



Annual Report 2002-2003



INVESTOR IN PEOPLE

CONTENTS

	Page
Foreword	2
The Work of Adjudicators	3
Executive Summary	10
Investing in the Team	13
Judicial Reviews	15
Finance Report Year 2002-03	18
Appendix 1: Performance Targets	22
Appendix 2: Statistics	31
Appendix 3: Asylum Support Adjudicators	34

FOREWORD

The Asylum Support Adjudicators (the ASA) have now completed their third year amidst continuing change in the area of Immigration and Asylum, in particular the introduction of the Nationality, Immigration and Asylum Act 2002 (NIAA 2002).

This is the third annual report of the ASA and covers the period April 2002 - March 2003. It has been another busy year for us, with the number of appeals received rising to a record 3,813, representing an increase of 78% on the previous year.¹

Despite this substantial increase in our work, the continuing pressures of ensuring compliance with strategic targets, staff shortages and overcrowded accommodation, adjudicators and operational staff have delivered an efficient and professional service without compromising quality or fairness.

I thank them one and all for their contribution.

A handwritten signature in black ink that reads "S.H. Storey". The signature is written in a cursive style with a large, looping 'y' at the end.

Sehba Haroon Storey
Chief Asylum Support Adjudicator

¹2,141 appeals were received in the period April 2001 - March 2002. See appendix.

THE WORK OF ADJUDICATORS

Appeals Received

The ASA expected to receive a minimum of 3,300 and a maximum of 6,000 appeals during the period April 2002 - March 2003. The number of appeals actually received was 3,813.

Our maximum projections were based upon the figures for January-June 2002 when receipts rose dramatically from 254 in January to 380 in June, with May 2002 recorded as the busiest month with 416 appeals being received.

In the summer of 2002, we were advised by the National Asylum Support Service (NASS) that they intended to introduce a more efficient method of means testing when assessing applications, which could result in an additional 20 appeals per month. In addition, we were notified that the Case Cleansing and Cessations Project, the conversion of all asylum seekers from Standard Acknowledgement Letters (SAL) to Application Registration Cards (ARC), coupled with the possibility of support being discontinued for failure to attend a conversion event, may result in rising numbers of appeals.

In the circumstances, we considered it prudent to prepare ourselves for a steep rise in predicted appeals, for which our current accommodation would have been totally unsuited. By September 2002 however, it appeared less likely that the number of appeals we were expecting would materialise and a report by NASS forecasted a monthly projected figure of 370.

In the event, neither the more efficient method of means testing nor the Case Cleansing and Cessations Project resulted in the surge of appeals expected. Added to this, the NASS management of the SAL/ARC conversion ensured that few appellants were discontinued for failure to attend a conversion event and of those that were, only a small number exercised a right of appeal against discontinuance.

Notwithstanding that the actual number of appeals received exceeded our minimum projections by 15.5%, the ASA nevertheless fully complied with strategic targets of delegated legislation in 95% of all appeals received from asylum seekers within the statutory framework. The remaining 5% were the subject of delays for a variety of reasons but by far the most common cause was the failure of NASS to issue travel warrants in accordance with directions issued by adjudicators.

Case Profile: Failure to Travel

A was awarded support and told to disperse to Southampton but failed to travel so support was discontinued. It transpired that A had in fact received treatment from the Medical Foundation for a period of one year. As it is a matter of agreed policy that such persons are not to be dispersed, the Adjudicator found that NASS had failed to give consideration to the question of deferring dispersal so as to allow A to continue his course of treatment in compliance with their own Policy Bulletin. The appeal was therefore remitted to the Secretary of State to enable NASS to provide accommodation locally or as close to the Medical Foundation as possible.

ASA/02/08/4050

THE WORK OF ADJUDICATORS

Withdrawal of Appeals

The number of appeals withdrawn principally by NASS, fell from 41.9% to 36% during the period covered by this report (although 1.8% were withdrawn by appellants). Following changes in procedure and management, this figure is expected to reduce substantially in the coming year.

Cases were withdrawn at different stages of the appeals process. However, the speed at which the ASA is required to function, means that the only saving in time is often the writing up of the Reasons Statement. In real terms, however, a 5.9% reduction in the number of appeals being withdrawn has meant that our total output has substantially increased from 794 appeals determined in 2001-2002 to 1,471 appeals determined in 2002-2003.

Outcome of Appeals

In February 2003 the Hon. Mr Justice Collins was informed in the course of hearing *ROAO (Q) and others - v - Secretary of State for the Home Department*, (February 2003)², that statistics showed some 40% of ASA appeals were allowed. Whilst this figure was relied on by Mr Starmer Q.C in submitting that there must be "real concern at the standard of decision-making by NASS", it raised concerns amongst adjudicators that ASA statistics were possibly being misinterpreted.

We have therefore revised our method of recording statistics in the interest of clarity. The statistical tables at Appendix 2 list outcome of determined appeals under the headings "unconditional/substituted decisions, conditional/substituted decisions, remitted to NASS, no jurisdiction and dismissed".

Only unconditional substituted decisions are technically allowed appeals as a conditional decision suspends the payment of support pending compliance by the asylum seeker with a specific condition. In the period covered by this report, only 11% of the total number of appeals received and 25% of appeals determined resulted in a successful outcome for the appellant.

² See paragraph 3 of the judgement

Case Profile: An Unusual Occupation

Appellant B was awarded support and dispersed to Middlesbrough. Subsequently, information came to light that B had been working and support was discontinued. During the course of giving his evidence, the appellant claimed that although he had been present in a restaurant for 20 hours or so each week, he was not in paid employment, and had simply been provided with food in exchange for gaining experience in the restaurant business. The Adjudicator did not accept B's evidence noting in particular the considerable number of deposits in B's bank account, which suggested that he was in receipt of a regular income.

ASA/03/04/6310

THE WORK OF ADJUDICATORS

We have raised our concerns with the Home Secretary and Immigration Minister Beverley Hughes about the quality of the NASS decision making process and poor preparation by NASS of their evidence. Examples of this include the late and at times non-production of the Secretary of State's bundle of evidence and consequential failure to discharge the burden of proof to demonstrate non-entitlement or a breach of conditions. Where this occurs, appellants invariably succeed by default.

Other features which impact upon our decision making process are NASS reliance upon inaccurate information held on the Immigration and Nationality Directorate (IND) computer database, failure to comply with directions, failure to comply with NASS policy bulletins and on occasions failure to instruct a Presenting Officer. The former has resulted in substantial numbers of appeals being successful where NASS have wrongly discontinued support on the basis that an asylum seeker has exhausted their appeal rights.

The reality is that when NASS conduct proper investigations prior to discontinuing support (e.g. in working or fraud cases), their decisions are properly supported by evidence and appellants rarely succeed in such cases.

There are however, continuing difficulties when support is discontinued for ceasing to reside but where little or no evidence is produced to substantiate this. This is despite detailed guidance being given by the ASA in the form of directions as to what evidence is required from NASS to prove their case.

Similarly, we have noted a tendency on the part of some NASS caseworkers to have little or no regard for NASS published policies when making their decisions. This may result from a lack of training and awareness of the policies in existence. An example of this is a recent case where an attempt was made to disperse an 8 months pregnant woman from the South East to Glasgow.

Case Profile: A Lover of Music

Appellant C can safely be described as an enthusiastic musician. He was identified by NASS fraud investigations as having earned £8,914.20 in the space of a year whilst in receipt of support. He failed to respond to numerous requests for information and his support was therefore discontinued. NASS sought to recover overpayment of asylum support under section 112 of the 1999 Act but C failed to co-operate. At the hearing, C did not dispute the level of his earnings but pleaded destitution on account of having spent all his money mostly on the purchase of a keyboard (£1,000), speakers (£500), drums (£300), a second keyboard (£500) plus a microphone and cables! The case for remitted to the Secretary of State for an assessment to be conducted on the basis of information received at the hearing.

ASA/02/11/4848

THE WORK OF ADJUDICATORS

It has also been a regular feature during this period for adjudicators to be informed by the NASS Presenting Officers that they have not been provided with a file and/or alternative evidence to defend the decision under appeal. Whilst every effort is made to provide both parties with copy documents from the ASA file where required, often this is of little assistance as the ASA file will only contain the notice of appeal. Where further evidence has been received from an appellant, neither the adjudicator nor the Presenting Officer is in any position to assess whether this has been taken into account by NASS in reaching their decision.

When therefore considering the statistics at the end of this report, it may be useful to note that at least some part of the 25% of unconditional substituted hearings have resulted from poor preparation of appeals on the part of NASS.

Adjudicators in Post

In March 2003, Susannah Walker, Sessional Adjudicator, appointed in April 2000 accepted an offer of appointment as Adjudicator with the Immigration Appellate Authority. The ASA is very sorry to lose her. A list of adjudicators currently in post appears at Appendix 3.

Case Profile: The Two Men of Kosovo

DZ and FZ were brothers. They had both previously qualified for local authority support under Section 17 of the Children Act 1989. On the youngest turning 18, they applied for NASS support. Their applications were approved but NASS required as a condition of support that FZ move to accommodation in Nottingham, whilst DZ should move to an address in Sheffield. The brothers refused on two separate occasions giving their reason that they wished to continue living together. Support was therefore discontinued and the brothers appealed. They argued that the second offer of accommodation was unsuitable because it was some distance from the college where they had been studying for 2 years, and away from their support network. The Adjudicator remitted the case, requiring NASS to reconsider the matter by reference to the distance between the accommodation and the college where the appellants were studying. Also of relevance was whether there was any other college that was nearer where they could continue their education and whether it would be reasonable for their studies to be disrupted by this move. The adjudicator was not persuaded that they could not cope without the network of support that they had built up, bearing in mind that the appellants were on this occasion being offered joint accommodation.

ASA/02/08/4016

THE WORK OF ADJUDICATORS

The Procedure Rules

We are pleased to report that agreement has been reached on most of the proposed amendments to the Rules. We are grateful for the assistance received from the Lord Chancellor's Department and the Council on Tribunals in achieving a satisfactory outcome to what has been a long and drawn out process.

The Asylum Support Appeals (Procedure) (Amendment) Rules 2003 will come into force on 11 August 2003³. The amendments allow appellants an extra day to submit their appeal against refusal or discontinuance of support. NASS will have an additional day to submit the respondents bundle. It is hoped that the additional time allowed will result in timely production of the respondent's evidence. The amended rules also allow adjudicators added flexibility in the listing and determination of appeals.

Whilst we remain subject to stringent time constraints, we are satisfied that the amended rules will assist us in providing a fairer system whilst at the same time ensuring timely disposal of appeals.

³ 2003 No.1735 - The Asylum Support Appeals (Procedure) (Amendment) Rules 2003

Case Profile: Friend or Fraud

Appellant E had pleaded guilty to three counts of conspiracy to obtain money by deception and to defrauding NASS of £63,567 for which he was sentenced to 17 months imprisonment. E had originally been charged with funding terrorist activity in the UK but, on advice, pleaded guilty to the lesser charge of conspiracy. On release E's claim for asylum support for himself and his dependants was discontinued. At the hearing, he challenged this decision claiming he was destitute and in need of both subsistence and accommodation. E admitted failing to notify NASS that he held approximately £10,000 - £12,000 in a bank account in his name, but argued that this money belonged to his brother and had been returned to him. For this reason, he believed that £60,000 of the sum he was alleged to have obtained fraudulently had been rightfully paid to him but could not explain why these arguments had not been put before the Crown Court at his criminal hearing. The Chief Asylum Support Adjudicator found that she could not go behind the conviction in view of E's guilty plea, and the decision of NASS was therefore upheld. The adjudicator applied the test set by the Court of Appeal in *R (app. Q and ors) v Secretary of State for the Home Department [2003]* and was satisfied that discontinuance of support would not result in a breach of article 3 of the European Convention on Human Rights.

ASA/03/04/6328

THE WORK OF ADJUDICATORS

Video

One of our long standing aims has been the production of a video aimed principally at assisting the unrepresented appellant in understanding ASA tribunal procedures and the appeals process. We were unable to apply ourselves to this last year due to pressure of work.

In March 2003 we completed filming of the ASA Information Video. This is designed to provide information about our service, the Rules and what appellants can expect during an oral hearing. The video, which lasts for 9 minutes, has been issued to interacting Government departments, voluntary organisations and support groups. We also have a shorter, cut down version, designed specifically for appellants. This video details the hearing process and will be shown to appellants in our reception before their hearing. This will be in the appellants own language and copies are also available to organisations assisting asylum seekers.

Monitoring and Appraisal

Adjudicators continue to be monitored and appraised by the Chief Asylum Support Adjudicator at frequent intervals, although the procedure for appraisals is in the process of being revised in accordance with the recommendations of the Judicial Studies Board.

All but one adjudicator (appointed in January 2002) have been appraised at least once and others on a more frequent basis. Unfortunately, extensive withdrawal of appeals by NASS has resulted in several appraisal visits having to be cancelled. In so far as these relate to sessionals, it has proved extremely difficult to re schedule the appraisal visit as the adjudicators concerned are unavailable to sit very often due to other tribunal or work commitments.

The current procedure involves regular monitoring of the work of the adjudicators including perusal of reasons statements and appraisal during the course of a hearing. Adjudicators receive feedback on their performance and support and training where required.

Case Profile: Disclosure Without Delay?

Appellant F had earned £8,802.12 working 42 hours per week at £4.50 an hour from May 2002. He did not, however, disclose this income to NASS until March 2003. To his credit, he did offer to pay back what he owed and confirmed that he wished to come off support. The question that arose was whether F's income fell below the NASS threshold for destitution and whether he had sufficient income to meet his accommodation costs. The adjudicator applied the test set out in *SSHD (National Asylum Support Service) v the ASA and (1) Berkadle and (2) Perera* [CO/1991/2001], and determined that although the Secretary of State may have made some errors in calculation and overestimated the amount of F's earnings, it was sufficient that he had made a reasonable and genuine effort to assess F's basic needs. Taking a generous approach, NASS allowed F 28 days in which to find private accommodation undertaking to extend this period by a further 28 days if F could show that he had made reasonable efforts to find accommodation but had been unable to do so.

ASA/03/03/6155

THE WORK OF ADJUDICATORS

Unified Tribunal Service

On 11 March 2003 the Lord Chancellor announced his plans for Tribunal reform, the centrepiece of which is the creation of a Unified Tribunal Service. It is anticipated that the ten largest Tribunals will transfer to the LCD between 2005-2008. The Home Secretary has given his agreement for the speedy transfer of the ASA and in the circumstances, we anticipate a transfer at the earliest opportunity.



Sehba Haroon Storey
Chief Asylum Support Adjudicator

Case Profile: A Polite Man of Impeccable Appearance

G's asylum support was discontinued following intentional destruction of items of furniture, severe soiling of the premises with urine, faeces and vomit and damage to NASS provided accommodation. He was also accused of threatening violence, creating a public nuisance and disturbance whilst drunk, on numerous occasions. G admitted his drunken binges and soiling of the premises but insisted that he was never violent or aggressive, merely depressed. G's flat was a complete wreck, he was witnessed throwing a chest of drawers, his television set had been thrown through his window from the inside and blood was smeared on the walls and furnishings. Despite this, G denied responsibility notwithstanding several recorded complaints by hostel staff, neighbours and numerous witnesses not to mention having been cautioned by the Police for criminal damage and for drunk and disorderly behaviour on two separate occasions. In making her decision, the Deputy Chief Asylum Support Adjudicator found no evidence of a significant mental health component to G's behaviour. She concluded that whilst there was undoubtedly a link between G's psychological state and his abuse of alcohol, he was responsible for his own actions and behaviour and had the means to remedy it. In view of the availability of support from friends, she did not consider that there was a breach of article 3.

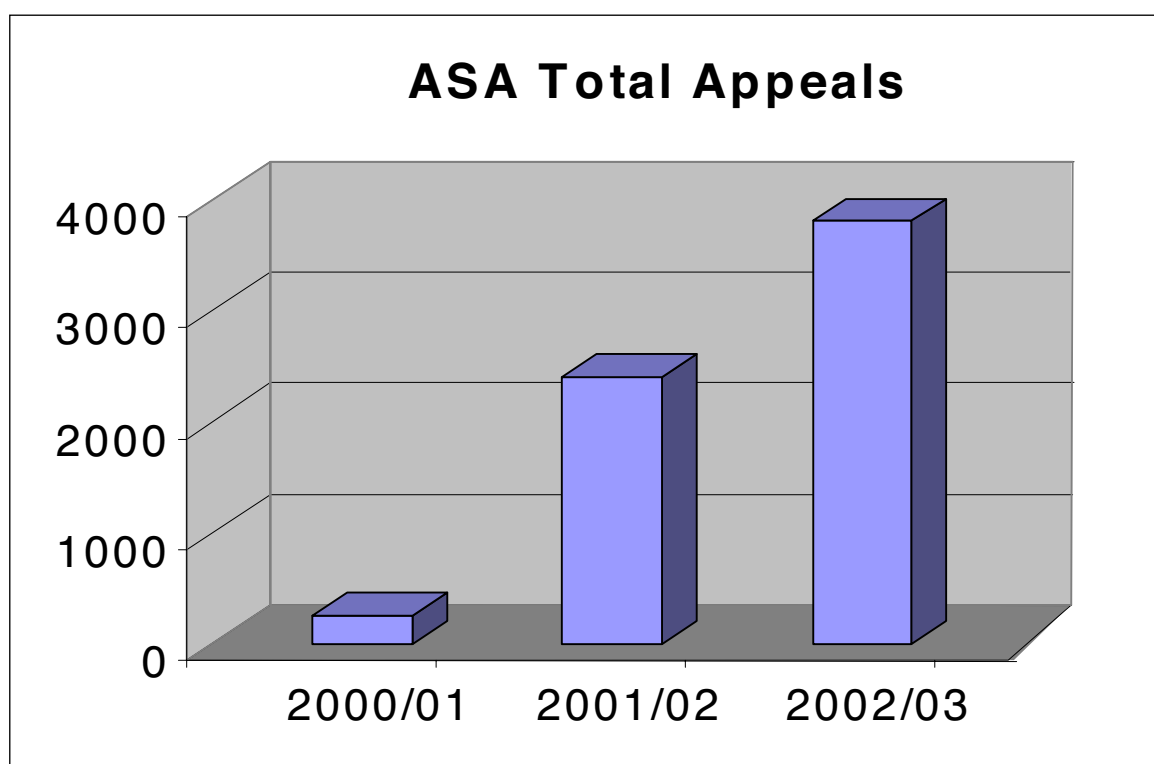
ASA/03/03/6158

EXECUTIVE SUMMARY

This Annual Report outlines the progress the Asylum Support Adjudicators have made during April 2002 to March 2003, our third year of operation.

Our main challenge this year has been to manage the continuing increase in the level of appeals we receive that has now increased for the third successive year.

In 2002/03 we received a total of 3,813 appeals [an average of 317 appeals per month]. In 2001 / 02 we received a total of 2,141 appeals [an average of 178 appeals per month]. In 2000 / 01 we received a total of 255 appeals [an average of 21 appeals per month]. This is detailed in the following table:



Case Profile: An Extravagant Lifestyle

NASS received information suggesting that H's husband was in employment, owned a motor vehicle, and held a number of credit cards including two gold cards. H's support was therefore discontinued and the wife appealed. At the hearing, H's husband confirmed that a total of £29,000 had been credited to his bank account over an eighteen month period and that he had, in addition, taken out two loans with a mainstream bank totalling of £10,000. He denied however that he had ever been in employment. The Adjudicator found that asylum support was intended solely for persons who are destitute and, in the light of her husband's assets and available resources, H was not in need of Asylum Support.

ASA/03/02/5946

EXECUTIVE SUMMARY

Despite this increase we have continued to meet the legislative standards for dealing with appeals in the vast majority of cases. For example over 99% of Hearing Notices and Statement of Reasons are sent on time and 99% of oral and paper cases are completed within the time scale (for a full breakdown of our Performance levels see Appendix 1, Performance Targets).

The ASA has a small team of support staff who provide a wide range of services to the organisation. This includes casework preparation, court ushering, personnel, finance and administrative duties. The continual increase in appeals has put considerable pressure on the team but they have continued to meet the strategic targets set down by the delegated legislation. The team have worked exceptionally hard this year and have demonstrated a high degree of professionalism, commitment and willingness to ensure that the ASA continues to provide a high level of service to its users.

There have been a number of legislative, administrative and policy changes within NASS recently. It is too early as yet to assess the full impact of these measures but they have already affected the number of appeals made to the ASA, with average monthly figures being reduced to 239.

Staff Recruitment and Training

In November 2002 we undertook a recruitment campaign in partnership with Barkers Recruitment to fill a range of administrative posts which were filled by agency staff. This campaign was very successful and attracted 363 applications. Following the assessment and interview process we were able to confirm the appointment of 10 new members of staff.

This required a major induction and training plan, which with careful planning and organisation has been successfully completed. Following the recruitment campaign we reorganised the support staff structure. We have now established specific teams for reception, ushering, casework, finance and administrative functions. This has been a great success and we have received numerous comments from service users who have praised our standards of service. We have continued working with NASS to develop a more effective and efficient appeals process. We have arranged numerous staff visits for NASS and these have been extremely productive. Support staff from the ASA have also visited NASS, the Immigration Appellate Authority and the Employment Tribunal. This has helped us develop best practises and improve our standards of service.

Case Profile: Stocks and shares

On the basis of evidence suggesting that appellant I held shares in a number of Zimbabwean companies and that she had monies lodged in a bank account in that country, NASS decided that I was not destitute. At her appeal, I agreed that the money in her account, shares and investments totalling in excess of £2,000 belonged to her but claimed that she was unable to access these assets. She disclosed receipt of three cash payments in the past year adding that the monies had been taken out of the country illegally. She therefore argued that as she did not have access to her assets she was effectively destitute. The adjudicator required I to obtain evidence that these funds were not available to her to enable reconsideration of her case by NASS.

ASA/03/05/6406

EXECUTIVE SUMMARY

The ASA Web Site

Following a successful procurement exercise in September 2002 the tender for hosting the ASA web site (www.asylum-support-adjudicator.org.uk) was awarded to Corporate Document Services Ltd (CDS) based in Leeds.

The tender provided for new hosting arrangements and the design and implementation of a searchable site database. This work has now been completed and the site includes information about the ASA, the Rules, monthly statistics, the appeals process and a Publications page (which contains downloadable versions of our Annual Reports and Business Plans). The Notice of Appeal can also be downloaded in a PDF format.

The new Reasons Statement database contains all of our Reasons Statements in PDF format. They are searchable by date, adjudicator, ASA reference number and category. We have also identified "Starred Cases" and these will be available through the database and include a brief written summary.

During the period December 02 - May 03 the site attracted 21,800 visitors and the "Notice of Appeal" form was accessed 595 times. The most commonly searched "keywords" and "phrases" were the "meaning of words" and "asylum" and some specific NASS accommodation providers (i.e. "Clearsprings Management Limited" and the "Roselodge Group").

ASA Freephone

We have a freephone telephone facility specifically for the use of appellants who wish to discuss any aspect of the appeal process. Unfortunately this service is seldom used and we intend to raise the profile of this facility this year. **Our freephone number is 0800 389 7913.**

Our main challenge remains the effective management of the appeals process with a continually increasing caseload. However, if we maintain the progress we have already made in such a short space of time we will continue to meet the high targets and levels of service required by our Rules.

Case Profile: HIV Positive

Appellant J failed to travel to his designated accommodation and his support was discontinued. J was from Jamaica, homosexual and HIV symptomatic. He wanted to remain in London as this would allow him to remain in contact with fellow gay Jamaican men who were in a similar situation thereby retaining community links and allowing him to continue his treatment at St Thomas's Hospital. Medical advisers and the Terrence Higgins Trust expressed the view that it would be to J's benefit to be accommodated in London claiming that dispersal would have an adverse effect upon his health. They were concerned not only about the disruption to his treatment but also because he would be removed from contact with other Afro Caribbean men in a similar position. On the day of hearing, the adjudicator was told that J had found accommodation with a friend and now required subsistence support only. NASS were therefore asked to reconsider their decision.

ASA/03/03/6002

INVESTING IN THE TEAM

Involving All Members

As well as regular team meetings we have had a number of group social events which were enthusiastically supported. In addition we have held two formal whole team events involving the Adjudicators and the support staff. There was an equally enthusiastic participation in these events albeit that the agenda and venue were a little more structured!

At our whole team review in September 2002 we looked back over the preceding six months. Everyone participated in exercises to identify our strengths, weaknesses, opportunities and challenges. A number of new initiatives have grown directly from that meeting some of which, such as improvements to our reception area, will be immediately apparent to our users. Other initiatives, such as restructuring of the organisation into teams, may be less apparent at first glance but have produced tangible results.

At our review meeting in May 2003 we participated in an exercise to identify key adjectives which we would use to describe the ASA. From there we progressed to an analysis of whether these attributes helped or hindered our service delivery. We identified a useful action plan and some positive initiatives such as internal newsletters, which will not only enhance our communication processes but which will be of particular benefit to team members who are not permanently on site such as sessional Adjudicators, part-time Adjudicators and support staff.

Team Training

The ASA has a training and development strategy which emphasises a strong commitment to the training and development of each member of the team. To translate this into practical action, we publish an annual Training Plan which is reviewed on a quarterly basis. This Training Plan is equally applicable to Adjudicators and support staff and outlines any identified training needs, the method by which these are to be met, the resources from which they will be met, the ASA business objectives to which this enhanced knowledge will contribute and the success criteria by which the training method is to be evaluated.

Case Profile: A Post-Graduate in Dentistry

Appellant K's asylum support was discontinued for failure to travel. He appealed stating that he was seeking registration in order to practice as a dentist by pursuing a course of study at the University of Manchester, Department of Post-Graduate Medicine and Dentistry. In particular, evidence was given by the Dean of that University that he was unaware of any other similar course in the whole of the north of England. Although not allowing the appeal, the adjudicator determined that the position should be reconsidered by the Secretary of State who should consider the feasibility of housing the appellant within reasonable distance of the University concerned, the operation of NASS's own Policy Bulletin which states that NASS should consider finding available accommodation if at all possible where an asylum seeker is living in a city of dispersal and has expressed a wish to remain there and, not least, K's financial circumstances bearing in mind that he appeared to have sufficient funds to undertake a two year course of study.

ASA/03/04/6367

INVESTING IN THE TEAM

Approximately 100 days have been committed to training during this financial year. This is an average of 5.5 for each permanent team member. Linking in with our emphasis on recruitment we have particularly focused on induction skills and service delivery at the hearing stage. Where formal day release training is not applicable we have allocated a mentor to each new recruit to assist with the induction process.

Last year we identified a need for training in immigration and asylum law as it overlaps with our jurisdiction. We met this need by providing a dedicated two-day training course in which immigration and asylum law featured heavily. Adjudicators were also provided with a detailed package of notes for future reference.

As a further part of the ASA specialised training package, we arranged for speakers to cover contextual topics on the subject of asylum and on the second day we focussed on the subject of court skills for Adjudicators and equality of access to hearings. We were assisted by a number of excellent speakers including the Honourable Sir Justice Collins QC and some entertaining role-play exercises.

We hope to build upon this work by offering an ASA dedicated course on managing the hearing and preparing of Reasons Statements in Autumn 2003. We are particularly keen that our managers should also have the benefit of courses on financial awareness, leadership and managerial skills and will consider support for those seeking external qualifications in these areas if appropriate.

Support staff have highlighted needs for increased training in all aspects of computer skills and we shall also be seeking training to build confidence in our staff to manage the rare occasions when they are required to deal with dissatisfied customers. We continually strive to find areas of training interest for both Adjudicators and support staff which increase motivation by providing access to general information on tribunals and on the background to the work that we do.

Case Profile: A Man of Means

When appellant L admitted to owning four houses in Zaire, it was perhaps not altogether surprising that the Secretary of State found difficulty in accepting that he was destitute. To his credit, the appellant accepted that a property owner would be in some difficulty persuading anyone that he was destitute, however, at the hearing he produced a letter from his solicitor explaining why these properties could not be sold. The adjudicator decided to remit this case to the Secretary of State for further enquiries to be conducted. In doing so, the Adjudicator noted that where appellants own property abroad, they are required to sell this within a reasonable time and fund their own maintenance and accommodation from the proceeds of sale. If the property is incapable of being sold, it is for the appellant to prove this.

ASA/03/01/5797

JUDICIAL REVIEWS

By far the most important decision in the year to 31st March 2003 was **Ahmet Dogan (CO/1716/2002)**. Mr Dogan was an asylum-seeker with a wife and, crucially, a dependant child. He and his family had failed to travel to dispersal accommodation in Liverpool as directed by NASS.

When supported persons do not comply with travel instructions, their support is generally discontinued. However, an early ASA decision held that to discontinue support for a family with children would be to breach Article 8 of the European Convention on Human Rights. It is fair to say that the Adjudicators had not at that stage evolved the current practice of deciding that support should be suspended until an unmeritorious appellant travels to dispersal accommodation. It is equally fair to say that NASS failed to challenge the Article 8 decision in the High Court. Instead, they sought through various means to exclude ASA's jurisdiction in "family cases". In each case the Adjudicators determined that they did have jurisdiction and, until Mr Dogan's case, NASS never sought judicial review.

The Dogan family was awarded support on 21st December 2001. The decision letter stated: "You should note that support will only be available to you in a dispersal area and that should you fail to travel you will not receive any further support at your current address."

The consequence of the family's failure to disperse a few days later was therefore the suspension of support until such time as they did disperse. NASS argued however that there had been no decision to "stop providing support ... before that support would otherwise have come to an end" and hence that no right of appeal arose under section 103(2) of the Immigration and Asylum Act 1999. The Chief Asylum Support Adjudicator disagreed and proceeded to hear an appeal.

The Administrative Court stressed the word "otherwise" in section 103(2). Silber J found that NASS had only made one decision, the decision that support would only be available if the appellant moved to Liverpool. Before that decision had been made, there had been no section 95 support, and hence no support that would not "otherwise have come to an end". Accordingly, the decision was unappealable under section 103(2).

Case Profile: Taxi!!!

When NASS need to make travel arrangements for the dispersal of asylum seekers, time is definitely of the essence. NASS therefore use a variety of methods to deliver travel packs to claimants, including postage, special delivery and very often personal service. Appellant M however, was instructed to disperse to an address in Glasgow by a most curious method. He had previously lived at this address but had moved from there some months before. He learnt he was to be moved when a taxi driver appeared at his door to take him to the dispersal accommodation without any other communication having been received from NASS. Having previously found this accommodation unsuitable due to noise from fellow residents but also because he was expected to sign a register daily and submit to daily inspection of his room, E refused to travel. At the hearing, the Secretary of State could produce no evidence of having sent instructions requiring the appellant to travel - by taxi or otherwise! In the absence of such instructions, and whilst dismissing the appellant's objections to the proposed accommodation, the adjudicator felt bound to allow the appeal.

ASA/03/04/6219

JUDICIAL REVIEWS

Currently, therefore, a childless asylum-seeker who is offered dispersal accommodation may reject it and, if support is discontinued, argue his case before an adjudicator. An asylum-seeker with children has no recourse save to apply for judicial review.

Mr Dogan has recently been granted leave to appeal to the Court of Appeal, and a hearing is expected to take place in October 2003.

As indicated above, where Adjudicators do have jurisdiction in "failure to travel" cases, and where they can find no reason to allow or remit the appeal, their policy is now to suspend support pending compliance with travel instructions. In **Lik Cani (CO/4768/2002)** the adjudicator had not followed this policy but had dismissed the appeal outright. This decision was set aside by consent and the matter remitted to another adjudicator for rehearing.

The case of **Djamba Kazema (CO/2674/02)** again involved dispersal. Mr Kazema attended a Catholic church in London and heard Mass in French. He resisted dispersal on the grounds that he would not understand the service in English. In dismissing his appeal, the Chief Asylum Support Adjudicator relied upon a letter from a priest, who wrote that he "understands spoken English fairly well". Leave to apply for judicial review was refused. Jackson J noted that the words of the Mass recurred from one week to the next. He also considered that the CASA had been entitled to find that the most important feature of participating in Mass was the worshipper's physical attendance at the service.

The case of **Idrees Abdullah Omar (CO/2755/2002)** was one of absence from the authorised address. NASS had transferred Mr Omar from Nottingham to Derby, but he returned to Nottingham after seven days. One of his excuses for so doing was that he had to collect support vouchers there each week. The adjudicator dismissed his appeal, commenting that he could have arranged to collect his vouchers in Derby. When he sought judicial review, NASS conceded that it was arguable that support should not have been discontinued, given that NASS had not transferred the vouchers as quickly as it should have done. On this basis the adjudicator's decision was quashed by consent.

The question which arose in the case of **Niclette Manzana (CO/4018/2002)** was whether, where NASS had awarded support to an applicant in error, it could discontinue that support other than by reference to regulation 20 of the Asylum Support Regulations 2000. The Chief Asylum Support Adjudicator found that, in the absence of an express statutory power, this could not be done. Toulson J held that NASS needed no express power to cease to provide support when it emerged that the supported person did not fulfil, or had ceased to fulfil, the qualifying criteria.

On the facts of Ms Manzana's case, NASS could, had they so wished, have discontinued support pursuant to regulation 20(1)(b). However, Toulson J's decision provides welcome guidance as to what may be done in other circumstances. If, for example, a supported person comes into money which lifts him out of destitution, and if he properly discloses it to NASS, regulation 20(1) is not engaged. This decision shows that support may nonetheless be discontinued.

JUDICIAL REVIEWS

This decision also settles two procedural issues:

- (a) Although the legislation does not give adjudicators a specific power to adjourn cases, they have an inherent power to do so in the interests of justice.
- (b) If NASS seeks to substitute the decision under appeal with another decision which raises fresh issues, the adjudicator need not agree, if to do so would cause prejudice to the appellant. If he adjudicates only on the original decision, NASS's recourse is to make another decision relating to the fresh issues. The appellant will then have a fresh right of appeal.

Budget Allocation

The Asylum Support Adjudicators are wholly funded via the Vote of the Home Office. The initial budget allocation for the ASA was arranged via the Finance & Planning Team (FPT) of IND. These funds were in line with previous allocations and totalled £1,333,000 for the 2002/03 financial year. These funds were split with £718,000 allocated to the cost of staff remuneration and £615,000 non pay running costs (NPRC) for the day to day running costs of the ASA.

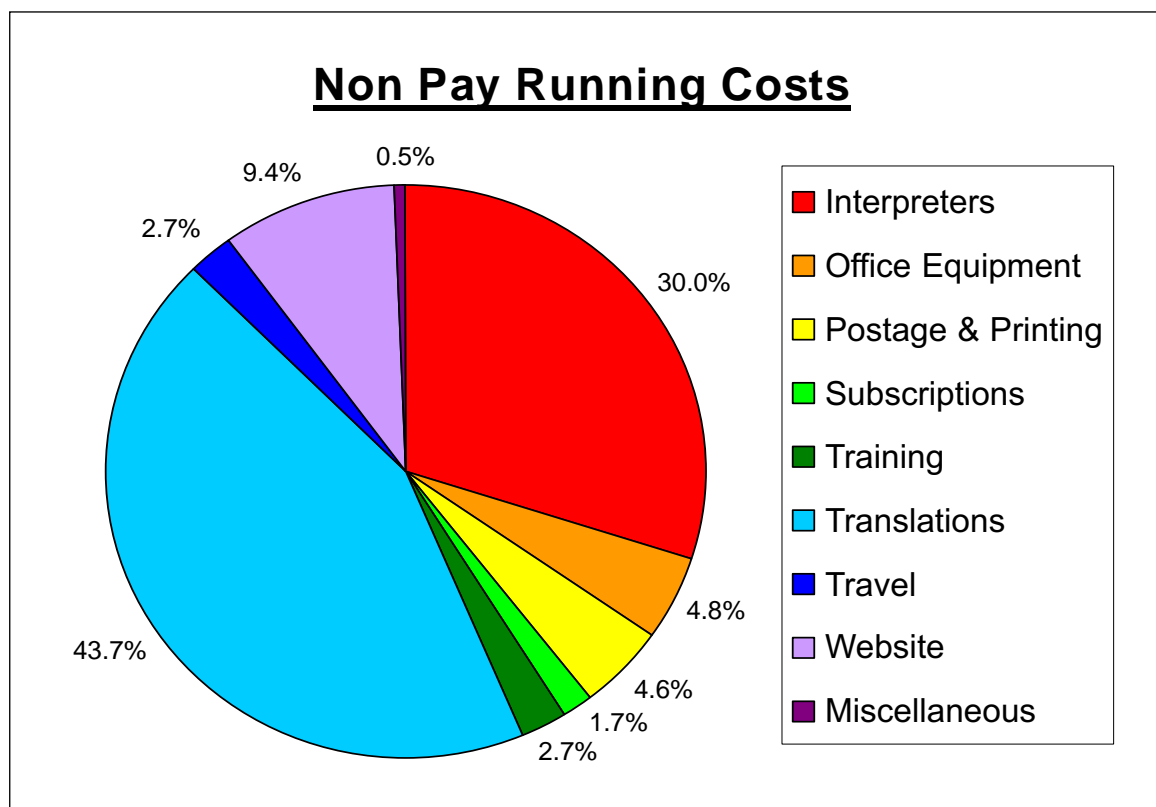
At the beginning of the financial year we identified significant pressures on our remuneration costs above the allocated budget. In partnership with IND FPT we agreed to operate a "Risk Register" of expenditure and to continue the close monitoring of costs. In addition to this we held monthly meetings with our sponsor departments finance team. This helped us to successfully manage an over spend of £77K on remuneration costs and identify savings of £100k on our running costs budget.

ASA expenditure is directly related to the number of appeals we receive. This is because our major costs are staff remuneration, interpreters and the cost of translations. The more appeals we receive mean that we require more sessional adjudicators (for whom we pay a daily fee, travel and subsistence), more interpreters for oral hearings and more translated reason statements. In addition to this we also required a number of administrative agency support staff because our sponsor department were unable to provide the required number of permanent staff. This meant that our remuneration costs were particularly high this year. However following the recent successful recruitment campaign we have now recruited sufficient permanent support staff so our costs should now stabilise.

Budget Management

The ASA provide a monthly budget profile to the FPT as part of the Financial Information System (FIS) timetable. This report details costs incurred to date and includes a profile of expenditure for the remainder of the year. Any discrepancies or problems are dealt with directly between the ASA and the FPT.

The Centre Manager prepares a monthly internal Finance Report. This Report details expenditure to date, estimated out turns and includes options for the effective management of the ASA budget. The Chief Asylum Support Adjudicator and the Centre Manager jointly agree the Report to the FPT. A summary and full breakdown of the costs incurred by the ASA is detailed in the following table. At the time of writing our sponsor department has allocated a provisional budget to the ASA. This consists of £1m Pay costs and £715K for Non pay (Admin) costs.



ASA EXPENDITURE: 2002/03 FINANCIAL YEAR

Summary Budget	£
Total Budget	1,333,000
Total Expenditure	1,209,000
Difference	124,000
Remuneration Budget	718,000
Total Expenditure	795,000
Overspend	77,000
Running Costs Budget	615,000
Total Expenditure	414,000
Savings	201,000

Expenditure	£
Adjudicators & Support Staff Remuneration	638,000
Agency Staff Remuneration	157,000
Interpreter Fees	124,000
Office Equipment & Stationery	20,000
Postage, Printing & Publications	19,000
Subscriptions to Professional Bodies	7,000
Training	11,000
Translations	181,000
Travel & Subsistence	11,000
Website Development & Maintenance	39,000
Miscellaneous	2,000
Total Expenditure	1,209,000

Rounded to the nearest thousand.

APPENDICES

	Page
Appendix 1: Performance Targets	22
Appendix 2: Statistics	31
Appendix 3: Asylum Support Adjudicators	34

PERFORMANCE TARGETS

The following tables provide a summary of our outcomes measured against our Business Plan Targets for 2002 - 2003.

We are pleased that in the majority of areas we have met and even exceeded our targets. In particular we are able to report on a continued high performance in meeting the deadlines set by our legislation. We have also continued to improve upon our service to customers, particularly by the expanding of our website. We look forward to the results of our customer survey.

Last year we highlighted a need to plan to meet our training priorities. We have been successful in this respect and have demonstrated an increased commitment to both recruitment and training. We are aware that there is a pressing requirement for a review of the Adjudicator's Appraisal and Development System, to ensure that the need for feedback, support and identification of training needs is adequately balanced with the need to prioritise service delivery. This balance presents particular difficulties in a small tribunal since we do not have access to a dedicated training and human resources section, nor can we fully release the Chief Adjudicator to carry out supervisory work on a full-time basis.

We welcome the opportunities which our Investors in People review (December 2003) and the Chief Adjudicators participation in a number of initiatives launched by the Judicial Studies Board will give us to thoroughly review the services of this nature that we provide to our Adjudicators.

The next few pages provide a detailed record of our targets and achievements, together with areas for future work. The above comments notwithstanding, the message is in general one of continuous improvement.

PERFORMANCE TARGETS

Strategic Aim 1: Compliance with Strategic Targets of Delegated Legislation

Objective	Target Standard	Our Performance	Points to Note
List hearings within statutory timescale	100% of notices sent within timescale	99.9%	
Hear cases and deliver adjudication within statutory timescale	100% of oral hearings completed within timescale 100% written hearings completed within timescale	99% 99%	We hope to refine the database in the next year to give a greater degree of analysis.
Send out Statements of Reasons not later than 2 days after date of oral hearing	100% sent within timescale	99.7%	
Report annually to all users on our performance	100% of statistical information on targets to be published annually	100%	

PERFORMANCE TARGETS

Strategic Aim 2: Efficient, Professional and Equipped for the job we do

Objective	Target Standard	Our Performance	Points to Note
Maintain and operate a planning cycle for strategic objectives	100% of objectives set in Business Plan to be reviewed quarterly 100% of results of quarterly review to be reported and acted upon 100% of performance against Business Plan targets to be monitored and published.	100% 100% 100%	
Provision of half-yearly information to the Council on Tribunals	100% of returns on time	100%	Information is provided as and when requested
Highlight support needs at an early stage	95% support staff attendance 95% support staff absence monitoring report completed on time and supervisory action taken 95% of Adjudicator absence monitoring reports completed and supervisory action taken	96.75% 100% 100%	This years time lost due to sickness is 155 days
Monitoring quality and consistency of decisions and Reasons Statements	30% Reasons Statements subject to quality monitoring 100% of twice yearly review meetings and reports to take place	20% 90%	Monitoring and reviews are at present carried out on an ad hoc basis but to a more intensive degree than in most comparable Tribunals. We propose to review the process in order to adopt a more formal system setting realistic targets and to incorporate guidance from the Judicial Studies Board and to work towards our Investors in People 2003 review.

PERFORMANCE TARGETS

Strategic Aim 3: Just and Independent

Objective	Target Standard	Our Performance	Points to Note
Monitor complaints	90% complaints acknowledged within 5 working days 80% complaints receive substantive response within 20 working days	100% 100%	
Develop a culture of fairness and independence	90% monthly team meetings for support staff take place and are minuted 80% fortnightly team meetings for Adjudicators take place and are minuted 100% 6-monthly joint team meetings to review performance take place and are minuted 80% communication meetings between CASA, DCASA and Centre Manager take place	90% 80% 100% 80%	Consider whether the present ad hoc arrangement is sufficient
Publicise key decisions	100% decisions included in public register 100% decisions available on disk 85% information recorded on ASA website to have been reviewed and updated quarterly	100% 100% 85%	Decisions are available on disk if requested
Develop and build on legal expertise	80% weekly trawl and dissemination of case law takes place	90%	

PERFORMANCE TARGETS

Objective	Target Standard	Our Performance	Points to Note
Review effectiveness and outcome of Appeal process	90% relevant statistics reviewed on a quarterly basis 100% relevant statistics reported in Annual Report	100% 100%	Statistics reviewed monthly.
Consistent and qualitative decision making	90% Best Practice Manual reviewed by end of year 95% Adjudicators to be aware of legal precedent index by year end	In process 95%	Review conducted. Revision required and in progress.

PERFORMANCE TARGETS

Strategic Aim 4: Responsive and Sensitive to users needs

Objective	Target Standard	Our Performance	Points to Note
Monitor user comment procedure	90% comments received to be assessed and actioned within 20 days 100% user group meetings to report on and action feedback	100% 100%	Customer working group established to increase access to feedback.
Publicise complaints procedure	80% appellants know about complaints procedure within 5 working days of their valid appeal being lodged	100%	
Identify what customers want	80% user organisations identified by February 2003 100% of these to be sent annual survey by April 2003 25% minimum survey response achieved	80% Under Progress	Was sent June 2003 response as yet unknown To be reported in next annual report
Use of high quality interpretation services	Timely attendance by interpreter at 90% of oral hearings Quality monitoring completed on 90% of oral hearings 90% of interpreters receive letter from ASA outlining expected standards of conduct 85% of interpreters to be sent annual questionnaire	90% 90% 99% 75%	Draft completed. To be issued July 2003

PERFORMANCE TARGETS

Objective	Target Standard	Our Performance	Points to Note
Equalities training	<p>90% Adjudicators and support staff to have participated in ASA equal treatment training by March 2003</p> <p>90% Adjudicators to have participated in court skills training by January 2003</p> <p>100% Adjudicators to have received feedback from CASA on court conduct by March 2003</p>	<p style="text-align: center;">95%</p> <p style="text-align: center;">95%</p> <p style="text-align: center;">90%</p>	See previous comments on redesign of appraisal system
Review written material sent to users	100% out of time, invalid and withdrawal notices to have been reviewed by March 2003	100%	

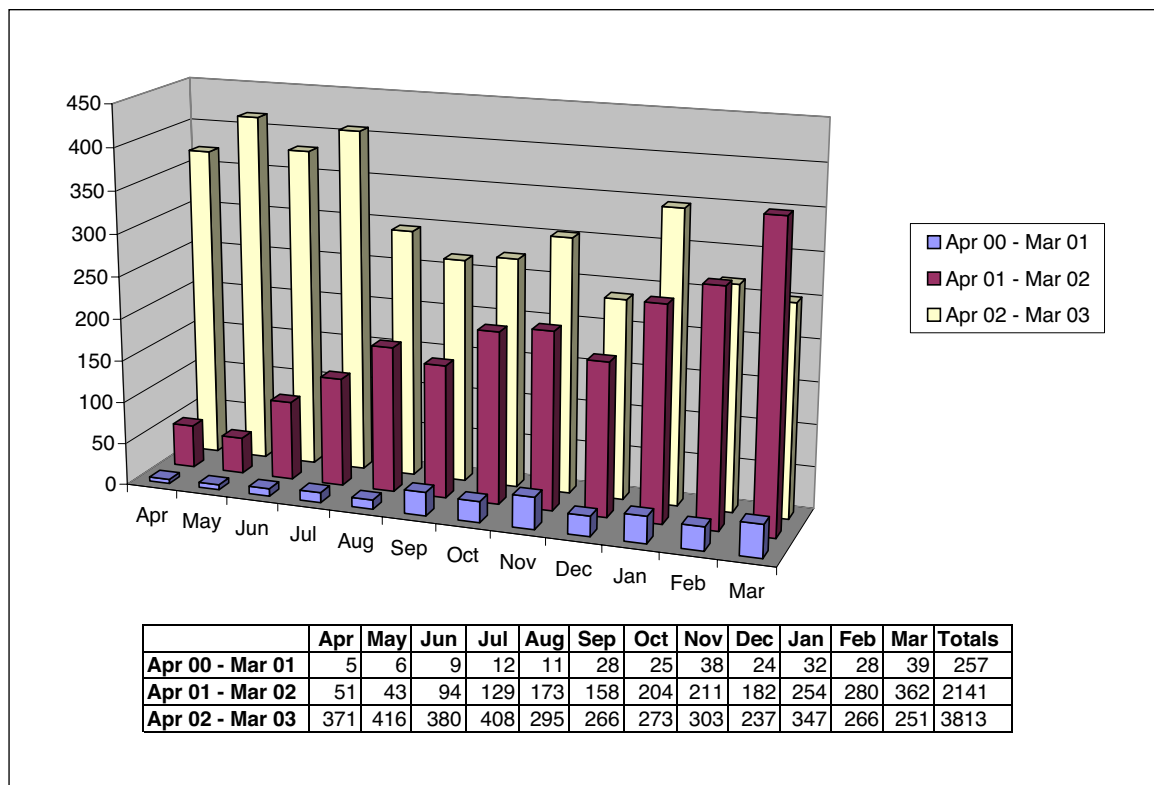
PERFORMANCE TARGETS

Strategic Aim 5: Proactive

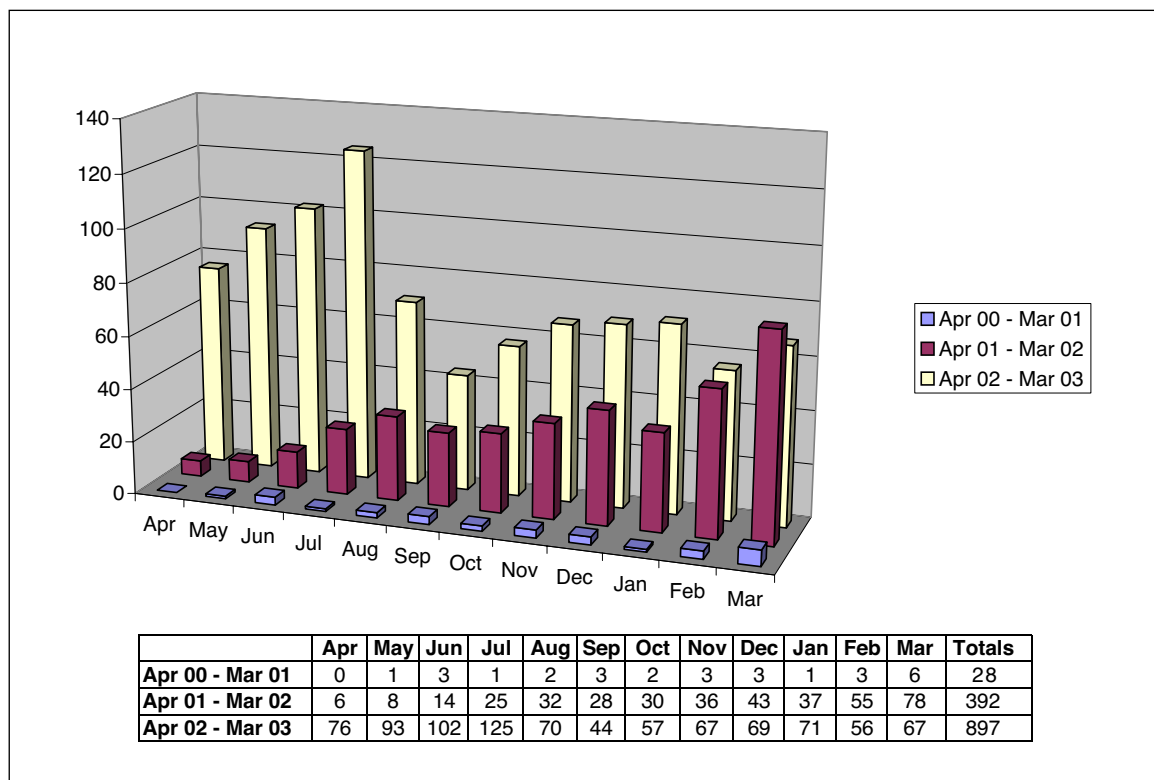
Objective	Target Standard	Our Performance	Points to Note
Run User Group meetings on a quarterly basis	90% quarterly meetings to take place on time and be minuted	90%	User group attendance is dropping. Questionnaire issued about future arrangements
Monitoring contextual information	90% recording on new database to be in place by March 2003	100%	Improvements to database will be possible once consultancy begins.
Value for money	80% compliance with monitoring meetings 95% financial information available in Annual Report	75% 95%	Many reports are paper based with meeting for key decisions. Review discussion format
Ensure continuous improvement and responsiveness to changing workload	5% increase in permanently recruited staff by April 2003 50% oral listings method to be reviewed by CASA by March 2003 50% paper listings method to be reviewed within same timescale	5% Extended to March 2004 owing to delay in coming into force of the Amended Rules	The Asylum Support Appeals (Procedure) (Amendment) Rules 2002 came into force on 8 August 2003. To be reported on in next annual report.
Maximise job development and flexible allocation of work	90% review of support staff organisational structure completed by February 2003	90%	

STATISTICS

Appeals Received, April 2000 - March 2003

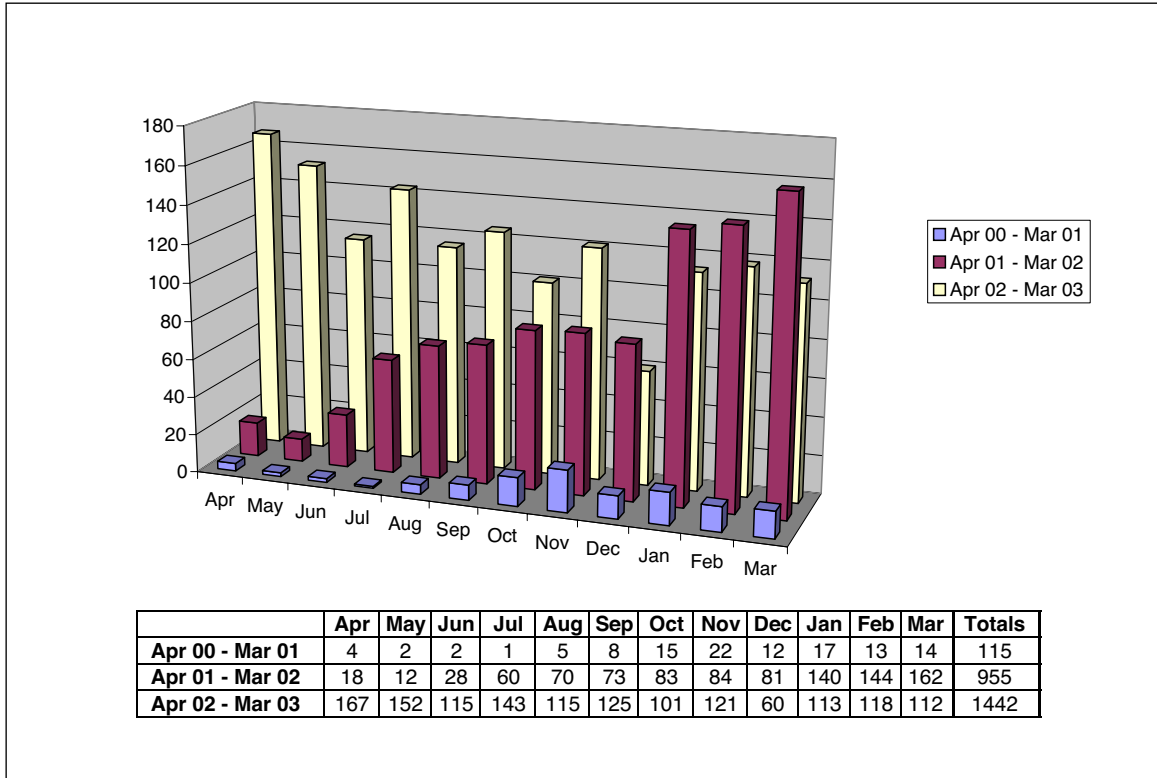


Invalid & Out of Time Appeals, April 2000 - March 2003

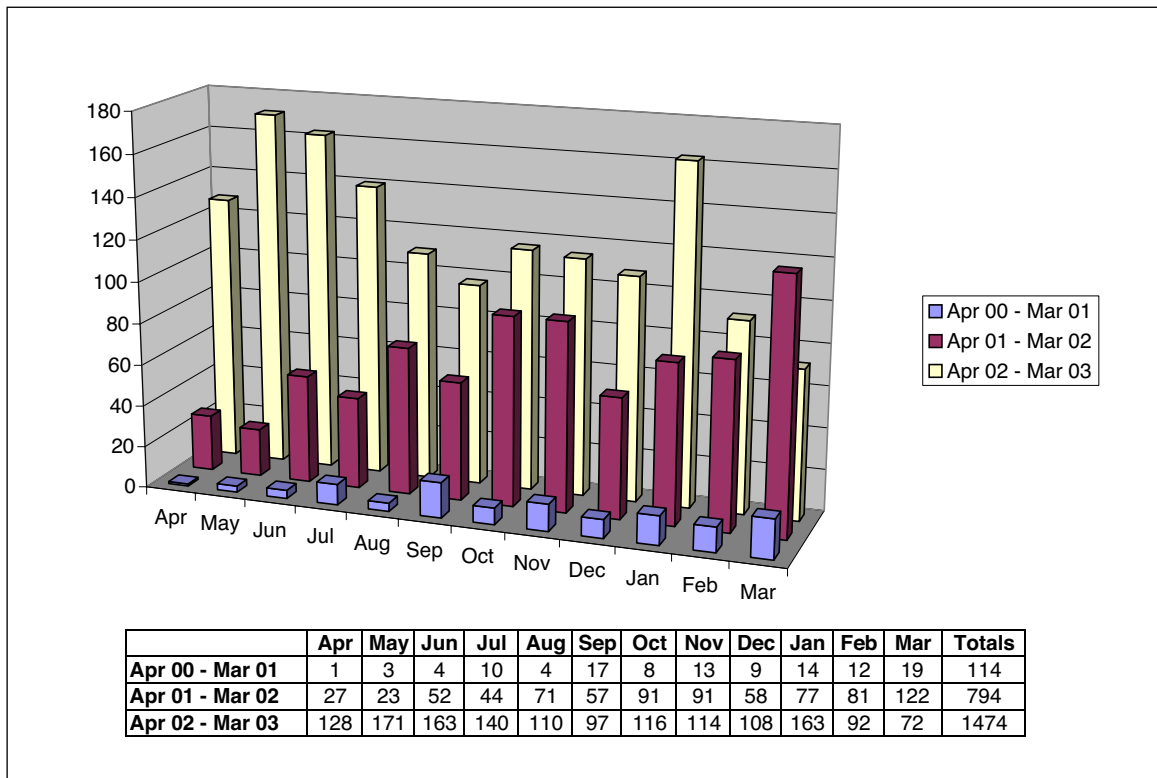


STATISTICS

Withdrawn Appeals, April 2000 - March 2003

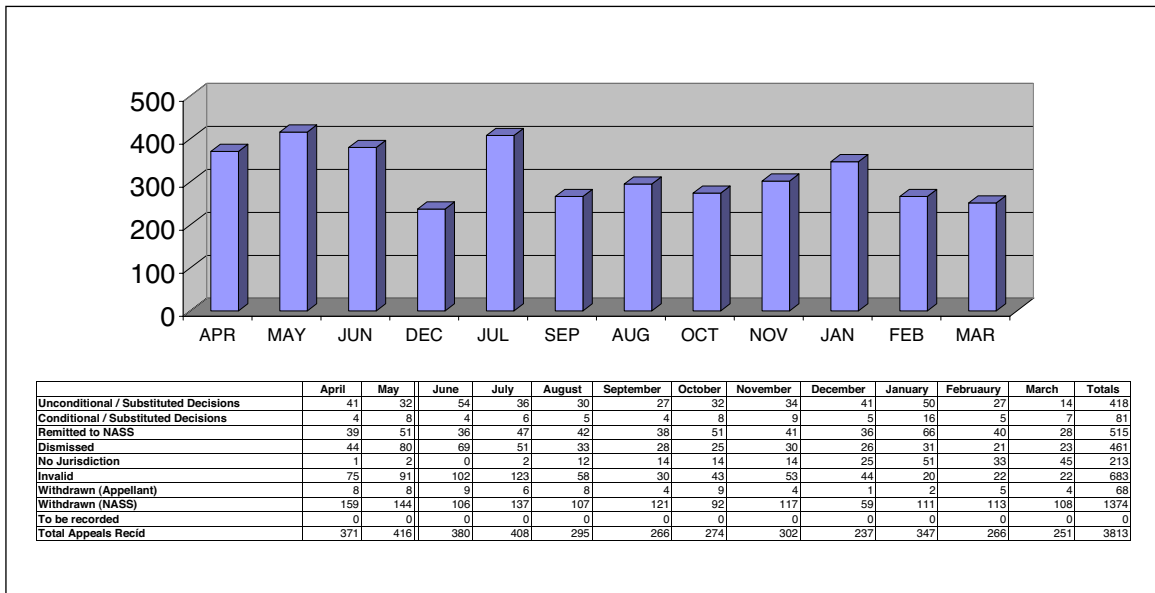


Determined Appeals, April 2000 - March 2003

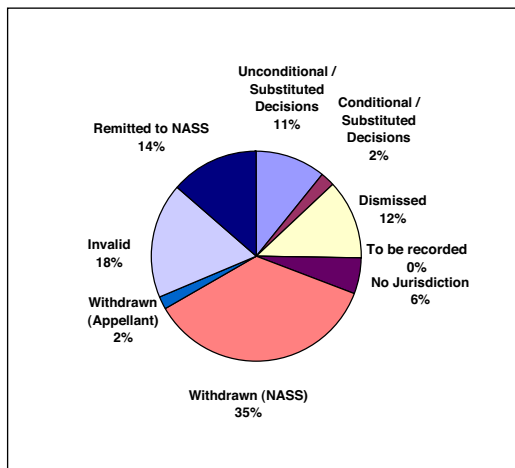


STATISTICS

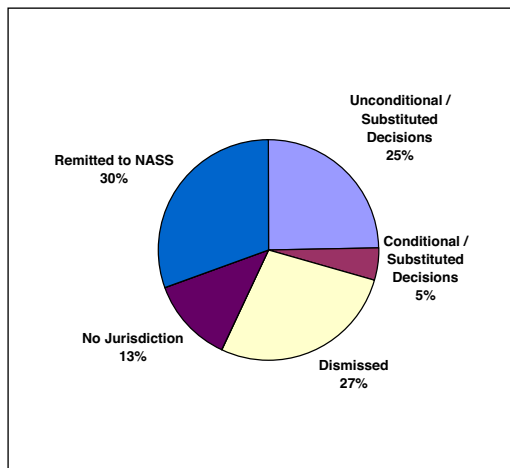
ASA Appeals Received Apr 02 - Mar 03



ASA Total Intake Apr 02 - Mar 03



ASA Determinations Apr 02 - Mar 03



ASYLUM SUPPORT ADJUDICATORS

Chief Asylum Support Adjudicator

Sehba Haroon Storey

Deputy Chief Asylum Support Adjudicator

Gill Carter

Part-Time Adjudicators

Laurence Brass

Alan Ponting

Ethlyn Prince

David Saunders

Sally Verity-Smith

Sessional Adjudicators

Salma Bashir

Sarah Breach

Richard Briden

Gary Garland

Alison Lock

Fozia Rizvi

Evis Samupfonda

Victoria Woollen

Jessica Wyman



