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Alex Chalk MP  
Parliamentary Under Secretary of State (Legal Aid)  
Ministry of Justice  
102 Petty France  
London  
SW1H 9AJ

Dear Minister,

I am writing to you to raise my concerns regarding the recent changes to civil legal aid introduced through The Civil Legal Aid (Remuneration) (Amendment) (Coronavirus) Regulations 2020 on the 8 June 2020.

For many victims of modern slavery and human trafficking (MSHT), access to legal aid for asylum and immigration matters is essential to enable them to begin their journey of recovery and live a life of sustainable independence. Importantly, the Council of Europe Convention on Action Against Trafficking in Human Beings (2005) and the EU Directive (2011) also place legal obligations on the Government to ensure that victims of MSHT can access legal advice.

As a result of their significant vulnerabilities and complex case history, victims of MSHT will often require multiple appointments and careful, lengthy work by legal aid lawyers to prepare their case. Whilst the changes to civil legal aid increase the fixed fee amount for immigration and asylum appeals, they also raise the escape fee threshold for the point at which legal aid lawyers can charge an hourly rate. For complex cases such as those relating to MSHT, there is a risk that the fee will not cover the amount of work required and consequently that legal aid lawyers will be deterred from taking on these potentially unprofitable cases.

This change should be seen in the context of a free advice sector that is under considerable strain and where victims of MSHT already struggle to access legally aided immigration and asylum advice. A rapid consultation on access to legal aid for victims of trafficking and subsequent report of findings<sup>1</sup> published last month by the Young Legal Aid Lawyers provides further evidence of this. Of the 34 respondents to this survey representing 18 organisations, 70.6% stated that it was already either 'impossible' (2.9%), 'extremely difficult' (20.6%) or difficult (47.1%) to find legal aid representation for victims of trafficking. I am concerned that the recent changes will exacerbate this issue further and that in order to pay for private legal representation, vulnerable victims may borrow money and put themselves at risk of debt bondage, or alternatively accept exploitative work. I am

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<sup>1</sup> Young Legal Aid Lawyers (2020) [A sector at breaking point: Justice denied for victims of trafficking](#)

aware that organisations providing support to victims of MSHT have already seen examples of this happening.

In addition to increasing the standard fixed fee amount for asylum and immigration appeals, I understand that the implementation of the Core Case Data platform (CCD) will also require barristers to prepare Appeal Skeleton Arguments (ASA) at a much earlier stage. This is again anticipated to have an impact on the amount that a barrister is paid if a case does not progress to a full hearing. I am aware that multiple chambers have already stated that unless there are exceptional circumstances, their barristers will not accept instructions to prepare an ASA unless specific provision is made for that work to be remunerated<sup>2</sup>.

Whilst it is not within the remit of my role to lobby on behalf of the legal sector, I am concerned about the cumulative impact of these two changes on victims of trafficking and their ability to access legal advice. I recognise that the changes to civil legal aid are currently temporary, however I urge you to pause these changes to consult with the asylum and immigration legal aid sector and conduct an impact assessment to ensure that vulnerable victims of MSHT are not disproportionately affected and subject to further barriers in accessing civil legal aid.

I look forward to receiving your response. In the interests of transparency, I request that you respond in a way that enables me to publish your letter on my website.

Sincerely,



**Independent Anti-Slavery Commissioner**

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<sup>2</sup> Immigration Bar (2020) [Statement on the new legal aid fixed fee from the Immigration Bar](#) - 21 May 2020