Esmée Fairbairn Foundation, Joseph Rowntree Charitable Trust, Paul Hamlyn Foundation, Trust for London and Unbound Philanthropy in partnership with MigrationWork CIC

Strategic Legal Fund for Vulnerable Young Migrants

Achievements and outcomes in Phase Three

Evaluation Report

By Ceri Hutton

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Contents

Abbreviations used in this report

ARE	Appeal Rights Exhausted
ASAP	Asylum Support Appeals Project
CFA	Conditional Fee Agreement
DLR	Discretionary Leave to Remain is a form of immigration status granted to a person who the Home Office has decided does not qualify for refugee status or humanitarian protection but where there are other strong reasons why the person needs to stay in the UK temporarily.
EP	Expert Panel, the advisory panel of experts for the Strategic Legal Fund.
FNO	Foreign National Offender
FOI	Freedom of Information
GMIAU	Greater Manchester Immigration and Asylum Unit
HCLC	Hackney Community Law Centre
HMRC	Her Majesty's Revenue and Customs
HO	Home Office
ILC	Islington Law Centre
JCWI	Joint Council for the Welfare of Immigrants
JFK Law	Just For Kids Law
JR	Judicial Review
LAA	Legal Aid Agency
LASPO	Legal Aid, Sentencing and Punishment of Offenders Act 2012
LCF	Law Centres Federation
MLP (ILC)	Migrants' Law Project (a legal and public education project hosted by Islington Law Centre)
NGO	Non-governmental organisation. In the UK, this usually refers to charities and other non-profit making organisations such as social enterprises. It is generally used in this report to denote a charity or not-for-profit organisation.
NRM	National Referral Mechanism (a process for identifying and supporting victims of trafficking)
NRPF	No Recourse to Public Funds
OCC	Office of the Children's Commissioner, an agency which supports the work of the Children's Commissioner whose role was created by the Children Act 2004
PCO	Protective Costs Order
PIL	Public Interest Lawyers
PLP	Public Law Project
PRCBC	Project for the Registration of Children as British Citizens (currently hosted by Asylum Aid)
SEN	Special Educational Needs
SLF	Strategic Legal Fund (for vulnerable young migrants)
SSHD	Secretary of State for the Home Department
TPI	Third Party Intervention – where a court allows applications by public bodies, private individuals or companies, or NGOs to make submissions which raise some issue of public importance.
UASC	Unaccompanied Asylum Seeking Children i.e. children under the age of 18 who arrive without any known guardian
UKBA	United Kingdom Border Agency
VOT	Victim of Trafficking

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Introduction

The Strategic Legal Fund for Vulnerable Young Migrants[1] (SLF) is a fund to *"support legal work that goes beyond securing justice for an individual and makes a significant contribution to law, practice and procedures to uphold and promote the rights of vulnerable migrant children and young people more generally."*[2]

Trust for London took over the hosting of the SLF at the end of 2012 after its pilot phase[3]. Since then:

- **Phase Two** of the SLF was funded by Trust for London and Esmée Fairbairn Foundation with a legacy grant from the Diana, Princess of Wales Memorial Fund and ran from December 2012 to December 2014

- **Phase Three** of the SLF was funded by Trust for London in partnership with Esmée Fairbairn Foundation, Joseph Rowntree Charitable Trust, Paul Hamlyn Foundation and Unbound Philanthropy and has run from January 2015 until December 2016, or when the current funding pot is spent out.

Both phases were taken forward in partnership with MigrationWork, a community interest company (CIC) with a specialism in migration which provided advice and administration on the grant-making activities of the SLF.

SLF support has involved providing small grants (up to £30K) to both NGOs[4] and private solicitors practices. These grants have funded both pre-litigation research to prime and inform legal cases as well as Third Party Interventions in court which can develop the law in a way which treats young migrants fairly. The SLF has also sought to support and inform grantees to a limited extent through its website, bulletins and networking events[5] as well as, since 2014, its archive[6].

There have been two evaluations of the SLF thus far. An interim evaluation in 2012 prior to Trust for London taking over the SLF concluded that it was achieving results though it was too early to identify much in the way of outcomes. A more extensive evaluation of the SLF was commissioned in July 2013[7] which looked both at the outcomes and achievements of the SLF from the inception of the pilot phase in 2011 to the end of 2013. It also looked at its management and operations and made recommendations for changes to the SLF which were absorbed into the next phase of its work in 2014.

This third evaluation is more limited in scope and focuses solely on outcomes. Issues relating to management, administration and the future of the SLF were separately addressed in two papers for to funders to help them consider the next steps for the fund. This report therefore considers:

i. The benefits and outcomes of the work which the SLF has funded to date in Phase Three.
ii. How far these individual benefits are contributing to any wider impact in the field.
iii. Case studies of some of the individual grants with, as far as possible, indications of how these have had impact 'down the line'.

The purpose of the evaluation is to enable funders and other interested stakeholders to gain a fuller picture of the range of benefits and outcomes possible from an initiative of this nature. A full methodology, including a list of those interviewed, can be found at Appendix A.

This report is divided into four further sections.

[1] This fund is referred to as the SLF throughout this report. Its original name was the 'Strategic Legal Fund for Refugee Children and Young People' which, following a decision to expand its focus, was changed to the 'Strategic Legal Fund for Vulnerable Young Migrants'. SLF is used as a shorthand for both of these.
[2] SLF website: http://www.strategiclegalfund.org.uk
[3] The pilot phase was taken forward by Diana Princess of Wales Memorial Fund which closed down at the end of 2012.
[4] Non-governmental organisations. Throughout this report, NGO is used to denote a not-for-profit organisation (normally a charity and/or voluntary organisation).
[5] MigrationWork CIC has led on this element of the work
[6] Coram Children's Legal Centre has a received a grant to host and administer the archive on behalf of the SLF.
[7] By On the Tin Ltd, published 2014.

Section One provides a brief explanation of which projects were selected for consideration during this evaluation as well as a brief overview of all projects funded during Phase Three.

Section Two describes the type of outcomes identified during the fieldwork and provides examples from the document review and interviews to illustrate these.

Section Three is the main section of the report, and details eight case studies, providing information about their background, the work undertaken which was funded by the SLF and the outcomes and impact as far as they are known. The aim of describing these is to help funders in particular get a sense of how work has come about, where it 'fits' in the discussions about migration, and see how work is progressed and 'ramped up' by SLF funding.

Finally **Section Four** gives an overview of some of the key findings and conclusions from the evaluation.

Note on confidentiality

As is normal in evaluative fieldwork, all interviewees were told that their comments would be reported back anonymously. However, there are a number of benefits or outcomes where the facts of the case make it clear which project is being considered. This is unavoidable, and interviewees were happy to have identifying details, including the name of their organisations if relevant, left in if that seemed appropriate.

Section 1: What activity has been funded?

Overview of projects funded

The SLF has awarded 71 grants from the start of its pilot phase in November 2011 until May 2016. Of these, 13 were extensions or continuations to existing grants.

Eighteen of these 71 grants were awarded during Phase 3 (between January 2015 to May 2016) which includes five extension grants for projects. One of these extensions was for a project funded prior to the period, and four were extensions to work funded during the period. In addition, one project had a decision pending as at May 2016.

Most of these grants were awarded for pre-litigation research (14), with four grants helping to fund Third Party Interventions (TPIs).

Table 1.1: Total value of grants in each category awarded between Jan 2015 – May 2016, and the average value of each grant.

Project type	Number of grants	Total value	Average value
Pre litigation research	14	£165,843	£11,846
Third party intervention	4	£42,332	£10,583
Total	**18**	**£208,175**	**£11,565**

Grants were awarded to fourteen organisations or partnerships. Twelve of these were grants to voluntary organisations (including law centres) and two were grants to partnerships of voluntary organisations and private firms of solicitors.

Table 1.2: Grants received by sectoral type January 2015 – May 2016

Grant recipients by sector	Number of grants
Voluntary organisation	12
Voluntary/private partnership	2
Total	14

This represents a slight decrease in the percentage of private firms funded through the work[8] identified during the 2013/14 evaluation which was 30% of the 32 grants considered during that evaluation.

Projects considered in this evaluation

The focus of the evaluation was on the outcomes and impact of Phase 3 projects. That said it was recognised that:

- Many of these projects had only recently been funded and therefore their effects would be as yet limited or undiscernible.
- The term 'Phase 3' is used internally because of the way funders have designated funding but is largely meaningless externally as there is continuity from an applicant point of view.
- The nature of SLF funding is that it mainly 'pump primes' interventions which then go on to have effects, often unforeseen, 'down the line'. To this extent most projects funded by the SLF

[8] Either in partnership with an NGO or as a sole grant recipient

prior to Phase 3 could have had some impact during the period under scrutiny (January 2015 – May 2016).

Given the limited scope of this evaluation it was necessary to draw parameters and so a case study approach was adopted. Case study review involved interviewing grantees and other key stakeholders and reviewing all documentation provided. Eight projects in total were selected for scrutiny which were either funded during Phase 3 (and viewed as having been already significant in terms of their outcome, or promised outcome), or which were funded prior to Phase 3, but which had in some way come to fruition during the period. Case studies are listed and described in Section 3.

The projects therefore included in this evaluative review are:

- Three Phase 3 projects (i.e. funded during the period) which were selected as 'case studies'.
- Eleven Phase 3 projects (i.e. funded during the period) which were reviewed by examining documentation provided by the SLF supplemented by any additional views and information given in interviews with internal stakeholders and grantees.
- Five projects funded prior to Phase 3 which were selected as case studies.

In addition, some projects were mentioned by internal stakeholders and grantees during interview as 'notable' projects which were funded prior to Phase 3 but were not selected as case studies. Where relevant these are mentioned if they added to the narrative.

Types of activities funded

The SLF provides funding for:

- Pre-litigation research which helps individuals and organisations develop their understanding of how practices, policies and laws are contributing to disadvantage and discrimination faced by young migrants so that this may, where possible and desirable, be challenged through strategic legal work in the future
- Third Party Interventions (TPIs) which enable key evidence regarding the impact on young migrants to be presented to the courts by an interested third party in cases already underway.

Both activities can involve a range of different types of activities. The types of work undertaken during Phase 3 funded by the SLF included:

- **Collecting case studies:** Just for Kids Law collected case studies showing how current finance regulations were preventing young migrants from going to university: Migrants' Law Project showed how 'Rule 35'[9] cases were being treated in detention to show why the Detained Fast Track needed to be challenged; Asylum Support Appeals Project (ASAP) collected case studies to show the inconsistency of how failed asylum seekers with outstanding human rights claims (Article 8) were being treated in the tribunal.

- **Conducting research:** Just for Kids Law researched government policy on the benefits of higher education to show the social and economic benefits of supporting all young people, including migrants, to pursue academic studies; the Project for the Registration of Children as British Citizens (PRCBC) is gathering evidence both from individuals and experts on the requirement for all children aged 10+ who apply to be British citizens[10] to meet a 'good character' test; FLEX (in partnership with Leigh Day) have been undertaking wide-ranging research to understand why and how the provisions of the Modern Slavery Act appear to result in a protection gap for victims of trafficking.

[9] Rule 35 of the Detention Services Order 17/2012 makes provision to ensure that particularly vulnerable detainees where ongoing detention would, in a medical practitioner's opinion, be injurious to their health, are brought to the attention of those who have the power to discharge them through Rule 35 reports.
[10] Except those registered as stateless

- **Gaining Counsel's (i.e. a barrister's) opinion:** Public Law Project (PLP) drafted instructions to counsel following their initial pre-litigation research into no notice removals; Asylum Aid/PRCBC have sought counsel's opinion on the Secretary of State's duties and powers relating to children, the way various legislative provisions interact and the legality of policy guidance and its application; ASAP instructed counsel regarding support to failed asylum seekers.

- **Freedom of Information requests:** Detention Action submitted 17 FOI requests; PRCBC has been using requests to establish detail of current practice, particularly where registration of children has been refused.

- **Gathering witness statements:** Bindmans gathered 596 pages of material showing how the residence test would disenfranchise migrant children and others – an exceptional amount of witness statement evidence to put before a Court.

- **Information-sharing and networking:** PLP held a range of meetings with stakeholders interested in the effects of the no notice removals policy; Detention Action set up a specific online group to enable the sharing of information about cases and practice to inform their work on the Detained Fast Track.

- **Practice monitoring:** Detention Action put out a call for information from clients and were contacted by 157 in the SLF grant period; Coram Children's Legal Centre put out a call to organisations working with clients with NRPF to find out what level of support they were being given which has unearthed highly variable amounts.

The SLF's activities also include funding for information exchange, publicity and learning taken forward by MigrationWork CIC as well as an archive which Coram Children's Legal Centre hosts and administers.

Section 2: What has the funding achieved?

This section summarises outcomes and changes which the SLF has contributed towards in some way, grouped by type.

Legal change and challenge

The legal landscape has been affected by SLF-funded work by taking challenges, influencing court judgments, preparing the ground for others and by unearthing new evidence and arguments which will stand future litigation in good stead.

Influencing court judgments

A number of legal challenges have been informed and influenced by pre-litigation research or Third Party Interventions where it is clear the SLF-funded work has contributed to the eventual positive outcomes. Some key examples of this are:

- **Detention Fast Track.** The ongoing litigation taken by Detention Action, represented by the Migrants' Law Project, resulted in positive judgments at the Court of Appeal and then, subsequently, at the Supreme Court. The ruling at the Supreme Court was to find the Detained Fast Track rules to be *ultra vires* (meaning the rules went beyond the authority of those responsible for setting them)*:* a judgment which has meant that, since 2nd July this year, the detained fast track has been entirely suspended.

- **Residence Test.** Bindmans pursued its challenge to the residence test, building on initial pre-litigation research which provided a solid base for this eventually successful challenge. *"The Supreme Court has quashed the residence test ……. in its current form, [the test] has been found to be unlawful."*

- **Fees for migrant students with Discretionary Leave to Remain (DLR).** Just for Kids Law was funded to undertake a Third Party Intervention, and their evidence was cited by Lady Hale who gave the leading judgment in favour of the students.

- **Support to destitute migrants.** ASAP took a case to help clarify the support for those with outstanding Article 8 claims, but the case was dropped by the Home Office[11] just before it was heard. However the Judge gave a position in her consent order which reflected ASAP's argument, namely: *" 'Convention Rights' include the right to respect for family and private life under Article 8 of the ECHR and ….. provision of S4 support may in any particular case be necessary to avoid a breach of a person's article 8 ECHR rights."* This consent order was then echoed in a future judgment by the Principal Judge at the Asylum Support Tribunal, which clarified the provision of Section 4 support to those with outstanding Article 8 claims.

Feeding legal challenges which others are taking forward

In some cases the research done and evidence collected is helping others in the field working on similar cases and issues.

- Luqmani Thompson's scoping of the issue of access to a fair trial on Operation Nexus has provided a detailed analysis of the policy. They note: *"The research …. forms a basis for others to move forward, either with research of their own or to take points in appropriate cases. In terms of litigation of our own cases, the precarious funding situation for deportation cases has meant that the selection of cases available for us to run the points that we wanted to has been limited."*

[11] Technically by the Secretary of State for the Home Department (SSHD)

- Child Poverty Action Group (CPAG) did research into the 'genuine prospects of work test' (GPOW). This arose from a concern that young EEA jobseekers were at risk of homelessness as a result of the way the test was being applied. The information and arguments collected by themselves and others were made available through a briefing[12] and the research has proved useful in taking forward challenges. CPAG notes that: *"We have represented seven appeals in the First-tier Tribunal involving GPOW arguments, and we have drafted two applications for permission to appeal for advisers to use."*

- Hackney Community Law Centre's (HCLC) research on the quality of accommodation provided to destitute migrant families is now being quoted in other challenges to S17 provision[13]. The extract below describes how Birmingham Community Law Centre has used Hackney's evidence and arguments.

Hackney Community Law Centre report research into S17 accommodation[14]

At the December 2015 court hearing to seek permission to proceed with the judicial review, Birmingham Community Law Centre (BCLC) argued that Sandwell MBC's decision to place children and their families in hotels for years on end was unlawful. BCLC specifically challenged the suitability of Sandwell MBC's provision of B&B accommodation, the level of financial support awarded to the families, and the absence of a published policy on how the local authority deals with assessing children whose families have no recourse to public funds. His Honour Judge Barker QC granted BCLC permission to proceed with the judicial review on all three grounds.

Commenting on how HCLC's 'A Place to Call Home' report came to be used in Williams & ors v Sandwell MBC, BCLC's Manager Michael Bates said:

"In the course of the litigation, we were able to introduce and rely on the report of Hackney Law Centre and Hackney Migrants Centre – A Place to Call Home. The report adds colour and detail to the issue of children in need who are supported by local authorities and clearly chimes with the issues faced by our clients.

We hope that Williams & ors v Sandwell MBC case will bring some much needed clarity to the issue of whether local authorities should have a published policy on the provision of Children Act services to families with no recourse to public funds and force councils to focus on the quality and suitability of accommodation provided to children in need."

HCLC Chair Ian Rathbone said:

"The use of HCLC's 'A Place to Call Home' report in the Williams & ors v Sandwell MBC case demonstrates the importance of evidence collection and research in what is the complicated field of housing and homelessness. Unfortunately funding for such work is not easily found when it should be a priority to inform local authorities, and the courts if necessary, of what is really happening on the ground and how it can be tackled."

Unearthing new evidence and developing new legal insights

The SLF funds organisations to collect research and think about legal arguments. Such work is an activity, but it is also an outcome, in that new formulations of arguments and new understandings of the often tangled issues under scrutiny are gained. Once that work has been done, it can make it much easier for those coming after to see their way clear to challenge and influence and to know which types of cases will stand the best chance of success.

[12] http://www.cpag.org.uk/sites/default/files/CPAG-Kapow-GPOW-APR2015_0.pdf
[13] S17 support is the shorthand term for the support which local authorities have a duty to provide to any family, including destitute migrant families, to meet the needs of a child under section 17 of the Children Act 1989.
[14] Extract from HCLC website

This is perhaps one of the most important benefits of the work as without it agencies are working to some extent blind, often on a case by case basis. As one member of the Expert Panel put it: *"it means organisations on the frontline can become empowered with a tool of understanding lawfulness rather than unfairness."*

There were various examples of this:

- The PRCBC[15] at Asylum Aid[16] is researching how the 'good character' test is being applied to children as young as 10 who register for British Citizenship. This work is uncovering not only potential failures by the Home Office (SSHD), but also finding out how 'good character' is being assessed. It is hoped that this will pave a way to future litigation.

- FLEX has undertaken wide-ranging research to try and identify what the Protection Gap for victims of trafficking (VOT) was in the Modern Slavery Act. It was felt by them and others that the rights of VOT were not being protected, but it was unclear what the 'way in' was. After extensive research they have honed down five specific areas[17] which are ripe for future challenge.

- Having evaluated the pilot of the Landlords Checks scheme[18], JCWI is further researching the 'right to rent' following preliminary evidence from the pilot that children and young migrants are at serious risk. JCWI has got SLF funding to *"investigate and gather evidence of unlawful discrimination caused by the Landlord Checks scheme",* firstly looking at the Home Office and how decision-making, as well as the evaluation of the scheme, is happening in order to see if a legal challenge can be taken there. The research, and the development of these legal arguments is both essential and urgent: the scheme is already being rolled out.

- Legal Services Agency in Scotland has just been given a grant (May 2016) to look at how the new Immigration Action is going to be rolled out through Scotland through secondary legislation. At present the impact on devolved matters has not yet been debated, and LSA suspects that there are challenges, potentially at a constitutional level, which can be taken. They have brought together a short-life working group to look at these. *"[The SLF has] given us a grant to bring together legal experts and pull together a paper and myself, working on behalf of ILPA, to start to disseminate some of this knowledge and upskill people to undertake challenges. We can bring that bad law down in Scotland – that's really exciting." (Grantee)*

- Bindmans is looking at how NHS Data sharing may be deterring allegedly illegal migrants from registering and accessing NHS services for themselves and their children. It has started to grapple with this enormous and difficult area by investigating potential illegalities in what the Home Office is doing around requesting patient data from the 'National Back Office'. The research is painstaking, not least because it requires persistent pestering of the Home Office and other public bodies to get the information needed to build up an accurate picture of what is going on. The potential consequences of migrants failing to access essential health services are, at an individual level, profound: *"the nightmare scenario is that a parent does not seek help for their ill child because they think they might get reported, and the child dies."* But drawing a line between that negative impact and data sharing policy and practice is requiring significant work.

- Coram Children's Legal Centre has been researching levels of support provided to families with children by local authorities under S17 of the Children's Act. *"We sent out the questionnaire in*

[15] Project for the Registration of Children as British Citizens
[16] Asylum Aid is now merging with Migrants Resource Centre
[17] For instance, 'Failure to identify' (i.e. returning homeless EEA nationals without assessment and 'Failure to investigate' i.e. cases in which victims come into contact with the police through arrest or questioning, but are not followed up).
[18] No Passport Equals No Home by JCWI, 2015

multiple formats and disseminated it to a wide range of partners working with NRPF[19] families…. We received 37 usable responses and have processed and analysed the results. These show some extremely low levels of support, as low as £13 per person per week."

- Just for Kids Law commissioned research showing the economic value of enabling young people to attend higher education, and they are keen for others to use this in any future relevant work. *"We were clear looking at the figures that giving a loan meant a greater input into the financial pot. So it didn't make any economic sense to deny them these loans as if you loan them £9,000 for three years they get back an extra £100K per year per person. We got the government's own economist to provide us with a statement on that. It was very helpful to get that."*

- DPG and Kalayaan are researching how diplomatic immunity is viewed internationally in order to develop new arguments which may help victims of trafficking in diplomatic households to claim compensation. They are now testing these in the Supreme Court.

Policy and Practice change

Getting policies reviewed and rewritten

Both the research work and the judgments gained in court contribute towards shaping policy. Sometimes the work adds strength to arguments being discussed with policy makers, sometimes the judgments require a revision of policy in their wake.

- GMIAU's work looking at how Section 55[20] was being implemented[21] resulted in a report, and this is being used in policy discussions with the Home Office about the fact that decision-making did not taking s55 into account. *"We recently concluded a longitudinal social legal study as part of a nationwide project analysing 60 cases of unaccompanied asylum seeking children (UASCs) across 12 law centres. We had concerns that the best interest of the child is not forming part of the asylum decision making, and we mentioned the GMIAU report to highlight that this problem is not new."*

- PLP and Medical Justice had challenged the no notice removals policy together previously, bringing a case challenging the policy, which resulted in it being quashed by the Court. This was upheld on appeal. The policy was then reintroduced in a modified form, however, in 2014. This time a letter before claim led to the policy being withdrawn anew and replaced by an improved version of the policy. The improved version still is far from satisfactory, however, and so even though they have obtained some policy concessions they are gathering evidence on how the policy currently operates in practice to consider a challenge to the new policy.

- Bindmans inputted into a range of policy scrutiny mechanisms during its challenge of the residence test. As such, it was playing an important role in informing parliament and holding the government to account for the implications of the legislation and policy it was planning to introduce. For example it presented evidence to the Parliamentary Joint Committee on Human Rights which led this committee to conclude, in December 2011, that: *"we do not agree that the Government has considered all groups of children who could be adversely affected by this test, and we note that no Child Impact Assessment has been produced. Such groups of children include children unable to provide documentation of residence and those who need help to gain access to accommodation and services. There is a particular problem in terms of the complexity and urgency of EU and international agreement cases, acknowledged during the passage of the*

[19] A person has 'no recourse to public funds' (NRPF) if they are subject to immigration control and do not normally have the right to work. Public funds include welfare benefits and public housing. NRPF restrictions can affect a wide range of people e.g. people who have overstayed their visa, some EEA migrants and refused asylum seekers.
[20] Section 55 of the Borders, Citizenship and Immigration Action 2009 requires government and public authorities to carry out their functions taking into account the need to safeguard and promote the welfare of all children.
[21] Funded prior to Phase 3

LASPO Bill, but which have not been made an exception to the residence test. We are concerned that the Government has not given full consideration to its obligations under the second article of the UNCRC".

- JCWI's joint intervention with the Office of Children's Commissioner in February 2016 on the Family Migration Rules challenged the minimum income requirements introduced in 2012. As a result, the Home Office has agreed to review the Guidance concerning the Best Interests of Children Outside the UK.

- As a result of Just for Kids Law's successful challenge to the student finance regulations, BIS has issued new rules which, after some subsequent policy lobbying from JFK Law, have reduced the 'lawful residence' period required to three years.

- A grant in 2013 to Coram Children's Legal Centre enabled the production by them and the NRPF Network of a Guidance Note on local authorities supporting children.

- Hackney Community Law Centre is looking at how their report into s17 accommodation can influence local authority policy and practice. They have liaised with PLP and BASW[22], and there has been some interest by cabinet members in looking at how to respond to the challenges raised by the report at local policy level.

- In May 2016, the Immigration Act came into force as UK law bringing with it major revisions of the immigration system. Many concerns have been raised by human rights bodies in the UK about aspects of the Act's provisions which they fear will undermine protection for disadvantaged migrants and increase discrimination.[23]

  The Legal Services Agency in Scotland is currently looking at how the Immigration Act is brought in in Scotland and this work has the potential to influence how the Act is implemented in other parts of the UK. *"It's of pivotal importance: if we can bring down even parts of [the Immigration Act] the UK government won't want a two tier system. So it will impact in Wales and England as well. If we had not had this money we couldn't have done that – we could do some pro bono, but we just don't have the capacity to do more than that." (Grantee)*

Improving practice

The trickle down effect of improving policy should be to improve practice and ultimately the lives of migrants. However, as was pointed out by an Expert Panel member, some legal judgments and policy change are 'self-executing', requiring little further intervention to come into force, whereas others require further information and embedding in practice if migrants' experience is to be changed on the ground.

For some of the work funded through the SLF this has been recognised and work targeting practice improvements has been taken forward. Examples include:

- CPAG's work on the genuine prospects of work test has resulted in a high level of interest in how to deal with this complex area. *"We have been slightly surprised by the high number of referrals and requests for advice we have received. While this is encouraging, we have had to develop a new referral system in order to cope with the influx."* They have held seminars at which a litigation strategy has been discussed with practitioners, and have drafted a paper which is aimed at welfare rights worker preparing appeals against decisions that their clients are not entitled to JSA because they have not managed to provide compelling evidence.[24]

- ASAP's work with Maternity Action (funded prior to Phase 3) produced information about accessing support for pregnant asylum seekers which enabled midwives to better support their

[22] British Association of Social Workers
[23] For one summary of concerns see: http://rightsinfo.org/immigration-act-2016-plain-english/
[24] http://www.cpag.org.uk/sites/default/files/Kapow%20to%20the%20GPOW-v6.pdf

clients. In this case ASAP decided not to proceed to litigation, but feels the practice gains were significant: *"What came out of the research was an expert report which we put into a shorter and more easy to understand version for midwives. We think that has led to an increase in people accessing support. We also did training and general awareness raising amongst midwives in this particular area of law."*

- The Legal Services Agency knew, when it applied to the SLF in 2013, that litigation would not help improve the inconsistent treatment being meted out to 16 and 17 year old separated children in Scotland. *"We were struggling with social work commitment of a group of people and one authority in particular. We couldn't get to them through JR or any legal means. So the grant allowed us to do FOI requests, we got a legal opinion from somebody who you couldn't ignore. And we had a big splashy event where we embarrassed them and that changed practice. We had been trying to do for that for three years, but couldn't legally."*

- ASAP have also been 'spreading the word' about the clarity gained on accessing Section 4 support for destitute refused asylum seekers through another piece of work the SLF funded. *"We got what we wanted out of it, which was more clarity about access to Section 4 support on those outstanding Article 8 claims. We were able to share that with the sector – we sent information out to over 600 people working with asylum seekers nationwide via the asylum support advice network."*

- Detention Action ensured that the judgments were passed on to clients and practitioners as the challenge to the Fast Track system progressed. *"Detention Action liaised with individual representatives and NGO workers to ensure they were informed about how the litigation could be used in individual cases. For example, in December 2014, they informed all Detention Action clients of the Court of Appeal judgment that the policy to detain pending appeal was unlawful and encouraged them to seek legal advice. Where there were concerns that the representative would not be aware of or understand how to use the judgment, Detention Action spoke with them directly and sent them the judgment and materials prepared by the legal team to assist in effectively utilising the change to policy for clients."* Detention Action also ran seminars and disseminated a range of other materials to ensure that practitioners knew about developments regarding changes to the fast track rules.

- The AIRE Centre is producing an advocacy toolkit for organisations who find themselves with clients facing removals under Operation Nexus. They report that there is high demand for this.

- JCWI is planning on producing comprehensive toolkits about the Landlord Checks scheme to ensure that NGOs, law firms, migrant and housing organisations, local authorities and tenants understand their rights and responsibilities under the scheme. The aim of this is to equip individuals and organisations to advocate for their rights and bring claims if necessary.

Gaining positive attention for the issues

Generally, the issue of migrants' rights does not play well in the media. Indeed this is one of many reasons why strategic litigation, with its powerful potential to change through the force of reasoned, rights-based argument away from the influence of media scrutiny, is a particularly appropriate strategy for change for this group of disadvantaged people.

However, a few projects have involved the media in some way which has helped highlight the issues raised and gained some sympathetic media and thus public attention. The residence test was extensively covered in both national and specialist press, as was the ruling on the Detained Fast Track. Three other examples show how the work is helping to raise the issue of how migrants are being treated in the UK:

- Just for Kids Law got very positive media coverage for the case it took in the Guardian, the Independent, the Telegraph, the Daily Mail, the BBC and ITV London. Though JFK Law was wary and recognised that negative publicity posed a risk to the case and the young people involved

they were pleased at how it was picked up by media outlets, and how the young people were portrayed as 'people who could contribute to society and who deserved a chance'.

- The AIRE Centre has got positive coverage for the work they have done on uncovering the reality of Operation Nexus. The Guardian, Politics.co.uk and Emito (a portal for Polish migrants in Scotland) have all provided comment to them on the potential unfairness of the policy.[25]

- There has been interest from journalists in the Hackney Community Law Centre report on the quality of accommodation provided to migrants under S17

Positive outcomes for young migrants

The challenges researched and taken forward through SLF-funded work affect the lives of young migrants in various ways. Sometimes this is about preventing a negative: either one 'in the pipeline', like the residence test or Landlord Checks scheme[26], or one which already exists, like Detained Fast Track or restrictive financial regulations for students with DLR. As such, the impact has to be counter-factual: what would have happened had this not been stopped? Other projects ensure or hold the promise of better support and treatment.

Outcomes and impact to date for young migrants

Some of the discernible benefits during Phase 3 were:

- **Young migrants can access legal aid without the residence test.** *"Every day there will be people who get legal aid who would not have got it had the residence test been brought in – and that has been true of every day for the past two years. Hundreds and thousands of people affected – we don't know how many as the government didn't produce any estimates when they made the proposals. But it's many."*

- **Young migrants can access key services, including special educational services.** Had the residence test gone through in its proposed form it would have eliminated some services for those who did not pass the test, such as special educational needs and facilities for disabled people. Again, it is impossible to estimate how many this would have affected, but it will run into hundreds and possibly thousands.

Extract from Bindmans' submission on the residence test regarding its impact on access to key services, showing what might have happened had it been enforced.

Families of recently arrived children with special educational needs, whose access to education depends on proper provision being made to meet their additional needs, will be unable to access legal help and advice.

An example is the case of L, who had recently arrived in the UK for the purposes of refugee family reunion with her husband, and who would have been unable to access legal advice in relation to the failure of the local authority to assess the needs of her autistic 8- year-old son because she had only been in the UK for three months, given by Coram Children's Legal Centre in its response to the Transforming Legal Aid consultation (App 2D p.2220 §20).

Another consequence is that children and their parents may not have access to the documentation needed to prove that they meet the residence test. Shauneen Lambe of Just for Kids Law gives the example of C, whose (British) mother was incarcerated at the time that she needed advice to appeal C's SEN statement, and would not have been able to access her passport to prove that she passed the

[25] https://www.theguardian.com/law/2015/oct/17/law-abiding-activist-faces-deportation-from-uk
[26] The pilot has already happened: JCWI was rushing to try and prevent this being rolled out.

residence test (App 2D pp.2258-2259 §6.1). In such circumstances a child will be deprived of special educational provision which may be critical to his future prospects simply because his parent is unable to prove her lawful residence.

- **Young migrants able to access higher education.** It is not known how many young people have been positively affected by Just for Kids Law's successful challenge to the restrictive student finance regulations, but it will run into the thousands. All these young people are now able to get loans and go to university. Not only that, but they are taking active steps to ensure that those 'hidden' migrants in the education system who may fear they cannot proceed are contacted and encouraged to apply through the Let Us Learn campaign, which is continuing.

- **Young migrants no longer subject to removals with no notice**. *"I can't give you precise figures, but I saw one letter from the immigration minister which said they thought the single notice regime would create 14,000 additional cases. I'm not too sure what those figures were based on, could well have been more than that."*

- **Refugee children separated from their families have the prospect of unification**. JCWI's intervention led to the Justice McCloskey concluding that it is antithetical to 'strong and stable' societies to create 'disfunctioning, debilitated and under achieving' families as a result of enforced separation. Though the case has not established an automatic duty on the UK to facilitate family reunion when refugee children are separated from their parents, it introduces the possibility of so doing.[27] This will have a profound effect, potentially, on many children. *"The Family Migration Rules are keeping thousands of families apart and children are being forced to grow up in broken homes. …. We have shown that at present there are around 15,000 children separated from one migrant parent as a result of the Rules. All of these children have a migrant background as one parent at least is a migrant. There is little data available from the Home Office but our estimate is that around 21% (3150) of these children are actually migrants themselves. The impact of prolonged family separation, stress and anxiety is significantly detrimental to children as our evidence and that from independent child psychologists has shown."* There have already been successful cases as a result of this judgment. [28]

- **Young migrants held in the Detained Fast Track system have been released.** As a result of the challenge brought by the Migrants' Law Project and Detention Action the Detained Fast Track has been suspended indefinitely. Detention Action was in contact with lawyers and advisers around the country keeping them up to date, and from the moment the policy to detain was found unlawful they wrote to encourage clients to seek legal advice. *"To date, over 300 people have been released from detention, and those asylum seekers who remain detained and have rights of appeal are now having their appeals heard under the Principal Appeals Procedure Rules. This represents huge progress in effectively challenging an aspect of the asylum and immigration system, which impacts on very many young migrants, and that has been the subject of significant concern from NGOs and other bodies due to the very high risk of unfairness in determining detainees' claims, and the risks to vulnerable individuals such as torture survivors, due to their detention."*

- **Young migrants held in 'the Jungle' may be reunited with family in the UK.** The SLF's funding of the Migrants' Law Project was a contribution to a much wider project which is ongoing and has substantial ramifications. Essentially the project is seeking to enable young and extremely vulnerable migrants to join family in the UK and hold the government to account and place the best interests of the child first. Some Syrian boys have been reunited already[29], though this is the subject of ongoing challenge by the UK government.

Potential outcomes of work 'in the pipeline'

[27] By saying that the refusal to grant entry clearance to family members can breach the Article 8 ECHR rights of a child refugee.

[28] http://www.refugeecouncil.org.uk/latest/news/4579_child_refugee_wins_right_to_reunite_with_parents

[29] https://www.theguardian.com/uk-news/2016/mar/21/three-syrian-boys-arrive-from-calais-camp-first-use-legal-process

Other projects hold the promise of improving the lives and prospects of young migrants:

- If the work by PRCBC develops and a legal challenge is successful, the 'good character' test which is being applied to migrants as young as 10 may be modified or removed. At present the effects are devastating: registration can be refused for reasons of refusing the 'good character' test, the standard for which is very high, and which is not subject to s4 of the Rehabilitation of Offenders Act 1974, meaning that unspent convictions are still counted. The age of children being subjected to this test has been increasingly lowered: it was 16 years old in 2006, now it has been lowered to 10. *"Between December 2011 and June 2014, 415 young people were refused citizenship on grounds of character."*

- GMIAU[30]'s pre-litigation research into the fee waiver policy is looking into the effect of the administrative fee for extending a leave to remain, or for making an application in the first place. *"The fees are £1,149 per person and are so high as to effectively prevent families on low incomes from extending their leave to remain or making applications in the first place. The effect is that families, including migrant children, can lose their leave entitlement and all that goes with it - access to benefits, housing etc - and end up destitute with no recourse to public funds. We have 100+ families affected by the policy in our current caseload."* A successful challenge would prevent this.

- Liverpool Law Clinic's research into the Home Office's implementation of the Stateless Determination Procedure arises from a belief that there are many young migrants who are stateless or at risk of statelessness. *"We consider that the Home Office is not implementing its Stateless Determination Procedure (SDP) in accordance with its international obligations, and that there are many young people who are unable to access it who are stateless or at risk of statelessness. They are without access to education, employment, housing, benefits or training."* Their research, which has just started, aims to first evidence and then seek to redress this gap which, if successful, could lead to young people who are 'at the end of the road' being recognised and thus being able to access the range of services mentioned.

- Similarly ASIRT[31]'s work, funded in January 2016 seeks to build up a picture of those young people under 18, who have lived continuously in the UK for 7 years and who are being granted limited leave to remain. The point here is that the current policy grants this leave in blocks of 30 months only, requiring costly renewal fees (see GMIAU's research, above) and is granted with no recourse to public funds. ASIRT wishes to determine how far this is a blanket policy, and research what they anecdotally know through their casework: the negative impact of such short-term leave on the wellbeing of the young people and their families.

- Clarifying the position regarding Operation Nexus, if the AIRE Centre succeeds (represented by DPG) could stem the worrying trend of deportations of EEA migrants who seem to be being deported for no reason other than being homeless and/or 'low harm'. In particular the AIRE Centre has noted young and vulnerable EEA clients in Youth Offender Institutes who are being impacted by Operation Nexus and they have been pursuing this lead to identify young people at risk and try and help them resist unfair and potentially unlawful deportation. The evidence they collect whilst conducting research for the case (which is now going to Court) will be made available to practitioners working in such institutions in order that they can help the young people resist these speedy and complicated deportation procedures.

Organisational and Sectoral Benefits

Organisations reported positive outcomes from the work for themselves as well as for their clients. These included:

[30] Greater Manchester Immigration Aid Unit
[31] Asylum Support and Immigration Resource Team in Birmingham

- Detention Action noted that they had gone through a *"huge learning experience" **and*** felt their reputation and standing had been improved as a result of taking a successful challenge. They also managed to connect their work on the Fast Track Rules, where they had regular meetings with the Home Office, with other separate work they were taking forward on alternatives to detention. *"Whilst the meetings on detention at the Home Office were sometimes excruciating, I made quite a lot of progress with somebody from there on alternatives to detention. In the end our litigation was so successful that it outstripped that negotiation – but that was a constructive, informed partner on alternatives to detention which we created during that time, drawing on that work."*

- The work done by Migrants' Law Project and Detention Action in setting up a referral group enabled the sector to be more co-ordinated in its challenge to the fast track rules, but also in the way they supported clients who were affected. The work developed sectoral cooperation and relationships for those working in this area.

- Public Law Project noted that their work on no notice removals had both increased their knowledge of the policy, and of other issues surrounding it (such as the withdrawal of appeal rights). It also fits with work they have been doing under their legal aid support project. *"We know about the impact that the removal of legal aid for immigration has had as a result of our litigation against the LAA. So that work dovetailed, in particular the difficulties that people have in applying for exceptional case funding."*

- Just for Kids Law's work on student fees has helped grow a movement of young people linked to the legal challenge. The campaign has been kicked off by a barrister who is now motivated to campaign for rights[32] One young person involved said this following the victory in court. *"The battle is won but the war is far from over……I think it's important to use this as a slingshot to propel us further towards our goals.[33] I think the future of the campaign lies in informing those who are unaware that they might be affected in the same way before it's too late. We have the power to cause change so let's use it!"*

- The AIRE Centre has used CrowdJustice funding for the first time to take forward a legal challenge building on their research work on Operation Nexus. They feel that this has not only given them a new string to their fundraising bow, but that the publicity this work and the CrowdJustice campaign has generated has been unusual and beneficial for the organisation. *"I've not stopped getting emails from barristers and lawyers and other academics. That kind of exposure for the AIRE Centre is rare."*

- JCWI has clearly moved into an increasingly strategic legal space, and part of this is the encouragement which the existence of the SLF brings to this type of work. *"JCWI is firing on all cylinders now."*

- ASAP gained learning about how to do an intervention and how that works. This has been useful as they plan future work: *"We learnt a lot about how taking legal cases works. It is more work than you think it is going to be. It is also difficult to manage the work, can only manage it so far and there is stuff that comes in last minute. We were thinking about going for a legal aid contract – so it's a good taster for us. We definitely want to do more around the Immigration Act in particular."* They also feel that it has helped raise their profile more broadly, and developed long-lasting relationships with others in the field, including Maternity Action.

- Hackney Community Law Centre feels that the research they did helped bring a lot of their day to day work into focus. It also helped raise their profile: *"The work has enhanced our standing amongst funders – local authority and a range of other funders."*

[32] http://hackneycitizen.co.uk/2014/09/10/former-hackney-schoolgirl-starts-campaign-let-us-learn-migrant-students-higher-education/

[33] http://www.justforkidslaw.org/let-us-learn/let-us-learn-blog-let-us-learn/success-at-the-supreme-court

- Trust for London also feels that they have learnt from the SLF. *"We've learnt. One of our funding priorities is advice and this has enabled us to 'go upstream' a bit. So I feel it's worked hand in hand with our other work."*

View of achievements overall

In general interviewees felt extremely positive about the SLF's achievements. Though it was noted that the contribution of the SLF to many of these challenges is small compared to the overall cost of taking forward a case, various interviewees, notably the lawyers, were keen to stress that the contribution should not be judged on the basis of the percentage of cost alone. For them the timing of funding, often made rapidly available, and the preparedness of the SLF to fund 'time to think' has an enormous value which cannot be judged only financially. Key points made were that:

- **SLF funded work attacks different types of hostility and discrimination (active and passive).** *"What the SLF is trying to do is sometimes get authorities to comply with their duties and sometimes 'knock out' existing rules and regulations which undermine rights. So the Calais challenge is the former (getting the UK to comply with what it should be doing) and the work on the Right to Rent, or the Detained Fast Track is the latter."* Both types of case are about creating an environment which is 'hostile to migrants': the government's stated aim, and both are regarded as important.

- **The SLF provides a rare opportunity to think about the lawfulness of practice surfacing on the frontline.** *"I think the work coming from projects toiling on the frontline are really important. When I talk with advice workers I can see that it is very easy for them almost to become immune to the awfulness going on around them. But they are the ones noticing the Kafkaesque stuff going on. Things like application fees which people have to pay – we've funded something looking at that[34]. That's such an administrative thing – but it can be so important. It is so important that organisations that come across that stuff on a regular basis are able to say 'I think there's something unlawful here but don't know what to do about it'. I've always said this funds thinking space." (Internal stakeholder)*

- **Outcomes can be unpredictable and take time to shine through.** The legal and policy context is constantly changing and the course of challenging discriminatory law, policy and practice is rarely linear. However, what is beginning to show now is how the work laid down by previous SLF-funded projects can build over time with various projects and experts inputting from different angles (as in work on Operation Nexus, for example) and how work developed a few years ago can prove useful, or contribute to further change, at a later date. For example, one internal stakeholder reflected on how the detention of pregnant women had been affected by the strategic litigation brought by Bhatt Murphy with Medical Justice and originally funded by the SLF in April 2013. Though pregnant women can still be detained, there has been a time limit of 72 hours imposed on such detention and the campaign to cease detention entirely continues. *"The strategic litigation forced the Home Office to publicly apologise in Autumn 2015, and this combined with the intensive lobbying of Medical Justice and others generated a lot of momentum for the campaign." (Internal stakeholder)*

- **Overall, the success rate of grants made has been extremely high.** This may be partly because of the assessment process (which screens out work which is insufficiently geared to legal impact), and partly also that the 'field' is getting more used to thinking through strategic challenge as they have now been fighting an unprecedented wave of damaging and discriminatory laws and policies for several years. Even with grants where any legal or policy change has yet to be realised, it is possible to see that the work has potential to feed future challenge and argument. So in the main grants have been well aimed, it is felt. *"It's incredible how many of those grants have been absolute wins. You go down that list – it is extraordinarily effective. I'm scrolling through looking for a dud and I haven't seen one yet. The leading cases are virtually the most important cases of the age." (Internal stakeholder)*

[34] GMIAU started research into the fee waiver policy in January 2016 funded by the SLF.

- **Immigration is leading the field in terms of active strategic challenge**. Some lawyers feel that not only have the quality of challenges been high, but that the SLF has contributed to a much higher base of challenging activity than in other fields. *"But for the SLF, we would not have had so many targeted legal aid challenges in the immigration arena. If you look at legal aid cuts across the board, no other area has come close to the number of challenges immigration has had. Social welfare law and education for instance. I really believe that that is to do with the SLF." (Internal stakeholder)*

Section 3: Case Studies

Projects were selected as case studies in consultation with Trust for London and MigrationWork CIC. Most were selected because they were felt to have been a combination of complex, interesting or impactful though some projects were included where the outcomes were felt to have been less clear to give balance. The following table gives an overview of case studies selected, listed in chronological order of when funded.

Grantee (+ partner)	Description	When funded
Funded pre-Phase 3		
Bindmans + Public Law Project	Pre-litigation research into the impact of the proposed residence test for legal aid on the rights of migrant children	2013 (September)
Hackney Community Law Centre + Hackney Migrant Centre	Pre-litigation research on Section 17 decision making by social services and accommodation provided to migrant families	2014 (July)
Asylum Support Appeals Project	Intervention relating to the refusal of Section 4 support by the Home Office to migrants with outstanding Article 8 claims	2014 (September)
Public Law Project	Pre-litigation research on no-notice removals policy	2014 (November)
The Migrants' Law Project (ILC) + Detention Action	Further research to develop work on the Detained Fast Track	2014 (November)
Funded during phase 3		
Just for Kids Law	Pre-litigation research to prime a TPI relating to the lack of support for young people with DL to attend university.	2015 (January)
Deighton Pierce Glynn + Kalayaan	Intervention for Kalayaan relating to whether diplomatic immunity affords a defence to a civil claim by a victim of trafficking	2015 (March)
The AIRE Centre	Pre-litigation research on Operation Nexus to see if it unfairly targets and discriminates against EU Nationals and families	2015 (June) + extension grant 2016 (March)

Case study 1: Keeping legal aid for all young migrants

- ***Background***

The government's proposals on *Transforming Legal Aid* were published in April 2013. They prompted widespread dismay from lawyers and campaigners representing disadvantaged communities, including migrant communities. Many organisations gathered evidence and made submissions on their damaging implications to submit to the government, but on the 5th September 2013, when the Lord Chancellor Chris Grayling announced the outcome of the consultation, the proposals on civil legal aid still included the 'residence test'.

This was a gateway test which meant that unless an individual could prove 'lawful residence' in the UK for 12 months, and physical presence at the time when legal aid was sought, they would not be eligible for all forms of conventional civil aid. The potential ramifications for young migrants were immense.

- ***SLF-funded work***

Bindmans immediately applied (in September 2013) to the SLF for funding towards pre-litigation research. They planned to judicially review the government's anticipated decision, and recognised that for this they needed to amass a compelling body of evidence showing how widespread and serious the proposals were.

The SLF grant of £8,000 enabled them to study and analyse the proposals and in particular helped them spend more time on:

- Analysing information collected in the residence test consultation and pursue those who may be able to provide more information on the potential implications of the residence test.
- Seeking witness statements from specialist solicitors firms.
- Contacting a wide range of NGOs and statutory bodies to get case studies about how the residence test would impact on their clients.
- Seeking statements from the Children's Commissioner and the Official Solicitor to establish their position and concerns.
- Submitting extensive FOI requests to public authorities which could help uncover how the residence test would impact
- Working with Public Law Project to review and update the information they had been gathering about the exceptional funding scheme (which the government was claiming would act as a 'safety net' for those disqualified by the residence test) to show how this would be inadequate.

This helped Bindmans, working with Public Law Project as the claimant and specialist Counsel, to build a detailed and carefully framed argument to back up the claims on which permission for JR had been granted. They were able to show how the exceptional funding scheme had systematically failed, the types of individuals and cases which would be affected by the residence test, and put a compelling series of witness statements before the Court from specialist legal firms detailing the types of cases they had handled which would no longer qualify for legal aid under the new test.

"The funding was very useful to enable us to do that preliminary pre-litigation work in bottoming out the effects of the residence test. The government hadn't done any real analysis at all. And there were obviously lots of individual consultation responses, but they were all speaking for particular constituencies – children, refugees, lawyers' perspectives and so on.

So the SLF partly enabled us to gather evidence which had not been gathered before (as not every constituency had been researched and documented), but also to marshal what was available in the many consultation responses and organise it into a form which could be useful for litigation. Had there been no SLF grant, we would have tried but it gave all involved some pump priming. That's the best way of describing it – it was a catalyst to enable the existing knowledge and research to be most usefully deployed and supplemented to progress the case." (Grantee)

The Judicial Review was successful. The case was heard in a three-judge Divisional Court in April 2014 and a damning judgment was given against the residence test which said the draft statutory instrument were *ultra vires* and the discriminatory features of it were unjustifiable. By the time this judgment happened the statutory instrument had already been approved by the House of Commons, and would have proceeded through the House of Lords unimpeded had the judgment not been given. Victory was therefore in the nick of time.

However that was not the end of the story. John Halford, one of Bindmans' team working on the case, describes the subsequent events as *"part litigation, part rollercoaster"*[35]. The government appealed the Divisional Court's judgment and this appeal was allowed in November 2015. Bindmans and PLP learnt that following this the government planned to withhold legal aid on the basis of the residence test from Summer 2016.

This left no option but to press on to the Supreme Court if the residence test was to be stopped. And this Public Law Project did, represented by Bindmans and specialist Counsel. The eventual hearing on

[35] Legal Action, May 2016, P.5 (News and Comment) The Supreme Court's rejection of the legal aid residence test is a victory for the rule of law by John Halford

the residence test was arranged for April 2016: two years after the original JR which Bindmans had taken forward, and two and a half years after their original application to the SLF to kickstart the challenge. Again, the work done during the preparatory stages of the case, funded by the SLF, formed an invaluable part of the groundwork for this hearing.

At the final two-day hearing in front of seven judges there was one further dramatic twist. On the first day at 4 p.m. Lord Neuberger indicated that he and his fellow justices wanted to confer.

> *"He said 'give us ten minutes, we will be back'. And they came back and said 'we are allowing the appeal'. We think it is unprecedented in the Supreme Court that they have given a judgment on the same day. The written judgment might be a few months, but we have the ruling."*[36]

Their reasons for doing this were that they agreed with the original judgment of the Divisional Court and pronounced the whole scheme *ultra vires*. As a result, legal aid for the highest priority cases remains accessible to all regardless of nationality, origin and place of residence.

- ***Outcomes and impact***

Clearly the SLF's contribution did not fund the whole challenge to the residence test. Thousands of hours' work have gone into challenging it at its various stages. Lawyers operated on a no win no fee basis, and having been successful in the Supreme Court costs will be awarded to PLP and distributed in due course.

However, it helped at a critical stage. The body of evidence gathered convinced the Divisional and ultimately Supreme Court of the extremely negative and discriminatory effects of the residence test and ultimately convincingly won the day, in spite of the negative set back in the Court of Appeal.

For migrants, the impact is difficult to measure as it 'prevents a negative' but we can note that:

- A large number of children and young people from migrant backgrounds would have found themselves without any type of legal advice and representation at all. The numbers of children and young people involved were huge: one study put the number of children and young people whose immigration status had not been regularised at upwards of 120,000[37] of whom half would have been born in the UK.
- Those not passing the residence test would have lost access to a range of other services (as well as legal aid). These services included, for example, special educational needs provision (SEN) provision. If the residence test had come in in its original form it would have meant that two children in the same class with SEN could have been treated entirely differently: the child of a UK resident would qualify and be statemented and assessed, but the child of the Polish builder who did not meet the residence test would not have been eligible for any SEN provision.

The small amount of funding provided can therefore be seen as a contribution, at a critical point, to a succession of legal challenges which managed to protect migrants living in the UK from being denied both access to justice and services.

Case study 2: Challenging sub-standard local authority accommodation for migrant families with children

- ***Background***

'S.17 support' is the support local authorities have to provide to accommodate and meet the basic needs of every child and their supporting families under Section 17 of the Children Act 1989 irrespective

[36] Report to SLF Grantees meeting from Bindmans representative, May 2016
[37] COMPAS (University of Oxford) study, 2011.

of their immigration status[38]. The duty provides a lifeline for thousands of otherwise destitute children every year.

Law firms and NGOs across the country have been aware for a long time that Section 17 provision was often falling short of what should be provided: in terms of the length of time taken to access it, the assessment procedure and the quality of accommodation provided. Hackney Community Law Centre was one of many organisations dealing with the fallout from poor S17 provision:

> *"[The research] came about as I was doing loads and loads of S17 cases. I probably had about 50 cases ongoing, most of which settled before JR. And common themes were coming through on all of them. So I spoke to the SLF, and they thought it was a viable project." (Grantee)*

One of the difficulties of developing a co-ordinated legal strategy to tackle this was that the information about the problems was piecemeal. As one member of the Expert Panel put it: *"There is no legal aid for these cases so how the hell would we know what is going on unless we did some proper research?"* As a result, problems with S17, often resulting in severe hardship for children and families, were being tackled on a case by case basis:

> *"HCLC was doing drop in sessions at Hackney Migrant Centre on Wednesdays. We were getting loads of destitute families with small and vulnerable children and we realised there was a lot of inconsistent practice going on by local authorities to try and avoid picking up any duty in relating to housing. This work is difficult to fund – for most of these families, their immigration status is not regularised. So the innovative solution was to look at the children – as if the LAs were not prepared to accept duty towards parents they would re the children. We started doing that on an ad hoc basis, and what materialised was the lack of consistent practice, and particularly that local authorities were under financial pressures which dictated their approach, which was trying not to pick up any duty." (Grantee)*

- ***SLF-funded work***

Hackney Community Law Centre, in partnership with Hackney Migrant Centre, approached the SLF in July 2014 and were awarded £28,928 to conduct a piece of pre-litigation research which systematically examined the quality of housing provided by London local authorities under Section 17.

The research was both qualitative and quantitative, and the primary data generated included:

- Information about 64 families (61 survey families and three additional case study families).
- Information from 21 practitioners (lawyers, caseworkers) about 61 properties in which 57 families in 21 different local authorities were accommodated across London.
- Seven case studies, selected from a pool of cases where the accommodation provided did not meet their needs. These were drawn up from site visits and semi-structured interviews.
- Two reports commissioned from an independent Environmental Health Consultant who inspected and reported on the properties of two case study families.
- A generic report on the impact of inadequate housing on the health and wellbeing of children, which was commissioned from an independent psychiatric expert.
- FOI requests to seven local authorities (though not all replied).

The resultant report *A Place to Call Home: A report into the standard of housing provided to children in need in London* was written by Charlotte Threipland and published early December 2015. It had a well attended launch at Garden Court Chambers.[39] In essence, the report showed that though migrant children were being saved from homelessness, they were still not having their basic needs met and two thirds of all London properties in which local authorities were placing vulnerable children were failing to

[38] Some adults are excluded from S17 support because of their immigration status but this exclusion will not apply if refusing to provide support will be contrary to a person's human rights or rights under EU law. Children are never excluded from S17 support regardless of their immigration status.

[39] *http://www.hclc.org.uk/2015/11/invitation-the-launch-of-a-place-called-home-report-december-01-2015/*

meet the children's basic needs. The knock on effect on a child's emotional, physical and mental health was profound.

Some of the stories in the report are shocking. Families are being placed in accommodation in severe disrepair, overcrowded and infested with vermin. A number of families are being placed in B&B accommodation, some of them at pre-school or at school, and the accommodation was clearly affecting their development. The independent report written by the environmental health officer found the properties to be well below housing law standards, and in one instance concluded that:

> *'In my opinion this accommodation falls far short of acceptable provision for this household. I am very concerned for the health, safety and wellbeing of the occupiers in such a situation and urgent re-housing is recommended.'*

- ***Outcomes and impact***

The report gained publicity and raised awareness and various articles were written about it in the specialist online media in particular.

At a legal level, the report has already been used in one court hearing by Birmingham Community Law Centre (BCLC) in December 2015 when they sought permission to proceed with a judicial review of Sandwell MBC's decision to place children and families in hotels for years on end. BCLC said the report brought *"colour and detail to the issue of children in need who are supported by local authorities and clearly chimes with the issues faced by our clients".*

The longer term impact of gathering information of this nature cannot yet be known. What we do know is that this is a commonly encountered problem causing extreme distress and hardship to many migrant families with children. Having collated and generated information which evidences a pattern of poor provision, it is hoped that this report will enable more systematic challenge of local authority decision-making by both feeding existing litigation (as it has already started to do) and by HCLC and others identifying test cases they can take against local authorities on S17 related issues. It has enabled organisations to start from a higher evidence base than before when tackling such cases though it is still the case for now that multiple individual cases are having to be taken, many of which are settled before they arrive in court as a matter of course.

Case study 3: Getting basic support to otherwise destitute migrants with outstanding claims

- ***Background***

If you are an asylum seeker who has had your case refused then you will have your asylum support stopped. At this point the only option for support if you are going to stay in the UK (to pursue a fresh claim, or because you cannot go home, or for whatever other reason) is to apply for Section 4 support. Otherwise you will remain destitute.

Section 4 of the Immigration and Asylum Act 1999 makes provision for former asylum seekers to receive accommodation and £35.39 per week[40] via a payment card. In order to get this you have to show you are destitute, and then prove you are eligible because you are either taking steps to leave, are unable to leave or have a fresh claim outstanding.

ASAP (Asylum Support Appeals Project) was aware that when destitute migrants had outstanding Article 8 human rights (as opposed to asylum) claims, they were mainly not applying for Section 4 support. These migrants often included young migrants and separated migrant parents. It was not clear whether it was possible to apply for Section 4 in such cases, but reports from over 200 frontline organisations ASAP was in touch with indicated that few if any such applications were being made. This seemed to be

[40] Current rate

largely because agencies thought the cases would be refused because the entitlement was not clear. It was a classic 'grey area', in other words.

ASAP therefore wanted to clarify whether such destitute and irregular migrants with outstanding Article 8 claims were entitled to such support under the provisions of the act. ASAP felt that though the issue was tricky to argue in court, pursuing the intervention posed minimal risks for clients.

- ***SLF-funded work***

SLF funded ASAP £19,500 to intervene as a Third Party in September 2014 on a particular case where a destitute client with an Article 8 claim had been refused Section 4 support *(R (Mulumba) v First-tier Tribunal (Asylum Support) (1st def) and SSHD (2nd def).*

The funding meant that they were able to prepare a body of evidence to use in their intervention;

> *"I gathered together 35 Article 8 cases which had been to the Tribunal and showed the inconsistencies of what had happened to them. Basically the HO was getting it wrong and some of the time the tribunal was getting it wrong." (Grantee)*

SLF support also meant that they were able to work with Public Law Solicitors and instruct counsel, which otherwise would not have been possible.

The course of the intervention did not run smoothly. There were for example some up-to-the-wire concerns about whether the Treasury solicitors would sign a consent order agreeing not to seek costs in the event that ASAP lost the case. Three weeks before the Judicial Review hearing (set for the beginning of February 2015) they had still not received confirmation on this. They had therefore had to take a tactical decision to work at their own risk to prepare the case without knowing whether or not it could go forward (they could not have proceeded if the Treasury had not agreed to sign a consent order saying they would not seek costs as it would have exposed the organisation to too much financial risk).

But once the agreement on costs was forthcoming, ASAP prepared for its day in court. However two weeks later, ASAP found that SSHD were no longer going to defend the case and had dropped it less than a week before it was scheduled.

Though there was no judgment, the consent order published by the Judge was, however, encouraging as it said that:

> *"For the purposes of regulation 3(2)(e) of the Immigration and Asylum (provision of Accommodation to Failed Asylum Seekers) Regulations SI2005/930, 'Convention Rights' include the right to respect for family and private life under Article 8 of the ECHR and that provision of S4 support may in any particular case be necessary to avoid a breach of a person's article 8 ECHR rights."*

ASAP were pleased: this clarified the situation, they thought for migrants in similar situations. Unfortunately this consent order did not have the standing ASAP originally presumed it to have, and when they tried to use it to challenge ongoing inconsistent practice by the Home Office (SSHD) in granting Section 4 (or not) they were told that it only applied in that particular case. Fortunately the Principal Tribunal Judge Storey then made a 'landmark judgment' on another case entirely confirming the desired point: that those with outstanding Article 8 claims could claim Section 4 support.

> *"That final case was very academic case as by the time she heard it in May 2015 the woman's Article 8 claim had actually been refused. The whole point about S4 is that you are only entitled to it if there's something outstanding legally. However, the judge still decided as a point of principle to write a judgment, even though it was not going to benefit the client directly. So in August 2015 she wrote the judgment which effectively said the same thing as the consent order." (Grantee)*

- ***Outcomes and achievements***

Effectively what the funding enabled was an input into a case which then settled, with the consent order setting out the point ASAP had wished to establish. Furthermore, the consent order informed the Principal Judge at the Asylum Support Tribunal, who then went on to make a 'landmark' judgment in another unrelated case confirming the High Court consent order. ASAP's submission to the High Court case had been crucial to achieving this.

Ultimately this has led to is increased clarification for the Home Office and Tribunal about the granting of Section 4. It should now be accepted by the SSHD and the AST judges that Article 8 applicants are eligible for Section 4 support. ASAP were able to put that out to the sector:

> *"The big outcome has been that we got a good decision on it and we were able to share that with the sector. Our information goes out to 600 people on the asylum support advice network who work with asylum seekers nationwide – now they will understand that this group may be entitled to S4."*

The cases which ASAP sees around this include:

> *"Young people who have been brought to this country at a very young age – 10 or under – and later discover they have no status and can no longer stay with the family or relatives they were with. So at age 18 they are not entitled to anything – not benefits, not nothing. I have not seen any of those for a while, but they could potentially get S4. Another category it affects are separated fathers where their children are British with status, but where they are no longer living with the mother. He still has a reasonable outstanding Article 8 application because of his fathering role. We have seen one or two of those come to the tribunal recently." (Grantee)*

The numbers are unknown, but are not likely to be many. And in addition, the Immigration Act will be changing provision so that single individuals will soon not be able to get support on the basis of Article 8 any more: it will have to be protection based, or Article 3. The gains are therefore likely to be fairly short lived, though it may be that the witness statement, detailing a number of Article 8 Tribunal appeals between 2013 – 2014, are relevant to other future work.

Case study 4: Challenging no notice removals

- ***Background***

Public Law Project and Medical Justice had already worked together on the policy of removing migrants with no notice in 2011. *"A few years ago the HO decided to bring in a policy where they would remove people with no notice, and they would apply this to particularly vulnerable families. They basically phrased it as being in their own best interests: "It's much better if we just pounce on you in the middle of the night" seemed to be their argument. Of course what that meant was that people were absolutely terrified." (Grantee)*

Medical Justice took a case[41] in 2011 and PLP[42] acted for them. As a result of that, zero notice removals were declared unlawful on the basis that they violate the constitutional right of access to the court.

Fast forward three years and the spectre of no notice removals appears once again, this time in the form of the single decision regime in the Immigration Act 2014 and the linked Enforcement Instructions and Guidance, which meant that no notice would be given of when removal would actually take place. Removal could happen suddenly without warning days, weeks or many months after the case decision. Though no notice removals are but one of several areas of concern with this Act, such concerns are serious and urgent given the immediate effects such a policy has on migrants who could start once again to be removed in the night to the airport without recourse to legal advice and representation. Specifically the act introduced:

[41] *R(Medical Justice) v SSHD* [2011] EWCA Civ 1710 http://www.bailii.org/ew/cases/EWCA/Civ/2011/269.html ; [2010] EWHC 1925 (Admin) http://www.bailii.org/ew/cases/EWHC/Admin/2010/1925.html

[42] Together with Charlotte Kilroy and Dinah Rose QC as counsel

> *The single removal decision introduced by s1 of the 2014 Act and the apparent re-introduction on 20 October 2014 of the zero notice removal policy at section 19 of chapter 60 of the Enforcement Instructions and Guidance.*

Medical Justice were very concerned about the impact the introduction of this Enforcement Guidance would have on the people with whom they worked, and immediately made contact with PLP. Other bodies were also extremely concerned: Amnesty International wrote to the Immigration Minister and questions were raised in the House of Lords.

- ***SLF-Funded work***

PLP was awarded £12,925 in November 2014 for a short, sharp piece of pre-litigation research which would front-load a potential legal challenge. *"Often in strategic cases you need to have it fully evidenced to illustrate what the difficulty is. So we needed to do a lot of research at that initial stage."* This enabled PLP to do that research and get the input of counsel as well as liaise with other NGOs concerned about the policy.

Ultimately this led to PLP producing a very detailed letter before claim setting out the case against the policy they intended to take to Judicial Review. Importantly the claimant was Medical Justice:

> *"We needed the involvement of Medical Justice. It is very difficult to bring claims in the name of an individual as those can be settled quite easily and you need to show standing and it can be picked off on its individual facts if the Home Office wants to do that. So it was great that Medical Justice wanted to take it forward and were prepared to take those risks." (Grantee)*

This letter had the effect of causing the government to back down. *"The HO withdrew the policy. It just shows – if you do a really well pleaded letter before claim, and completely front load it, there are very little cost risks to the claimant and it can be very effective. So basically the policy was withdrawn by the HO and they said they would reconsider the policy and would take into account our letter before claim."*

The Home Office issued a new policy which was something of an improvement. For example, no notice removals would no longer apply to family cases or to vulnerable clients including UASCs, pregnant women and people who suffer from serious mental health disorders. The new policy also introduced 'removal windows': now when they serve any decision a client can know that removal will not take place for the first 7 days if not detained, 72 hours if detained. This reflects the HO's belief that representation is readily available in prison and detention, a belief not supported by the evidence of Medical Justice and others. The window lasts until 3 months from the date of decision, therefore still producing immense uncertainty for the client who may, at any time, have the HO attend their accommodation and take them to the airport without any notice of further removal.

The policy concessions are significant but there are serious and ongoing concerns about the new policy and its implications. As part of the same SLF-funded work, PLP submitted FOI requests to get details about how the policy is being operated and, at the time of writing, is considering its next steps. *"The issue is fundamentally about access to justice, and whether [the policy] fundamentally denies those constitutional rights. With any future work we would be looking at not only the policy itself, and whether not giving directions is unlawful but also whether the actual notice period of 72 hours is adequate. In view of all the other challenges around accessing justice those notice periods we think are inadequate and would deny effective access to the courts."*

- ***Outcomes and impact***

The numbers of people affected by the policy were unknown, but run into the thousands.

> *"Initially, in October 2014, it just related to Tier Four Students and deportation decisions. But the intention was to roll it out to all groups – so it was going to affect thousands of people. I saw one letter from the immigration minister which said they thought the single notice regime would create 14,000 additional cases. I'm not too sure what those figures were based on and it could well have been more than that." (Grantee)*

Official statistics confirm the numbers who may be involved.

Table 3.1: Number of enforced removals, taken from immigration statistics April – June 2015[43]

Year ending June	Number of Enforced Removals	% Change on Previous Year
2011	14,931	-
2012	15,110	+ 1%
2013	14,159	- 6%
2014	12,539	- 11%
2015	12,609	+ 1%

These figures do not include deportations – they are Section 10 administrative removal cases which were the type of cases which would be affected by the removal policy.

The individual misery represented by these statistics was highlighted by Medical Justice: *"We had one case: they drove after him on the street and bundled him into a van and took him straight to the airport. He had severe sickle cell disease, and was also mentally ill."*

The funded research work has provided a building block towards challenging discriminatory provisions in the future which may affect cases of this severity in the numbers outlined above. The potential impact, therefore, may be to have laid the foundation for a wider, deeper challenge to the Immigration Act and the discriminatory practices it introduces around this issue.

Case Study 5: Migrants detained under the 'fast track' system

- ***Background***

Many people arriving in the UK were detained from the minute they claimed asylum, and their entire asylum claim processed whilst locked in an immigration detention centre. This system was called the Detained Fast Track (DFT). A version of the Fast Track was first introduced in 2000 as a process for deciding asylum claims quickly.

From 2003, asylum seekers could have their appeals decided in the DFT if the Home Office believed their case to be straightforward (and therefore quickly decided). Initially, asylum seekers from countries where it was thought there was in general no risk of persecution could be detained in this way. However, over time that changed and asylum seekers from any country could be detained in the DFT including from Iran, Afghanistan and Uganda. Most men were held at Harmondsworth, while women were held at Yarl's Wood. As the years rolled on, more and more nationalities, ages and case types were detained under the Fast Track Rules.

The problems with the DFT were legion. It was criticised by NGOs, human rights lawyers and, in 2012, the Independent Chief Inspector of Borders and Immigration who highlighted the detention of victims of torture and other vulnerable asylum seekers. Asylum seekers routinely reported confusion, despair and trauma and a deterioration in their physical and mental health. Many were held for weeks and even months whilst the UKBA considered their case, in spite of the fact that they were only there effectively for the UKBA's administrative convenience. Separated from family and friends, accessing advice and representation was notoriously difficult with many only able to access a duty solicitor on the same day as their asylum interview. This gave them little or no time to prepare or gather documents or supporting evidence. The UKBA refused 99% of claims placed on the DFT.

The issue was very much on the radar of various NGOs. Detention Action in particular had published research on the DFT in 2011[44], and the Migrants' Law Project had been doing work with Freedom from

[43] Table taken from a report by the Chief Inspector of Borders and Immigration *Inspection of Removals (October 2014 – March 2015)*

[44] Fast Track to Despair: The unnecessary detention of asylum seekers, 2011 http://detentionaction.org.uk/wordpress/wp-content/uploads/2011/10/FastTracktoDespair-printed-version.pdf

Torture and Medical Justice about bringing challenges in individual cases. There was a specific case of a woman in Uganda who had a Rule 35 report[45] and the Migrants' Law Project was seriously considering litigating: *"but the more we thought about it, the more we thought that though we could set it up as a case it was likely that the Home Office would concede".*

The Migrants' Law Project then discussed the possibility of taking a case with Detention Action as the claimant. They decided to progress – at this point through conditional fee agreements – and represented Detention Action in a Judicial Review claim which challenged the DFT as unfair and unlawful in December 2013. The principal judgment in that case was handed down on the 9th July 2014, and it found that there were *"serious failings"* in the system, particularly in relation to the long delays accessing legal advice. However though this judgment was damning, the fear was that the current trajectory of litigation was going to result in successive judgments which found various aspects of the DFT unlawful, but which then confirmed the Home Office's capacity to remedy this unlawfulness by effectively making small changes here and there. This would not achieve the ultimate goal of abolishing the DFT altogether.

> *"We had been starting to despair. The Home Office did unlawful stuff on detention, we would litigate, the court would say 'this little thing is unlawful, this thing is unlawful' and the HO was making small changes and carrying on regardless. The nightmare was that you litigate again and again, the court can never find the process unlawful and the Home Office just carries on having tweaked the system. We were panicking that we were committing ourselves to doing this forever" (Grantee)*

- ***SLF-funded work***

A considerable amount of work had therefore already been done by the time a grant of £15,594 was awarded to the Migrants' Law Project (Islington Law Centre) in November 2014. By this point they had decided to try and challenge the DFT from a different angle.

SLF funding was sought to firstly investigate whether the Judgment handed down by Justice Ouseley had resulted in the practices pronounced 'unlawful' in the 9 July judgment being tackled. There were reports from various NGOs and lawyers that the judgment had not changed much and that a range of discriminatory practices were continuing unabated.

MLP and Detention Action wanted to check out whether this impression was right, amass a body of evidence that the DFT was still resulting in unlawful and discriminatory practices and if, as they suspected, this was the case restore the matter back to the Administrative Court. This was what one person called *"the master stroke"*: not to claim against the Home Office as before, but against the Tribunals (First Tier and Upper) and the Lord Chancellor. By so doing MLP would be challenging the ongoing use of the Fast Track Rules despite the operation of the process having been found unlawful.

> *"That was a really radical stroke. When we put our claim in, the Home Office told us we were mad and told the court it was preposterous. They said we were just litigating the same issue we lost on previously, but with a fantasy defendant instead of them. In one sense it was a very unorthodox move and we were taking a risk." (Grantee)*

The funding enabled them to do that. It involved detailed research work. They set up an online group to link practitioners and NGOs across the country to co-ordinate information-sharing about how the DFT was working in practice. They submitted FOI requests, analysed information gathered by Detention Action, liaised with the Home Office through regular meetings and analysed statistical data. A huge amount of information was rapidly gathered and processed and ultimately the process led to briefing counsel in preparation for bringing a claim.

The hearing was held in May 2015 and the judgment was handed down three weeks later on the 12th June 2015. The judgment found that the Fast Track Rules were *ultra vires* and suspended them. The government's appeal to the Court of Appeal was then dismissed, with Lord Dyson ruling that the Fast

[45] Rule 35 reports are the reports of people who say they might have been tortured. There is a medical view that such people should be released from prison.

Track Rules were in fact unlawful. The Detained Fast Track was suspended and was effectively at an end after nearly 15 years.

- ***Outcomes and impact***

The immediate outcome of the funding was that the legal challenge could be ramped up just at point in the campaign against the DFT when it was particularly needed.

> *"I suppose what I would emphasise is the huge amounts of preparation which went on from the start and throughout the project – both before and after the SLF grant started. At each stage there was a huge amount of work just to master the terrain, have access to all the information and evidence and improvise and readapt legal arguments to the changing situation.*
>
> *The grant kicked in at the crucial moment. We had won on the first round and there would have been a huge temptation to quit whilst we were ahead. Certainly the HO was convinced that we would leave it. But Sonal's master stroke was to attack it through a different angle.*
>
> *I think that the involvement of SLF allows that kind of strategising, thinking approach rather than the more reactive bare bones approach which is the reality of most litigation these days." (Grantee)*

In terms of immediate and longer term impact, individual migrants are clearly benefitting from the outcome of the legal challenge. At the time of submitting the final report, 300 people had been released from detention, and those asylum seekers who remain detained and have rights of appeal are now having their appeals heard under the Principal Appeals Procedure Rules.

In addition, many young migrants were affected over the years by the unfairness of the Detained Fast Track process. 4,286 asylum seekers were detained on the Fast Track in 2013 alone[46]. As we know that around 23% of all known male asylum seekers and 21% of female asylum seekers are aged between 18 and 24, it is a reasonable estimate that thousands of young migrants have been subjected to Fast Track Rules, and the denial of access to justice, enforced isolation and denial of liberty which these represented. The longer term impact is therefore to have prevented this level of discrimination, and to have restored increased access to justice.

The case also garnered considerable media interest, raising the issue of detention and the experience of asylum seekers. Interestingly it also appears to have had the outcome of improving the reputation and traction of the key stakeholders who brought forward the claim. They have proved themselves formidable opponents. Detention Action feels that their relationship with the Home Office has shifted a gear. *"We had always assumed that [the Home Office] would hate us if we won and that would be a problem for part of our strategy around engagement. But in fact it was the other way round. I think they partly talked to us because we made them, but also they feared us, and we also demonstrated that we were reasonable and constructive and able to engage with their concerns. They take us more seriously now."*

However, more recently the Ministry of Justice has started consulting on a new Fast Track for those in detention. Buoyed by the successes of the string of litigation and the fundamental conflict between the Home Office's aims and fairness for clients, NGOs are coordinating responses to thwart the reintroduction.

Case study 6: Gaining the chance to study for young migrants

- ***Background***

Until September 2012, people with discretionary leave to remain (DLR) were eligible for student support[47]. This meant that young migrants with DLR could access student loans. However in 2012, these

[46] The Detained Fast Track and the Parliamentary Inquiry, March 2015 by Detention Action
[47] Under para5 s1 of the Education (Student Support) Regulations 2009.

regulations were amended[48], which removed people with DLR from the definition of 'eligible student'. This meant that since 2012, students with DLR could no longer access any form of student finance, effectively denying them the right to attend higher education.

Just for Kids Law had received about 40 referrals to try and help young people in this situation since 2012. They increasingly realised a concerted challenge to the new rules was needed if a significant number of young migrants were not to be shut out from higher education.

- ***SFL-funded work***

Coincidentally, a case[49] taken by a 20 year old young woman[50] from York called Beaurish Tigere, who had arrived from Zambia when she was six and lived in the UK ever since, was being appealed by the Supreme Court. Just for Kids Law was given £9,666 in January 2015 to research and gather evidence for a Third Party Intervention to support Tigere's Supreme Court case.

Their strategy was both to gather detailed evidence about the impact of the current regulations, and to harness media attention to highlight the issues raised. They gathered detailed case studies from over 30 young people affected by their inability to access student finance, commissioned an expert report on the value of higher education to society, sent FOI requests to try and identify the numbers of young people affected, and took detailed witness statements from a range of people aware of the extent and impact of the regulations.

The case was attracting attention. One of the people who spoke out was the headmaster of Mossbourne academy, a flagship academy in West London. One of their pupils had had to turn down a place at Imperial College to study chemistry because he only had DLR. The headmaster's statement asked why schools like his were bothering to try and inspire and educate young people if they were then to have their chances scuppered by such regulations. *"He made a strong statement. He asked 'What is the point in us even existing in those circumstances?'" (Grantee)*

In tandem with and inspired by this challenge, the Let us Learn campaign[51] was set up by another young woman unable to take up her place at university as a result of the regulations. Chrisann Jarrett says how her discovery that she was barred from higher education *"ignited a campaigning fire"* and with others she set up a support group to reach out to young migrants in similar situations.

This had the benefit for the legal work of garnering more evidence, and for the publicity work of having people who could raise the issue passionately with selected media. They campaigned under the banner 'Young, Gifted and Blocked' and held a small and peaceful protest outside the court when the case was heard on the 24th and 25th June 2015, as well as attending the proceedings. Their protest was joined by several MPs, including Peter Kyle, David Lammy and Dianne Abbott.

> *"It was very inspiring to see them outside the Supreme Court. They were out there in their T-shirts, all so different, talking in a range of different accents from all over the world. Intelligent and capable young people." (Internal Stakeholder)*

The Judgment was handed down on the 29th July. Unusually the court phoned Just for Kids Law to tell them this: it seemed they had been struck by the interest and passion of the young people and wanted to keep them up to date.

Lady Hale gave the leading judgment in front of a full court which confirmed that the student finance regulations breached Ms Tigere's convention rights. The Judge was visibly moved when she saw the young people burst into tears of joy at the chance of going to university. Subsequently Just for Kids Law has had an event at the House of Lords and Lord Kerr, one of the other judges in the case, attended to give out leadership certificates.

[48] By the Education (Student Support) (Amendment) Regulations 2011
[49] R(Tigere) v SSBIS [2014] EWCA Civ 1216
[50] https://www.theguardian.com/uk-news/2015/jul/29/immigration-student-loan-supreme-court-beaurish-tigere
[51] http://hackneycitizen.co.uk/2014/09/10/former-hackney-schoolgirl-starts-campaign-let-us-learn-migrant-students-higher-education/

The new rules have now been introduced. BIS[52] did a consultation following the ruling on what the new rules should look like and initially was quite restrictive in what they proposed. In their first version BIS wanted the rules to be that individuals had been lawfully present for half their life. Just for Kids Law did a submission however pointing out how complex this would be and BIS revised the rules. The situation now is that young people have to have three years of 'lawful residence' to access the student finance.

- ***Outcome and impact***

There have been a range of positive outcomes and longer term impacts from the work.

The regulations have been changed and it is now possible for young people with DLR who are resident for three years to get student finance and thus attend higher education. It is not known how many people this affects, but the numbers will potentially run into thousands. There are an estimated 120,000 undocumented or irregular young migrants in the UK, and over time some of these will gain DLR, be lawfully resident and a percentage will want to go on to study.

Certainly the experience of Just for Kids law backs up a hidden world of young people who were frightened to reveal their status.

> *"We have been reaching out to schools to find other young people in a similar situation to them. What we found was that many had kept this stuff a secret and hadn't even told their closest friends that they are not British. This judgment has given them an opportunity to 'come out'. Let Us Learn is going around schools informing younger children and providing a safe space for them to come to with other people like them. They had a meeting here on Wednesday night where 30 young people turned up including five young people who had never been part of the group before. Which is kind of amazing." (Grantee)*

Another interviewee had an experience of a young person in this situation. *"I met a young woman who was very depressed because of this issue. She had 30 months leave and her mum was saying 'I have to watch her, she is going to do something to herself' because she was so down about it. The court ruling came through and she was ecstatic - a completely different woman."*

The Let Us Learn movement itself is another outcome of having taken this work forward and is now being funded by Paul Hamlyn Foundation. Just for Kids Law is now in contact with over 400 young people and there are a core group of 20 young people working to help others in situations like theirs. *"The next step for them is that they are going to try and persuade universities to offer scholarships to people in their situations".*

It has affected some of the young people at a profound level who have seen for the first time a system which, rather than deal out knock backs, deals out fairness. *"They've had difficulties all their lives from officials, and then they attend the Supreme Court and a Judge says 'you're right, we believe that you should have a fair chance too.' It's quite a big deal."*

More broadly the case gained much media attention, featuring in most of the quality national press and BBC and ITV TV broadcasts. One of the things about this was that it was a positive story about migration running counter to the general negative trend of reporting. Who knows how far this has had an effect on the perception of those who picked up on the issue, but interestingly Just for Kids Law recently conducted three focus groups with the general public about issues affecting young children in the UK. Only one of these – this issue – concerned migrants and it was the one which elicited most sympathy.

Case study 7: Trying to get justice for victims of trafficking in diplomatic households

- ***Background***

[52] Department for Business, Innovation and Skills

There are many migrant domestic workers (MDWs) in the UK[53]. The issue of protection for those who are being exploited as victims of trafficking (VOT) has been under scrutiny in recent times with the Modern Slavery Bill and there have been concerns raised about those particularly vulnerable to abuse because they are employed in diplomatic households.

This is because there are few if any protections for trafficked domestic workers in diplomatic households. Yet they are extremely vulnerable to exploitation – they are tied to their employers under the visa arrangements, and their employers have diplomatic immunity meaning that there is no redress against abuses.

The problem had been raised in the case of *Al-Maliki v Reyes & Suryadi UKEAT/0403/12/GE* which Deighton Pierce Glynn (DPG) had taken forward in 2014. The case concerned two domestic workers who had escaped from their employment by Saudi diplomats, sought help and been recognised as VOT by the Home Office under the international definition of trafficking. The case sought to demonstrate that employers who mistreat and exploit employees, many of whom may be young and who may have been trafficked, cannot rely on diplomatic immunity as a defence to compensation claims.

In the end, Ms Reyes brought a case for unpaid wages as this was the only way she would get compensation for the experience of being trafficked. She succeeded in her employment tribunal but the Court of Appeal said that she could not take a civil claim owing to diplomatic immunity.

> *"The Court of the Appeal side-stepped the issue that the diplomats were doing the trafficking and they treated them as the end consumers of a tainted product. It was as if they were the innocent parties rather than the ones doing the trafficking." (Grantee)*

- ***SLF-funded work***

The SLF supported the original intervention on behalf of Kalayaan[54] in 2013 – 14. DPG then returned to the SLF for further £13,330 in March 2015 (Phase Three) to help fund a Third Party Intervention in an appeal against the Court of Appeal's decision at the Supreme Court. This would challenge the central point of whether diplomatic immunity affords a defence to a civil claim by a person who has been trafficked by the diplomat employer.

They applied for permission to intervene and have been building on the research which SLF funding had already enabled. This has involved looking at comparative examples of state immunity. Permission had not been granted at the time of the evaluation, but it is likely that it will be given permission was granted at the Court of Appeal. The case has not been scheduled yet but DPG notes that:

> *"There is a powerful public policy argument pushing against the court finding in favour of human rights protections given the situation regarding diplomatic immunity. But equally we would say there is a much more remedies based approach emerging from different jurisdictions around the world. So part of this case will be to highlight a comparative law analysis. We engaged the research team at Oxford University to do this for us and they produced a good report looking at different countries and seeing what the situation is there. Our evidence showed that this this type of trafficking is a multi-billion dollar industry – an illicit industry, but an industry nonetheless. And one of the exceptions to diplomatic immunity is if a diplomat is engaged in commercial functions outside their diplomatic role. It is a fairly simple argument and a common sense one.*
>
> *So what we are trying to establish in the Supreme Court is that there is a consensus in international law that there is a prohibition on trafficking, that trafficking itself is a form of slavery, and that this activity has nothing whatever to do with the primary function of a diplomat."*

- ***Outcome and impact***

[53] 16,000 visas for MDWs were granted in 2011
[54] Kalayaan is a small London based oragnisation campaigning for and with migrant domestic workers. http://www.kalayaan.org.uk

There are as yet no legal or policy outcomes from the work though a mass of material evidencing the current situation as regards migrant domestic workers in diplomatic households has been collected, and a comparative analysis of the law regarding diplomatic immunity has been conducted. The intervention, when it happens, will allow the issue to be highlighted and the need for the protection of such workers can be aired. In addition, the intervention will potentially *"enable the court to highlight the extreme revulsion we have to human trafficking and that this should apply no matter who is doing it."*

It is difficult to know how many people would be affected if the Supreme Court hearing is successful. *"The problem is that they are an under reported group. They don't have access to remedies, they can't get help and they know they can't and they are stuck with their employer. So it is hard to estimate or extrapolate the numbers which might be affected. But we do know that diplomatic missions do have domestic staff, and we know there are a large cross-section of countries where the staff are mistreated. This is illustrated not just in the UK but around the world. And given that the diplomatic community is in essence an international community, any challenge to the veil of diplomacy could have repercussions and implications across the world."*

Case study 8: Operation Nexus

- ***Background***

Operation Nexus is a flagship government initiative launched at the start of September 2012 to target *"the increasing number of high-harm FNOs*[55] *and immigration offenders in London."*[56] It is a joint campaign by the Police and Border Force, and was part of an initiative by the government to show that they were getting tough on migrants: this led, in the following year, to the short-lived and ill-advised 'Go Home Vans'. It aims to deport more foreign nationals regarded as 'high harm', and after its initial trial in London is being expanded and rolled out around the country[57].

An FOI request in 2015 revealed that from 2012 – 2014, 246 EEA nationals were deported under the scheme[58], and there has been an increasing concern that the police may be targeting EEA nationals. The Home Office acknowledges that Poland and Romania fall under the top 10 countries for deportations. These tend to be younger than the UK population in general.

Operation Nexus was originally only meant to target high harm individuals and those who do not have the 'right to remain'. However the definitions of who can be detained and deported are loosely defined and creeping in scope. Individual police forces define what constitutes a 'high harm' individual, and there is mounting evidence that individuals are being targeted for deportation for reasons which are not linked to their criminal activity but rather as their status as a migrant.

This seems to be the situation in the case of Daniel Gardonyi, for example, a Hungarian born activist[59] who does not claim benefits, and whose only 'crime' has been to be arrested at peaceful protests against, for example, austerity and the loss of public housing.

The AIRE Centre, amongst other NGOs, has been noting the creeping use of police powers in relation to Operation Nexus with concern. *"The police are such an important body. So when they get involved in immigration it needs to be carefully thought out. The concern is that Operation Nexus is legitimising immigration enforcement in the name of dealing with criminals."*

- ***SLF-funded work***

[55] Foreign National Offender
[56] Taken from the government website news article published under the Coalition Government https://www.gov.uk/government/news/operation-nexus-results-in-more-than-175-removals
[57] To the cities of the West Midlands, Greater Manchester, Scotland, Merseyside, Cleveland, Kent, West Yorkshire, Cheshire, and Wales initially, and more recently to Avon and Somerset and the East Midlands and Lancashire.
[58] 93 Romanians, 57 Poles, 40 Lithuanians and 12 Latvians just from London. To this can be added 229 Albanians and 53 Ukrainians.
[59] https://www.theguardian.com/law/2015/oct/17/law-abiding-activist-faces-deportation-from-uk

The SLF had already funded work by Luqmani Thompson & Partners in July 2014 which focused on the potential infringement of a right to a fair trial for those targeted by Operation Nexus. Luqmani Thompson's briefing paper provided what they described as *"a basis for others to move forwards"*, but acknowledged that since deportation law is not covered by legal aid any challenge was unlikely to be taken forward by them.

The AIRE Centre had seen this research, but wanted to focus on the apparent targeting of EEA nationals. As they pointed out in their application, this would potentially evidence a wider range of infringements given the greater protection EEA nationals enjoy under EU law (and thus a legal case would be more likely).

The AIRE Centre was awarded £10,942 in June 2015 to conduct pre-litigation research. Their hypothesis was that Operation Nexus was being used to target individuals from certain nationalities (in particular Roma, and those of Polish, Romanian and Lithuanian backgrounds) who are low level offenders and homeless in order to remove them from the country. In particular they thought that there was *"insidious stuff where the 'right to be here' was being interpreted broadly as 'not exercising convention rights'".* So they needed to gather information which showed if that was true.

> *"The policy is so vague and opaque that we knew it was happening but could not pin it down. I spoke to a number of barristers and solicitors and everybody was upset about it, but it takes a lot more work than just knowing about a few clients who have been impacted by Operation Nexus to proceed to litigation. We needed research to understand the scope of the operation and find out what's happening 'out there' compare that to what the Home Office was saying was happening." (Grantee)*

The funding enabled them to liaise with the Operation Nexus Community Reference Groups and put out a call for evidence to gather in examples of how the policy was being enacted 'on the ground'. They set up a referral system to link with organisations around the country working with clients impacted by Operation Nexus. Calls for information went out through a range of social media platforms.

The information gathered from this, combined with a series of targeted FOI requests and interviews, produced a significant amount of information – much more than they had originally anticipated.

The work illustrated the challenge of trying to uncover and evidence the effects of a policy, the practice of which is diffuse and often hidden. It was further complicated by the fact that Operation Nexus is (in theory, anyway) targeting an unpopular group of migrants: high harm offenders and those who 'should not be here'. The research was sensitive, and the AIRE Centre kept a low profile because of this.

They were motivated, however, by examples such as Client S. Convicted for a crime where he caused 'unintentional harm', his fiancée (who has Indefinite Leave to Remain) has been battling on his behalf working with the AIRE Centre for several months.

> *"[When convicted] he had been in the UK for 20 years. But he doesn't have a British Passport. He worked for the Roma Support Group for ten years. When he was sentenced, the sentence seemed to be high for what he had done – we think he may have been given a sentence which could 'trigger' Operation Nexus or something like that. He got 12 months, whereas usually sentences would be shorter.*
>
> *And then after 2 or 3 weeks in prison he received a letter from the HO saying he might be liable for deportation. As soon as he received it, we panicked. Our daughter is three years old, and if either of us went back to Poland there would be nothing there for us – this is our home. We contacted the AIRE Centre, and they took on his case. They got the deportation removed. He's coming out in early August, I'm so happy." (Client affected by Operation Nexus)*

With information coming in thick and fast, the AIRE Centre applied to the SLF for an extension grant of £5,637 in March 2016 which they got. This enabled them to finish sorting information and to start preparing for a case. They had developed a clear matrix to enable them to identify test cases during their pre-litigation research work.

- ***Outcome and impact***

The work the AIRE Centre has been doing in this area has helped them take on and argue cases like Client S. Through their referral system, several clients have already gained support and help by getting in touch.

It has also built up a substantial body of evidence to prime a Judicial Review, and Deighton Pierce Glynn is now just about to launch proceedings representing the AIRE Centre against the Home Office and the police.

> *"We are challenging the lack of a transparent policy and the systematic way in which rights of residents are being verified contrary to the prohibition of that contained in the Citizen's directive. The research has provided us with a lot of essential data and information. Without the time and effort of the AIRE centre going to the stakeholder meetings we wouldn't have the evidence base on which to base the JR, without a doubt.*
>
> *The best outcome of the case would be that there will not be a systematic verification of rights and that the Home Office and the police will act in accordance with their legal powers, rather than what they are doing now which we consider to be unlawful."*

As a offshoot of this process, the AIRE Centre has used the CrowdJustice fundraising site[60] for the first time to take the case forward. Through this they have raised £6,000 from public donations. *"It's the first time we have used this and it's been great, actually".* It has thus helped the AIRE Centre trial a new fundraising method, and they were particularly surprised, given the potentially unpopular nature of the target group, that they raised the funds easily.

For now, DPG and the AIRE Centre think there is now a good chance that this opaque but damaging policy, which is resulting in low harm individuals being targeted for deportation, will receive a robust challenge.

[60] https://www.crowdjustice.co.uk/case/operation-nexus/

Section 4: Key findings

Key findings from the evaluation are that:

1. **Wide range of outcomes and actual or potential impact.** The SLF has contributed to a range of actual and potential outcomes which have affected or could affect young migrants. These have been at legal, policy and practice level.

2. **Legal challenge brings about changes impossible through other means.** For the young migrants affected, the impact of work taken forward has been in some instances profound as it has fundamentally changed their circumstances in a way which support or information work could not have.

3. The SLF illustrates in part **the enormous diversity of the migrant population and the laws and policies which affect them**. The work funded is still very largely directed towards those who are seriously disadvantaged but there are others, such as the young students helped by Just for Kids Law, who are not necessarily facing extreme disadvantage but are nevertheless being deprived of their equal rights because of their migrant status.

4. For the funding made available, **the 'hit rate' has been remarkably high**. This is partly to do with the assessment process which screens out unstrategic projects, but it may also indicate increasing vigour and robustness of the legal cases being researched and argued. Third Party interventions are particularly effective in helping courts understand how some laws and policies are resulting in disadvantage and discrimination for individual young migrants.

5. **The level of impact cannot be gauged by the amount of funding invested.** Arguably the most profound impact (in terms of numbers affected) has been the number of people still receiving legal aid as a result of having successfully challenged the residence test. Here a very minimal amount of funding kick-started the challenge, but invested at a timely point in the process.

6. **SLF funding is enabling useful injections of research and thinking time at all stages of the process.** SLF funding has been sought at various stages in a challenge's progression, ranging from funding to pump prime a challenge from the outset (as with Bindmans, and the no notice removals policy when this was reintroduced) to applying for funding when the challenge is already several months or even years in, as with the Detained Fast Track challenge.

7. **Research clarifying migrant support and entitlements may feed policy more than legal challenge.** Various projects have been funded to enable the clarification of the operation of a piece of legislation, policy and practice, in particular around eligibility for and the provision of support for migrants. The Hackney Community Law Centre work, GMIAU report and the ASAP work are examples of this. Such projects are necessarily looser in terms of their legal trajectory and may not yet have developed into litigation funded by the SLF, but are feeding or could feed policy and legal work elsewhere at least in part. Such research is particularly useful where client cases are not eligible for legal aid, and finding out information of what is happening to clients is thus particularly challenging.

8. **Increasing hostility to migrants is resulting in more work.** The government's stated aim of making the environment 'hostile to migrants' is stimulating work as organisations are having to respond to new policies and practice which seemingly depart from domestic and EU law. Policies are being introduced quickly, rushed through or are expanding in scope: Landlord Checks, Operation Nexus and NHS patient confidentiality are examples of this. Here organisations funded by the SLF are fighting a rearguard action, aware of the actual and potential negative fallout but having to work hard to get sufficient evidence to mount a legal challenge and pull the government back into line. The only effective challenge such policies will receive will be legal: nothing else is going to work given the stated intention of the government in a post-referendum environment. The courts really are the 'thin red line'.

9. **It is not possible to second guess the range of benefits** which may flow from a project at the outset. There are a number of projects which are, for example, feeding into one another as the work of the SLF progresses. In addition, some projects have had to change tack as the work has progressed because of developments elsewhere, changes in court scheduling or new law or policies being introduced.

10. **Organisations are gaining from being funded and doing the work**. Some are learning, others are creating new relationships, others learning new information and skills, others gaining a higher profile and reputation.

11. **Some organisations have or are developing a niche and skills around taking forward strategic legal work in this area**. The value of trying to attract 'new' organisations to take forward legal challenges is debated by those involved in or funded by the SLF. Some feel it is important to keep expanding potential challengers, others feel that at this point consolidation is what is needed given the unprecedented attack on migrants' rights, only set to get worse with the introduction of the Immigration Act.

12. **The SLF could be more strategic overall.** Interviewees were asking whether 'picking off' often recondite-seeming legal points was the way forward, or whether the SLF needed to think more broadly about how it could have a more proactive impact on the policy and legal context. On balance the view was that it needed to do both: for the foreseeable future, and given the hostile environment, the gains to be had by defending migrants' rights in every way possible require legal vigilance and vigour and challenges need to be mounted in all directions This is partly because the reality for migrants is getting worse and the political will to engage at a policy level to change things in their favour is virtually non existent. That said, some feel that the SLF could benefit from having some thinking space to reflect as a fund and consider how best to assert migrants' rights in the longer term given demographic changes, movements of refugees and the fact that increasingly the body of laws, rules and regulations affecting migrants can be viewed as 'unfit for purpose' given its complexity. This could potentially happen by holding for instance an annual conference to look at lessons from other countries and discuss strategic issues across the field.

Appendix A: Methodology

The approach was qualitative in nature and the methodology comprised:

Initial scoping

- Scoping out the evaluation with Trust for London SLF co-ordinator
- Liaison with Trust for London SLF co-ordinator and MigrationWork CIC around the selection of case studies
- Preliminary interview with Trust for London SLF co-ordinator about the scoping and issues to be covered in the evaluation

Fieldwork

Between March and May 2016 fieldwork was carried out as follows:

- Document review: a review of all papers, including all project applications and reporting, from the 18 projects funded during Phase Three and the five projects selected as case studies funded prior to Phase Three. This included reports, press articles and additional information where possible.
- Online searches for information about the selected projects
- Attendance at a meeting of grantees held at Paul Hamlyn Foundation on the 3rd May 2016 at which projects reported back on progress and outcomes from the work they had undertaken
- 29 semi-structured telephone interviews lasting between 20 minutes and two hours including:
    - 9 interviews with internal stakeholders (Funders and MW)
    - 7 interviews with Expert Panel members. Though this was predominantly about their experience of the management of the SLF (which was reported in the complementary reports on the management of the fund)
    - 13 individual interviews in relation to eight projects chosen as case studies. The maximum number of people interviewed per project was three: one person was interviewed in relation to two projects.

Data analysis and reporting

An approach to data analysis known as 'open coding', which is defined as: *"A non-mathematical process of interpretation, carried out for the purpose of discovering concepts and relationships in raw data and then organising these into an explanatory scheme…The key idea of grounded theory is that the processes of data collection and data analysis are intimately connected, each informing and guiding the other."*[61]

Open coding is used in academic qualitative research to develop typologies and theoretical frameworks. However, for the purposes of this evaluation we tried to use it to draw out findings and lessons which will be practically useful for the SLF management group and funders.

Findings were presented in a draft report in early August 2016 and these were revised in consultation with funders and partners. Two complementary reports on the management and focus of the SLF had been written and submitted earlier (June 2016).

[61] Strauss, A. and Corbin, J, Basics of Qualitative Research Techniques and Procedures for Developing Grounded Theory (2nd edition, London: Sage, 1998)

Appendix B: Interviewees

Name	Organisation	Role
Bowman, Laura	Esmee Fairbairn Foundation	Funder
Canning, Sean	Hackney Community Law Centre	Grantee
Cherryl Mogan, Audrey	AIRE Centre	Grantee
Churchill, Sioned	Trust for London	Funder
Cox, Simon	Migration Lawyer, Open Society Justice Initiative	Expert Panel
Gellner, Deborah	Asylum Support Appeals Project (ASAP)	Grantee
Ghelani, Sonal	Islington Law Centre	Grantee
Gill, Manjit	Barrister, No 5 Chambers	Chair, Expert Panel
Halford, John	Bindmans LLP	Grantee
Harvey, Alison	Legal Director, Immigration Law Practitioners' Association	Expert Panel
Hickey, Gerry	MigrationWork CIC	SLF Project Manager
Kerr, Steve	Trust for London	Funder
Knights, Samantha	Barrister, Matrix Chambers	Expert Panel
Lambe, Shauneen	Just for Kids Law	Grantee
Lee, Jake	Unbound	Funder
Lukes, Sue	MigrationWork CIC	SLF Adviser
Mehta, Bharat	Trust for London	Funder
Pettifer, Wendy	Hackney Migrants' Centre	Grantee
Phelps, Jerome	Detention Action	Grantee
Pickup, Alison[62]	Barrister, Doughty Street Chambers	Expert Panel
Pitchford, Michael	Joseph Rowntree Charitable Trust	Funder
Sandhu, Baljeet	Director and Solicitor, MiCLU (Migrant and Refugee Children's Unit), Islington Law Centre	Expert Panel
Schleicher, Theresa	Medical Justice	Grantee
Singh, Rakesh	Public Law Project	Grantee
Sutton, Alex	Paul Hamlyn Foundation	Funder
Szoma, Dorota	Client	Client
Thomson, Kirsty	Solicitor, Legal Services Agency Ltd	Expert Panel
Williams, Hazel	Asylum Support Appeals Project (ASAP)	Grantee
Yazdani, Zubier	Deighton Pierce Glynn	Grantee

[62] Since the interview, Alison Pickup has become Legal Director at Public Law Project.