

## Hugh Barrett speech to Immigration Advisory Service Conference

**21 July 2010**

I'd just like to start by paying tribute to the work many of you here today are doing to help the most disadvantaged in our society get access to justice. I know legal aid work is not highly rewarding financially but I do know from my conversations with people like you on the front line that it's the individual client success stories that make the work that you do, ultimately rewarding like Simon Hughes referred to in his key note speech.

As the commissioner of legal aid work throughout England and Wales it is vital that the LSC is seen to be playing a straight bat in the way that it goes about its business.

I believe our approach is on the right track in terms of meeting the needs of the clients that we all want to help and in getting value for money for the taxpayer. Today I'd like to focus on four areas:

1. Purchasing immigration services
2. Our new contracts, their value and quality
3. Client access to immigration and asylum services
4. And briefly touch on the future.

Immigration and asylum advice and representation is a competitive area with large numbers of providers interested in the market for this work. To me this is highlighted by the amount of interest other providers expressed in taking on former Refugee and Migrant Justice clients since that organisation went into administration. We're continuing to work with the administrator on the transfer of all RMJ clients and I'll talk more about that later.

In 2009/10 there were more than 240 offices across England and Wales delivering close to 100,000 new matter starts in Immigration and Asylum. And in the current tender for 2010 contracts we were dramatically oversubscribed with providers wanting work in both immigration and asylum.

All applicant organisations were subject to quality processes to check that they are suitable to be awarded new matter starts. Out of those applicants meeting our standards there were bids for:

- Nearly 75,000 immigration matter starts against nearly 50,000 available
  - 155% oversubscribed
- More than 70,000 asylum matter starts against nearly 50,000 available
  - 147% oversubscribed

In London the situation was even more dramatic. We were oversubscribed by 167% for immigration and a huge 184% for asylum.

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We've now awarded contracts to 252 offices for immigration and asylum matter starts. So far from decimating supply – as some have suggested – we have actually slightly increased the number of offices we contract with. These figures are, of course, provisional until the tendering process is finished. We have yet to finish the appeals and we will also carry out verification checks before awarding contracts.

Obviously, it is disappointing for those providers who have bid unsuccessfully. But we have to accept that this is a competitive market and the LSC must award contracts to the providers we believe are best suited to delivering a quality service.

Assessing the quality of its suppliers is very important to any organisation that buys services. We're the largest single procurer of legal services in England and Wales. We require all legal services purchased to offer good value to the taxpayer and good quality to the client.. As I've mentioned already in 2009/10 there were nearly 100,000 Immigration and Asylum new matter starts. This cost the LSC about £88m.

When looking at costs it's worth noting that:

- asylum accounts for approximately two thirds of immigration and asylum Controlled Work expenditure
- nearly all asylum applicants are eligible for legal aid so the number of asylum applications is a key driver for expenditure
- asylum applications received by the Home Office peaked in 2003/04 at approximately 80,000
- they reduced to approximately 45,000 in 2004/05 and have remained stable at approximately 25,000 in subsequent years.

As many of you know, the LSC has carried out a range of major reforms since 2004 to control expenditure and improve quality, including:

- extendable financial limits for individual cases and then the later introduction of Graduated Fees
- exclusive contracts for certain client groups e.g. detained clients in particular detention centres
- introducing an accreditation scheme for all immigration providers undertaking legal aid work
- monitoring at the benefits for clients, e.g. success rates at appeal
  - Commenced the early Legal Advice Pilot

Our move to fixed and graduated fees in the legal aid system is particularly important in terms of value for money. It allows us to move away from a system that simply pays people for hours worked to one where outputs and outcomes are rewarded instead.

This is not about reducing expenditure. It is about encouraging efficiency and putting the focus on the work that is required. Value for money also requires that we have

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evidence of quality in the services we buy. Our quality measures include a mandatory individual accreditation scheme for legal aid advisers.

To that end we have developed the Specialist Quality Mark as proof that the provider can assure quality of advice and run effective business processes. Alternatively, we are also accepting the Law Society's 'Lexcel' for new contracts from 2010. For immigration, all individuals performing publicly funded work must also be accredited by the Immigration and Asylum Accreditation Scheme.

We also require all legal aid providers to have experienced, qualified supervisors to monitor the work of other staff. And we use Peer Review to independently assess the quality of advice and legal work in a targeted way.

We also monitor whether providers are actually delivering the services specified in their contract, including whether Performance Indicators are being met. This means compliance checks for some organisations. We want our quality checks to be as robust as possible and are always looking for new approaches. For example, we're now investigating whether client experience can be included as part of our review process. To this end we are looking at developing the information we hold on client complaints.

The needs of our clients are paramount. They are the ones we're buying services to help. That is something I believe will strike a chord with everyone in this audience. Our commitment to clients is also demonstrated by the hard work we have put into transferring cases since Refugee & Migrant Justice entered administration.

RMJ entered administration despite work on our side to help the organisation adjust to our Graduated Fee Scheme through transitional payment arrangements. These were designed as a "cash buffer" and have also helped IAS.

Since RMJ went into administration our focus has been on working closely with the administrator and others to ensure arrangements are in place so that clients continue to receive a good quality service.

Some initial disruption has, unfortunately, been inevitable. But every effort is being made to minimise this and we know there is adequate capacity in the market to absorb the extra workload. In London roughly 15 providers will take their cases. The work has involved the MoJ, Tribunal Service, and the UK Border Agency.

I would like to touch briefly on what we think went wrong at RMJ.

RMJ and IAS, in recognition of their funding history, have had different arrangements to other providers of immigration and asylum work. We have no problem with this arrangement but other providers were, understandably, not content and had threatened legal action under procurement law. We did not want to extend these transitional arrangements but, even if we did, other providers would, again understandably, have taken legal action and our view is that we would have lost such legal action.

The fact is that RMJ were not able to make the changes needed under the revised arrangements to manage their finances adequately. Whenever a provider ceases to trade and people lose their jobs and clients lose trusted advisers, that is always very

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sad but in order to deliver a quality service providers do need a sound business model.

Communication between RMJ and the LSC broke down; I am clear that this was not for want of trying at the LSC. In contrast, communication between IAS and the LSC has been and continues to be open and constructive.

If I can now turn to the future. As you know the country is facing an unprecedented financial crisis. For those of us in public service or funded by the Government, this means a very difficult few years ahead. Our sponsor department, the MoJ is being asked to come up with reductions of 25% across its cost base.

Legal Aid, the courts and the Prison Service are the three big ticket areas and it is inevitable that each will have to take a share of the reduction. Most of you will know that Ministers are currently conducting a policy assessment with the objective of consulting on their proposals in September.

I don't have a crystal ball so I can't be sure about what will be proposed. What I am clear about is that providers who deliver quality and run their businesses efficiently have the best opportunity to continue to deliver the services our clients need. That mix of quality and efficiency will be essential for the environment we are moving into. Providers with the commitment we're looking for will find that we will continue to support them in the future. Thank you for your time.