



IMMIGRATION LAW PRACTITIONERS' ASSOCIATION
PRESIDENT: IAN MACDONALD QC

ILPA Annual Report 2011/2012

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OBJECTS OF THE ASSOCIATION

The objects of the Association are:

- To promote and improve the giving of advice to and the representation of immigrants from whatever part of the world whether coming or intending to come to the United Kingdom for settlement or some limited purpose and to promote further and assist by whatever means the giving of advice to and representation of immigrants or emigrants to or from any other part of the world.
- To disseminate information and views on the law and practice of immigration and nationality in the United Kingdom and elsewhere.
- To enhance and expand the teaching of immigration and nationality law in the United Kingdom or elsewhere.
- To coordinate the activities and interests of immigration and nationality law practitioners, to make contact with similar bodies in other countries and to make representations for and on behalf of immigration and nationality practitioners.
- To secure a non-racist, non-sexist, just and equitable system of immigration and nationality law practice in the United Kingdom and elsewhere.

THE EXECUTIVE COMMITTEE

Ian Macdonald QC – President
Adam Weiss – Secretary
Adrian Berry
Nicola Cockburn
Hazar El-Chamaa
Sue Shutter

Sophie Barrett-Brown – Chair
Esther Lieu – Treasurer
Syd Bolton
Katie Dilger
Mark Henderson
Meghan Vozila

SUBCOMMITTEE CONVENORS

Access to Justice Subcommittee:	Mark Henderson, Alison Pickup
Children Subcommittee:	Judith Dennis, Baljeet Sandhu
Detention & Fast Track Subcommittee:	Steve Bravery, Kay Everett, Pierre Makhoul
Economic Migration Subcommittee:	Philip Barth, Smruti Jeyanandhan Philip Trott,
European Subcommittee:	Elspeth Guild, Alison Hunter
Family & General Subcommittee:	Sue Shutter, Pat Saini
Legal Aid Subcommittee:	Jackie Peirce, Sonia Routledge
Offences Subcommittee:	Jawaid Luqmani, Richard Thomas
South West Subcommittee:	Rosie Brennan, Natasha Williams
Training Subcommittee:	Helen Williams
Yorkshire & North East Subcommittee:	Ish Ahmed, Christopher Cole

CHAIR'S REPORT

Stepping down as Chair this year after some five years, I look back not only on the challenges and the achievements of the year as usual for the purpose of the annual report, but it also prompts me to reflect on the past five years. ILPA is a remarkable, collaborative organisation and it has been my great privilege to serve as Chair since 2007; what stands out year on year is the extraordinary energy and commitment of both the Secretariat and our members, despite the seemingly relentless pace of change and the ever increasing challenges of practice in this field.

It scarcely seemed possible that that 2011-12 could witness greater changes and challenges than the previous year, but the onslaught continued fast and furious. The wealth of work our members and the Secretariat have contributed in the last 12 months is impressive as ever. The reports of the General Secretary and each of the subcommittees cover in detail the main events and key cases over the past year; I commend those reports to you and highlight just a few headline points in my summary report.

Membership has increased slightly this year to date (though income from membership was down in the financial year) as noted in more detail in the General Secretary's and Treasurer's Reports. I very much hope that the additional benefits of membership that ILPA's revised website (to which we continue to make improvements) and ILPA's exceptional information services bring will continue to assist in increasing the value ILPA can offer to members at an undoubtedly trying time for practitioners.

Building on the launch of ILPA's new website and other IT enhancements last year that are enabling us to better communicate with and assist members, additional funding from Unbound Philanthropy enabled us to fund a new post of Information Officer, ably filled by Philip Reilly, which has made a significant contribution to our information services with rapid dissemination of new information to members and enhancing the accessibility of information past and present archived on ILPA's website. Our great thanks to Unbound Philanthropy for making this possible.

For the first time this year ILPA's comprehensive training programme has exceeded 100 courses, 31 of which have been delivered as part of the Refugee Children's Project, funded by the Diana Princess of Wales Memorial Fund (for which we are most grateful). Training remains critical to ILPA activities, not only as a main source of income to support its wider work but in achieving its core object of enhancing the giving of advice and representation of migrants and promoting best practice. My enormous thanks therefore to so many members who have given their time to prepare and deliver expert training during the past year - many of whom have digested and analysed new rules and policies and devised entirely new courses with remarkable speed in order to swiftly appraise members on the onslaught of changes this year.

Detrimental changes to legal aid continued to occupy us this year and will do so in future. Some of the greatest and most regrettable changes came in the form of the new family rules, introducing an arbitrary maintenance threshold (with convoluted evidential requirements and an extraordinary level of complexity) and an attempt to redefine Article 8. We have seen the end of the 14 year rule, the abolition of the Tier 1 Post Study Work category, the extension of draconian and confusing 'cooling off' (ie exclusion) periods across Tier 2 and the restriction (and proposed abolition) of family visitor appeal rights, to name but a few more. Notable successful challenges and causes for celebration include *Alvi* [2012] UKSC 33 and very recently *MF (Article 8 – new rules) Nigeria* [2012] UKUT 00393 (IAC).

ILPA has made significant progress this year with preparing to secure charity status and I anticipate that by the date of the Annual General Meeting or very shortly after, will have submitted its application to the Charity Commission. Particular thanks to Alison Harvey, Adrian Berry and Meghan Vozila for their work on this.

I am grateful to the Secretariat for their continued hard work this year, coping admirably with the many changes and challenges of the year. My profound thanks to the current team: Helen Williams, Elizabeth White, Lana Norris, Nirmala Rajasingam, Philip Reilly and Alison Harvey.

We recently welcomed Shahzrad Nouraini (Training & Membership Coordinator), who has just joined as maternity cover for Helen Williams – to whom our very warmest wishes for her impending new arrival! Helen has been an exceptional member of the team for so many years and will be greatly missed whilst on leave.

Thank you also to members of staff who left us during the course of the year: Lisa Woodall who handed over the reins of the Refugee Children's Project to Nirmala; Kit Eaves who decided not to return following her second period of maternity leave (we are very pleased that Lana Norris has taken up the position of Finance Manager with Administration, following her period of maternity cover for Kit). Notably we lost Steve Symonds (Legal Officer) in September 2012 who left to pursue further studies. I cannot thank, nor commend, Steve enough for the amazing work he undertook for ILPA for so many years; his intellectual rigor in his rapid analysis of legislation, rules and policies was remarkable and his clarity of thought and fearlessness in tackling points of law with UK Border Agency officials/ministers has been a tremendous asset to ILPA.

The loss of Steve as Legal Officer and Alison Harvey's desire to focus more on the legal aspects of her role as General Secretary provided the EC with an opportunity to re-evaluate the structure of ILPA's secretariat. With, *inter alia*, the growth of the ILPA secretariat, management of grant funding and the ever-growing legal aspects of ILPA's work augmented by the constant changes in law and policy and the ongoing attack on Legal Aid, the role of the General Secretary has become greater than a single role. We have therefore taken the decision to split the functions of that role, creating two new senior posts: a Director (part time), responsible for the overall management and operational control of ILPA, and a Legal Director (full-time), responsible for the legal aspects of ILPA's work (with the assistance of a new assistant Legal Officer (part time)). We are currently in the process of recruiting for the Director post and are delighted that Alison Harvey will be filling the role of Legal Director, enabling ILPA to retain her very great talents.

Alison has been ILPA's formidable General Secretary for over five years. During that time she has never ceased to astound me with her unfailing commitment, energy and passion (demonstrated at all hours of day and night!) Her ability quickly to assimilate information and identify legal issues is matched by her dedication to informing and inspiring members; she has led the development of the secretariat through great change and has supported each successive Executive Committee through the myriad of governance responsibilities whilst energetically challenging the UK Border Agency/government at every turn. Alison's dedication is such a tremendous part of what has made ILPA the organisation it is today and we are indebted to her for her tireless hard work and vision. I believe that the new structure we have set for ILPA will enable ILPA successfully to rise to the challenges of the future and Alison's continued leadership of ILPA's legal work in her new role gives me great optimism for ILPA's future work in this regard.

I am delighted that Adrian Berry is standing (unopposed) as Chair and this gives me great confidence in ILPA's future. Adrian will be known to many of you as a leading immigration barrister; his truly expert knowledge across the full spectrum of practise, from nationality to EU law, from asylum to business immigration as well as family and general immigration makes him exceptionally well placed to represent and lead ILPA. He has for many years been a member of the ILPA EC (therefore having the advantage of fully understanding the organisation) and has frequently represented ILPA at key meetings with the UK Border Agency and ministers to great effect, with his trademark combination of razor sharp intellect and unfailing courtesy that simultaneously disarms and unsettles his opponent and is always a joy to observe. It has been a delight to work with Adrian over the years and I know he will make a superb Chair.

I am also delighted that Esther Lieu and Adam Weiss are again standing (unopposed) as Treasurer and Secretary respectively. Both have been excellent in these roles this year and together with Adrian will make an extremely strong Executive Committee for the coming year.

My thanks to all those who are standing for the Executive Committee, your contribution is extremely important to ILPA. Particular thanks also to those who have served on the EC and are standing down this year: Nicola Cockburn and Mark Henderson (who has been an energetic member of the EC for a great number of years and will no doubt continue to make his contribution felt as a subcommittee convenor and active member).

Although standing down as Chair, I look forward to continuing working with ILPA in other ways for many years to come and hope to see many of you at training courses and members' meetings. My heartfelt thanks to you all for your support of ILPA to date and in future - without you ILPA could not continue its work. ILPA will continue to fight for a just and equitable system of immigration and nationality law practice and, as I always say, whatever challenges and uncertainties may lie ahead, together we are stronger than the sum of our parts – long may government/the UK Border Agency find us a real force to reckon with!

Sophie Barrett-Brown

Chair

November 2012

TREASURER'S REPORT

ILPA's work continues to impress members, those with whom we work and funders in spite of the challenging environment. This is reflected in pre-tax profits for the financial year 2011-2012 of £42,795. This is lower than the profit made in 2010-2011 yet higher than that in 2009-2010, and represents 7.3% of the annual turnover.

This year's turnover of £584,804 is slightly lower than that of last year, and largely attributable to lower revenue generated by ILPA's training courses (£18,775 lower) and to a lesser extent, membership fees (£12,860).

ILPA's expenditure has increased by £20,172 compared with the previous year.

Much of the increase in the costs base of ILPA is grant funded such as increase of staff. Additional staff posts funded by grants include the Project Coordinator, Refugee Children's Project and the new Information Officer post which is funded by another two-year grant from Unbound Philanthropy.

In 2011 – 2012 ILPA were received funding from Unbound Philanthropy, the Diana, Princess of Wales Memorial Fund and the Joseph Rowntree Charitable Trust and we are grateful to them for their valuable support and commitment to ILPA's vision and objectives. The Joseph Rowntree Charitable Trust, in March 2012 decided to continue and develop their support in funding ILPA's legal work and information service for a further three years to March 2015. We are very grateful for their financial and practical support which provides much appreciated security.

With the assistance of Jeremy Stone, ILPA's accountant, ILPA has accounted on an accruals basis for one year, and is benefitting from improved monitoring of project income and expenditure.

Monthly financial reports and Treasurer reports inform the Executive Committee of ILPA's financial position on a regular basis and provide for continual oversight of ILPA's finances. Adjustments to the manner in which membership fees are reported in the accounts has enabled us to draw more accurate comparisons on a year-on-year basis.

ILPA continues to hold reserves in line with its reserves policy. The unrestricted reserves have increased considerably in 2011- 2012 with contributions made by the profits generated (£360,788 in 2011- 2012, £298,431 in 2010- 2011). The amount of reserves is kept under review: we do not intend to retain an unnecessarily high sum, especially in light of ILPA's objective to obtain charitable status. Nonetheless we are conscious that in the current economic climate, income from both core activities and funders is less secure and it is prudent to safeguard our financial position.

The Executive Committee is aware of the benefits of the charitable status to reducing ILPA's costs base and is actively engaged in the process of obtaining charitable status.

Esther Lieu
Treasurer
November 2012

GENERAL SECRETARY'S REPORT

"...the limits on the scope of legal aid...will hit hardest the weakest and most impoverished sections of our society, often on complex questions of law such as are raised by immigration law." Lord Pannick, *Hansard* HL Report, 25 April 2012, col 1797

This year ILPA members have won cases the effect of which is that the Home Office has been prohibited from removing persons without notice (*R (Medical Justice) v SSHD* [2011] EWCA Civ 1710); from manufacturing refusal by ever-changing unreasonable, inflexible guidance (*Alvi* [2012] UKSC 33); from rewriting rights to private and family life (*MF (Article 8 – new rules) Nigeria* [2012] UKUT 00393 (IAC)) - and watch this space), and indeed the broader swathe of rights many bear as citizens of the Union, including under its Charter of Fundamental Rights (*NS, C411/10*). The Home Office has been required to take a broad, human-rights based approach to protection from persecution (*RT (Zimbabwe) et ors v SSHD* [2012] UKSC 38). As set out in the report of the Detention and Asylum Fast-Track subcommittee, the UK has repeatedly been found to have breached article 3 of the European Convention on Human Rights, the prohibition on torture and inhuman and degrading treatment, for its treatment of the mentally ill in immigration detention. In the circumstances, the provisions of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 start to look like the actions of a bad loser.

Within the Secretariat, inspired and enabled by our website and by IT, we have set ourselves ever higher standards as to what we expect to be able to deliver for members who are backing the rule of law despite increasingly long odds; be it training, information or raising concerns at every level, in writing and face to face. We have greatly augmented the resources available to members in the course of the year, while the contribution of the Refugee Children's Project has pushed our total training programme to over 100 courses in a year for the first time. Sometimes the most important thing simply seems to be that ILPA members know that someone is telling those who have caused danger, harm, risk, distress or inconvenience to their clients exactly what they have done. Work on the legal aid changes, for many organisations a full time job in itself, has had to run alongside work on substantive immigration law. It has all been pretty unrelenting and I am grateful to staff who cheerfully take the need always to do more in their stride.

Without our funders the breadth and depth of our current work would not be possible. We thank the Joseph Rowntree Charitable Trust whose support for the legal work in the Secretariat and for the information service will continue until 2015, Unbound Philanthropy for its second grant, this time funding the Information Officer post until December 2013 and the Diana, Princess of Wales Memorial Fund for its support for the Refugee Children's Project, now coming to an end.

I thank the Executive Committee for their work during a year of great change. Particular thanks go to Sophie Barrett-Brown, who stands down as chair after holding the post since 2007. Sophie is the first woman to chair ILPA and the first chair whose practice is predominantly in business immigration law, an area that has undergone unprecedented change during her time in the post. She has been inclusive, fair and outspoken and she has worked tirelessly, a combination that has won the respect of all members and interlocutors. I also single out Mark Henderson, who stands down from the Executive Committee after more years than he cares to count and has during that time steered some of our most complex and difficult work. Neither is lost to ILPA: Sophie's contribution to ILPA training and to representation of ILPA will continue and Mark will continue to co-convene the Access to Justice subcommittee.

ILPA Staff

Kit Eaves	Administrative and IT Manager (to December 2011)
Alison Harvey	General Secretary
Shahzrad Nouraini	Training & Membership Coordinator (Maternity cover from October 2012)
Lana Norris	Finance Manager with Administration (maternity cover and then permanent from December 2011)
Nirmala Rajasingam	Refugee Children's Project Coordinator (from March 2012)
Philip Reilly	Information Officer (from January 2012)
Steve Symonds	Legal Officer (to September 2012)
Elizabeth White	Personal Assistant to the General Secretary
Helen Williams	Training and Membership Coordinator
Lisa Woodall	Refugee Children's Project Coordinator (to February 2012)

Role of the Secretariat

The core functions of the ILPA secretariat are:

- The coordination of liaison with Government, tribunals, courts and NGOs;
- The co-ordination and distribution of submissions to parliamentary committees, government and the European institutions;
- The design and implementation of the ILPA training programme;
- Updating members and others on all matters of asylum, immigration and nationality law, practice and policy;
- Servicing and supporting the Executive Committee and implementing its policy decisions, work that includes the identification and collation of the management information, including financial and membership information about ILPA and its membership, necessary to allow the Executive Committee to determine the opportunities, challenges, risks and threats to ILPA;
- Building and sustaining links between all the different areas of ILPA's activities;
- Support for the ILPA subcommittees and members active on ILPA's behalf;
- Responding to enquiries from members, the media and the public.

It has been a year of incremental changes and only writing this annual report and reflecting upon them as a whole do I feel surprised at how stable the Secretariat feels. All have brought opportunities for staff development. Kit Eaves decided not to return from her (second) maternity leave in December but, despite losing such a long-standing member of the staff, we retained a sense of continuity. Lana Norris, who had provided the maternity cover, took up a permanent position as ILPA's Finance Manager with Administration, where she has worked tirelessly. The new job title reflects the larger financial component of the post, with the IT functions having passed to the Training and Membership Coordinator where they have remained. This has been highly successful and continues to enrich particularly the work on membership.

In the new year Philip Reilly took up the new post of Information Officer, helping us to get on top of information old and new. Lisa Woodall left the children's project in the spring, leaving it stronger than she found it and under Nirmala Rajasingam it has flourished in its final year.

It was great to see Steve Symonds take on a new challenge in the autumn, but very sad to lose him. The question "What do you think Steve?" rings in the air. His high quality output was prodigious and few can work at his pace. His departure in September has prompted a rethink of the structure. After five years as General Secretary I expressed a desire to focus on the legal aspects of my role.

The Executive Committee took up the challenge and proposed a new post of Legal Director, with a Director to lead ILPA and a Legal Officer to work to the Legal Director. We are currently working to make this new structure, which is rich with potential, a reality. In parallel we have recruited for maternity cover for Helen Williams. Helen's shoes are huge ones to fill but we are confident in our team: Elizabeth White will take on the planning of the training programme during the year and Shahrzad Nouraini, who will provide cover for Helen, started the handover in October.

We are very grateful to Maryam Tabib who covered the Refugee Children's Project on a consultancy basis until Nirmala Rajasingam took up the post and to the two excellent volunteers on the Information Officer project, Frederic Rieg and our current volunteer, Arzu Gedikozer.

A high priority has been placed on training. Elizabeth White attended training on marketing and Lisa Woodall, Philip Reilly and Nirmala Rajasingam attended project management training, all from IBM. Helen Williams, Philip Reilly and Shahrzad Nouraini attended training on the use of the Salesforce database and Helen Williams and Philip Reilly attended a regular user group for NGO users of the database. Elizabeth White and Philip Reilly attended training on Google Analytics. Staff attended conferences for membership organisations: Lana Norris, Helen Williams Elizabeth White and Philip Reilly the CHASE conference and Helen Williams, Philip Reilly, Elizabeth White and Shahrzad Nouraini, Memberwise conferences. Helen Williams attended training on governance tips for membership organisations and Philip Reilly on data protection hosted by Bates, Wells and Braithwaite. Helen Williams Alison Harvey and Elizabeth White attended training for membership organisations by the accountancy firm Kingston Smith. Philip Reilly and Arzu Gedikozer attended specialist training by the British and Irish Association of Law Librarians, on copyright and on the National Archive. Alison Harvey, Steve Symonds, Lisa Woodall, Nirmala Rajasingam and Philip Reilly also undertook training on immigration, asylum and nationality law through participation in ILPA training and a range of conferences and events. Lana Norris undertook training on first aid.

Staff are growing in skills and confidence all the time and I and other staff are supported, and invited to raise our game, in all aspects of our work by the contributions of colleagues. The Secretariat is a very stimulating place to work and I am grateful for all the help and support I receive from a skilled team.

The Secretariat has been assisted by Jeremy Stone and Vicky Sholund of the Charity Accounts people (Accountants), Helen Dewar (librarian), Oakland Associates (IT), Matt Morris and Third Sector IT (membership database design and development), Fat Beehive (website design), Pat Kahn (designer) and HW Fisher (Auditors) to whom thanks for their support and assistance.

Context

As detailed in the report from the Legal Aid subcommittee, we achieved some further wins on the Legal Aid, Sentencing and Punishment of Offenders Act 2012, preserving legal aid for persons who have been trafficked and making some inroads in the exclusions affecting immigration judicial reviews. These victories are nowhere near enough. A vote at Lords Report on 12 March to retain immigration within the scope of legal aid was lost by 19 votes. A vote to retain legal aid for children, including in immigration, was won in the House of Lords on 27 March, but subsequently overturned by the Government. We shall hold the Government to the commitment wrung from it to review the effect of the withdrawal of legal aid from immigration a year after this takes effect (*Hansard* HC 24 April 2012, col 833).

The stifling bureaucracy of all engagement with the Legal Services Commission sometimes dulls the edge of terror at what is happening. Persons under immigration control who are too poor to pay for legal advice and representation will have no entitlement to it. Unless they get it, we can

anticipate an increase in the lack of respect for the rule of law, in the casual or targeted racism, the carelessness, the jobsworth attitudes that all flourish where they are unchecked. We anticipate increases in injustice and exploitation because of increases in those of moderate means and the poor, including those barred from work, legal aid or social assistance, who are deterred from seeking justice or struggle to meet the costs of application fees, fees for appeals, introduced in December 2011, and the costs of legal representation.

The cases that would make the best lead cases will be harder to find; the groundswell of cases that should follow them will be harder to create. It is such a groundswell of cases that has been shaped the year and ILPA has disseminated information about leading cases and provided training to encourage this. A swathe of cases has followed *Ruiz Zambrano* (CJEU Case C-34/09) and increasingly the EU Charter of Fundamental Rights is pleaded. *Civis Europeus sum*: the “citizen of the Union” as human rights bearer is emerging from the jurisprudence. *ZH(Tanzania)* [2011] UKSC 4 is influencing children’s cases in the world of immigration and far beyond. As described in the report of the Access to Justice subcommittee, following *JD (Congo)* [2012] EWCA Civ 327 the door to the higher courts, which seemed to have been slammed shut by *PR (Sri Lanka)* [2011] EWCA Civ 988, has been wedged back open.

The tenders for legal aid for the period from April 2013 further increase our concerns. The number of cases (“matter starts”) on offer is hugely reduced in many places. For example, as ILPA has raised with the Legal Services Commission, there will be only 100 asylum new matter starts in Devon and Plymouth per year, down from 380, although the Council’s website says that there are some 350 persons seeking asylum resident in the city, “mostly separated children.”

The year saw the death of two inspirational figures who have long supported our work. In 1968 Tribune recorded Ann Dummet’s response to Enoch Powell’s rivers of blood speech:

“Immigrants have shown us that we are short of teachers, short of housing, ill-organised in industry — in short that we are in a mess which Government and local authorities are simply not dealing with....It-is only one of the evils of racialism that it blinds us to all which is really wrong with our society.”

Her trenchant analysis and clear thinking shone through her books, including *Subjects, Citizens, Aliens and Others: Nationality and Immigration Law*, which she wrote with Andrew Nicol in 1990, and were put at ILPA’s service most recently in its work on the Borders, Citizenship and Immigration Act. Brother Bernard Elliott SJ befriended and assisted countless immigration detainees and assisted and supported their lawyers with tireless good humour. New bail guidelines from the Tribunal and new UNHCR guidelines on detention assist detainees, but it is the support from persons such as Brother Bernard that helps to ensure that detainees do not give up.

ILPA continues to express concerns at the powers through the Crime and Courts Bill to transfer more immigration and nationality judicial reviews to the Upper Tribunal (Immigration and Asylum Chamber). To date it has taken high court judges to deal with the shortcomings of the Home Office’s conduct as a litigant. Further evidence of these shortcomings came in October 2012 with Treasury Solicitor’s production, four hours before a flight to Sri Lanka, of “corrections” to the policy bulletin on the safety of Sri Lanka that it had put before the court four days previously. ILPA has drawn the matter to the attention of the Council of Europe Committee for the Prevention of Torture, whose representatives travelled on the flight, and also asked the Lead Judge of the Administrative Court to look into the matter.

The Crime and Courts Bill extends the powers of immigration officers and the range of those who may deal with matters in the First-tier and Upper Tribunals. It removes the right of appeal against refusal of entry clearance for a family visit. Most chillingly, it will allow the Secretary of State to deprive a person of an in-country right of appeal against her decision to strip them of leave to

remain while they are outside the UK. This would reverse the judgment of the Court of Appeal in *SSHD v MK (Tunisia)* [2011] EWCA Civ 333, required reading for anyone who has more than a passing interest in the rule of law. It is proposed that persons can be deprived of their leave while outside the UK, left with no prospect of State protection save, in many cases, from the State that has persecuted them, and with no prospect of returning to the UK to argue that what has been done is unlawful. ILPA has provided briefings on all aspects of the Bill and used it as a vehicle to argue for amendments that would remove complexity and injustice in the immigration appeals regime.

If the words “Ministry of Justice” conjure visions from Orwell, the Justice and Security Bill will not dispel that impression. It includes provisions to extend the remit of the Special Immigration Appeals Commission to deal with cases where the Secretary of State relies upon material to be kept secret from a person who has been refused naturalisation or registration as a British citizen or is a non-EEA national excluded from the UK. This follows the case of *R(AHK & Ors) v Secretary of State for the Home Department* [2012] EWHC 1117 (Admin) where Ouseley J records

“...he [AM] has been told nothing other than that naturalisation has been refused on the grounds of character and that it would be contrary to the public interest to give reasons....It is not so much that the case is untriable; it can be tried. It is simply that the evidence means that the Claimant cannot win.”

Ouseley J suggested that closed material procedures might cut through this dilemma. But his suggestion that first the exclusion of the material should be subject to a public interest immunity test has not been followed in the Bill. It is noticeable that the safeguards that are proposed in the Bill and relied upon by Ministers in debates, do not exist in cases before the Special Immigration Appeal Commission. Outside the Special Immigration Appeals Commission, closed material procedures are proposed “only” for national security cases. This is not the case before SIAC. The immigration aspects of the Bill have to date commanded little attention but ILPA has brought them to the attention of the Joint Committee on Human Rights.

ILPA found itself in the unfamiliar territory of the Chancery division as an intervenor, in an effort to ensure that the files of former IAS clients in archive at the time of closure were preserved. We are hugely grateful to Sarah Robinson, Craig Montgomery and Kim Sofroniou of Freshfields Bruckhaus Deringer LLP and to Georgina Peters of South Square chambers whose expertise, provided *pro bono*, enabled us to secure a three-month window during which clients could attempt to retrieve their files. Not all managed to do so, but a considerable number did succeed. ILPA’s intervention not only assisted IAS clients, it highlighted a gap we have long identified in the Office of the Immigration Services Commissioner’s regulatory structure. Clients of OISC-registered providers do not enjoy the same protection as solicitors’ clients when representatives close down. Despite the proliferation of legal regulators this remains to be addressed. The UK Border Agency, the Legal Services Commission and other official bodies publicised the retrieval period, providing links to ILPA’s website, evidence that even in this politicised environment we command considerable respect.

Immigration policy has moved out of the UK Border Agency and is now made in the Home Office Immigration and Border Policy Directorate at considerable distance from casework staff. New rules have come thick and fast, although responses to developments favouring our clients such as the judgment *Ruiz Zambrano* (C-34/09) have been tardy. The high level of mistakes in new rules has created numerous headaches for members. We have achieved a number of corrections to the rules. We are promised more although the lack of urgency about rectifying errors troubles us.

The onslaught on students that characterised last year culminated in the withdrawal of the sponsorship from London Metropolitan University this year. We wait to see what will emerge from the ensuing litigation about the requirements that have been placed upon universities, and

indeed on other sponsors such as employers, and whether a rebellion by universities against being made to act as immigration officers will finally emerge.

Rule changes continued to introduce complexity into the Points-Based System and also removed the hard-won protections for overseas domestic workers. Henceforth new domestic workers can enter for a maximum of six months, cannot switch and have no route to settlement while those in diplomatic households can stay longer but cannot switch employer. The blow of withdrawal of the post-study work route in April was only partly mitigated by the new Graduate entrepreneur route. Increased maintenance requirements from April hit all tiers of the Points-Based system and a minimum salary threshold was imposed for those many of those applying for settlement under Tier 2. The only rays of sunshine were a new visitor category for permitted paid engagements for specific categories of fee-paid workers, ILPA and others having long argued that Tier 2 and 5 were clumsy routes for such people, and a graduate entrepreneur category.

The Government's focus has shifted to family immigration. In June, SI 2012/1532 restricted family visit appeals; the Crime and Courts Bill now proposes their abolition. ILPA successfully briefed the House of Commons to challenge the Home Secretary on the status of a debate at short notice that had been intended to constitute their endorsement of rules contained in Statement of Changes HC 194 that they had yet to read, let alone understand. We are pleased to see that the Upper Tribunal in *MF (Article 8 – new rules) Nigeria [2012] UKUT 00393 (IAC)* has held that Home Secretary can include in the rules an incomplete and restrictive version of Article 8, but the “real article 8” as we have infuriated officials by calling it, is still there to be relied upon by those facing interference with their private and family life. More troubling in that judgment is that the Upper Tribunal finds that the court owes some deference to what has been put in the rules; no doubt there will be further litigation on this point.

The real Article 8 will be prayed in aid more often, for new requirements that purport to confine enjoyment of family life in the UK to rich people with the record-keeping skills of archivists seem to demand that, latter-day Jane Austen heroines, we require sight of a person's bank balance, not to mention their payslips and passport, before conceding that they are in want of a wife. Hence the title of ILPA's training course in riposte to the new rules: *Don't fall in love*. Meanwhile rumours of the death of the 14-year long residence rule finally proved well-founded, although HC 194 introduced a 20-year alternative. The route to settlement has become longer and more arduous for family immigrants. ILPA has done detailed work on the copious errors and infelicities of the new rules, bringing them to the attention of everyone from the officials who drafted the rules to the Joint Committee on Human Rights.

At the time of the last AGM the UK Border Agency was enmired in the scandal of blame for relaxation of border controls. From these inauspicious beginning the UK Border Force was born. The diminished UK Border Agency says that it is transforming but looks more as though it is falling apart in an inimitable Kafka in Wonderland fashion. The scribes are hard at work rewriting the history of the legacy. A Directorate called the Case Resolution Directorate was not, it turns out, intended to resolve cases. Caseowners in charge of a “Controlled archive” respond to lawyers asking why their client has heard nothing, saying that the Agency is no longer in touch with said client. The initial proposals for the transformation of asylum work include the “new” idea of triage, sorting cases into “suitable for the detained fast track, “survivor of torture”, “trafficked person” etc. on sight before anything is or could be known about the case are anything but new, cannot work in theory and do not work in application.

Premium services are the UK Border Agency's licence to print money. Yet, when times are hard, the Agency fell far short of meeting the demand for premium appointments and then proposed to close its busiest same day service, at the Public Enquiry Office in Croydon. ILPA successfully argued for the reversal of that decision before it had come into effect and ILPA and the Law

Society have put considerable effort into proposing ways to break the log-jam on premium services. The Agency's work on this has been infuriatingly slow and small scale. At the heart of the pressure on premium services is that they are being used by people who do not need a same day service or want to pay for one, but cannot not afford to send their passports off into the void that is the ordinary postal service. Meanwhile employers, whom the Agency makes pay for the privilege of doing its job of monitoring compliance with immigration control, are asked to pay £25,000 for what, if delivered, would be no more than a tolerable level of customer service.

ILPA's superb records and ability to produce arguments and evidence that justify our excellent reputation have stood us in good stead when challenging the Agency's versions of events which are all too often unencumbered by institutional memory or reference to external standards. Our accounts of the legacy have been treated as accurate by courts and parliamentarians. When the Agency proposed, at no notice, to use X-rays to determine age ILPA was able to present to clinicians, the press, parliamentarians and government medical and scientific advisors that the Agency had no response to our arguments as to the lawfulness, ethics, purpose or reliability of the proposals. The proposals have not gone away but the UK Border Agency will need ethical approval from the National Research Ethics Committee to take them forward and we have seen nothing to suggest that it is in a position to get this.

We were delighted to see the European Commission commence infringement proceedings against the UK on a range of matters that ILPA and the AIRE Centre had brought to its attention, such as the rights of non-EU family members of EU citizens who hold a valid residence card to travel with EU citizens without an entry visa, the question of comprehensive sickness insurance and rights of extended family members. Some of these have subsequently been addressed by the UK in regulations.

Croatians will face the same restrictions on access to the Labour market when Croatia joins the EU as Bulgarians and Romanians have faced to the bitter end. Battles over access to welfare benefits look sets to continue, affecting not only Croatians but those with the clumsily named "derivative" rights. *Ruiz Zambrano* parents face restrictions, in the domestic courts and in Europe.

Our work with the Commission has not been confined to free movement rights. ILPA and the AIRE centre complained to the European Commission about existing practices at the Asylum Screening Unit and our concerns have been communicated to the Government.

Training

Training remains at the heart of everything ILPA does. We have delivered 73 training sessions since the last AGM and a further 31 as part of the Refugee Children's project, taking our overall output to over 100 courses in one year for the first time. Courses have taken place in London, Birmingham and Leeds. We report separately on the Children's Project below.

Our tutors are amazing. "Oh, it helps me keep on top of new developments" they say as they pour over swathes of new rules on which the ink is not even dry to deliver training to their peers.

We have a rich programme of courses, some of which are repeated, with updates and variations, every year or more often. New courses are always being added to the programme, this year including a swathe of highly praised courses on the new family immigration rules. Barry O'Leary and Tim Barnden saw the immigration rules change three times in as many rapid repeats of the hugely successful *Don't fall in love*. That and other courses on changes in immigration rules have proven a lifeline for members expected to get on top of complex changes with little or no notice, not once but again and again. A new dedicated course on *Alvi* looked at the rules by which the rules are made. Tutors' expertise has been supplemented with the collective efforts of attendees to

think through the changes and their implications. ILPA courses are more fun than getting a headache on your own, quicker and more likely to ensure that you avoid mistakes and oversights.

We introduced new training courses on European law to address new regulations and the implications of the *Ruiz Zambrano* judgment. We also held a course on children in the European context which ranged over topics from *Ruiz Zambrano* to international child abduction and a course on the procedural aspects of taking a case to the European Court on human rights. The nationality law programme was augmented and refined. We remain acutely aware of the interplay between immigration law and other areas of law. We ran courses on criminal, family, tax and employment law for immigration lawyers

ILPA provided in-house training for the NSPCC Child Trafficking Advice Line and for Coventry Refugee and Migrant centre.

We are grateful to the training subcommittee which this year has comprised Alison Stanley, Hazar El-Chamaa, Adam Weiss, Sophie Barrett-Brown with Helen Williams, Steve Symonds and Alison Harvey. The training subcommittee reviews ILPA's training programme and makes suggestions for new or adapted courses as well as for all aspects of delivery of the programme: where, to whom, by whom, in what format? It is a very flexible subcommittee and you are urged, if interested, to look in – whether you can come to a series of subcommittee meetings or just one, your insights are valued – and you are not expected to volunteer to train just because you attend. Please get in touch with Shahrzad Nouraini if you are interested in getting involved.

Venues

This year ILPA training courses have been generously hosted by Bindmans LLP, Broadway House Chambers, Doughty Street Chambers, Landmark Chambers, Kings Chambers (Leeds) and Kingsley Napley LLP.

ILPA/ILPA supported Seminars and Conferences and training partners

ILPA and HJT-Training continue their joint working to train MPs' researchers. ILPA and ILPA-supported seminars and conferences were as follows:

- ILPA and Doughty Street Chambers The *Saeedi/NS* judgment: using the EU Charter of Fundamental Rights in Dublin cases and more widely, 25 January 2012
- ILPA Anti-Trafficking legal project seminar with Dr Anne Gallagher, former United Nations official led work on *United Nations Principles and Guidelines on Human Rights and Human Trafficking*, generously hosted by Bates, Well and Braithwaite, April 2012
- Lexis Nexis Immigration Law Conference, 30 April 2012
- ILPA/Garden Courts Chambers seminar 'International Protection Update – Strategic Thinking and Litigation Opportunities,' 4 July 2012,
- ILPA and Garden Court Chambers' International Protection Update 4 July 2012
- ILPA annual seminar on the free movement of EEA nationals, September 2012
- The Public Law Project Judicial Review London Trends and Forecasts 2012 conference 15 October 2012 (ILPA representative Alison Pickup, David Chirico)
- ILPA, Institute of Race Relations and Pluto Press launch of Fran Webber's *Borderline Justice* 22 October 2012 (Alison Harvey speaker)
- ILPA, Justice and the Human Rights Law Association Seminar on the A consideration of the family migration changes and Article 8: Where do we go from here? Speakers Navtej Singh Ahluwalia, Tim Barnden, Rachel Logan, Raza Husain QC, 8 November 2012

Speakers

Our thanks go to the following, who have delivered training for ILPA during the year (firms and organisations are as of the date when training was delivered):

Shalini Agarwal, Clasis Law, Indian Advocates
Sandra Akinbolu, Lamb Building
Naomi Angell, Osbornes Solicitors
Smita Bajaria, Solicitor, JCWI
Tim Barnden, Wesley Gryk Solicitors
Philip Barth, Penningtons Solicitors LLP
Adrian Berry, Garden Court Chambers
Tom Brett-Young, Wornham and Co
Tim Buley, Landmark Chambers.
Deepa Chadha, UKCISA
Natasha Chell, Laura Devine Solicitors
Emma Cohen, Bindmans LLP
Kathryn Cronin, Garden Court Chambers
Kathryn Denyer, Lexis Nexis
Ilda De Sousa, Kingsley Napley LLP
Katie Dilger, Wesley Gryk Solicitors
Laura Dubinsky, Doughty Street Chambers
James Elliot, Wilsons LLP
Seema Farazi, Fragomen LLP
Toby Fisher, Landmark Chambers
Laurie Fransman QC, Garden Court Chambers
Amie Henshall, Parker Rhodes Hickmotts Solicitors
Alison Hunter, Wesley Gryk Solicitors LLP
Smruti Jeyanandhan, Laura Devine Solicitors
Jonathan Kingham, Solicitor, LexisNexis
Raggi Kotak, 1 Pump Court Chambers
John McCarthy, Designated First-tier Tribunal judge, Immigration & Asylum Chamber
Nuala Mole, The AIRE Centre
Sonali Naik, Garden Court Chambers
Barry O'Leary, Wesley Gryk Solicitors LLP
Jed Pennington, Bhatt Murphy Solicitors
Melanie Plimmer, Kings Chambers
Mahmud Quayum, Camden Community Law Centre
Duncan Ranton, Kingsley Napley LLP
Linda Rowe, PricewaterhouseCoopers Legal LLP
Sadat Sayeed, Garden Court Chambers
Alison Stanley, Bindmans LLP
Mark Symes, Garden Court Chambers
Ronan Toal, Garden Court Chambers
Meghan Vozila, Sturtivant and Co.
Adam Weiss, The AIRE Centre
Trevor Wornham, Wornham and Co Solicitors
Stefan Vnuk, Lawrence Solicitors
Navtej Singh Ahluwalia, Barrister, Garden Court Chambers
Hamish Arnott, Bhatt Murphy Solicitors
Amy Baker, Ernst and Young
Sophie Barrett-Brown, Laura Devine Solicitors
Julian Bild, Solicitor
Gillian Brownlee, Kingsley Napley LLP
Nichola Carter, Penningtons Solicitors LLP
Saadiya Chaudary, The AIRE Centre
David Chirico, 1 Pump Court
Chris Cole, Cole Yousaf Solicitors
Graham Denholm, 1 Pump Court
Jonathan Devereux, Head of European, Nationality & Armed Forces Operational Policy, UK Border Agency
Tim Eicke QC, Essex Court Chambers
Judith Farbey QC, Doughty Street Chambers
Nadine Finch, Garden Court Chambers
Rosalind Fitzgerald, Bindmans LLP
Elsbeth Guild, Kinglsey Napley LLP
Alison Harvey, ILPA
Dr Jane Herlihy, Centre for the Study of Emotion and Law
Scott James, Faegre Baker Daniels LLP
Peter Jorro, Garden Court Chambers
Graeme Kirk, Senior Partner, Gross and Co
Sue Kukadia, Ernst and Young
Michal Meduna, DG JUST C.2 Union Citizenship and Free Movement
Jenny Moss, Kalayaan
Edward Nicholson (No 5 Chambers)
Iain Palmer, Renaissance Chambers
James Perrott, PricewaterhouseCoopers Legal LLP
Christopher Randall, Bates Wells Braithwaite LLP
Nick Rollason, Kingsley Napley LLP
Sasha Rozansky, Pierce Glynn Solicitors
Malini Skandachanmugarasan, Laura Devine Solicitors
Steve Symonds, ILPA
Kelly Tomkinson, Wright Hassall Solicitors
Robert Ward, 15 New Bridge Street Chambers
Amanda Weston, Tooks Chambers
Scott Wright, Faegre Baker Daniels LLP

ILPA Meetings

Subcommittee meetings

All ILPA subcommittees are open to all members. The following subcommittee meetings took place during the year since the last AGM:

Access to Justice – see above re <i>Saeedi/NS</i> Seminar		Children	3
Detention and Asylum Fast-Track	3	European	10
Family and General 8 and see members' meetings below		Economic Migration	8
Immigration Offences	0	Legal Aid	3
Training	2	South West	2
Yorkshire and North East	2		

Members' meetings

Wherever possible, themed and speaker meetings take place under the auspices of the most appropriate subcommittee but are publicised to all members. Some topics are clearly cross-cutting. These have formed the subject of members' meetings:

- English language tests with Dr Helena Wray of Middlesex University, 29 November 2011
- Immigration advice in prisons, 9 May 2012
- The new family immigration rules and guidance, 25 June 2012

Membership

As of 31 October 2012 the total number of ILPA members was 979, an increase of 45 members on last year's figure. One hundred and eighty five new members joined this year (as compared to 162 last year). Of the new members, 117 are individuals and 68 are organisations. Overall, 51% of members are organisations and 49% are individuals, percentages almost identical to last year. Our database now allows us to count contacts at member organisations. A total of 2459 individual members/contacts at organisation members are in touch directly with ILPA. Twenty-six per cent of all members now pay their membership fees by direct debit and we are always delighted to see more as it makes our administration very much simpler. We are continuing our popular offer whereby if you introduce a new member then you and they get a training course at the concessionary rate.

Dissemination of information and communications

From December 2011 to November 2012 members have been sent 12 hard copy mailings and 359 numbered enclosures. We are grateful to the Diana, Princess of Wales, Memorial Fund for their support for the mailing.

We continue to improve and upgrade our IT although we have been disappointed by our website provider's delays in implementing some of the changes that we wish to see. The search facility on the website has improved dramatically and we continue to iron out bugs. We have further integrated our Customer Relationship Management database with other office systems, reducing routine administration. There is always more to do and we are grateful to members who have provided feedback on how best we can develop new website.

Information Service Project

The Information Service is part of the work led to date by the Legal Officer that is supported by funding from the Joseph Rowntree Charitable Trust with additional support for information sheets

relating to refugee children from the Diana, Princess of Wales, Memorial Fund. Since the last AGM, the information service has produced seven Updates and 42 Information Sheets as well as 10 notes from seminars and workshops. Information Sheets covered topics including age disputes, best interests of children and working with children, deportation, discretionary leave, EEA cases and sickness insurance, entry clearance, family tracing, family immigration rule changes, overseas domestic workers, rehabilitation of offenders, higher education, fees, detention, legal aid, *MK (Tunisia)* [2011] EWCA 333, the Justice and Security Bill, the Crime and Courts Bill, the UK Border Agency archive, Safe Third Countries, the Diana, Princess of Wales Memorial Fund Strategic Legal Fund, fresh claims, general grounds of refusal, family visits and overstayers.

Notes from workshops provided updates on different aspects of legal aid, but also covered asylum and bail. All of these publications are available in the Info Service section of the website. Many of the workshops are described in the section on liaison with other organisations below. In addition, the Legal Officer provided one-to-one support to non-lawyers in these organisations on existing systems and proposals for change.

Information Officer Project

Philip Reilly began work in January. His task is no less than overhauling the management of ILPA's information, old and new. He provides essential support in disseminating incoming information to members but has also focused this year on making information held in hard and electronic copy in the Secretariat available to members in electronic form. This includes old Home Office policies, documents provided to members in previous years outside the mailing and material from older training packs. He has been ably supported by volunteers Frederic Rieg and Arzu Gedikozer. The number of resources on the site totalled 6929 as of the beginning of November 2012, an increase of 40% in the number of resources available compared with December 2011. Many resources have multiple documents attached to them.

Work is informed by studying how the website is used. The number of pages accessed per month on the website reached a record of 67,639 pages in October 2012. There are noticeable peaks when the Immigration Rules are changed. About 60% of visitors each month are returning visitors and about 40% are new visitors. The number of visitors to the website varies each month but the underlying trend is upward. There were 12,142 visitors in January 2012 and 13,598 in October 2012. Given the significant increase in the number of page views (as opposed to the number of visitors); this suggests that each visitor is accessing more pages during each visit. The Directory is a popular resource and we have also been amazed at how many people visit the jobs page – for example from 8 September 2012 to 9 October 2012 it page was viewed 4,467 times.

We have also augmented our customer relationship management database, with the addition of 6754 new or amended records in since December 2012. This helps us to respond rapidly to enquiries from members as to who can deal with their client's problem.

Other Publications and Projects

ILPA's official journal is the *Journal of Immigration, Asylum and Nationality Law.*, Managing Editors Helena Wray, Senior Lecturer in the Department of Law at Middlesex University and Gina Clayton, Visiting Lecturer at Middlesex University. Book reviews editor, Dr Prakash Shah. Published by Bloomsbury Professional.

ILPA's *European Update* has maintained its very high standards during the year with extensive coverage of developments at European level.

For ILPA publications during the year, see the Refugee Children's Project below.

ILPA receives very many requests for assistance with research and we have to be selective. It is always sad to have to say no and nice to say yes. We are grateful to members who agreed to be interviewed by individual researchers for projects.

Mike Tarnoky was ILPA's representative on Refugee Action's Access to Justice project. Alison Harvey was a member of the Advisory Group for Glasgow University's *Translation and asylum claims: matters of law language and silence* research. She also participated in the University of Edinburgh *Friction and Overlap between EU Free Movement Rules and Immigration Law in the United Kingdom* research event on 25 May 2012. She participated in the University of Essex Economic and Social Research Council-funded series of seminars *Access to justice in an age of austerity* and is on the reference group for the LawWorks Immigration & Sustainability project. Syd Bolton represented ILPA at the Economic and Social Research Council-funded *Language Analysis for Determination of Origin* meeting at Essex University on 7 June 2012.

ILPA and Queen Mary College School of Law, University of London, joined forces to obtain funding from Queen Mary for a doctorate in the field of immigration control and terrorism in Europe, as part of the College's work to broaden the value of doctoral research to non-governmental organisations. ILPA was involved in the section process and Niovi Vavoula, whose research focuses on the collection and exchange of personal data, was the chosen candidate. She holds a degree from the University of Athens and an LLM from Queen Mary and has worked with Eurojust, the Greek Refugee Council and on research funded by the European Fundamental Rights Agency. She is supervised by Professors Elspeth Guild and Valsamis Mitseligas and is already a valued member of ILPA's European subcommittee.

See also international work below. Contributions to research by Government departments and official bodies are detailed under meetings and publications below. ILPA Children's subcommittee meet with GVA, which is evaluating the Home Office Family Returns Pilot on 18 July 2012.

Refugee Children's Project

The project, funded by the Diana, Princess of Wales Memorial Fund, aims to raise the quality of legal representation of refugee children through training, information provision, publications including best practice guidance, conferences and seminars.

The project continues to be guided and informed by the advisory group set up at its inception and is grateful for the ongoing commitment of the members of the advisory group:

Liz Barratt, Bindmans LLP	Heaven Crawley, University of Swansea
Judith Dennis, Refugee Council	Kamena Dorling, Children's Legal Centre
Nadine Finch, Garden Court Chambers	Catriona Jarvis, Senior immigration judge
Kalvir Kaur, Fadiga and Co. solicitors	Adrian Matthews, Office of the Children's Commissioner
Denise McDowell, Greater Manchester Immigration Aid Unit	Baljeet Sandhu, Islington Law Centre

This year the project has provided 684 participants with free training over 32 courses. Six hundred and eighty five were immigration lawyers, 132 were lawyers practising in areas other than immigration and 87 were non-lawyers, including 40 social workers from Kent. The courses for non-lawyers assist them in understanding the imperatives by which lawyers are guided and lawyers' working methods, equipping participants in working with them. Courses have been delivered in Belfast, Kent, Leeds, London, Manchester and Plymouth. The range of courses was expanded to cover legal aid and on particular developments including *KA (Afghanistan)* [2012] EWCA Civ 1014 and in expulsion and exclusion cases.

We thank Kenworthy's Chambers, the Bristol Law Society Law library, the University of Plymouth, the Law Centre Northern Ireland and Kent Social Services for generously hosting courses and going beyond the call of duty in helping to ensure that they ran smoothly. Resolution, Crimeline, the Housing and Immigration Group and the Legal Services Commission all assisted in publicising ILPA's Refugee Children's Project courses. Our thanks go to the following, who have delivered training for the project during the year (firms and organisations are as of the date when training was delivered):

Nick Armstrong, Matrix Chambers	Michelle Brewer, Garden Court Chambers
Steve Bravery, Bravery Law	Eileen Bye, Luqmani Thompson solicitors
Parosha Chandran 1 Pump Court Chambers	Laura Dubinsky, Doughty Street Chambers
Nadine Finch, Garden Court Chambers	Julia Gasparro, Renaissance Chambers
Louise Hooper, Garden Court Chambers	Adam Hundt, Deighton Pierce Glynn
Kalvir Kaur, Fadiga and Co	Alison Pickup, Doughty Street Chambers
Baljeet Sandhu, Islington Law Centre	Tori Sicher, Sutovic and Hartigan Solicitors
Solange Valdez, Sutovic and Hartigan Solicitors	Stefan Vnuk, Lawrence Lupin Solicitors
Colin Yeo, Renaissance Chambers	Robert Ward, 15 New Bridge Street Chambers

ILPA's 2004 publication *Working with Refugee Children: Guidelines for best practice* was brought bang up to date. The new edition, launched at the Project's 1 May 2012 conference has already been reprinted twice, bringing the total printed to date to 2000. Helen Williams coordinated the production, assisted by Lisa Woodall and Nirmala Rajasingam. Professor Heaven Crawley, author of the 2004 edition, again led the work on this one, ably assisted by a drafting group of:

Syd Bolton, Coram Children's Legal Centre and Co-Director, Refugee Children's Rights Project	Nadine Finch, Garden Court Chambers
Baljeet Sandhu, Islington Law Centre and Co-Director, Refugee Children's Rights Project	Alison Harvey, ILPA
Lisa Woodall, ILPA	Sue Shutter
	Maryam Tabib,
	Colin Yeo, Renaissance Chambers

A reference group for the project comprised members of the drafting group and:

Judith Dennis, Refugee Council	Catriona Jarvis, Senior immigration judge
Kalvir Kaur, Fadiga and Co.	Denise McDowell, Greater Manchester Immigration Aid Unit

A third edition of the *Resources Guide for Practitioners working with Refugee Children*, prepared by Alison Harvey, was produced in May 2012.

Working with refugee children: current issues in best practice (2nd edition) was reprinted during the course of the year, the first 1000 having all been distributed.

The project's second annual conference was held on 1 May 2012 and 119 people attended including tribunal judges, UK Border Agency staff, representatives of the Office of the Children's Commissioner and of the European Asylum Support Office. Young people supported by the Refugee Council were the panellists who brought the conference alive. They drew on their own and other young persons' experiences and on training they had received, for example as interpreters, to show lawyers the process from the young client's point of view.

The speakers, panellists, panel chairs and workshop facilitators at the conference were:

Syd Bolton, Coram Children's Legal Centre	Sophie Barrett-Brown, Laura Devine
Parosha Chandran, 1 Pump Court	Professor Heaven Crawley, University of Swansea
Judith Dennis, Refugee Council	Nadine Finch, Garden Court Chambers
Yesim Deveci, DOST	

Manjit S Gill QC, No 5 Chambers
Fadiga and Co.
Professor Ravi Kohli, University of
Bedfordshire
Solange Valdez, Sutovic and Hartigan

Ruth Heatley, Great Manchester Kalvir Kaur,
Immigration Aid Unit
Pat Monro, tribunal judge
Marie Christine Rousse, South West Law

Three specialist seminars were held:

- Jointly with the Refugee Children's Rights Project: *Best Interests Roundtable*, 1 December 2011, at Coram Children's Legal Centre. Chaired by Syd Bolton and Baljeet Sandhu, Coram Children's Legal Centre, with speakers Guy Goodwin Gill, Blackstone's Chambers and Manjit S Gill QC, No 5 Chambers. Lisa Woodall was the rapporteur.
- *Family Tracing*, 6 November 2012, generously hosted by Coram Children's Legal Centre, chaired by Syd Bolton with speakers Nev Jefferies of the British Red Cross, Sonali Naik of Garden Court Chambers and Baljeet Sandhu of Islington Law Centre.
- *The Voice of the Child*, 12 November 2012, chaired by Alison Stanley, Bindman's LLP, with speakers Syd Bolton, Co-Director, Refugee Children's Rights Project, Coram Children's Legal Centre Nadine Finch Garden Court Chambers, Pat Monro, tribunal judge.

Refugee Youth led the Children's Subcommittee's marvellous *Christmas with a difference* event on 15 December involving the audience in forum theatre so that lawyers could understand how working with a lawyer feels from a young person's point of view.

Ten children's information sheets were provided as part of the information service as detailed above. The project also supported legal updates and other relevant enclosures in the mailing.

Litigation

ILPA is grateful to Freshfields Bruckhaus Deringer LLP for representing ILPA *pro bono* in the matter of the question of the Immigration Advisory Service archive of files as described in the context section above.

ILPA has provided evidence for a wide range of cases, including challenges to the legacy. The availability of ILPA material online has led to a substantial increase in requests from members to include ILPA material in court and tribunal bundles.

Alison Harvey was involved in the development of the Diana Princess of Wales Memorial Fund Strategic Legal Fund and sat on the Advisory Group for this project.

Liaison with Government and other organisations

ILPA members are actively involved with and in a range of networks and organisations and while our lists record those who represented ILPA at meetings, other members are often also there with other hats on. To the lists below must be added ILPA's training sessions and members' meetings at which external speakers were present. Once again, the volume and frequency of meetings makes it inevitable that some must be covered by staff of the Secretariat and that they must step in from time to time to assist with others. Members have given generously of their time and the quality of representation they have provided has further enhanced ILPA's reputation.

Home Office liaison

The formal groups and the ILPA representatives who attended during the year are:

- Child Trafficking Information Forum; Lisa Woodall, Sophie Freeman

- UK Border Agency Case Assurance and Audit Unit Partner Forum; Steve Symonds, Solange Valdez, Barry O’Leary
- UK Border Agency detention ‘events’ Steve Symonds;
- UK Border Agency Employers’ Task Force; Nichola Carter, Philip Trott
- UK Border Agency National Asylum Stakeholder Forum and its subgroups (Children, Quality and Equality and specific workshops); Alison Harvey, Nirmala Rajasingam, Steve Symonds, Lisa Woodall. The National Asylum Stakeholder Forum meetings included sessions attended by the Minister for Immigration;
- UK Border Agency International Group User Panel; Nichola Carter, Alison Harvey;
- UK Border Agency Corporate Group: Alison Harvey (included sessions attended by the Minister for Immigration).
- UK Border Agency Case Assurance & Audit Forum, Solange Valdez, Barry O’Leary, Steve Symonds.

In addition to these regular, formal meetings, there were series of bilateral and multi-lateral meetings with the UK Border Agency as follows:

- With representatives of the Asylum Screening Unit: Sophie Barrett-Brown, Emily Gibbs, Alison Harvey, Steve Symonds,
- With representatives of the Public Enquiry Office and with those responsible for premium services; Sophie Barrett-Brown, Philip Barth, Gillian Brownlee, Alison Harvey, Nick Rollason, Julie Speed, Steve Symonds (meetings were also attended by representatives of the Law Society)
- North East Regional Migration Forum, 14 November 2012; Bryony Rest
- Refugee Children’s Consortium meetings with the UK Border Agency; Steve Symonds

There were one-off meetings with the Home Office and UK Border Agency as follows:

- Migration Advisory Committee Tier 2 event 6 December 2011, Anna Bose
- Breakfast briefing on Home Office evidence on the Migrant Journey and family migration from Home Office Research Department, hosted by COMPAS, 9 December 2011, Alison Harvey
- Migration Advisory Committee Tier 2 event 13 December 2011, Smruti Jeyanandhan
- Employability Forum dinner with Rob Whiteman, Chief Executive of UK Border Agency, 12 January 2012, Alison Harvey
- Damian Green, Minister for Immigration speech, 2 February 2012, Alison Harvey
- Jeremy Oppenheim, Head of Immigration, UK Border Agency 14 February 2012, , Sophie Barrett-Brown, Alison Harvey, Steve Symonds
- Reviewing the Points-Based System Codes of Practice, 16 February 2012, Sandip Sidhu
- Zilla Howell, Head of Asylum, UK Border Agency, 23 February 2012, Alison Harvey, Steve Symonds,
- Zilla Howell, Head of Asylum, Ian Cheeseman and Lynne Spiers, UK Border Agency X-rays in age assessment, 4 April 2012, Syd Bolton, Alison Harvey, Helen Johnson, Nirmala Rajasingam Steve Symonds, with Adrian Matthews, Office of the Children’s Commissioner, in attendance
- UK Border Agency re non-detained torture pilot, 18 April 2012, Steve Symonds
- Jo Liddy, UK Border Agency North West Regional Director re the legacy, 2 May 2012, Chris Cole, Barry O’Leary, Siew Lee, Alison Harvey, Philippa Roffey, Steve Symonds, Solange Valdez
- Meeting with COMPASS, G4S Care and Justice 31 May 2012, Chris Cole, Ish Ahmed
- Philip Duffy and Rebecca Handler, Home Office, re new immigration rules: family immigration 14 June 2012; Sophie Barrett-Brown, Alison Harvey, Barry O’Leary
- Sonia Dower, Head of the Operational Policy and Rules Unit, UK Border Agency, re bypassing legal representatives 19 June 2012; Sophie Barrett-Brown, Alison Harvey, Jo Swaney
- UK Border Agency asylum decision/interview auditing criteria, 28 June 2012, Steve Symonds

- Jo Liddy & colleagues, UK Border Agency re legacy 2 July 2012; Chris Cole, Siew Lee, Steve Symonds
- Sally Weston, Rebecca Handler and Clive Peckover, Home Office re HC 194, 3 July 2012, Sophie Barrett-Brown, Alison Harvey and Barry O’Leary
- Jonathan Sedgwick, Director, International Group, UK Border Agency, posted workers under *Van Der Elst* criteria 11 July 2012, Sophie Barrett-Brown, Adrian Berry, Meghan Vozila
- Sonia Dower, Naomi Hatton and Richard Bradley, UK Border Agency re *Ruiz Zambrano* and EEA application forms 17 July 2012, Sophie Barrett-Brown, Alison Harvey, Alison Hunter, Meghan Vozila,
- UK Border Agency workshop on the Asylum Screening Unit, 25 July 2012, Steve Symonds
- Rob Whiteman, Chief Executive UK Border Agency, 10 August 2012, Alison Harvey, Steve Symonds
- Juliet Halstead, Accommodation Manager at G4S 22 October 2012; Chris Cole and Ish Ahmed
- Sonia Dower re five days post-asylum interview, 25 October 2012, Alison Harvey
- Andrew Jackson, of Criminal Casework Directorate, 1 November 2012, Sarah Cutler, Alison Harvey and Gemma Lousley
- UK Border Agency re improving services for business, 13 November 2012; Sophie Barrett-Brown Alison Harvey

Liaison with courts and tribunals

The regular meetings and those who have represented ILPA at them during the year are:

- Administrative Courts User Group; Jawaid Luqmani; Mark Henderson
- Presidents’ Stakeholder Forum; Mark Henderson;
- Asylum Support Tribunal User Group; Alison Harvey, Sasha Rozansky
- Administrative Appeals Chamber of the Upper Tribunal User Group; Adrian Berry.

Ministry of Justice and Legal Services Commission

The regular meetings and those who have represented ILPA at them during the year are:

- Legal Services Commission Civil Contracts Consultative Group and subgroups including on very high cost cases, Alison Harvey, Jawaid Luqmani, Jackie Peirce, Sonia Routledge
- Legal Services Commission meetings on tenders, Alison Harvey, Jackie Peirce, Steve Symonds
- Ministry of Justice Administrative Justice Advisory Group and workshop, Tim Buley (meeting of 9 May attended by Jonathan Djanogly MP, then Minister)
- Meetings with Ministry of Justice officials on the Legal Aid, Sentencing and Punishment of Offenders Bill, Alison Harvey, Steve Symonds

In addition the following one off meetings were held

- Ministry of Justice, Home Office, UK Border Agency, OISC and NGOs various re proposals that social workers benefit from OISC exemption and give legal advice to separated children 1 October 2012; Alison Harvey
- Ministry of Justice Administrative Justice Workshop 10 October 2012; Alison Harvey
- Meeting with Legal Services Commission re foreign national prisoners detained in prison 15 November 2012; Jo Bezzano, Annette Elder, Alison Harvey, Gemma Louseley, Adeline Trude

International Organisations and international work

Inter-Governmental

UNHCR (with the All Party Human Rights Group) – Statelessness and the plight of today’s “Nowhere People”, 14 December 2011, Alison Harvey

UNHCR (CREDO project re credibility assessments) 20 June 2012, Steve Symonds, Jackie Peirce, Gemma Loughran

Representatives of the European Asylum Support Office attended ILPA’s Refugee Children’s Project conference in June.

Official bodies and non-Governmental

- Permits Foundation 10th anniversary international symposium, 22 November 2011, Sophie Barrett-Brown, Alison Harvey
- International Association of Refugee Law Judges, UNHCR and the Refugee Law Initiative roundtable event on Country of Origin Information and Due Process, 22 May 2012, David Chirico, Alison Harvey, Mark Symes, Sheona York
- North-South Immigration Forum seminar on the Common Travel Area (representatives from Northern Ireland and the Republic), 3 July 2012, Steve Symonds
- Meeting with Professor Stephen Meili of the University of Minnesota, currently an academic visitor at the University of Oxford 17 September 2012, Alison Harvey
- Refugee Law Initiative: Whither Refugee Protection in the changes to the Canadian and British Asylum Systems? Seminar broadcast simultaneously in the UK and Canada, with Ross Pattee, of the Canadian Immigration and Refugee Board, 17 October 2012; Alison Harvey (speaker)

This year ILPA supported the European Council for Refugees and Exiles bid for funding for a project on legal advice for unaccompanied children and we are delighted that this bid has been successful. Work will start in the new year.

Other official bodies

Regular meetings:

- Chief Inspector of the UK Border Agency Refugee and Asylum Forum, Charlene Stakemire, Steve Symonds
- Office of the Children’s Commissioner for England Advisory Group (refugee children); Alison Harvey, Steve Symonds;

Other meetings were held as follows:

- Chief Inspector of UK Border Agency’s inspection team on Case Assurance and Audit Unit (with Jan Shaw, Amnesty International UK), 8 March 2012, Steve Symonds
- Mayor of London’s office hosted Right First Time (meeting hosted by Mayor’s office on UK Border Agency asylum decision-making), 16 March 2012, Steve Symonds
- Legal Services Board re regulation of immigration advice and services 19 April 2012, Alison Harvey, Sue Shutter, Steve Symonds, Andrew Tingley, Solange Valdez, Sheona York
- Workshop for Chief Inspector’s inspection team (legacy), 2 May 2012, Steve Symonds
- Equality and Human Rights Commission roundtable discussion on potential human rights issues arising from the implementation of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Bill 15 May 2012; Alison Harvey
- Mayor of London Paralympics Host City Event, 29 August 2012, Tim Barnden

- Bar Standards Board roundtable Improving Immigration and Asylum Legal Services, 23 October 2012, Andrew Tingley, Sonali Naik, Mark Symes

Parliament

ILPA representatives attended meetings of the All Party Parliamentary Groups on Legal Aid (Alison Harvey, Baljeet Sandhu, Steve Symonds, Sonia Routledge, Sue Shutter), Human Rights (Alison Harvey), Refugees (Alison Harvey), Children (Syd Bolton), Migration (Steve Symonds). Alison Harvey spoke at the All-Party Parliamentary Group on Refugees seminar on integration on 15 March 2012.

In addition to the meetings organised by the All Party Parliamentary Group on Legal Aid, ILPA representatives met with the Lord Thomas of Gresford, Baroness Butler Sloss and Baroness Hamwee on the Legal Aid, Sentencing and Punishment of Offenders Bill.

ILPA representatives also attended:

- Parliamentary meeting on deportation and detention 28 November 2011; Steve Symonds
- Detention Forum parliamentary meeting on detention, 23 February 2012; Steve Symonds
- Migrants' Rights Network Legal Aid meeting in Parliament, 28 February 2012, Steve Symonds
- All Party Parliamentary Group on Refugees debate 15 March 2012; Alison Harvey
- All Party Parliamentary Group on Human Rights reception in honour of Lord Avebury 26 June 2012; Alison Harvey
- Lord Speaker's reception for the Redress Trust to pay tribute to the late Lord Peter Archer of Sandwell 30 October 2012; Alison Harvey

As well as sharing information with parliamentarians and committees, providing individual MPs, peers and researchers with briefings and information, ILPA provided evidence and published parliamentary briefings as follows:

- Twenty three briefings for debates on the Legal Aid, Sentencing and Punishment of Offenders Bill (in addition to those provided in the previous year)
- Fourteen briefings on the Crime and Courts Bill
- One briefing on the Justice and Security Bill
- Briefing for House of Lords Report, Protection of Freedoms Bill, New Clause Amendment No. 57, Guardians for Trafficked Children, 4 February 2012
- Briefing for All Party Parliamentary Group on Chagos Islands re British nationality, 15 February 2012
- Submission to All-Party Parliamentary Groups on Runaway and Missing Children and Adults, and Looked after Children and Care Leavers' inquiry into children who go missing or run away from care, 19 April 2012
- Briefing for the debate re Statement of Changes in Immigration Rules HC 194, 19 June 2012
- Submission to Joint Committee on Human Rights, Legislative Scrutiny 2012/13, 29 June 2012
- Briefing for House of Commons debate on the work of the UK Border Agency, 4 July 2012
- Submission to Home Affairs Committee, performance of the UK Border Agency, key indicators, 6 July 2012
- Briefing for the House of Lords debate on the Motion to Regret Statement of Changes in Immigration Rules HC 194 (Family Immigration and Article 8), 23 October 2012
- Submission to the Joint Committee on Human Rights inquiry into the human rights of unaccompanied migrant children and young people in the UK, October 2012

ILPA also provided individual peers and MPs with assistance with individual questions and briefings and Emma Cohen, Kathryn Cronin, Nadine Finch, Alison Harvey and Alison Stanley

supported the Inter country adoption centre to present submissions on immigration and adoption to the House of Lords Select Committee on Adoption.

Non-governmental organisations, networks and others

The usual disclaimer: the leading non-governmental organisations in the field are ILPA members; non-governmental organisations are represented among the convenors of ILPA subcommittees and ILPA members are active in many networks. We can only present a sample of this work and name only those with a specific mandate to represent ILPA, inevitably meaning that staff names figure heavily, but ILPA members' attendance and engagement goes much wider. As those working in this area reel from funding cuts, ILPA has worked hard to ensure that scrutiny and questioning are maintained. See also this report *passim*, for work in partnership with non-governmental organisations and networks for training.

Regular meetings and representation on groups during the year include:

- Anti Trafficking Legal Project (ATLeP), Alison Harvey;
- Asylum Rights Campaign, Steve Symonds;
- Diana, Princess of Wales Memorial Fund Refugee and Asylum-seekers Initiative, Lisa Woodall; Nirmala Rajasingam
- Diana, Princess of Wales Memorial Fund Strategic Legal Fund, Alison Harvey;
- Housing and Immigration Group, Alison Harvey, Steve Symonds,
- Journal of Immigration, Asylum and Nationality Law, Alison Harvey
- Justice for All Steering Group, Alison Harvey
- LawWorks Immigration Reference Group 2 October 2012; Alison Harvey
- The Law Society: Immigration Law Committee, Stefan Vnuk; Specialist Practitioners Group, Alison Harvey, Jackie Peirce, Sonia Routledge, Steve Symonds; Immigration and Asylum Scheme Chief Assessor's Technical Board, Nicola Cockburn.
- Medical Justice, Steve Symonds;
- Migrant's Law Project Alison Harvey, Steve Symonds
- Refugee Children's Consortium, Nadine Finch, Alison Harvey, Nirmala Rajasingam, Steve Symonds, Lisa Woodall
- Still Human Still Here, Steve Symonds;
- Trafficking Law and Policy Network, Alison Harvey.

The Asylum and Access to Justice, Detention and Asylum Fast Track subcommittees and ILPA staff used the Refugee Legal Group to disseminate information of interest to its users.

ILPA representatives attended meetings and discussed developments with a wide range of organisations (some of them ILPA members) as part of a wider programme involving ILPA members spanning influencing work, training and support. These *included* Advice Network South West, Advice Services Alliance, AIRE Centre, Association of International Student Advisors South West/Wales, Asylum Aid, Bail for Immigration Detainees, Bail Observation Project, Baring Foundation, Bar Standards Board, Barrow Cadbury Trust, Bloomsbury Professional, British Refugee Council, Centre for Emotion and Law, College of Law Bristol Pro Bono Unit, Comic Relief, COMPAS, Coram Children's Legal Centre, Diana, Princess of Wales Memorial Fund, Detention Action, Doughty Street Chambers, Ealing Advice Forum, Eaves Housing, Employment Lawyers' Association (Cardiff), Equal Rights Trust, Electronic Immigration Network, Esmee Fairbairn Foundation, Front Line Forum, The Gleaner and The Voice, Howard League for Penal Reform, Human Rights Law Association, Imkann, Kalayaan, Kanlungan, Kensington and Chelsea Advice Forum, Kensington and Chelsea Social Council, Joseph Rowntree Charitable Trust, JUSTICE, Lamb Building, LawWorks, Legal Action Group, Legal Aid Practitioners' Group,

Legal Voice, LexisNexis, London School of Economics, Matrix Chambers, Migrants and Refugees Communities Forum, Migrants Rights Network, New Residents and Refugee Forum, Queen Mary College, Refugee Action, Refugee Youth, Pluto Press, Pro Bono Unit, 1 Pump Court Chambers, Refugee and Communities Forum of East London, Rights of Women, South West Asylum Seeker and Refugee Forum, South West Migration Partnership, Scottish Refugee Council, Sigrid Rausing Trust, Society of Legal Scholars Southall Black Sisters, The Children's Society, Toops Chambers, Trust for London, Unbound Philanthropy, The Upper Room, Welsh Refugee Council, Women for Refugee Women.

In addition to the conferences described above, ILPA representatives were speakers at the following conferences, again, often as part of a wider programme of work:

- EU Law and Immigration Law, Matrix seminar series, 6 December 2011, Alison Harvey
- Migration Matters conference, Refugee & Migrant Forum of East London,, 13 December 2011, Solange Valdez
- Bail for Immigration Detainees AGM and conference 24 January 2012, Alison Harvey
- Westminster Legal Policy Forum Keynote Seminar: Immigration – assessing the Government's strategy, 20 March 2012, Ian Macdonald QC
- Association of Visitors to Immigration Detainees Coordinators conference, 27 June 2012, Alison Harvey
- Seminar/discussion with Terrence Higgins Trust volunteer mentors (changes in immigration rules), 22 August 2012, Steve Symonds
- Seminar/discussion with Student Action for Refugees (STAR) (asylum update) 23 August 2012, Steve Symonds
- Detention Advice Service annual conference 17 September 2012, Steve Symonds
- Seminar on guardianship for separated children outside their countries of origin 3 October 2012, Alison Harvey, Nirmala Rajasingam

Responses and submissions

In addition to the parliamentary briefings described above and the information disseminated through the Information Service, ILPA wrote the following formal responses, submissions and letters this year. These are the tip of an iceberg of communications but give a flavour.

1. Response to Independent Chief Inspector of the UK Border Agency consultation on inspection plan 2012–13, November 2011
2. Letter, Jeremy Oppenheim, UK Border Agency re *Aswatte & Kabaghe*, 6 December 2011
3. Letter, Lynne Spiers UK Border Agency re Asylum Process Instruction Applications from Abroad, 12 December 2012
4. Letter, Legal Services Commission re entry clearance applications, 13 December 2012
5. Letter, Lord Carlisle re legal aid and judicial review, 15 December 2012
6. Joint letter to the Home Secretary with Eaves Housing, Rights of Women and Southall Black Sisters re domestic violence, 15 December 2012
7. Letter, National Offender Management Service re Prison Services Order on foreign National prisoners, 15 December 2012
8. Letter to Her Majesty's Courts and Tribunals Service re fees for appeals, 19 December 2012
9. ILPA & Bail for Immigration Detainees response to the Immigration and Asylum Chambers consultation on the Bail Guidelines, December 2011
10. Comments on UK Border Agency draft pro-forma for subject access requests, December 2011
11. Response to call for evidence from Migration Advisory Committee on the level of an annual limit on Tier 2 and associated policies, December 2011

12. Letter to European Commission re Asylum Screening Unit, 13 January 2012
13. ILPA to Tom Brake MP re Legal Aid Bill, 25 January 2012
14. Submission to the UN Special Rapporteur on the Human Rights of Migrants: Immigration Detention, January 2012
15. Letter to Mr Justice Blake re fresh claim judicial reviews, 20 February 2012
16. Letter to Home Secretary re UK Border Force, 21 February 2012
17. Letter to Rt Hon Lord McNally re Legal Aid, 22 February 2012
18. Response to Ministry of Justice consultation fees in the High Court & Court of Appeal, February 2012
19. ILPA and Bail for Immigration Detainees response to Ministry of Justice request for further representations following 2011 Bail Guidance Consultation exercise, February 2012
20. Letter to Chief Inspector re Detained Fast Track Report 2 March 2012
21. Letter to Rob Whiteman, Chief Executive UK Border Agency re detention, 5 March 2012
22. Letter to Ministry of Justice re Appeal Fees in entry clearance cases, 9 March 2012
23. Letter to Rt Hon Lord Wallace of Tankerness QC re Legal Aid, Sentencing and Punishment of Offenders Bill – unaccompanied children and legal aid, 15 March 2012
24. Letter to Zilla Bowell, Head of Asylum, UK Border Agency re x-rays, 29 March 2012
25. Comments to UK Border Agency re draft auditing standards (asylum interviews), March 2012
26. Response to Ministry of Justice consultation: Legal Aid Reform: Process for Obtaining Excluded Cases Funding, March 2012
27. Letter to Damian Green MP, Minister of State, re maintenance, 5 April 2012
28. Letter to Philippa Rouse, International Group, UK Border Agency re recognition of overseas civil partnerships, 5 April 2012
29. Letter to Ministry of Justice, Freedom of Information request guidance issued by Designated immigration judges re adjournments etc, 11 April 2012
30. Letter to UK Border Agency and Home Office, response to *Ruiz Zambrano*, 30 April 2012
31. Letter to UK Border Agency Freedom of Information request re European readmission agreements, 30 April 2012
32. Response to HM Government Introducing a Statutory Register of Lobbyists, April 2012
33. Response to European Asylum Support Office consultation on age assessment, April 2012
34. Submission to All-Party Parliamentary Groups' inquiry into looked after children who run away or go missing from care, April 2012
35. Response to Equality and Human Rights Commission consultation on the forthcoming examination of the United Kingdom by the UN Committee Against Torture, April 2012
36. Letter to Jo Liddy, UK Border Agency, re legacy, 4 May 2012
37. Letter to Jonathan Sedgwick, UK Border Agency re Van der Elst, 4 May 2012
38. Letter to Lisa Kilham, UK Border Agency Children's Champion re her office and x-rays, 4 May 2012
39. Letter to Rob Whiteman, UK Border Agency re detained fast-track, 14 May 2012
40. Letter to Jonathan Sedgwick, UK Border Agency re port refusals and entry bans, 15 May 2012
41. Letter to Zilla Bowell, UK Border Agency re Dublin removals to Italy, 23 May 2012
42. Letter to Eldon Ward, Home Office Bill Team re Crime and Courts Bill: race, 24 May 2012
43. Response to Legal Services Consultation on the Future Funding of the Specialist Support Service, May 2012
44. Comments to UK Border Agency on draft policy re illegal migrants who wish to leave the UK, waiving their legal rights beforehand, May 2012
45. Submission to Independent Chief Inspector of Borders and Immigration Inspection of the UK Border Agency's Handling of Legacy Asylum Cases, May 2012
46. Comments on Legal Services Board discussion document for consultation: Regulation of immigration and services, May 2012

47. Letter to Rob Whiteman UK Border Agency re invalid applications, 6 June 2012
48. Letter to Eddy Montgomery, UK Border Agency re EEA forms, 8 June 2012
49. Letter to President, First-tier Tribunal re Adjournments on the Day of Hearing - Protocol guidance for judiciary and Adjournments on the Day of Hearing, 8 June 2012
50. Joint letter, UKCISA & ILPA to Damian Green MP, Minister of State re students, 8 June 2012
51. Comments on Legal Services Commission draft October 2012 forms masterpack, June 2012
52. Comments on Legal Services Commission draft general specification, June 2012
53. Response to Legal Services Commission/Ministry of Justice consultation on running down immigration work going out of scope, June 2012
54. Letter to Chair LIBE Committee, European Parliament Dublin proposals and *MSS*, 3 July 2012
55. Letter to Damian Green MP, Minister of State re HC 194, 5 July 2012
56. Joint letter with the Law Society to the UK Border Agency re premium services, 24 July 2012
57. Letter to Emma Churchill, UK Border Agency, re *IM v France*, 26 July 2012
58. Letter to Emma Churchill, UK Border Agency, Turkish Association Agreement, 31 July 2012
59. Comments on draft revision of the Asylum Instruction on Humanitarian Protection, July 2012
60. Comments on Proposed Derivative Rights Application form (DRF1), July 2012
61. Comments on draft Legal Services Commission Account Qualification - Impact of Immigration Legal Help Errors, July 2012
62. Letter to Sally Weston, Home Office, re HC 194, 4 August 2012
63. Letter to Sonia Dower, UK Border Agency re Agency getting in touch with clients directly, 8 August 2012
64. Letter to UK Border Agency, freedom of information request re European Policy Instructions, 17 August 2012
65. Joint letter with AIRE to European Commission re new EEA regulations, 5 September 2012
66. Letter to Legal Services Commission re exceptional cases, 5 September 2012
67. Letter to Damian Green MP re London Metropolitan University, 6 September 2012
68. Letter to Jeremy Oppenheim UK Border Agency re HC 194, Cm 8423, 7 September 2012
69. Letter to UK Border Agency re premium postal service proof of concept, 24 September 2012
70. Response to consultation to amend OISC's Code of Standards and Complaints Scheme, September 2012
71. Response to UK Border Agency Service Standard Questionnaire, September 2012
72. Submission to Legal Services Commission re the High Costs Cases Contract – submissions further to the meeting on 13 September 2012, September 2012
73. Submission to the public consultation by the European Ombudsman on Frontex and Fundamental Rights, September 2012
74. Joint ILPA AIRE Centre letter to European Commission re comprehensive sickness insurance, 1 October 2012
75. Joint letter with AIRE Centre, Child Poverty Action Group, Rights of Woman and Southall Black Sisters to UK Border Agency, Department for Communities and Local Government and Department for Work and Pensions re EEA nationals and Domestic violence, 8 October 2012
76. Letter to Rob Whiteman, UK Border Agency, re invalidity, 16 October 2012
77. Letter to Mr Justice Ouseley, Administrative Court, re Sri Lanka flight, 23 October 2012
78. Response to Commission on a Bill of Rights, A Second Consultation, October 2012
79. Comments to Independent Chief Inspector of Borders and Immigration re Inspection of Juxtaposed Controls, October 2012
80. Response to Joint Committee on Human Rights call for evidence on The human rights of unaccompanied migrant children and young people in the UK, October 2012
81. Letter to Kate Allen, Chief Executive AI UK re refugee work, 1 November 2012
82. Letter to Clive Peckover, Home Office, re Appendix FM-SE, 8 November 2012

Summary

Last year I identified three aims for the year. I summarise this report on each of them below

- **To preserve legal aid for immigration and legal practitioners**

This report describes the concessions wrung from the Government but also the immense losses we shall sustain in April. We failed. We cannot cut our losses; we fight on to reverse the position. But we are veterans of too many battles in parliament to have the slightest inclination to dress this one up as a victory. However much we claw back in future, the suffering and injustice that this bill engenders has started. While the injustice stands to be reversed, the suffering cannot be.

- **To make valuable resources from ILPA's archive and coming into the Secretariat available to members and easily retrievable through the website**

See the Information Officer report above. We are going full steam ahead on this work and members have access to an ever-increasing range of resources. Improvements in the search function mean that documents are easier to identify. Not the least of the benefits of the project is the review and reminding ourselves of the rich materials we hold (and where to find them!) Success to date inspire us to do more.

- **Further to increase membership and the responsiveness of ILPA to members**

Membership is up, modestly. We still see too many members lapse. Staff go to seminars on membership and are told that loyalty is decreasing, that people are fickle and do not like joining, that they have the attention span of a goldfish on speed, that they constantly ask "what's in it for me?" and that they will pay only for services to them as individuals, not to a collective or to a cause. "OK," we think, "so it is a good job those people are not ILPA members, because they would not last long." We'll stick with the tenacious bunch who flog themselves for the greater good and persevere with an issue for years. Then we are told that membership organisations must concentrate on what they are giving. We looking at the work of ILPA members challenging legal aid cuts, UK Border Agency bureaucracy, the family rule changes and attack on article 8 we think, "What do they want, blood? No problem, they're getting that."

Are we more responsive to members? Our new systems allow us to be – if only to retrieve a useful address rapidly or to make our information available 24 hours a day. More members are getting involved, putting forward ideas, making suggestions. In this latter part of the year, subsequent to Steve's departure, there have been periods when it feels as though there is not enough time to do justice to all this activity. That is why we are working toward a new structure.

This annual report catalogues an amazing year. It is, it seems, impossible to keep us down – if it could have been done, surely this year would have done it. But this annual report attests to an energy, and some of the letters listed above contain over 20 pages of detailed argument and over 80 case studies apiece, not only for the year's big battles but for the panoply of injustices that continue to make life too much of a misery for too many of our clients. ILPA is one of the few places where you get thanked for fighting for a justice and equitable, non-sexist, non-racist immigration, asylum and nationality law. Thank you.

Alison Harvey

General Secretary

10 November 2012

ACCESS TO JUSTICE SUBCOMMITTEE REPORT

One step forward, two steps back

The Access to Justice year started with the resounding judgment of the Court of Appeal in the *Medical Justice* case [2011] EWCA Civ 1710, upholding the decision of Silber J that the policy of no-notice removals in certain cases was unlawful because it created an impermissibly high risk that individuals would be denied access to the courts. Importantly in view of subsequent developments, the Court also made clear its view that it was right that Silber J's judgment also applied to the "consent" exception because "The consent exception is based upon the same premise as the other exceptions, that is to say that giving less than 72 hours' notice and in some cases virtually no notice at all, does not give rise to a very high risk that the right of access to justice is being and will be infringed. That premise is a false premise, for the reasons given by the judge" (Sullivan LJ, paragraph 38). One step forward.

The subsequent developments were a consultation undertaken by the UK Border Agency in the spring, seeking to reintroduce the exception to the 72 hours' rule for those who gave consent to being removed at short notice, and proposing some new "safeguards" to ensure that only those who genuinely consented were removed. ILPA responded in robust terms, emphasising that only the obtaining of informed consent via legal representatives could constitute an adequate safeguard, and that in practical terms that could not be done in less than 72 hours.

The Legal Aid, Sentencing and Punishment of Offenders Act 2012, covered in more detail elsewhere in this annual report, will, when it comes into force, constitute a further step back for access to justice in urgent removal cases by removing legal aid for all immigration and asylum judicial review claims brought within a year of the disposal of a previous judicial review or appeal raising the same or similar issues, or where they challenge removal directions set within a year of a decision to remove (or determination of an appeal against such a decision). Despite fierce lobbying by ILPA and others protesting not least at the failure to properly consult on these proposals (which did not form part of the original legal aid consultation paper but arose from the Judges' Council's response to that consultation), the Government stood firm. The removal of legal aid for the overwhelming majority of immigration cases will also have drastic implications for access to justice and place an increasingly heavy burden on the judiciary and the UK Border Agency to assist unrepresented appellants. Two steps back.

One step forward: Following serious concerns about the failure of the UK Border Agency to copy its correspondence with the Administrative Court about charter flights to ILPA (as it had previously agreed it would) in a timely manner, or at all, the Treasury Solicitor finally agreed at the Administrative Court User Group meeting in June, following some pressure from Ouseley J, that they would send the letter to ILPA themselves, rather than leaving it to UK Border Agency to do so. This has, thus far, resulted in some improvement in the timeliness of ILPA receiving the UK Border Agency letter, although not necessarily in the quality of the letter. In October ILPA raised directly with Ouseley J serious concerns about inaccurate statements made in a country bulletin on Sri Lanka which was relied on in charter flight correspondence, which were only admitted to by the Treasury Solicitor on the day of the charter flight itself.

Just before the last annual report, the transfer of fresh claim judicial reviews into the Upper Tribunal had started. In February 2012, ILPA made detailed representations to the President of the Upper Tribunal raising a number of concerns about the transfer, in particular about urgent procedures, the need for simplification of procedures to facilitate access by litigants in person and regionalisation, as well as seeking information about which judges would be hearing fresh claim judicial reviews and what training they had received. We have had no substantive response to date, although some of our suggestions appear to be being taken forward: at the July 2012 Tribunal

Stakeholder Meeting it was confirmed that there will be Presidential Guidance on fresh claim judicial reviews – although none has been issued to date (and see below re amendments to the Practice Statements on remittals from the Upper Tribunal).

It remains difficult to judge what effect the transfer of fresh claim judicial reviews to the Upper Tribunal has had on access to justice. There have to date been no reported substantive judgments from the Upper Tribunal in fresh claim Judicial Reviews, although as of late October 2012 it had ‘disposed’ of 184 cases, and had a further 254 ‘live’ cases. The Upper Tribunal has published on its home page the determination of an interim relief application identified as a lead case in relation to removals by charter flight to Sri Lanka in February. Very serious concerns were raised about the fairness of that hearing and it is understood that the claimant has sought permission to appeal. Eight judgments have been published in age assessment judicial review cases, which are transferred on an *ad hoc* basis from the Administrative Court.

Yet despite the fact that the consideration of judicial reviews by the Upper Tribunal is still in its early days the Government is enthusiastically pursuing the idea of paving the way for more immigration and asylum cases to be transferred, by way of an amendment to the Crime and Courts Bill (currently at House of Lords’ Committee stage).

The Crime and Courts Bill also proposes to restrict the right of appeal in family visitor cases, despite statistics showing that approximately a third of these appeals are successful, and despite criticisms made by the Chief Inspector of the UK Border Agency of the quality of decision-making by entry clearance officers, the lack of clarity in information given to applicants about the documents they should supply in support of their applications, and the failure of the Entry Clearance Manager’s review to pick up on poor-decision making in 30% of cases. Two steps back.

ILPA has, largely through the commitment and expertise of Steve Symonds, whose insight and energy will be missed, provided detailed briefings for members of the House of Lords as this Bill has gone through Committee stage, and has been able to support amendments seeking to mitigate the effects of the Government’s proposals. It has also issued a detailed briefing on the measures in the Justice and Security Bill which seek to extend the jurisdiction of the Special Immigration Appeals Commission and allow for closed material procedures in respect of exclusions on public good grounds and refusals of British citizenship by naturalisation and registration. (A third step back...) On the positive side, ILPA briefing in the course of this Bill has secured a commitment from the Government in Parliament to reinstate the right of appeal on race discrimination grounds which appeared to have been removed by omission (save in respect of Northern Ireland) in the over-hasty implementation of the Equality Act 2010.

One step forward: Last year we reported on the dismay felt at the extremely narrow construction given by the Court of Appeal to the second appeals test in *PR Sri Lanka*. In *JD Congo* [2012] EWCA Civ 327, the Court of Appeal has – to a degree – mitigated some of the harshest effects of that judgment, holding that where there is a “sufficiently serious legal basis” for challenging the decision of the Upper Tribunal, the severity of the consequences for the appellant will be relevant to the ‘other compelling reason’ limb of the test. It also confirmed that it will be relevant to take account of whether the appellant won at first instance, and of the reasons why the Upper Tribunal set aside the decision of the First-tier.

Given the strictness of the second appeals test as understood in *PR Sri Lanka*, ILPA had pressed for a change in the Practice Statements as to when the Upper Tribunal would remit an appeal to the First-tier Tribunal. In September 2012, Practice Statement 7 was amended so as to make remittal more likely where the “extent or nature of any judicial fact finding which is necessary” made it more appropriate for the appeal to be re-heard by the First-tier Tribunal. This is a significant improvement and members have already noticed an increased willingness to remit.

Two steps back: without warning or consultation and during the summer vacation, the Civil Procedure Rules Committee amended Part 54 in August 2012 to introduce a new 16-day timescale for lodging judicial reviews of decisions of the Upper Tribunal, laying down a more stringent test for permission, and removing the right to renew the application to an oral hearing in such cases.

As was foreshadowed in the 2011 annual report, fees for immigration and asylum appeals were introduced for all appeals lodged against decisions made on or after 19 December 2011. Significant exemptions are in place for those in receipt of legal aid, people on asylum support or in the care of social services, and those appealing against decisions to remove, deport, or revoke leave. However, a significant lacuna emerged in that the exemption where a person was in receipt of legal aid applied only to appellants, not to sponsors. ILPA made representations to the Ministry of Justice to seek amendment of the regulations or guidance to exempt sponsors in receipt of legal aid, but the Ministry of Justice has maintained that in such cases, the appellant will still need to prove that they cannot afford the fee and apply for a remission or reduction in the fee on that ground. This is particularly unfortunate given that in many such cases the appellant's means will in fact have been assessed alongside the sponsor's. ILPA has also responded to a consultation on increases in fees in the Administrative Court and Court of Appeal, some of them dramatic.

ILPA has continued regularly to attend the Administrative Court and Tribunals User Groups and to press members' concerns at those fora as well as in correspondence with the UK Border Agency, the Tribunals and the wider court system, and responding to consultations. These are challenging times but ILPA continues to fight hard for access to justice.

Co-convenors: Mark Henderson, Alison Pickup

CHILDREN SUBCOMMITTEE REPORT

Again the co-convenors must reflect that this has been a year of mixed fortunes regarding the interests of children in immigration matters. The headlines make depressing reading; the impact of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 on children is significant, the campaign to end child detention is far from over and appropriate words do not exist adequately to summarise or comment upon for the family migration rules foisted upon us in the summer of 2012. The few bright notes include the landmark case of *KA and others v SSHD* [2012] EWCA Civ 1014 and the continued attention of the courts to the issue of moving unaccompanied children around Europe under the Dublin II regulation (*R (MA, BT, DA) v Secretary of State for the Home Department* [2011] EWCA Civ 1446). More detail on both of these cases is below.

Meetings

The subcommittee held meetings in January, March, May, July and September. In December we were joined by Refugee Youth in a special 'Christmas with a difference' event. Members of Refugee Youth helped us think about the role of a legal representative through an experiential workshop – those present will not forget in a hurry the various individuals playing the part of law firm receptionist, separated child asylum seeker, social worker and Legal Services Commission auditor. The forum theatre style employed by Refugee Youth was both a challenge and an opportunity for subcommittee members to look at the issue from a new angle and well worth the experience. Feedback was very positive indeed.

Subcommittee meetings covered a range of contemporary issues, including sharing case updates and discussions to inform the work of members and the secretariat. In July we met with GVA, the

consultants evaluating the UK Border Agency's "reformed" family returns process, including the role of the family returns panel and the Cedars' family detention facility.

Age disputes

The courts and tribunals continued to play a significant role in the resolution of age disputes by local authorities. The Upper Tribunal began to hear 'fact finding' cases' this year. 'A good summary of caselaw is found in the report of the Children's Commissioner for England *The Fact of Age*, July 2012: http://www.childrenscommissioner.gov.uk/content/publications/content_590

In March ILPA was amongst a handful of agencies to receive a letter from Zilla Howell, Director of Asylum, UK Border Agency to inform us of a new 'trial' using dental x-rays on those assessed as adults by social workers in Croydon. ILPA responded by requesting an urgent meeting, at which officials were asked for more detail about the trial and were presented with two main objections; firstly that dental x-rays had already been widely viewed as unlawful, secondly that the introduction of this trial was without consultation nor notice (the letter preceded the start of the trial by less than a week). A further letter received by ILPA on 27th April announced the suspension of the trial pending approval by the National Research Ethics Committee.

Family detention and returns

ILPA continues to comment upon the family returns process, including the use of the Cedars family detention facility, to the appropriate officials and external bodies. Amongst the concerns, ILPA consistently raises the role of legal representatives in the process, notably at the Family Returns Conference stage, also the difficulties faced by families in accessing legal representation at the Cedars. We were particularly disturbed to read criticism of legal representatives' actions on behalf of clients in the report of the 'Independent' Family Returns Panel.

Legal Aid, Sentencing and Punishment of Offenders Act 2012 and follow up

Despite much lobbying by ILPA and others on immigration legal aid for children, progress made in the House of Lords during the passage of the Bill was undone in the House of Commons. The subcommittee remains deeply concerned at the prospect for children whose lives are affected by immigration issues, the majority of which arise from and result in, complex situations. The consistent failure of Ministers and officials to acknowledge the complexity of children's applications is perplexing and frustrating.

During the passage of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 the government suggested it had begun negotiations to exempt social workers from the registration requirements of the OISC. Whilst found to be untrue, these discussions began following the Act's receiving Royal Assent. ILPA has been present at these discussions and whilst the discussions with government officials have failed to make significant progress, we are encouraged that all interested parties except the Home Office and Ministry of Justice are opposed to this solution. We will continue to fight for this idea to be dropped and alternative arrangements made in order that the government meets its statutory duties to ensure that children's a child's voices are heard in immigration matters that affect them.

ILPA has made a submission to the Joint Committee on Human Rights' inquiry into the human rights of unaccompanied migrant children in the UK children subject to immigration control. It is a useful summary of ILPA's position on issues relating to this group of children and young people.

Subcommittee members were grateful recipients of updates, commentary and clarification by ILPA's secretariat, notably Steve Symonds whose loss is sorely felt by the children subcommittee.

Subcommittee members remain hopeful that the courts will understand the ‘balance’ of individuals’ Article 8 rights and the government’s role in control of immigration better than the new rules themselves.

Important caselaw:

- AN & FA Court of Appeal
- *R (MA, BT, DA) v Secretary of State for the Home Department* [2011] EWCA Civ 1446 (Court of Appeal/referral to the Court of Justice of the European Union)
- *AA (unattended children) Afghanistan CG* [2012] UKUT 16
- *KA (Afghanistan)* [2012] EWCA Civ 1014
- *Popov and others v France* European Court of Human Rights (Cases 39472/07, 39474/07)

Best interests

In the *AM (AP) et Ors v SSHD* [2012] CSOH 24 the Court of Session in Scotland considered the application of best interests in relation to a proposed removal of a family. Consideration was given to the Administrative Court’s judgment in *Tinazaray v SSHD* [2011] EWHC 1850 (Admin). The Court held that on the facts before it there was no positive duty on the Secretary of State to take further steps to ascertain the view and wishes of the children of the family (e.g. by interview) where these had been previously considered, particularly as the children had had the opportunity to attend a family interview in the course of the family removal process and did not.

The Court held in *R(AA) v The Upper Tribunal & Anor* [2012] EWHC 1784 (Admin) that it would be wrong to effectively reduce the application of the best interests’ assessment by referring to the fact that a child was nearly 18.

In *HH v Deputy Prosecutor of the Italian Republic* [2012] UKSC 25 Baroness Hale, Lord Kerr and Lord Hope, as in *ZH(Tanzania)* [2011] UKSC 4, re-emphasised that the child’s best interests were always a primary consideration and should always be addressed first.

Family tracing / young people from Afghanistan

HK (Afghanistan) & Ors v SSHD [2012] EWCA Civ 315 held that the Upper Tribunal was not precluded from drawing an adverse inference from the failure by a child to seek to get in touch with family members in his country of origin. However, this should not in itself be determinative of whether there would be family support the child on return. The child’s failure did not relieve the SSHD of her obligation to comply with the duty to trace, under Regulation 6 of Directive 2009/3/EC and her duty under s55 of the 2009 Act. The duty to endeavour to trace has been held to be “intimately connected” with the exercise of the individual’s right to receive asylum. The Court held that a finding that there were no family members to receive the child in Afghanistan would not necessarily show the child to be at risk if returned and the matter was one of evidence.

In contrast, in *AA (unattended children) Afghanistan CG* [2012] UKUT 00016 (IAC) the Court found that Section 55 of the Borders, Citizenship and Immigration Act 2009 (duty to safeguard and promote the welfare of children) applies to substantive international protection decisions and where a child wants to go back and seek protection from the State in the country of origin, but this is not in his/her best interests, then the section 55 duty is engaged. In Afghanistan there is a distinction between children in families and those not. Children who are no longer in touch with their families and thereby not receiving or likely to receive protection from their families in Afghanistan are exposed to a risk “of serious harm” from indiscriminate violence, forced recruitment, sexual violence, trafficking and a lack of adequate arrangements for child protection. The importance of family tracing was commented upon in the case.

On 25 July 2012 the Court of Appeal handed down the judgement of *KA (Afghanistan) & Ors v SSHD* [2012] EWCA Civ 1014. The case concerned the failure of the Secretary of State to discharge her EU law and domestic law duty to endeavour to trace the Appellants' family members (from 2006 – 2010). This failure was a 'deliberate' and 'systematic' breach. The Secretary of State and the First-tier Tribunal must have regard to the best interests of the child and, in particular, to section 55 of the 2009 Act. Three key principles that emerged from this judgement are; the duty to endeavour to trace is not discharged by merely informing a child of the facilities of the British Red Cross; a failure to discharge the duty may be relevant to judicial consideration of an asylum claim or humanitarian protection claim; and that such a failure may also be relevant to a consideration of the section 55 duty. The case involved young people who had turned 18 by the time of the hearing before the First-tier or Upper Tribunal and whether they should retain the advantages (in immigration terms) of the law applicable at the time that they were a child. Judgement on the application of the principles to the cases is awaited. Worth noting that in relation to age the court helpfully noted "*there is no temporal bright line across which the risks to and the needs of the child suddenly disappear*" (paragraph 7) "*A better term for this social group is probably vulnerable young person*" (paragraph 19).

The Immigration Rule changes

The Immigration Rules were very substantially amended with effect from 9 July 2012, including new routes to apply for leave for young people who are under 18 and lived in the UK for seven years or if they are between 18 – 25 and have lived here for half of their lives. Children and young people who qualify in these categories will be granted 30 months leave to remain under the Rules (as opposed to three years given previously), and will be eligible to apply for settlement (ILR) after 10 years (as opposed to six years). The Upper Tribunal has rejected the Government's attempt to exhaustively define the scope and meaning of Article 8 in the new rules finding that judges still have to consider: whether a claim succeeds under the Rules (including the new 'Article 8' rules); and then whether in fact the appeal should be allowed under Article 8; confirming that there is still no exceptionality test or insurmountable obstacles test as inserted into the new rules and where the cases involved children the best interests of the affected must be considered as a primary consideration (*MF (Article 8 – new rules) Nigeria* [2012] UKUT 00393 (IAC)).

Burden and standard of proof in age assessments

The standard of proof in Judicial Review proceedings is the balance of probabilities, but neither party bears the burden of proof (see *CJ (by his litigation friend SW) v Cardiff City Council* [2011] EWCA Civ 1590). In contrast the Immigration and Asylum Chamber of the Upper Tribunal has finally found that the standard and burden in asylum appeals differs - the burden of proof is on the appellant, but it is a low one: the appellant need only make out his case to a reasonable degree of likelihood: *Rawofi (age assessment – standard of proof)* [2012] UKUT 00197 (IAC).

Detention

A number of challenges have been brought in England and Wales to detention in cases where a child has disputed the assessment of their age. In *R(AAM) v SSHD* [2012] EWHC 2567 (QB), Lang J held that a subsequent finding, after the young person had been released, that a person who was believed to be an adult was in fact a child did not in itself mean that their detention was retrospectively invalidated. However, holding that the decision to detain had been unlawful because the UK Border Agency official had failed to consider for herself whether the age assessment relied on was *Merton*-compliant, and it was clear on its face that it was not (para 113). Lang J went on to consider whether the UK Border Agency was bound to comply with its s. 55

duty and decided that age for the purposes of the s. 55 duty was a precedent fact if the person was in fact a child at the time of detention, UK Border Agency was obliged to comply with its s. 55 duty in deciding to detain him, regardless of whether she believed the child was an adult at the time. In contrast, in *AA* [2012] EWCA Civ 1383 Lady Justice Arden giving lead judgement, found that detention of child later found to be an adult was not unlawful because at the date of his detention it had not been established that the claimant was a child (having been assessed as an adult); that the Secretary of State's statutory power of detention was wide enough to permit the detention of a person not established to be a child; the principle giving an individual the benefit of the doubt did not apply in the circumstances in the case; and the Secretary of State's duty to treat the best interests of a child as a primary consideration did not apply.

Cases in the context of EU Law

There have been significant and recent developments in the context of EU law in cases such as *Ruiz Zambrano* (C-34-09) and *Dereci* (C-256/11) - dealing with the position of EU citizens who are dependent on third country nationals and may face 'constructive expulsion' and consequential loss of EU citizenship rights if the third country national is expelled.

In *Sanade and others (British children - Zambrano - Dereci)* [2012] UKUT 00048(IAC) the tribunal considered the case of *ZH (Tanzania) v SSHD* [2011] UKSC 4 in that the fact that children are British is a strong pointer to their future lying in the United Kingdom and that the case of *Ruiz Zambrano* now makes it clear that where the child is a British citizen and therefore a citizen of the European Union, as a matter of EU law it is not possible to require the family to relocate outside of the EU together as a family unit. "It seems to us that the Court of Justice was applying the principle of international law that a citizen cannot be expelled from their own state in any circumstances, to citizenship of the European Union and concluding that a measure that required an EU citizen to leave the Union would be contrary to EU law". The Court rejected the Secretary of State's submission that "EU law leaves it to national law to decide whatever restriction on rights each country considers appropriate" finding "If the collateral right of residence afforded to the parents is a narrow one and limited to cases where it is necessary to enable the child to enjoy his or her rights, it may very well be that there is no room for any derogation at all" (para 84).

Cases of interest before the European Courts

In January 2012, the European Court of Human Rights found in *Popov v France* (application nos. 39472/07 and 39474.07) that there has been violations of articles 3, 5 and 8 when considering the detention of a family for 15 days for the purposes of expulsion (including two parents and a children aged five months and three years). The detention centre, while supposedly adapted to the needs of children, were not. There were violations of articles 3 and 5 in respect of the children and a violation of article 8 of the entire family because, although the family was not separated, the strain imposed on the family was not justified.

The Court of Appeal referred the case of *R (MA & Ors) v. SSHD* [2011] EWCA Civ. 1446 to the Court of Justice of the European Union on a question about how the Dublin Regulation (Council Regulation (EC) No 343/2003 of 18 February 2003) is to work in relation to the removal of separated children seeking asylum to other European Union countries. The Court of Appeal was concerned about how the best interests of an asylum seeking child can be considered under the Dublin Regulation when they are separated from their family. The case is currently being before the CJEU and one possible recommendation is that rather than delay the child's asylum claim by seeking to return the child to another EU country, the UK may be required to deal with a child's asylum claim in its own territory unless it would be in the best interests of the child to be returned to another European Union country (i.e. for family reunification purposes).

Family proceedings

In *RS (immigration and family court proceedings) India* [2012] UKUT 00218 (IAC) and *Nimako-Boateng (residence orders – Anton considered)* [2012] UKUT 00216 (IAC) the Upper Tribunal, comprising of McFarlane LJ, Blake J (President) and Upper Tribunal Judge Martin were asked to consider the approach to be taken in cases where the "automatic deportation" procedure arose in the context of an Article 8 claim where the Secretary of State sought to deport at a time where there are on-going family proceedings concerning the best interests of a child. In both cases the Court highlighted the importance of the role of the Family Court in assessing best interests, and its reasoned decisions were not to be ignored and may be material to the immigration court's decision. The approach in *RS* was recently endorsed in the Court of Appeal in *Mohan v Secretary of State* [2012] EWCA Civ 1363 finding that in that case the Tribunal had misdirected itself in law in its approach to the inter-relationship between the family proceedings and the immigration proceedings, noting the wisdom of McFarlane LJ in his approach in *RS*.

Co-convenors: Judith Dennis and Baljeet Sandhu

DETENTION AND ASYLUM FAST TRACK SUBCOMMITTEE REPORT

The subcommittee renewed its meetings (held quarterly) so as to renew focus on a number of issues of concern to members. At a time when legal aid is being cut from most areas of immigration, the hope is that what legal aid remains for asylum, human rights and detention matters, will result in more focus being given to applications for release and bail for the increasing number of longer term detainees who are being held at Immigration Removal Centres and prisons.

The subcommittee has encouraged practitioners to challenge the UK Border Agency assessments of risk of harm or reoffending that are often unreliable and based on undisclosed evidence. Surprisingly the UK Border Agency has even been failing to fulfil its agreement with the National Offender Management Service to provide immigration judges, appellants and their representatives with the NOMS1 form that assesses risk and is relied upon by the UK Border Agency's Criminal Casework Directorate when assessing risk of harm or risk of reoffending. Indeed, the UK Border Agency continues to fight disclosure of most evidence that it relies upon when arguing in favour of detention. Given the length of time people are facing in immigration detention, it is incumbent on practitioners to fight for the disclosure of any such evidence.

The UK Border Agency continues to fight its corner even in relation to the most compassionate of circumstances involving some of the people in our society most vulnerable to the effects of detention such as the mentally ill. In the case of *HA (Nigeria)* [2012] EWHC 979 (Admin) the court had to deal with a seriously mentally ill man who entered detention from prison with a known mental health diagnosis and already one transfer to hospital for treatment under the Mental Health Act while he had been in prison. Despite that, the UK Border Agency and various healthcare contractors failed to recognise his diagnosis, to treat him for his illness, or to factor in his illness to decisions to detain. They took months to achieve a Mental Health Act transfer, by which time HA had been kept in segregation for months, sleeping on the floor, not washing, and drinking from the toilet. He was removed from Brook House where he was in segregation in light of a forthcoming announced Her Majesty's Inspectorate of Prisons' inspection, but having arranged that, senior managers at UK Border Agency did nothing further to sort out his needs for months. All in all, a catalogue of complete failure in UK Border Agency's positive duty of care towards him. What is lamentable is that despite the UK Border Agency having been found to have

acted unlawfully in detaining HA for various lengthy periods of his detention, having delayed treatment in an unlawful manner, having violated his rights under Article 3 of the European Convention on Human Rights, and failed to carry out an equalities impact assessment before changing the policy on the detention of mentally ill people, the Secretary of State continues to fight this case (on all grounds) which is to go before the Court of Appeal next year.

It was learned that the UK Border Agency had not informed the Department of Health, which is now taking over the commissioning of healthcare delivery in Immigration Removal Centre, about the many ways in which people can and should be released for treatment where clinically indicated. Work is underway to provide information to the Department of Health.

In such a climate it is not surprising that we continue to see immigration detainees being held for extraordinary periods of time of sometimes four or five years in detention. In some cases, such as that in *Mahmoud v SSHD* [2012] EWHC 2201 (Admin) a period of three years and four months in detention was found not to be unlawful where there had been a ‘realistic prospect of removal’, while in others such as the case of *Mhalanga* [2012] EWHC 1587 (Admin) the detention of a Zimbabwean national for five years and two months was found to have been unlawful in view of the length of the detention and the fact that the Secretary of State accepted that she is not in a position to forcibly remove Zimbabwean nationals to Zimbabwe.

At the same time the Secretary of State is doing her utmost to prevent herself and her staff from being made accountable to the courts. The attack on legal aid has been compounded by attempts at restricting detainees’ and former detainees’ recourse to the courts. In the case of *BA & Ors* [2011] EWHC 1446 the Secretary of State attempted, but failed, to prevent a former detainee and her family from seeking damages for a claim of false imprisonment as she had previously had the opportunity of challenging her removal when the issue of her unlawful detention had been touched upon. There are clear differences in the standards of evidence between a judicial review claim of unlawful detention, and a subsequent civil claim for false imprisonment when all issues can be properly considered in detail and witnesses called to be heard, But judgment in this case still points to the need for practitioners to include a claim for damages in any claim for judicial review challenging the lawfulness of detention. If it transpires that there is a viable claim for damages, then the allegation can be properly be particularised at a later stage, once funding is in place and disclosure has been provided.

ILPA also produced a joint submission with BID in response to the President of the First-tier Tribunal’s review of his guidance for immigration judges. While the President thanked us for our contribution and help with his review, the unfortunate fact remains that many of our recommendations were not taken up. But despite this, the Guidance remains an essential tool for practitioners in ensuring that immigration judges adhere to some basic principles when deciding bail applications, and as a means of ensuring that the UK Border Agency also takes into account those same principles, in addition to its own policies.

Co-convenors: Pierre Makhlouf, Steve Bravery and Kay Everett

ECONOMIC MIGRATION SUBCOMMITTEE REPORT

This subcommittee met nine times throughout the 2011-12 year, and in general attendance by members has been good. The key issues which it addressed over the period are as follows:

ILPA Response to the Migration Advisory Committee (MAC) Call for evidence Tier 2 Annual limit 2012-2013 and associated matters

The subcommittee prepared ILPA's response to the Migration Advisory Committee call for evidence and focussed its feedback on four main areas:

1. The impact of the 2011/2012 limit; the potential impact of lowering the limit in 2012/2013; why there was a low uptake for Tier 2 (General) and employer's responses to the limits considered and put in place.
2. The skill level for Tier 2; the right methodology for skill classification; recognition of appropriate occupations and the economic impact of raising the skill bar.
3. The impact of strictly applying the General Agreement on Trade in Services (GATS) definition of managers and specialists; whether £40,000 is a reasonable pay threshold for such jobs and whether there should be regional variations.
4. The impact of lowering the resident labour market test threshold on employers and the impact on the labour market.

The Migration Advisory Committee published its report '*Limits on Migration: Limit on Tier 2 (General) for 2012/13 and associated policies*' on 28 February 2012 and the Government shortly thereafter published its statement of changes to the Immigration Rules on 15 March 2012 taking into account the Migration Advisory Committee recommendations.

Once again the Government implemented a raft of ill-conceived measures to reduce net migration to tens of thousands through tighter controls on economic migration. As has become its custom the Government announced key changes in March 2012 to come into force on 6 April 2012.

Tier 2 (General) 2012 Limits

The increased complexity of the UK Border Agency rules, the general disorder of the permanent limits and the process of annual Certificate of Sponsorship allocation renewal, combined with the continually changing goal posts have relayed the message to companies that the UK is effectively closed for business.

Mandatory Exclusions

Migrants under Tier 2 (General) and Tier 2 (Intra-company Transfer) are faced with a mandatory exclusion after the expiry of the term originally given for their visa, even if they had returned to their home country before then. The subcommittee believed that these mandatory exclusions would be alleviated by transitional arrangements before the full force of the exclusion regime came in. Statements in Parliament were made to this effect but no changes have been made.

Notable changes relating to Points-Based System include:

- March 2012 - Statement of intent in respect of the implementation of mandatory exclusion periods for Tier 2 (General) migrants
- April 2012: -
 - Closure of Tier 1 (post study work) sub-category
 - Introduction of Tier 4 (General) switch into Tier 2 (General) with Resident Labour Market Test exemption
 - Introduction of graduate entrepreneur category

- Permitted paid engagements
- increase of skills criteria to NQF level 6
- raising the level of English language ability
- increase in level of maintenance required by main applicants and their dependants
- minimum salary threshold of £35,000 to qualify for ILR in 2016

Premium Sponsorship

As part of its solution to its lack of resources and failure to comply with its own service standards the UK Border Agency launched the concept of Premium Sponsorship for the small fee of £25,000 for large companies and £8,000 for Small and Medium-sized Enterprises, a Premium Sponsor is in theory able to secure premium appointments and have access to an account manager, in essence a sponsor is able to pay for the services that should be available to all sponsor free of charge. Uptake of this service has been unsurprisingly low as businesses remain sceptical that they will receive any tangible benefits by utilising this service.

This year has seen the tightening of controls, increase in the backlogs and delays of processing of sponsor license applications as well as individuals' applications for leave to remain in the UK. This has led the subcommittee to enter into critical discussions with the UK Border Agency in an attempt to secure improved processing times and services. In particular, we have raised time and time again the need for greater resources to be directed to the processing of postal application whilst also increasing at the Public Enquiry Offices as well as the expansion of the premium postal service as has operated in Sheffield for a small selection of representatives.

The UK Border Agency announced in September 2012 a new priority postal service pilot scheme designed only for Tier 2 applicants and their dependants to utilise three London post-offices for biometric enrolment and submission of Tier 2 leave to remain applications that would then be considered within a 10 working day window. The procedures are similar to Entry Clearance applications made from abroad. The application is started online, after which biometrics are to be taken at a post office, and then the documents sent in. Uptake of the new scheme which is designed to offer 30 slots a day has been limited, initially due to the fact that applicants were only eligible to apply if they had previously been granted leave to remain in the UK previously, however this limitation was removed on 22 October 2012 and it is hoped that this scheme will be extended to other categories to alleviate the backlog in postal processing and the untenable system of allocating Public Enquiry Offices slots.

ILPA held a meeting with the UK Border Agency regarding the new Indefinite leave to Remain policy which changed in June 2011 without publishing any guidance regarding absences breaking continuity. The UK Border Agency is looking to clarify the rules on absences and is becoming more stringent at the settlement stage over absences during the period leading to settlement.

Submission without a Passport

The British Embassy in Moscow piloted a "submission without passport" scheme, enabling certified copies of passports to be submitted rather than the passports themselves, thus enabling applicants to travel during the process. The UK Border Agency indicated that the pilot was regarded as a success and that they hoped to roll this out more widely.

New Family Rules for Points-Based System Dependants

The UK Border Agency has accepted that the changes to the Rules that came into force on the 9 July 2012 need redrafting. ILPA has liaised at length with the Agency about the errors. One error of particular relevance to this subcommittee is the change to stop dependants remaining dependants of the main applicant when main applicant attains Indefinite Leave to Remain. The

UK Border Agency confirmed this is a mistake. There is an expectation that UK Border Agency will introduce a separate process for dependants to continue to be recognised as the dependants of the main applicant whilst they are waiting to reach the minimum five-year threshold.

The subcommittee has continued to engage with external agencies concerning the frequent changes to the Points-Based System. This involved regular meetings and discussions with the UK Border Agency and written submissions to it.

Working groups were set up to assist with the responses to various consultation exercises by the UK Border Agency. The groups consisted of ILPA members volunteering their time to arrange meetings, collating information and preparing the responses. We would like to express our appreciation to all those who dedicated a huge amount of time to these tasks.

We would like to thank all ILPA members for their participation and support to the committee.

Co-Convenors: Philip Barth, Smruti Jeyanandhan and Philip Trott.

EUROPEAN SUBCOMMITTEE REPORT

This subcommittee met regularly throughout the 2011-12 year. The key issues which it addressed over the period are as follows:

Third country national family members of EEA nationals residing in the United Kingdom.

At the time of the last AGM, *Dereci* (C-256/11) had just been handed down by the Court of Justice of the European Union. Anybody who had hoped that it would clarify the *Ruiz Zambrano* (C-34/09) and *McCarthy* (C-434/09) decisions which appeared to have been pushing in different directions must have been disappointed. Although the Court of Justice reiterates that Directive 2004/38 does not apply to situations as in *Dereci*, it clearly states that Article 20 may have a role to play for Union citizens who have never exercised free movement rights because citizenship of the Union is intended to be a fundamental status for nationals of member states (para 62). It underlined what had been said in *Ruiz Zambrano*, that there are cases in which a so-called wholly internal situation to one member state can be considered under EU law. It sets out clearly that a situation which relates to the denial of the genuine enjoyment of the rights pertaining to status as Union citizens, including against their own member state of origin does fall within EU law.

An ILPA member very helpfully provided access to the guidance which the Home Office started using shortly after these cases by a Freedom of Information request. A further Freedom of Information request made later in the year by the subcommittee showed the developing thinking of the Home Office, along with other concepts which have been subject to clarification by the Court of Justice such as when somebody is entitled to permanent residence. All the guidance received is available on the ILPA website. The amendments to the EEA Regulations have further clarified how the Home Office perceives these cases are to be interpreted [see below].

The amended EEA Regulations.

The EEA Regulations threw up a large number of issues which were subsequently raised with the Home Office in a letter. These include the issues relating to dual British/EEA nationals not being treated as European nationals even if they are exercising Treaty rights in the United Kingdom; the Secretary of State's new power to "cancel" a right to reside when she is unable to withdraw or refuse residence documentation; the relationship between the new derivative rights of residence

and permanent residence and the question of overlap between time in the United Kingdom, time in work and time in education for *Ibrahim/Teixeira* (cases C-310/08 and C-480/08) parents.

The second and most recent amendment which seeks to implement *Ruiz Zambrano* has also led to concerns in relation to the definition of who is the carer ('primary carer'). In relation to durable partners, if the Home Office does not believe a relationship to fall within the definition of 'durable', they will not grant an appeal right.

It remains to be seen what challenges will follow from these amendments to the Regulations. Overall the incredibly narrow interpretations that are implemented by the government, without concern for the general principles raised by the cases which the Regulations seek to implement, means that there is no doubt that case law will be needed to clarify issues and no doubt further input from the Court of Justice.

Benefits/Comprehensive Sickness Insurance

The development in benefits and immigration law for EEA nationals and their families has raised interesting points in relation to the overlap of the two subjects. ILPA with the AIRE centre produced notes on these topics which are available on the website. The 'right to reside' test continues to be the subject of infringement proceedings against the UK in relation to State Pension Credit, income-based Jobseeker's Allowance, income related Employment and Support Allowance and Income Support. The subcommittee is also keeping a watchful eye on developments relating to comprehensive sickness insurance, another area of concern which the European Commission has taken up with the Home Office.

Issues relating to asylum

Following the UK government notifying the Commission that it would not participate in the Receptions Conditions Directive Recast and the Qualifications and Procedures Directive Recast, Cathryn Costello of the subcommittee wrote a paper on the revised Commission Qualifications and Procedures Directive critically reviewing the provisions and setting out the significant changes.

Rowena Moffet and Harriet Short considered the Procedures Directive Recast in the light of the European Court of Human Rights' findings in *IM v France* (Case 1952/09). They analysed concerns about procedures in the detained fast track and non suspensive appeals under Section 94 of the 2002 Act.

Hélène Lambert looked for ILPA at whether the United Kingdom could be considered a safe country for asylum seekers under the Dublin system if they were not opting into the Recast Directives. All of these papers can be found in the European Updates and address issues of concern to the subcommittee in relation to asylum matters under European law.

The *Saeedi/NS* litigation (C-411/10) on transfers of asylum seekers to Greece led to an interesting judgment for the UK on use of the EU Charter of Fundamental Rights. The Court of Justice in its judgment accepted that, although there was an assumption that all Member States complied with the Charter, Refugee Convention and the European Convention on Human Rights, circumstances may arise in which there is a 'substantial risk that asylum seekers may, when transferred...be treated in a manner incompatible with their fundamental rights' (paras 80-81).

Frontex

The European subcommittee kept a watchful eye on the dealings of Frontex, the EU external border agency. Violeta Moreno-Lax on behalf of the subcommittee produced a submission to the

recent Frontex enquiry, noting in particular the lack of redress or remedies for individuals vis-à-vis the actors of Frontex.

Practices at the Home Office

Romanians and Bulgarians have in particular suffered unreasonable delays throughout this year. Any applications made under work permit provisions or Tier 1 provisions have taken excessive amounts of time to be dealt with. The Croatians who join the European Union on 1 July 2013 are set to face the very similar restrictions in relation to access to the labour market as have the Romanians and Bulgarians.

Those of us who for a short time thought things were improving at the European Directorate were soon again to face extended delays throughout this year, with many applications getting close to the six month mark, the time frame in which applications have to be dealt with. Experiences with the pre sift also left practitioners dazed as members struggled to get applications, particularly (although not necessarily) complex applications past this screening unit.

Meetings/Consultation with the UK Border Agency

The subcommittee remained in dialogue with the Home Office about the forms which are on the website for applications under European law.

Over the year, there have been various meetings with officials from UK Border Agency covering issues such as *Vander Elst* applications, the implementation of *Ruiz Zambrano* and the following cases and the pre sift of applications.

The subcommittee has produced quarterly European Updates which can be found on the ILPA website and contain a detailed overview of the work of the subcommittee and the development of EU law.

We would like to thank all the members who have provided training for ILPA members in EU migration law and who have contributed to, and supported, the committee.

Co-convenors: Alison Hunter and Elspeth Guild

FAMILY & GENERAL IMMIGRATION SUBCOMMITTEE REPORT

The subcommittee has met seven times during the year, and has coordinated two all-members' meetings, one on the English language requirements and the *Chapti* [2012] EWHC 3370 case in November 2011, one on the first huge change in family migration rules, HC 194, in June 2012. We have worked on ILPA's responses to consultations and briefings, including those on the Commission on a Bill of Rights, and on lobbying Parliament on legislation and rules, and on the government's interpretation of Article 8 of the European Convention on Human Rights and have drafted letters to the UK Border Agency about the operation of the new rules. We expect that a lot more work will be required on this during the coming year. The subcommittee continues to fight for justice for families affected by immigration control.

Marriage, partnerships and families

The immigration rules and practice on marriage, partnerships and families have been the overriding issue for the subcommittee through the year. Changes in the rules were expected through the early part of the year, following the Migration Advisory Committee's recommendations on financial support.

HC 194, and then its extension, HC 565, and the voluminous guidance with them, made far-ranging changes for family applicants, requiring sponsors to have earnings of £18,600 to sponsor a spouse or partner to enter or remain in the UK with them, and an extra £3,800 for the first child and £2,400 for each subsequent child and setting out a complicated calculation of when savings, disregarding the first £16,000, or other financial resources, can be counted. The subcommittee had drafted ILPA's response to the consultation last year, spelling out the effects such changes would have on families, but this and the extension of the probationary period for spouses and partners to five years were implemented. Further changes included the end of the 14-year long residence rule and the introduction of a 10-year route to settlement for those people who may not fit precisely into the rules, or have breached immigration control, but are still granted limited leave to remain. There are increased periods when people will not be permitted to claim any benefits. ILPA provided briefing for the House of Commons debate on 19 June 2012, trying to establish the government's thoughts on how their interpretation of Article 8 would work. The subcommittee held an all-members' meeting on 26 June 2012, soon after the rules were published, to discuss the problems and errors in the rules, and to press the UK Border Agency for change.

The long run-up to the changes led to a wholly predictable surge in applications before the date of the expected change, and thus to increased delays for all applications. But also many families were unaware of the changes, and did not know that all their plans would be dashed when they had not applied by 8 July 2012. The subcommittee will continue to monitor the situation, to campaign against the injustice of the new rules and to train practitioners in advising on them.

ILPA had opposed the precipitate introduction of a new English language requirement for spouses applying for entry clearance in 2010 and was disappointed that the *Chapti* case did not succeed and that a subsequent application for permission to appeal further was refused.

Court decisions on children and families such as *ZH (Tanzania)* [2011] UKSC 4 and *Ruiz Zambrano* (Case C-34/09) have changed the context of many children's cases – but have also fuelled the UK Border Agency and Ministers' hostility to the Human Rights Act. ILPA has lobbied for implementation of *Ruiz Zambrano*, at last implemented in changes to the EEA Regulations on 8 November 2012 (The Immigration (European Economic Area) (Amendment) (No. 2) Regulations 2012 (SI 2012/2560)). We will monitor the UK Border Agency practice, in the UK and abroad, to ensure that people are able to access their rights.

The Crime and Courts Bill removes the right of appeal from people refused family visit visas and even before it came into force, the relatives who retain appeal rights were restricted from July 2012 by the Immigration Appeals (Family Visitor) Regulations 2012 (SI 2012/1532). ILPA's lobbying was not successful; but we expect there will be further opposition from MPs when the numbers of people coming to their advice sessions after visit visa refusals increase next year.

Students

ILPA worked with the UK Council on International Student Affairs (UKCISA) on student changes, and in pressing for a premium postal service to deal with extension applications without the inordinate delays in the UK Border Agency dealing with postal applications and the lack of available appointments at the Public Enquiry Offices. Problems were exacerbated when biometrics were required from all applicants from February 2012. The pilot project that the UK Border Agency set up for a premium postal service for Tier 2 extension applications does not meet the need. The ending of the Post-Study Work category led to rushes in making applications before the April deadline, and then to increased delays at the UK Border Agency, which still continue. ILPA and UKCISA wrote to the UK Border Agency and the Department for Business about the injustice to students when their colleges close down in the middle of their courses, but to no effect.

The effects of rule changes prohibiting students at private colleges from working caused hardship, when people's expectations were dashed in the middle of a course. This disregard for students was particularly stark in the announcement of the removal of the sponsor licence of London Metropolitan University, leaving students high and dry until a judicial review case by the University led to the UK Border Agency agreeing that 'legitimate' students could continue at their courses although the sponsor licence remained removed. Litigation continues.

Administration of immigration controls

The continuing operation of the 'legacy' of old asylum, and immigration, cases continues to cause problems for the thousands of people whose cases were still not decided by the original deadline of July 2011. ILPA has continued to press for people granted leave under the 'legacy' to be granted indefinite leave as promised, rather than discretionary leave as has been the UK Border Agency policy since July 2011.

Last year the subcommittee wrote a detailed letter to the UK Border Agency about its practice in declaring applications invalid and its lack of common-sense in dealing with them or in accepting applications where there was a small omission or inaccuracy, thus making people overstayers through no fault of their own. ILPA has sent reminders about this letter on several occasions, and in the context of the changed rules which disregard overstays of fewer than 28 days, but still has no response and UK Border Agency practice has not changed. We are not giving up!

Responses to consultations

The subcommittee discussed the Legal Services Board consultation on regulation of immigration advice, and the Office of the Immigration Service's Commissioner consultation on changing some of its Codes of Practice for regulated advisers and complaints procedures, to inform ILPA's responses. We also worked on the response to the Commission on a Bill of Rights, repeating ILPA's view that the Human Rights Act should remain, and another layer of legislation as well as that and the EU Charter of Fundamental Rights would be unnecessary and unhelpful.

As usual, grateful thanks to all ILPA members who have come to subcommittee meetings or participated in other ways and who have done vast amounts of work. All ILPA members are welcome to get involved – please do. This is going to be a busy year.

Co-convenors: Sue Shutter and Pat Saini

LEGAL AID SUBCOMMITTEE REPORT

The Legal Aid Sentencing and Punishment of Offenders Act 2012

Continuing with the theme of us all being ‘in it together’, though some plainly being a great deal more ‘in it’ than others, the Legal Aid Sentencing and Punishment of Offenders Bill received royal assent on 1st May 2012. The passage of the Bill, during which it suffered a total of 14 defeats (including over its plans to introduce a ‘telephone gateway’ as the mandatory initial point for access to civil Legal Aid services), was not a smooth ride for the Government. Herculean efforts by Steve Symonds and Alison Harvey in preparing detailed and persuasive briefings, well targeted at relevant Parliamentarians for all stages of the Bill’s passage, and shared with representative bodies with whom ILPA could make common cause, secured some very important scope concessions before the Bill became law. Nevertheless, the scope cuts will have a massively adverse impact on access to justice in immigration and nationality law. The relatively late-in-the-day support of Her Majesty’s opposition for immigration (Lord Bach stating in the House of Lords that Legal Aid for immigration is ‘...an important, if qualified, check on poor decision-making by the UK Border Agency and other agencies, and it ensures that immigrants, many of whom are vulnerable, disorientated and scared, are able to assert their rights by accessing what may be a confusing and new judicial system’) ultimately had limited impact on the Con-Dem plans. An opposition amendment to retain immigration generally within scope was narrowly defeated. During the recent party conference season the shadow Secretary of State for Justice gave no cause for hope that a future Labour Government would reverse any of the scope cuts.

Work which will remain in scope after April 2013:

- Asylum (including applications for subsidiary / Humanitarian Protection and applications based on Article 3 of the European Convention on Human Rights);
- Special Immigration Appeals Commission work (i.e. any appeal to the Commission, however it arises – asylum, deportation, deprivation of citizenship);
- Judicial Review (but with very significant specific exclusions for immigration - see below);
- Work relating to bail and temporary admission;
- Applications on behalf of victims of domestic violence (including from family members of EEA nationals);
- Applications for leave to enter or remain on behalf of victims of trafficking
- Advocacy for the above categories in the First tier and Upper Tier Tribunal and the Court of Appeal and Supreme Court;
- Asylum support work (relating to accommodation) but not advocacy.

Work which will be out of scope after April 2013:

- Essentially all immigration work other than in the categories listed above will be out of scope after April 2013. As noted below, the funding position where the case as a whole includes areas of work which remain in scope (e.g. asylum) and those which do not (e.g. Article 8) remains somewhat unclear, though the Government’s intention does seem clear, i.e. that an out of scope service should not be funded by ‘piggy-backing’ on an in scope service.
- The Government’s intention is that out of scope immigration work will not be funded via the exceptional funding safety net, which on its view will provide funding in an otherwise excluded case only where it is necessary to avoid a breach of Article 6 of the European Convention on Human Rights (which currently is held not to apply in immigration cases).

The fight is not over. The Government does at last appear to realise that it has a real problem on its hands in terms of withdrawing Legal Aid from the non-asylum immigration cases of separated children. Looking to the future, a review of the impact of the scope cuts was promised by the recently reshuffled (former Legal Aid Minister) Mr Djanogly and ILPA for one intends to hold the Government to that promise. Whilst the current incumbents may not likely be moved by hearing of the impact of the scope cuts on the lives of the poor and disenfranchised, evidence of the knock-on costs of the scope cuts perhaps has more potential for impact, and it will be important for ILPA to continue working with other representative bodies in the context of input into the promised review.

One of the important concessions made by the Government in the Legal Aid Sentencing and Punishment of Offenders Act was the adoption of a power to add back categories of work into scope. The door is at least unlocked (even though far from being open) so that sustained political pressure (including on MPs through demands for help at their constituency surgeries) could lead to positive changes.

The Tender Process

The Legal Services Commission decided that for all the categories of law affected by it, new contracts had to be let from the beginning of April 2013 when the Legal Aid Sentencing and Punishment of Offenders Act comes into effect. Existing immigration and asylum contracts are being brought to an end on that date and new contracts for asylum and the remaining non-asylum work that is in scope will be let.

Consultation over the contract tenders for the Legal Aid Sentencing and Punishment of Offenders Act turned out to be more problematic than usual. For the early stages the Legal Services Commission claimed that the need for no potential contracting organisation to get a competitive advantage meant no one could represent any organisation if they might be involved in any way in a bid (on penalty of that organisation being excluded from bidding). Further there could be no discussion of the consultation with anyone from a potential contractor. As a result a number of organisations boycotted the consultations or just sent staff to observe. Alison Harvey and Jackie Peirce attended for ILPA.

The situation was fairly ludicrous. It breached the Cabinet Office guidance on the advisability of openness in procurement processes. It made it impossible to consult members properly (except in the vaguest terms to avoid tipping anyone off) although ILPA did manage to have a useful discussion in May about measures for quality of service.

When it came to drafting the contract documentation, the Legal Services Commission wanted to engage only with the four main representative organisations; The Law Society, Advice Services Alliance, Bar Council and the Legal Aid Practitioners' Group. ILPA and others asked to be involved but the Legal Services Commission resisted as if their lives depended on it. That, given our long record of constructive engagement to improve the generally woeful drafting of their documents, was a tiny bit insulting. Eventually we were allowed to see some documents and to comment on them to the Advice Services Alliance and Law Society who then decided whether to include our comments in with theirs (generally they did but not always). The Legal Services Commission then wanted their redrafted documents (incorporating many of our suggestions) withheld from us.

Meanwhile much of the real meat on the bones of Legal Aid Sentencing and Punishment of Offenders Act is coming out in statutory instruments (or drafts) from the Ministry of Justice which are due to go before parliament. ILPA was not carved out of consulting on those as no one has been consulted! They have been published in draft for information only. That does not bode well for engagement of representative bodies with the Ministry of Justice in future.

The tender process for the 2013 contracts is underway. It has been based largely on the Family Law re-tender in 2011. Suppliers are being asked to bid for matter starts (which the government insisted were retained) in different sized “lots”. In Family the process guaranteed a small number of cases to every qualified provider who bid. That used up the available matter starts leaving very little for larger suppliers. A similar outcome may be predicted in the current tenders.

Potential suppliers ended up with 2 opportunities to complete a Pre-contract Qualification Questionnaire (PQQ), the second being an attempt to avoid litigation from those who failed to complete it properly the first time. The Invitation to Tender (ITT) was sent out by email over the weekend of 15th September, with a deadline for submission of 22nd October 2012 at midday. Decisions will be notified in January 2013.

The tenders and contracts are far from ideal but without a proper reliable measure for quality being universally applied to bidders and whilst limited numbers of matter starts are available, it is difficult to think of an acceptable improvement.

Meetings

A regular schedule of meetings are attended including with the Legal Services Commission (main one is the Civil Contract Consultative Group – CCCG attended by Alison Harvey) and with the Law Society and other practitioner groups (Specialist Practitioner Group meeting - SPG usually attended by Jackie). Practitioner groups continue to struggle to try to get the Legal Services Commission to maintain meaningful and productive dialogue with us. The Civil Contract Consultative Group now has its agenda set from the Specialist Practitioner Group and chairing is shared between the Legal Services Commission and the Law Society. However the Legal Services Commission repeatedly turn up with no progress to report and continually hide behind the Ministry of Justice who are now responsible for anything that relates to “policy”.

Steve Symonds and Alison Harvey also between them ensured an ILPA presence at and feedback from the meetings of the All Parliamentary Party Group on Legal Aid, which were during the course of the past year dominated by the Legal Aid Sentencing and Punishment of Offenders Act.

Immigration Legal Advice for Separated Children

ILPA and others continued to press the issue of immigration (non-asylum) advice for separated children (and former separated children) after the Legal Aid Sentencing and Punishment of Offenders Act is introduced and it goes out of scope. During the course of the Bill the then Minister, Djanogly, thought that Social Workers could provide what would otherwise be regulated legal advice, either by becoming regulated by the OISC or by a Ministerial Order exempting them from regulation. The issue remains unresolved but is one of the issues under scrutiny by the Parliamentary Joint Committee on Human Rights.

Costs Audit (Financial Stewardship Audits) and the LSC Accounts

The Legal Services Commission annual accounts continue to be qualified by the National Audit Office because of an excessive error rate. And the Legal Services Commission response to that continues to be punitive auditing of “errors” made by suppliers in their assessment of the financial means of those receiving legal help or Controlled Legal Representation or in the claims they make for work done. Whilst undoubtedly there are some errors made by some suppliers which ought not to be made, we have continued to make the point that if the system is as complex as it is in immigration and asylum, then there will be mistakes and differences of interpretation.

We continued to press the Legal Services Commission to have representative groups look at the audit results from the National Audit Office to draft responses as we believe that some of the assessments the National Audit Office is making would be overturned by a costs committee if arguments were put forward. The Legal Services Commission has continued to decline this offer.

Very High Cost Cases

The Legal Services Commission has started to pay some lip service to addressing the hopeless system for individual contracts for Very High Cost Cases. ILPA was represented at meetings initially by Russell Blakely (Wilsons LLP) and later by Jawaid Luqmani (Luqmani Thompson). These have largely been led by the Bar Council and their agenda of complaints, but general concerns (such as the impracticability of case plans and the slow process of getting them agreed) were also raised. Progress is slow with no commitments from the Legal Services Commission (and every indication that this is not a high priority for them whilst they still have the Legal Aid Sentencing and Punishment of Offenders Act to implement).

Meetings of the Subcommittee

The Subcommittee has met three times in the year: 19 January to discuss the Legal Aid Sentencing and Punishment of Offenders Act which was then in passage through parliament, 18 May about the tendering process and 8th October largely looking at implementation of the Legal Aid Sentencing and Punishment of Offenders Act. Meetings have not on the whole been very well attended, but those who have attended have generally been knowledgeable and thoughtful. Solange Valdez (who has provided a number of written analyses of complex legal aid issues to guide the EC and members and who has also trained on legal aid) and Nikki Cockburn have both had increased involvement in the work of the subcommittee, and their input has been very important and gratefully received. Other members have put in significant time and effort on specific legal aid issues for which they are thanked. There remains though a pressing need for greater engagement of the many members doing legal aid work.

During the year members have been in contact to raise questions about the activities of the Legal Services Commission or to highlight problems they are having. That continues to be a very important source of information and without it we would be operating somewhat in the dark. Particularly at times of change and with a Legal Services Commission with a long track record of dealing inconsistently with different suppliers on many issues, the subcommittee needs to know your experience (good and bad) and queries (resolved or outstanding).

Outstanding Issues

At the time of writing many issues about the implementation of the Legal Aid Sentencing and Punishment of Offenders Act remain unresolved.

Not least the question of whether advisers will be able to include work on issues which are out of scope (such as Article 8 issues) if the main claim (such as an asylum claim) is within scope. The government's stated intention is that such "mixed case" work will not be paid for but they may have left a way in for the contract documents to be construed such that they are.

The government has repeatedly said that immigration work will not fulfil the requirements for exceptional funding but challenges will undoubtedly follow.

There is still a dearth of clear information about the intentions of the Legal Services Commission and the Ministry of Justice about the transitional arrangements for cases started prior to April 2013. The fundamental question is whether a case which had Legal Aid funding at the outset will

be able to be seen through to conclusion on a funded basis. What will happen when such a case reaches a stage after April 2013 at which under the terms of the specification then in force a new matter needs to be started, a different level of funding needs to be granted, such as when an appeal is remitted by the Court of Appeal to the Upper Tribunal? What will happen to the client of a provider who does not bid for or is not awarded a contract from April 2013? The position of the Legal Services Commission and the Law Society is that the provider must finish the case, but what if that provider has no immigration lawyers after April 2013 and so there is no-one competent to conclude the case never mind any question of funding?

There have been times over the past year when we have wondered whether the time and effort needed to get anywhere on legal aid issues with the Legal Services Commission or the Ministry of Justice is worth it. Hesitantly we conclude that it is (just about) as even small improvements or corrections gained can make enough of a difference to significant numbers of legal aid clients and their advisers.

Co-convenors: Sonia Routledge and Jackie Peirce

An extra bit from Sonia:

After five years of co-convening the Legal Aid subcommittee, Jackie will be standing down at the end of the year. I have no doubt that members will want to join me in extending enormous gratitude to the untold hours Jackie has spent on working to ensure that whatever successive Governments and the Legal Services Commission has thrown at us – and more importantly at our clients – ILPA has been at the forefront of limiting and mitigating the damage done to access to justice by this and the previous administration. As we have said in the main body of the report, the fight is not over and there will continue to be a lot of work for this subcommittee to engage with over the coming year. We would very much welcome offers to assist on an on-going basis with the work of the subcommittee.

IMMIGRATION OFFENCES SUBCOMMITTEE REPORT

The naming and shaming of practitioners looks like a trend that will continue, judging from the recent observations of Lord Justice Thomas (no relation) in the decision of *R (Hamid) –v- SSHD* [2012] EWHC 3070 (Admin). For practitioners in crime this seems to be a constant possibility with further criticism levelled at firms who were named as failing to spot the fact that their clients were victims of trafficking or of the availability of guidance as to whether or not such prosecutions ought to have been pursued *R –v- N* [2012] EWCA Crim 189.

The need for collaborative working amongst practitioners across several disciplines is clearly still an important safeguard in protecting the rights of many of our clients who face challenging decisions from distinct branches of the state. The extension of yet further powers as envisaged under Clause 28 of the Crime and Courts Bill 2012 will provide the immigration service with powers no less intrusive than those available to the police.

As recently as the beginning of the month, ILPA responded to the draft code of practice in respect of the cautioning of adult offenders (with particular reference to foreign nationals) pointing out that the absence of legal aid to provide persons facing the possibility of a caution with sound advice would inevitably mean that many would be subject to cautions in inappropriate circumstances often without an ability to comprehend the longer term consequences

The subcommittee has been less active over the last 12 months, with issues such as legal aid changes and the significant rule changes dominating the attention of most practitioners in the field. Addressing what is likely to be a significant lacuna in terms of availability of representation when legal aid is largely removed for this (and other) areas of work may well impact on how solutions may best be sought to be found in an ever more hostile environment.

Answers and enthusiasm would be most welcome!

Co-convenors: Richard Thomas and Jawaid Luqmani

ILPA SOUTHWEST SUBCOMMITTEE REPORT

The ILPA South West subcommittee was established in the autumn of 2008 and has established a network of practitioners in the South-West with the aims of developing systems for information dissemination, support and feedback, as well as holding training events and meetings for ILPA members distributed over this large geographical region.

Practitioners in the South West and their clients can face particular issues arising from their geographical location and are sometimes working in fairly isolated settings. The ILPA South West region encompasses the area from Southampton and Bournemouth in the east, to Exeter, Plymouth, and locations in Cornwall in the west and also includes Bristol, Gloucester, Swindon and Cheltenham, as well as Newport, Cardiff and Swansea in Wales. There is a wide variety of work being undertaken by practitioners in the region and several of the locations are asylum dispersal areas.

The work undertaken this year includes:

Consolidating a list of ILPA South West members so that email information pertinent to the South West can be disseminated.

Building a successful relationship with the Advice Network organisation based in Bristol many of whose members deal with immigration cases in Law Centres and Advice agencies.

Continuing the tradition of holding bi-annual mini-conferences: following the successful event detailed in last year's annual report (October 2011), a further conference took place in May 2012 and the autumn conference will take place on 14th November 2012. Both of these conferences were held jointly with Advice Network South West in Bristol. A range of very interesting speakers gave presentations:

- Kate Garbers (Unseen UK – May meeting)
- Zubier Yazdini (Pierce Glynn solicitors – May meeting)
- Collet Bennett (Equalities South West – May meeting)
- Clovis Reese (Avon and Bristol Law Centre – November meeting)
- Glyn Lloyd (Morgan Cole LLP – November meeting)
- Natasha Gya Williams (Nicholas Moore Solicitors – November meeting)
- Andy King (South West Advice Training – November meeting)
- Louise Parcell and Maxine Blackett (Legal Services Commission)
- Kenny Chapman (UK Border Agency)

ILPA Refugee Children's Project training – we held two training courses co-ordinated by Nirmala Rajasingam – the first in Plymouth (27th September 2012) and the second in Bristol (6th October 2012). It was extremely useful to have national training in the South West and the participants were extremely positive about the courses.

In addition we have undertaken considerable work to maintain some lines of communication with the UK Border Agency – Rosie Brennan with Kenny Chapman, Local Immigration Team Manager for SW and Natasha Gya Williams with the Public Enquiry Office Cardiff Senior Case work team, as well the regional Points-Based System compliance team in Portishead. In conjunction with efforts by ILPA's General Secretary, intervention by ILPA South West resulted in the reinstatement of the representative appointment slot service at the Public Enquiry Office in Cardiff. In addition, on several occasions individual cases raised to Kenny Chapman's attention by ILPA South West have been expedited.

Rosie and Natasha regularly attend relevant other meetings with a view to feeding back any relevant information – e.g. South West Asylum Seeker and Refugee Forum/South West Migration partnership, Front Line Forum in Plymouth, and Employment Lawyers Association Cardiff.

Liaising with the Advice Network South West, Association of International Student Advisors South West/Wales, and College of Law Bristol Pro Bono team.

Contact point for ILPA South West members who require referral information or wish to discuss particular legal issues.

Future Steps:

- It is hoped that a Plymouth stakeholder group will be consolidated to deal with issues particularly arising in Plymouth.
- Continued lobbying and liaising nationally regarding immigration tender exercises for city of Plymouth and city of Bristol, South Gloucestershire and North Somerset
- Organising further ILPA training and networking events in South West
- Potential contact with First-tier Tribunal in Newport (in association with Nick Gill, University of Exeter)
- Liaise with the University of Bristol's Migration and Citizenship postgraduate department.

Co-convenors: Rosie Brennan and Natasha Gya Williams

ILPA YORKSHIRE AND NORTH-EAST SUBCOMMITTEE REPORT

Again, the Yorkshire & the North East subcommittee has had a moderately quiet year in terms of formal meetings given the casework pressures on most practitioners, preparations for the post-April 2013 (post-Legal Aid, Sentencing and Punishment of Offenders Act) world and the 2013 immigration tenders but the subcommittee remains active in the region.

The subcommittee has had formal meetings in 2012 (minutes of which can be viewed on the ILPA website). The last meeting took place on Thursday 31 May 2012 and had a good turnout. Since that meeting, Yorkshire & the North East subcommittee members have met with representatives of COMPASS and G4S to provide ILPA's perspective on the proposed relocation of clients in the region, which followed the awarding of new accommodation contract by the UK Border Agency.

The subcommittee has also endeavoured to provide input to G4S/COMPASS during the relocation of the two induction centres in the region (the Core in Barnsley and Clare House in Huddersfield). G4S originally wanted to relocate to Leeds but it appears that this decision changed, very late in the day, following local objections. The centre has now relocated to Angel Lodge in Wakefield. Angel Lodge was used to accommodate new arrivals previously, when run by the Angel Group. The capacity at Angel Lodge will be 200, which it was estimated would be reached by early November. The changes, it would not be unfair to say, have at best been disorganised. We will continue to ask for meetings with G4S to ensure clients in the region are not disadvantaged.

The co-convenors were at a meeting with earlier this year with the Andrew Gray, Accommodation Director from G4S, where assurances were offered that representatives would be accommodated at new induction centre. Sadly but not unexpectedly, following Christopher Cole's recent meeting with Juliet Halstead, Accommodation Manager at G4S it appears that this is unlikely to be the

case, as a result of which ultimately the clients will suffer. We hope to have another meeting to include the Refugee Council to discuss further the rooms issue and referrals and operation of the Legal Services Commission's Electronic Appointment System.

We hope that a further of the meeting of the Yorkshire & the North East subcommittee can be arranged before the end of the year in order to discuss development with Angel Lodge, the 2013 immigration tenders, the Legal Services Commission's Electronic Appointment System and post-April 2013 funding arrangements. We also hope to share information and ideas of how practitioner in the region have been dealing with the new immigration rules and the latest case from the Upper Tribunal on the new rules, *MF (Article 8 – new rules) Nigeria* [2012] UKUT 00393 (IAC), which has on the whole been positive in relation to interpretation of Article 8.

During the course of this year, the Yorkshire & the North East subcommittee has continued to invite representatives of the Legal Services Commission to attend a meeting to clarify the position with respect to the Electronic Appointment System and to discuss regional issues more generally. Unfortunately, the Regional Contract Manager remains unable to commit to attend any of our meetings. This is very disappointing but we will keep trying to get the LSC to meet with us, so critical issues with the Electronic Appointment System can be voiced. We would encourage all members to feedback about their concerns relating to the Electronic Appointment System, as this continues to be a problem in the region.

The Yorkshire & the North East subcommittee continues to publicise and encourage members to attend local training events. The appetite for local training continues and we hope that this appetite will translate into attendance at local events, so that we can continue to arrange local training. We anticipate putting on Points-Based System (Tier 2) training, an update on the new Family Migration Rules and a re-run of the ever popular Professional Ethics course all early in the New Year, so please keep an eye out and do attend.

The subcommittee continues to receive and circulate monthly UK Border Agency Stakeholder Updates and to encourage feedback on training. Subcommittee members from Newcastle represented ILPA at the North East Regional Migration Forum on 14 November 2012 in Newcastle. We will feedback at the next Yorkshire & the North East subcommittee meeting.

The subcommittee benefits from information from the other subcommittees, which is shared via the ILPA emails and website. Members are encouraged to join the subcommittees that they are interested in.. A list of all subcommittees can be found at <http://www.ilpa.org.uk/pages/subcommittees.html>.

Again, we hope in the coming year to meet more regularly. To this end, if members have issues that that they would like to raise at meetings or training that they would like to see in the region please email Chris or Ish. We will put the items on the agenda for the next meeting immediately and feedback to ILPA with a view to arranging the training in the region.

Thank you to all Yorkshire & the North East subcommittee members and ILPA for your continued support.

Best Wishes,

Co-convenors Ish Ahmed & Christopher Cole



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