

15 June 2010

Refugee and Migrant Justice goes into administration

The Trustees of Refugee and Migrant Justice (RMJ) today signed papers to place the charity into administration as a result of a cash flow problem created by late payment of legal aid by the Legal Services Commission. The administrators, BDO, will then assume responsible for managing the business.

The legal representation of more than 10,000 vulnerable asylum seekers and victims of trafficking, including nearly 900 separated children, is now at risk. RMJ also represents over 10 per cent of the detention population and many foreign national prisoners.

The decision to go into administration follows a public campaign in which leading figures, including the Archbishop of Canterbury, Shami Chakrabarti, Director of Liberty and Ken Loach, the film director, called on the Government to save the charity. Major charities, such as Amnesty International, MIND and Barnardo's, also joined the campaign and wrote to Ministers on RMJ's behalf.

In an open letter to the Justice and Home Secretaries they warned: "it would be a tragedy if RMJ were allowed to go under."

Paul Gray, Chair of RMJ said:

"It is with great sadness that RMJ's trustees took the decision to put RMJ into administration. It is a brilliant charity which has a justifiably high reputation for the quality of support it gives and we are very concerned about the position of our 10,000 clients, and of our dedicated and highly professional staff."

"This situation is caused by late payment of legal aid by up to two years, not inefficiency or even lack of income: RMJ staff have performed a minor miracle in cutting costs to live with a fall in income per client of over 40%. Late payment has an unequal impact on charities because they cannot get bank loans to finance the cash gap.

In the absence of any last minute intervention by the Government the priority now is to ensure maximum protection of our clients, who include many of the most vulnerable people in our country. We urge the Legal Services Commission

immediately to discuss with the administrators how best to minimise the distress and disruption to our clients during what will inevitably be a difficult transition process.”

The Government has committed to review the legal aid system, but has declined to change the payment system at this point. A recent Freedom of Information request submitted to the Legal Services Commission has revealed around 29% of asylum providers, doing the minimum possible to advance their clients’ cases, are making massive profits. While this has gone unchecked, quality representatives such as RMJ who spend time with their clients to complete cases are being starved of cash. Those quality providers who see the job through have to wait for an asylum decision that can take years before they are paid.

Major concerns have been raised by refugee experts about the effect of RMJ having to close. Roland Schilling, the United Nations Refugee Agency’s UK representative said:

“The UN Refugee Agency has raised its deep concern to the Government if legal aid to the persons in need of protection is not anymore provided by specialised and highly professional organisations like RMJ. A discontinuation of these services would severely damage the effectiveness and fairness of the asylum system in the country.”

Despite this, the new Government has refused to change payment rules to prevent this step from happening, saying it must proceed with a procurement exercise started by the last Government.

Former RMJ clients have expressed extreme concern about the situation.

Farid, an Iraqi doctor who fled Iraq after serious death threats, said:

“I was treated like a criminal when I arrived in Britain, was put in Chelmsford prison and was without hope. It was RMJ that found me, got me out of prison and made a successful case to grant me asylum. I can’t believe that they may no longer be there to help others like me.”

John 'Bosco' Nyombi, a Ugandan, was illegally removed by the Home Office to his home country where his life was at risk because of his sexuality. As a result of RMJ interventions he was returned to the UK by court order and then granted asylum. He said:

“Without the help of RMJ I would not be here today. I was in so much danger in Uganda and it is only because of RMJ that I was able to move back here. I am very happy living in the UK where I now work as a carer, but if it were not for RMJ’s legal skills and dedication, I would have fallen victim to some terrible mistakes made by the Home Office and the courts. I really do not want the charity to have to close - there are so many people just like me who need its help.”

Notes for Editors

Background information on legal aid payments

RMJ's cash crisis has been caused by a growing proportion of its legal aid work now being paid upon completion – leaving it with a lack of funds. The problem has not been caused by spending cuts, but changes made to legal aid payments by the previous Government. Under these changes, payment for most legal work is being made once decisions are made on legal cases by the Home Office or Tribunals, resulting in a delay of up to two years before costs are reimbursed. The crisis comes as the new coalition government has committed to speeding up the asylum system and reviewing the legal aid system.

The Law Society, Immigration Law Practitioners Association and the Law Centres Federation have all warned the Government that the late payment system is putting intolerable strain on legal aid providers generally.

In January 2010, the Legal Services Commission was heavily criticised by Parliament's Public Accounts Committee for failing to have a grip on financial matters.

The Government has told RMJ that it has to stick to the current legal aid payment system because it underpins a procurement exercise started but not completed by the previous Government. RMJ believes this exercise would lock in the current payment system, including delayed payments, for a further three years and ring fence them from the new Government review. However, in response Kenneth Clarke has suggested that changes can be made at a later stage even though contractors will have bid on a different basis.

Under the fixed fee system, introduced under the last government, a provider can charge the full fixed fee for an asylum case of £459 even if they spend little time on the case. An hour of advice, for example, will earn some 9 times more under the fixed fee system than it would earn the old hourly rate system. However, such work is unlikely to resolve a case and this means that another representative will be paid the full fixed fee again to do a proper job. Quality work will take many hours yet receives the same payment of £459.

To prevent abuse of the system and stop public money being wasted, the LSC has a '20% fixed fee margin' key performance indicator (KPI). This is designed to prevent a provider from earning on average more than 20% on fixed fee cases compared to fees under an hourly rate. The aim is to ensure that providers who just give short units of advice – or who unscrupulously cut cases short - do not unduly benefit. Under the contract, if this limit is breached, further investigations by the LSC ought to be triggered. New contracts due to be let from October will make this KPI a contract provision.

FOI data obtained by RMJ shows that almost one third of suppliers of asylum advice (29%) are breaching this provision and the LSC appears neither to have been monitoring it on an annual basis, nor to be undertaking critical due diligence checks in the run up to letting new contracts.

By simply getting cases right first time and paying properly for one thorough, quality piece of work, the Government could save millions of pounds each year. It could also afford to pay providers promptly for work, rather than leaving them out of pocket.

For further background, see *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. This shows that other quality providers are experiencing financial strain.

To download the report click here: <http://refugee-migrant-justice.org.uk/downloads/Justice%20at%20Risk.pdf>

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 UK Immigration Advisory Service and was set up by the Government in 1992 as a charity to help asylum seekers and migrants.

RMJ employs 334 staff in 13 locations across England. It also runs outreach clinics in 10 detention centres and in other locations across England and Wales, including around 30 prisons. It is the sole or main provider in Suffolk, Kent, and Portsmouth. In these areas alone, it helps over 400 unaccompanied children seeking asylum.

RMJ needs to be paid £1.8m over six months to keep operating, 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.

Read about some of RMJ's high profile cases here:

<http://www.independent.co.uk/news/uk/home-news/return-gay-man-to-uk-smithordered-1626489.html>

<http://www.guardian.co.uk/uk/2010/feb/19/kurd-asylum-seeker-repatriation-iraq>

<http://www.guardian.co.uk/world/2005/oct/14/immigration.immigrationandpublicservices>

RMJ's groundbreaking reports have challenged government policy and raised public awareness of serious human rights issues including transportation of migrant children in caged vans, and the traumatic 'illegal entrant interviews' for children. 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>

Interview opportunities

To speak to Paul Gray, Chair of Trustees or Caroline Slocock, Chief Executive of Refugee and Migrant Justice, or one of our clients, please contact Alex Valk, media and communications officer, at avalk@rmj.org.uk or call 0207 780 3214 or 07989 569988.