



monthly news for members september 2011

Date for
your diaries:

ILPA AGM

Saturday 19 November
2011

Legal aid – the Bill and other matters

On 1 October 2011, Legal Aid fees are to be reduced across the board by 10%. This implements the proposal made in last year's Legal Aid Green Paper. Meanwhile, the Public Bill Committee has finished considering the civil Legal Aid provisions in the Legal Aid, Sentencing and Punishment of Offenders Bill.

While ILPA's briefings and work on this Bill have been complemented by voluminous written evidence to the Committee from various sources, including NGOs and migrant community organisations, the Committee has given little attention to immigration matters (save those concerning children and victims of domestic violence). The Government has stressed the restrictive ambit it intends for the 'exceptional cases funding', which would be the only potential source for funding in nearly all non-asylum immigration cases other than challenges to immigration detention.

The Government has also announced that all IAS cases have been successfully found a new home.

The Bill must yet return to the full House of Commons before it passes to the House of Lords, where it must be hoped there will be some serious consideration of the effect of this Bill in immigration cases. See enclosures.

■ IAS file transfer completed,
Legal Services Commission press release
30 August 2011

[www.ilpa.org.uk/resources.php/13667/
ias-file-transfer-completed-legal-services-
commission-press-release-30-august-2011](http://www.ilpa.org.uk/resources.php/13667/ias-file-transfer-completed-legal-services-commission-press-release-30-august-2011)

South East Strategic Migration Partnership memorandum of evidence to Public Bill Committee on the Legal Aid, Sentencing and Punishment Of Offenders Bill submitted 1 August 2011

[www.ilpa.org.uk/resources.php/13643/
south-west-strategic-migration-partnership-
memorandum-of-evidence-to-public-bill-
committee-on-the-le](http://www.ilpa.org.uk/resources.php/13643/south-west-strategic-migration-partnership-memorandum-of-evidence-to-public-bill-committee-on-the-le)

ILPA AGM and Executive Committee 2011

ILPA's 2011 AGM will be held on Saturday 19 November from 10.30am to 5pm or thereabouts, at the Directory of Social Change near Euston Square.

Further details will follow.

In your next month's mailing you will receive nomination forms on standing for ILPA's Executive Committee.

You will find in this mailing information about standing for the Committee and you are most welcome to speak to the General Secretary or existing members of the Committee if you would like to think about standing.

No end to the detention of children: UK Border Agency family accommodation Cedars at Pease Pottage

ILPA was among the organisations that toured the UK Border Agency's family accommodation at Cedars. Our conclusion, based on what was seen and said then, as recorded in the note, is that despite all assertions to the contrary this is detention. Persons in Cedars should be entitled to apply for bail and to challenge their detention.

See the report of the visit
in the enclosures.

**Immigration Law
Practitioners'
Association**

www.ilpa.org.uk

email
info@ilpa.org.uk

phone
020 7251 8383

fax
020 7251 8384

september news

House of Lords Motion to regret HC 1148

The regret motion in the name of the Lord Hunt of Kings Heath was debated on 7 September 2011 in the House of Lords. ILPA provided a briefing for the debate which was highly praised from different parts of the house. The Earl Attlee, speaking for the Government, identified the cuts that it anticipates making: once the new student system is fully implemented, around 70,000 fewer student visa grants a year and around 20,000 fewer visas issued to dependants each year; 20,000 fewer workers because of the closure of Tier 1 general. He said

‘As a result of the transitional and full effects of the policy, we estimate that there will be around 260,000 fewer student visas granted and around 100,000 fewer visas issued to dependants – a total of 360,000 fewer by the end of this Parliament. In addition, closing tier 1 post-study work in April 2012 but retaining a route into skilled, sponsored employment through tier 2 should result in 80,000 fewer staying in the UK to work but with 25,000 fewer dependants by the end of this Parliament in 2015.’

Further letters are expected picking up points raised in the debate.

■ For all documents, see www.ilpa.org.uk/resources.php/13698/house-of-lords-debate-motion-to-regret-statement-of-changes-in-immigration-rules-hc-1148-7-september

Home Office Immigration and Border (or Borders?) Policy (or not?) Directorate

The Government has, in the words of the Earl Attlee, speaking in the debate on HC 1148 (see above), ‘made a recent change to bring the strategic immigration policy back within the core Home Office’. Henceforth the idea is that the UK Border Agency deal with operations, the new Home Office Directorate with policy. Think of

the current division between the Legal Services Commission and the Ministry of Justice.

As you will see from the enclosures in this mailing, there is confusion over its name. Some say ‘Border’, some ‘Borders’; some include the word ‘Policy’; others do not. We shall keep you informed of developments.

R (Amin Sino) v SSHD [2011] EWHC 2249 (Admin)

Amin Sino, an Algerian national, was held in immigration detention for four years and 11 months following completion of a six-month custodial sentence. It was held that the whole of this detention was unlawful. This despite the finding that ‘it was very much more likely than not that the Claimant would re-offend and abscond if released from detention’. There was never a realistic possibility of deporting Mr Sino within a reasonable period; it was clear that he could not be deported without his cooperation, and that the Secretary of State would not get this. Subsequently, it was clear that he could not be deported with or without such cooperation.

In addition, the decision to detain him was influenced by the unpublished, unlawful policy that the Secretary of State had that foreign national prisoners should be detained until deported, regardless of the risk they posed and regardless of whether there was a realistic prospect of their removal within a reasonable period. Philip Howell QC, the judge in the case, delivers a ‘whelk store’ style judgment that could not be more critical of the Home Office. He finds that ‘...the basis on which the Secretary of State had sought to justify the Claimant’s ongoing detention was based on factual assumptions which were not true. This

served to reinforce the concerns I already had about the evidence filed to support the Secretary of State’s case’. These, he finds ‘...have contained false and misleading statements about matters that are material. What this sorry saga appears to reveal is a disturbing level of incompetent ignorance in what is apparently the team in the Home Office and the “Family Tracing Unit” in Algiers...’ He records concern at ‘the false statements in, and apparent lack of care when producing, the witness statements filed on behalf of the Secretary of State’. There is much more in a similar vein.

The judge recalls that refusal to cooperate with deportation is a criminal offence (maximum sentence of one year imprisonment), but it is not a reason to detain a person indefinitely. There remains the question, not yet decided, of the extent to which non-cooperation goes to quantum. The judge holds that ‘...although there may be no legal rule that there is an outer limit to the period for which it may be reasonable to detain an individual pending removal who is unlikely to pose a risk to national security or a very grave risk to the public if released’, general guidance can be obtained from decided cases, and must be obtained if the application of second *Hardial Singh* principle is not to be regarded as arbitrary.

■ A copy of the judgment can be found at [www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWHC/Admin/2011/2249.html&query=title+\(+sino+\)&method=boolean](http://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWHC/Admin/2011/2249.html&query=title+(+sino+)&method=boolean)

for your diary

New reports from Her Majesty's Inspectorate of Prisons

HM Inspectorate of Prisons has published three inspections reports in recent days. Two of these relate to inspections of forced removals to Nigeria and Jamaica, and indicate examples of racism and unnecessary physical restraint, including by staff who had not received full accredited training to use force. The third report relates to HMP Long Lartin, at which foreign national terrorist suspects are held. The report criticises the use of separation of these detainees from other detainees.

■ The reports are available at:
www.justice.gov.uk/about/hmi-prisons/

Update on new website

Many thanks to those members who have provided feedback. It is all valued; please keep it coming.

Since it went live on 11/12 August 2011 the website has received over 57,000 page views (as of 8 September 2011). The Directory of Members is currently the fifth most popular page, followed by the page on job advertisements.

Meanwhile on the members' pages we continue to upload news and documents as soon as they become available and on the members' homepage you will always find the latest news and documents (a broader selection than we can put into a hard copy mailing) and reminders of upcoming events. So if you, or your colleagues, have yet to sign in, we strongly advise you to do so as soon as possible, as you are missing out.

consultations

If you would like to be involved please contact info@ilpa.org.uk

- **UK Border Agency consultation on family migration**
Deadline: 6 October 2011
- **House of Commons Public Bill Committee – Call for written evidence: Legal Aid, Sentencing and Punishment of Offenders Bill**
Deadline: 13 October 2011
- **OISC consultation on proposed change to the OISC Complaints Scheme – paragraph 25, burden of proof**
Deadline: 20 October 2011
- **Ministry of Justice Discussion Paper on UK Bill of Rights**
Deadline: 11 November

meetings

members' meeting

- **Tuesday 20 September 2011**
7pm, ILPA
Using nationality law to assist European and other foreign nationals on death row in the United States of America
Talk by Clive Stafford Smith, Director, Reprieve
All members welcome. Please reply to confirm your attendance as the venue may change if numbers are high and we shall need to get in touch with you to confirm any change.
RSVP: elizabeth.white@ilpa.org.uk

subcommittees

(all members welcome)

- **Monday 19 September 2011**
Family and general subcommittee
6.30pm, ILPA
There will be a discussion of ILPA's response to the UKBA family migration consultation.

- **Tuesday 20 September 2011**
Children subcommittee
5.30pm, ILPA
- **Wednesday 21 September 2011**
Economic migration subcommittee
6.30pm, ILPA
- **Thursday 29 September 2011**
Access to justice subcommittee
6.30pm, Doughty Street Chambers, 54 Doughty St, London WC1N 2LS
To discuss how to deal with onward appeals to the Court of Appeal following the case of *PR, SS & TC* [2011] EWCA Civ 988 and its implications for the ability judicially to review of the Upper Tribunal, as well as the latest on transfers of fresh claim and age dispute judicial reviews to the Upper Tribunal.
RSVP: elizabeth.white@ilpa.org.uk

- **Thursday 6 October 2011**
ILPA South West subcommittee
3.30–6.30/7pm, ACAS Building, The Waterfront, Welsh Back, Bristol, Avon BS1 4SB
Joint meeting of ILPA South-West and SW Advice Network members.
Speaker: Louise Parcell, Legal Services Commission

training

Latest information on courses available can be found at www.ilpa.org.uk/events.php
All courses below are in London.

- **Wednesday 21 September 2011**
NEW Tier 1: Investors/entrepreneurs – rules and practicalities of submitting an application
- **Friday 23 September 2011**
Psychological factors in credibility assessments of asylum seekers
- **Tuesday 27 September 2011**
An overview of Indian Immigration law and update on recent changes to process and procedure

Further September–October courses on the website

publications

■ Parliament

House of Lords Debate motion to regret Statement of Changes in Immigration Rules, HC 1148

7 September 2011

www.ilpa.org.uk/resources.php/13698/house-of-lords-debate-motion-to-regret-statement-of-changes-in-immigration-rules-hc-1148-7-september

■ UK Border Agency

New recommended shortage occupation list

expected on 12 September 2011

Migration Advisory Committee

www.ukba.homeoffice.gov.uk/aboutus/workingwithus/indbodies/mac/

Policy statement on Article 1F of the Refugee Convention: Restricted Discretionary Leave

2 September 2011

www.ilpa.org.uk/resources.php/13679/uk-border-agency-policy-statement-on-article-1f-of-the-refugee-convention-restricted-discretionary-l

Pre-departure accommodation operating standards

2 September 2011

www.ilpa.org.uk/resources.php/13677/ukba-notice-on-pre-departure-accommodation-operating-standards

Settlement Checking Service Information Pack

11 August 2011

www.ilpa.org.uk/resources.php/13660/uk-border-agency-settlement-checking-service-information-pack-11-august-2011

Changes affecting restricted certificate of sponsorship applications

9 August 2011

www.ilpa.org.uk/resources.php/13671/uk-border-agency-announcement-changes-affecting-restricted-certificate-of-sponsorship-applications-9

DRAFT National Asylum Stakeholder Forum (NASF) minutes of meeting 4 August 2011

www.ilpa.org.uk/resources.php/13640/draft-national-asylum-stakeholder-forum-nasf-minutes-of-meeting-of-4-august-2011

Marriage-related settlement, Home Office Occasional Paper 96

August 2011

www.ilpa.org.uk/resources.php/13585/marriage-related-settlement-home-office-occasional-paper-96-august-2011

Legal Services Commission Civil Contracts Consultative Group – papers for meeting on 12 September 2011

www.ilpa.org.uk/resources.php/13668/legal-services-commission-civil-contracts-consultative-group-papers-for-meeting-on-12-september-2011

Court of Justice of the European Communities (CJEU) update on asylum cases and pending preliminary references for the ELENA network

August 2011

www.ilpa.org.uk/resources.php/13669/court-of-justice-of-the-european-communities-cjeu-update-asylum-cases-and-pending-preliminary-refere

European Legal Network on Asylum ELENA Index

August 2011

www.ilpa.org.uk/resources.php/13670/european-legal-network-on-asylum-elena-index-august-2011

Commentaries on Operational Guidance Notes for Iran, Sri Lanka and Jamaica

August 2011

Still Human Still Here
www.ilpa.org.uk/resources.php/13686/still-human-still-here-commentaries-on-operational-guidance-notes-for-iran-sri-lanka-and-jamaica

Young Lives in Limbo: the protection of age disputed young people in Wales

10 August 2011

Welsh Refugee Council

www.ilpa.org.uk/resources.php/13560/young-lives-in-limbo-the-protection-of-age-disputed-young-people-in-wales-welsh-refugee-council-10-a

UK migration: the leadership role of housing providers, summary

23 August 2011

Joseph Rowntree Charitable Trust

www.ilpa.org.uk/resources.php/13666/uk-migration-the-leadership-role-of-housing-providers-summary-23-august-2011

Wales Strategic Migration Partnership Safeguarding and Welfare guidance re unaccompanied asylum seeking children and young people

7 September 2011

www.ilpa.org.uk/resources.php/13696/wales-strategic-migration-partnership-safeguarding-and-welfare-guidance-re-unaccompanied-asylum-seek

■ Further documents can found at www.ilpa.org.uk/pages/mailling.html

responses and briefings

available from www.ilpa.org.uk/pages/briefings.html

ILPA response to **UK Border Agency consultation on employment related settlement, Tier 5 and overseas domestic workers** September 2011

ILPA briefing for the **House of Lords debate on Wednesday 7 September 2011 on the regret motion: Statement of Changes in Immigration Rules HC 1148** September 2011

ILPA Immigration Law Practitioners' Association
Lindsey House, 40/42 Charterhouse St, London EC1M 6JN

www.ilpa.org.uk tel 020 7251 8383

email info@ilpa.org.uk fax 020 7251 8384

The Immigration Law Practitioners' Association is a company limited by guarantee. Registered in England and Wales. Reg no 2350422. Reg office Acre House, 11–15 William Road, London NW1 3ER

ILPA monthly news for members is prepared by Alison Harvey and Elizabeth White 9.9.11