one in 3-6 months and 6-12 months respectively, while 11.8% took 1-3 years to find a solicitor. And less than 1% found a solicitor in more than 3 years.

RECOMMENDATIONS

● EXPAND LEGAL AID PROGRAMMES

Encourage law firms to offer more pro bono services, particularly for LGBTIQ+ individuals, through partnerships with NGOs and community organisations. Increased funding for legal aid services is essential to ensure they can handle the complexities of LGBTIQ+ asylum cases.

● ENHANCE AWARENESS OF LEGAL RIGHTS

Develop and distribute clear, multilingual materials outlining the legal rights of people seeking asylum, with a focus on LGBTIQ+ individuals. Launch a national campaign in collaboration with community organisations to promote self-advocacy and to educate LGBTIQ+ people seeking asylum about their rights and the legal process.

● TRAINING FOR LEGAL/ SUPPORT STAFF

Invest in specialised training for legal aid providers and support staff to address the unique needs of LGBTIQ+ people seeking asylum, including trauma-informed caseworking. Ensure this training is part of ongoing professional development.

● STREAMLINED ASYLUM PROCESSES

Simplify and expedite asylum procedures for LGBTIQ+ individuals, particularly those facing imminent threats or significant trauma, to reduce the time spent in uncertainty.

● IMPROVE INTER-AGENCY COORDINATION

Enhance communication between government bodies, Home office contractors like MigrantHelp, Serco and For Housing, legal aid providers, and social services to minimise delays and prevent conflicting information, ensuring a smoother asylum process.

● PROMOTE COLLABORATIVE INITIATIVES

Foster partnerships between NGOs, legal aid organisations, and community groups to share resources and expertise, leading to more comprehensive support for LGBTIQ+ people seeking asylum. Encourage joint grant applications to fund collaborative projects.

● ADDRESS SYSTEMIC BARRIERS

Collaborative initiatives should aim to tackle systemic barriers like homophobia and transphobia within the asylum process, ensuring consistent and effective support for LGBTIQ+ individuals at every stage.

● INCREASE FUNDING FOR SUPPORT SERVICES

Enhance communication between government bodies, Home office contractors like MigrantHelp, Serco and For Housing, legal aid providers, charity organisations and social services to minimise delays and prevent conflicting information, ensuring a smoother asylum process.

● CREATE AN EFFECTIVE REFERRAL SYSTEM

Establishing a robust referral system that connects LGBTIQ+ people seeking asylum with appropriate services swiftly and efficiently. This system should include clear protocols for referring individuals to legal aid, mental health support, housing, and other critical services. By ensuring seamless referrals, the Government can help reduce delays and ensure that people seeking asylum receive timely and comprehensive support throughout their process.