

**UNDER STRICT EMBARGO UNTIL
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Legal aid system spells disaster for justice on asylum

Quality asylum lawyers are being driven out of business by a legal aid payment system that rewards shortcuts and penalises quality.

That's according to *Justice at Risk: quality and value for money in asylum legal aid*, a groundbreaking new report published today by Refugee and Migrant Justice (RMJ) and written by academics at the Information Centre for Asylum Seekers and Refugees (ICAR) and City University.

Justice at risk analyses the legal aid payment system introduced by the Legal Services Commission (LSC) under the previous Government. The scheme replaced hourly rates with fixed fees for most cases, and now means practitioners are only paid after cases are closed. The research focuses on asylum but there are wider implications for all legal aid practitioners.

The report argues the funding regime forces legal providers to cut corners in order to make ends meet, and creates financial strain for practitioners committed to quality. The research shows a clear correlation between time spent, quality of work, and early, cost effective resolution of cases. But it also exposes the fact that short units of advice, sometimes as little as an hour, are now paid the same fees as the hours of work required to prepare vital evidence such as witness statements. Interviews conducted as part of this research with Home Office decision-makers revealed that witness statements in adult cases are themselves now a rarity.

Researchers anonymously interviewed 10 firms and charities that provide quality legal services, and many reported financial difficulties. Their comments included:

"...it just seems as if the fixed fee is providing an absolute minimum to avoid a negligence charge and, and pretty much nothing more than that. It seems like there is no room for individualised quality work specific to each client."

"I don't know what is going to happen in the future. I mean it is so insecure for us, so very insecure. It's only going to get worse for the clients, and you know what that means? It means that people are not really going to have access to justice."

"I am a huge loss maker. If I was in a firm that was entirely reliant on the Graduated Fee Scheme, I wouldn't be working like this and I would actually not do the job,

because I think it's impossible to do a decent job... At some point the demands of the business will probably say, 'no more', it's too expensive."

Caroline Slocock, Chief Executive of RMJ said:

"This research shows the current system is wasteful and is driving out quality providers who gather essential evidence, including witness statements which are now a rarity in adult cases. Those quality providers enable good decisions to be taken on asylum claims at the initial stage and that avoids the need for cases to go to costly appeal.

"The new practice of only paying for legal work once cases are resolved is a further flaw. Last week RMJ announced it was facing possible closure – purely as a result of this ill-thought-out policy. Closing the charity would mean more than 10,000 victims of war, torture, intolerance or trafficking will be cast adrift without any legal representation. That includes as many as 900 lone children.

"The Ministry of Justice and the Home Office have both announced reviews into legal aid and the asylum system, respectively. We hope they will take note of our research as it proves that by tackling the waste in the current system, the government could free up resources to pay good quality providers fairly and promptly, and would also help to speed up the asylum system."

Bob Nightingale, Chief Executive of the London Legal Support Trust, said:

"It is appalling that an organisation so crucial to thousands of people in great need should face closure simply because the Government funding regime fails to pay its bills promptly. Through no fault of the clients or their lawyers, properly undertaken immigration cases can take years to complete. It is wholly unreasonable for the Government to make agencies wait until the end of the case before paying for work done throughout.

"The problem has been partly hidden because charities such as the London Legal Support Trust have assisted dozens of advice agencies who have been threatened with closure due to cash flow problems caused by the Government's funding regime. This cannot continue overall and RMJ cash flow problem is, in any case, certainly too large to be resolved by any charity."

Law Society Chief Executive Desmond Hudson said:

"In an area of law where there has been a substantial decrease in the number of legal aid providers recent years, the closure of RMJ could have serious consequences for its clients who may struggle to find alternative representation and, for the principle of access to justice irrespective of the means to pay.

"The Law Society calls upon the new government and the LSC to urgently review the payment system to ensure that all providers can rely on being paid promptly for the

work they have done, so that the essential legal aid work for vulnerable clients provided by RMJ and other providers is able to continue.”

Ends

Notes to editors

Justice at Risk: quality and value for money in asylum legal aid

Justice at Risk: quality and value for money in asylum legal aid was undertaken by ICAR and City University on behalf of RMJ, in partnership with the Immigration Advisory Service and Asylum Aid, with funding from the Baring Foundation. The report analyses the Graduated Fee Scheme (GFS), which was introduced by the previous Government. Under GFS, a single legal aid fee has replaced the hourly rate in many cases.

The research shows a clear correlation between time, quality and early resolution of the case. But all providers who reach a minimum level of quality are currently paid an identical fee under GFS. This reduces the incentive to strive for high quality, in effect penalising those firms that do, and forcing the choice between financial survival and responsibility to their clients.

The report will be available at www.rmj.org.uk from Wednesday, June 9th.

About RMJ

Refugee and Migrant Justice is the largest specialist national provider of legal representation to asylum seekers and other vulnerable migrants. RMJ was awarded the Liberty/Justice Human Rights Award in 2005, in particular for its litigation work with Zimbabwean asylum seekers.

Since opening as the Refugee Legal Centre in 1992, RMJ has helped 110,000 vulnerable people seeking asylum or human rights protection. Before that, RMJ was part of the United Kingdom Immigrants Advisory Service and was set up by the Government in 1992 as a charity to help asylum seekers and migrants.

RMJ employs 336 staff in 13 locations across England. It also runs outreach clinics in 10 detention centres and in other locations across England and Wales.

Download our groundbreaking reports *Does Every Child Matter?* and *Safe at Last?* here: http://refugee-migrant-justice.org.uk/?page_id=10

Visit our website: <http://www.rmj.org.uk/>

Save Refugee and Migrant Justice Campaign

RMJ is at risk of closure because the payments it receives for its legal work are now arriving up to two years after the work is done.

RMJ needs to be paid £1.8m over six months in order to survive – yet the cost of closure to the taxpayer would be in excess of £2m. RMJ is extremely cost efficient. Over the last two years, the income received per client has dropped by 46% costs per client have fallen by 41%. The hourly rate for this specialist legal work is around £50 and has not been uprated for inflation since 2001.

Last week, leading human rights and faith leaders wrote to Kenneth Clarke, Justice Secretary appealing for a cash injection to save Refugee and Migrant Justice. To read the letter in full, click here: <http://refugee-migrant-justice.org.uk/downloads/Joint%20letter%20FINAL%20PDF.pdf>

The Save Refugee and Migrant Justice facebook group now has more than 1,000 members. To join, click here: <http://www.facebook.com/pages/Refugee-and-Migrant-Justice/350644977881?ref=nf#!>

Interview opportunities

To speak to Caroline Slocock, chief executive of Refugee and Migrant Justice, or to view an advance copy of the report, please contact Alex Valk, media and communications officer, at avalk@rmj.org.uk or call 0207 780 3214.