



Lord Chancellor revokes immigration fixed-fee regime

Firm wins fight against government's new immigration and asylum procedures

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Duncan Lewis Solicitors has claimed victory in its battle to overturn the government's fixed fee regime for immigration and asylum claims.

The Civil Legal Aid (Remuneration) (Amendment) (Coronavirus) Regulations 2020 set a £627 fixed fee and came into force on 8 June.

The regulations applied to the remuneration of legal aid providers for appellants whose asylum and immigration appeals are being dealt with under an online procedure, which was rolled out in mid-March after a pilot phase.

However, the Lord Chancellor Robert Buckland QC (pictured) has revoked the new regulations having agreed with the Duncan Lewis and the firm's supporters that inadequate consultation was conducted prior to roll-out of the regime.

Duncan Lewis said the portal was rolled out hastily, partially as a result of covid-19, and did not take into account providers' concerns that the additional work required by the online procedure, should be remunerated at hourly rates. Instead the fixed fee was introduced.

Duncan Lewis represented three claimants who challenged the regulations on the grounds that the Lord Chancellor had "failed to conduct a lawful consultation before making the regulations, and failed to gather the information he reasonably required to make a proper decision" and that the regulations pose and "unlawful" restriction on access to justice.

The claim was supported by witness evidence from Duncan Lewis, the Immigration Law Practitioners Association, the Bar Council, barrister Dr Jo Wilding, and letters of support from the Law Society and the Legal Aid Practitioners Group.

The group calculated projected losses in the region of £50,000 or 1000 hours of unpaid work over two years, and highlighted the already significant difficulties in instructing counsel for complex protection and immigration appeals.

On 4 August, the Lord Chancellor wrote to the claimants accepting that the regulations were unlawful on the basis that the consultation had been inadequate and that he had failed to satisfy his duty of inquiry.

A temporary fee regime will allow providers to undertake work under the online procedure and be remunerated at hourly rates.