

ILPA

IMMIGRATION LAW PRACTITIONERS' ASSOCIATION
PRESIDENT: IAN MACDONALD QC

ILPA Annual Report 2008/2009

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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.

CHAIR'S REPORT

This year has been a notable year for ILPA, marking the association's 25th anniversary both with significant achievements on which to reflect and also new challenges and opportunities to rise to going forward.

Full details of ILPA's activities in the past year are set out in the enclosed reports of the Officers, the Convenors of our subcommittees and in particular the General Secretary, which demonstrate the extent and impact of ILPA's work this year. As always, tremendous thanks are due to our members, the Secretariat, subcommittee Convenors and the Executive for these achievements.

I would particularly like to thank Alasdair Mackenzie for ably stepping in as Acting Chair during my maternity leave from May this year, in addition to his already busy role on the Executive Committee. I must highlight his critical contribution, together with Alison Harvey, to ILPA's bids, in the process of being finalised but where we have been advised that we may notify you in this report that they have been successful, for funding from Unbound Philanthropy (to fund ILPA's much needed upgrade to but its IT systems and website including funding a Project Coordinator) and The Diana Princess of Wales Memorial Fund (to fund a programme of work, including an additional staff member, to enable ILPA to provide free training to legal representatives working with refugee children and to produce best practice guides), as well as from the Joseph Rowntree Charitable Trust (continuing two-thirds funding for the post of the Legal Officer, for three years). This new funding represents a great opportunity for ILPA to extend its important work and further develop its member services, without drawing resources away from its existing work.

Thank you to all those who served on the Executive this year, particularly Sue Shutter, overcoming ill health to continue in her role as Secretary. I am delighted that she is standing (unopposed) for that office again this year.

I have been struck again this year by the boundless energy and dedication of our General Secretary, Alison Harvey, in spearheading ILPA's activities and representing migrants and members' interests with her trademark passion and precision, securing important victories and raising essential awareness. Her contribution to ILPA since taking on the role of General Secretary in 2007 is notable and provides great optimism for ILPA's future achievements.

Alison is of course supported by an excellent team and special thanks are due to Zoe Marsden, Helen Williams, Elizabeth White, and Steve Symonds. In addition to maintaining the usual operations of ILPA, the secretariat, and Zoe and Helen in particular, have successfully implemented important changes including the complete replacement of ILPA's accounting system this year. We also look forward to welcoming Kit Eaves back to the team following her maternity leave.

Change in immigration law and policy has continued apace this year. To name but a few examples, this year has witnessed new legislation (the Borders, Citizenship and Immigration Act 2009), the publication of the new Draft (partial) Immigration Bill, numerous statements of changes to the Immigration Rules, the implementation of further phases of the Points-Based System (PBS) and ongoing developments to it, and multiple consultations. ILPA has continued to demonstrate its ability to shape and influence policy.

Successes this year have included securing provisions for certain British Nationals (Overseas) and minors born overseas to British citizen parents to register as British citizens, avoiding the full transfer of Judicial Reviews to the Upper Tier Tribunal and ensuring the UK Border Agency

became subject to the duty to safeguard and promote the welfare of children. One of the greatest victories has been the removal of the UK's reservation to the UN Convention on the Rights of the Child, which the Children's subcommittee worked hard to bring forward and marked with the publication of a very useful e-resource 'Consideration by the European Court of Human Rights of the UN Convention on the Rights of the Child 1989'.

Steve Symonds has continued ILPA's excellent work with other NGOs and his briefings continue to be widely circulated. His work with a many organisations and campaigns is set out in the report and we are delighted to have secured continuing funding to support Steve's role for a further three years.

The General Secretary's report details the increasingly extensive written output of ILPA this year and our attendance at numerous meetings and stakeholder groups. Members have generously donated their time, when they can little afford it, to make critical contributions to these responses and meetings and their input is greatly appreciated, together with that of the Secretariat in co-ordinating responses often under great time pressure.

The Treasurer's report sets out ILPA's financial situation, which we have continued to strengthen this year, following a challenging earlier period. This has in part been achieved through very high attendance on certain training courses, stimulated by the exceptional circumstances of the meteoric level of change in immigration law and policy over the past year, particularly the introduction of the new Points-Based System. This high level of attendance on these courses therefore cannot be expected once the pace/extent of change slows, however ILPA will continue to develop a stimulating programme of training, focused on members' changing needs, to seek to maintain overall attendances. Clearly the recently secured funding will also be hugely important to ILPA's future work and financial position. However it must be born in mind that this funding provides for specific, important projects; for the core of ILPA's activities ILPA's key source of income remains its members, through membership fees and through attendance on courses. ILPA cannot do the vital campaigning and lobbying work from which the whole sector benefits without funds and work must therefore continue to secure ILPA's future. ILPA is continuing to strive to optimise operational efficiency as well as developing its high quality training programme and seeking to attract and retain members.

Whilst we welcomed many new members to ILPA this year overall membership decreased. The general economic circumstances and the continuing huge financial pressure in the publicly-funded sector have sadly seen an increase in memberships lapsing (in many cases due to members ceasing to practise immigration law) and it is likely that this trend will continue in the near term. ILPA will seek to maintain and build membership despite the economic conditions by building on the benefits of membership and implementing practical measures better to facilitate prompt membership renewals (e.g. electronic payments).

I would ask all members to remember to publicise the benefits of ILPA membership (including the extensive lobbying work we do and information services) to potential new members and the benefits of ILPA's excellent courses - which are also open to non-members for a higher fee.

A superb training programme was developed this year, through the excellent work of Alison and Helen, with assistance from the training subcommittee, which has been key both to funding ILPA and to informing and assisting members. Training remains of course a vital part of achieving our objects, as well as being an essential income-generator. Whilst small courses are less economic to run, particularly when they are based out of London, we continue to try to offer them wherever possible for the benefit of members and have held courses in a growing number (five) of regional

centres outside London this year. We hope that attendance levels will continue to make this possible and enable us to continue to expand the programme for next year.

Tremendous thanks are due to all those who train for us, without whom the exceptional standard of ILPA's courses would not be possible. Your contribution is invaluable. I do believe that ILPA offers the finest training in the sector and of course in choosing ILPA as your trainer you are also helping to support the lobbying, information provision and other work which we do, day in day out, unlike other training providers. As always we welcome suggestions for new courses and new trainers from the membership.

ILPA continues to play a vital role in informing our members, quickly and effectively, of important changes, through our mailings, our information service, our e-mails to members, and in the longer term through our courses. We look forward to further improvements in how we can communicate with and serve members' needs through the improvements in ILPA's systems which the funding from Unbound Philanthropy will facilitate.

Finally, I would like to thank all of you for the support you as members provide to ILPA in so many ways, from attending our courses to representing ILPA at meetings and drafting consultation responses. Members are of course the lifeblood of the organisation and your dedication gives ILPA the leverage to make an impact in this important area, benefiting other members in their everyday practice and the lives of the migrants they represent, including some of the most vulnerable members of the community, by increasing knowledge, enhancing best practice and applying informed pressure to policy makers to secure essential changes.

Whilst we face many challenges in the year ahead, the dedication of our members and the funding we have secured to expand ILPA's work provide us with opportunities to maintain and extend our impact and I look forward to seeing ILPA's excellent work continue in future.

Sophie Barrett-Brown, Chair

Executive Committee Members and Subcommittee convenors

The Executive Committee

Ian Macdonald, QC – President	Sophie Barrett-Brown – Chair
Sue Shutter – Secretary	Kahiye Alim – Treasurer
Tim Barnden	Mark Henderson
Samantha Knights	Alasdair Mackenzie
Sonia Routledge	Linda Rowe
Andrew Tingley	Colin Yeo

There were no changes to the membership of the Executive Committee during the year.

Subcommittee convenors during the year:

Access to Justice Subcommittee:	Mark Henderson, Michael Tarnoky, Ali Bandegani
Children Subcommittee:	Lisa Nandy, Baljeet Sandhu
Detention Fast Track Subcommittee:	Russell Blakely, Pierre Makhlouf, Kay Everett
Economic Migration Subcommittee:	Philip Barth, Nichola Carter, Philip Trott
European Subcommittee:	Elsbeth Guild, Alison Hunter
Family & General Subcommittee:	Sue Shutter
Legal Aid Subcommittee:	Jackie Peirce, Sonia Routledge
Offences Subcommittee	Jawaid Luqmani, Richard Thomas
Training Subcommittee:	See General Secretary's Report (Training) below. The Committee is supported by Helen Williams

TREASURER'S REPORT

The advent of the Points-Based System has exceptionally boosted ILPA's training income since the last AGM, enabling an increase in the reserves and reversing the decline in income. The profits on ordinary activities in the last financial year reached £100,164. This has to be viewed as exception because ILPA was uniquely placed to deliver such high quality training in the light of the changes.

The close scrutiny of income and expenditure continues with close monitoring of cash flow and expenses on a monthly basis.

A new accounting system has been implemented successfully through the joint efforts of Zoe and Helen. ILPA is moving to setting up direct debit facilities for the membership in order to improve the cash flow and member retention rate. Please sign up to these as soon as possible; it will help ILPA if we can process a significant number of applications at the start and also ensure for many of you that direct debit is set up by the time your membership next becomes due.

In line with the strategic plan, which identified diversification of income, numerous grant applications were or are in the process of been obtained. Through the efforts and expertise of Alasdair and Alison, who prepared the bid documents, Unbound Philanthropy and The Diana Princess of Wales Memorial Fund are in the process of finalising grants to ILPA (see General Secretary's report for details). The Joseph Rowntree Charitable Trust grant which covered two-thirds of the legal officer's post has been renewed.

Challenges for the Future

The key challenges in the future are sustaining membership growth and lowering the rate of lapsing members. The establishing of direct debit facility should make it easier to retain members.

The training market is highly competitive though ILPA's reputation grows along with the strategy of seeking training partnerships (see details in General Secretary's report).

We will of course still be dependent on the provision of exciting training courses on vital topics delivered by hardworking trainers.

Kahiye Alim, Treasurer

GENERAL SECRETARY'S REPORT

ILPA's Silver Anniversary year has seen us look back to the very beginnings of the Association. It is impossible not to be struck by the continuity of ILPA's work. The manuscript and typewritten notes from 1984 propose an association that will improve the calibre of practice and services to clients and influence the system of immigration control and appeals. These aims, and the means by which it was proposed to achieve them: training, the dissemination of information and providing a voice for practitioners where law and policy are being made, are all recognisable in our core activities today. ILPA has delivered on these and promoted excellence for 25 years and all members can take huge pride in being part of that.

My thanks go to an Executive Committee that has kept up the rapid pace of work established last year and taken forward work on strategy and governance in the face of many challenges. Members of the Committee have supported the Secretariat in making applications for grant funding and worked to maintain the organisation on a firm financial footing. At the same time they have been involved in ensuring that ILPA has carefully thought-out positions, reflective of members' views, on new developments on all fronts: in immigration, asylum and nationality law and policy; in the courts and tribunals, and in the systems for funding. They have also found time to work to prepare changes to propose to the Annual General Meeting on those parts of the Articles of Association of ILPA dealing with disciplinary regulations for members and reviewed and revised ILPA's equal opportunities policy. Particular thanks go to Alasdair Mackenzie who stepped up to the role of Acting Chair when Sophie Barrett-Brown went on maternity leave, and to Sue Shutter, who continued to support ILPA as its Secretary despite grappling with illness. Other members of the Executive Committee have also been quick to take on extra tasks to support them. We are delighted to have Sue back in good health, and Sophie returning to take up the role of Chair, both standing unopposed for their respective posts. Once again, mention must be made of the assistance Sue Henderson, Sophie's PA at Laura Devine solicitors, has given to the Secretariat.

ILPA Staff

Kit Eaves	Administrative and IT Manager (on maternity leave)
Alison Harvey	General Secretary
Zoe Marsden	Office Manager with Finance (Maternity Cover for Kit Eaves)
Steve Symonds	Legal Officer
Elizabeth White	Personal Assistant to the General Secretary
Helen Williams	Training and Membership Coordinator

In addition, Dr Elinor Harper and Waseem Mahmood provided invaluable support as our interns during the year.

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

Once again, the staff of the Secretariat has risen to the challenge of a very busy year. Training, dissemination of information, meetings hosted at the Secretariat, responses, submissions and attendance at meetings and conferences are at the same high levels as last year, in some instances higher. I thank staff members for continuing to make the needs of members their top priority at all times; responding to requests for information and assistance in the way that best meets the needs of individual members.

Staff members have nonetheless made time to grapple with the internal systems and procedures. We continue to make progress with information management and have also found time to sort part of ILPA's enormous archive. Our accounting system has been completely upgraded and overhauled, providing much more efficient financial information. All staff members have been trained on the new system. We are grateful to our bookkeeper, Jeremy Stone, for all his work to support us in this major project. It was a necessary precursor to making provision for membership subscriptions to be paid by direct debit and so this has taken longer than we had hoped, but we are delighted that we are now in a position to offer this facility to members.

At the time of the last annual report we were breathing a sigh of relief that we appeared to be in safe hands during the period of Kit Eaves' maternity leave, which we had anticipated with great trepidation, but we could not have anticipated how much work Zoe Marsden would do to develop and streamline financial and other systems and procedures, including important work to safeguard ILPA's electronic archive by the provision of better back-up procedures. Our back-up systems have been improved. I am very grateful to her, and to all staff for the support they have given her. We look forward to welcoming Kit back in December 2009.

We have been assisted by Helen Dewar (librarian), Andy Humphreys (IT), and Pat Kahn (designer) to whom thanks for their support and assistance.

In last year's annual report we identified the need to increase ILPA's revenue from grant funding. The grant from the International Bar Association supported ILPA's core work and we thank the Association for its support. We are also delighted that from March 2009 the Joseph Rowntree Charitable Trust provided another grant to fund two-thirds of the post of the Legal Officer, this time for three years. We are very happy to be working again with these extremely supportive funders. The funding allows the Legal Officer to work with members to provide information on and analysis of legal and policy developments for non-Governmental and community organisations. The Information Service publications remain a popular resource with lawyers, not only in their work with the non-Governmental and community organisations that they support, but also in their own right.

As the year closes we have news of two new grants, in the process of being finalised. Unbound Philanthropy have agreed to fund ILPA to upgrade its information technology and its website and related communications, providing money for this work to be done as well as for a Project Coordinator, among whose tasks will be to solicit members' views to feed into this work. The upgrading of our website and communications was one of ILPA's aims for the year that has passed

and we have done important preparatory work, but another fast-paced year has forced us to acknowledge that we simply do not have the capacity to take on major projects without this affecting other work. We envisage better information technology within the office and a website with a password-protected members' area that will allow us to make much more of our rich archive, augmented daily, available on-line and also to support the work of subcommittees with electronic communications.

The Diana, Princess of Wales Memorial Fund is to fund a programme of work, in the process of being finalised, for some two years and seven months, which will allow ILPA to provide training free at point of delivery to legal representatives working with refugee children and to produce best practice guides and related publications. Again, a new staff member will be appointed to run these projects so that they can support and not replace other work.

Context

By the time of last year's AGM it had become clear that there would be no consolidating legislation during the year, but instead a new Act. And, indeed, we now have the Borders, Citizenship and Immigration Act 2009 on the statute book and being brought into force as well as a new Draft Immigration Bill published in 2009 but not yet complete and not scheduled to see the light of legislative day until after a general election.

ILPA's work, alone and with other organisations, made a significant difference to the provisions enacted. Wholesale transfer of judicial reviews to the Upper Tier Tribunal was avoided, with only fresh claim judicial reviews now set to transfer. Special thanks go to Steve Symonds for his unflinching faith that the transfer could be averted, and his work, with ILPA members, to make that a reality.

Proposals to abolish the Common Travel Area were removed from the Borders, Citizenship and Immigration Bill, although they remain a gleam in the Government's eye. With other members of the Refugee Children's Consortium, ILPA was able to ensure that the UK Border Agency finally became subject to a duty to safeguard and promote the welfare of children: the culmination of tireless work since 2004 and also that the UK removed its reservation to the UN Convention on the Rights of the Child in respect of children under immigration control. Similarly, work dating back to 2003/2004 to ensure that the definition of the crime of trafficking in the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 covers those who traffic babies and small children culminated in success, to be celebrated along with the UK's ratification of the Council of Europe Convention on Action Against Trafficking in Human Beings.

ILPA saw victories on matters on which we have worked for even longer. British Nationals (Overseas) with no other nationality or citizenship will now be entitled to register as British citizens, banishing for ever the spectre of British passport holders with no right of abode in any country in the world. Provisions for minors born overseas to British citizens to register as British have been extended so that they can register at any time during their minority. Those born to British mothers outside the UK before 1961 will now be able to register as British citizens.

ILPA can be very proud of these achievements, which will make real differences to the lives of our clients. They have been the result of work with MPs and Peers of all parties (and none) and the relationships strengthened through the course of this work will stand in us good stead with a new parliament of whatever composition.

Elsewhere, notable success include ensuring that rules for the Asylum and Immigration Chambers in the First Tier and Upper Tribunal will be made by the Procedure Rules Committee and not by the Government, and persuading the Legal Services Commission to make better provision for smaller providers in the 2010 contract tenders.

These achievements are all the more remarkable given the very difficult context in which they have been achieved. The significance of the ‘earned citizenship’ provisions in the Act, together with the accompanying rhetoric, which dates back to the 2007 *Governance of Britain* Green Paper (Cm 7170), should not be underestimated. Indefinite leave to remain is to go. One result will be a delay in access to social entitlements for all those migrating to work or join family members. Many may be forced out of the country as a result. No longer will it be the migrant’s desire to, to paraphrase the Nationality Instructions, ‘throw his/her lot in with the UK’ that will trigger an application for British citizenship, for many there will be no option but to become British citizens. Government thinking is muddled on how this is supposed to increase the value attached to British citizenship. At the time of the March 2006 publication of *A Points-Based System: making migration work for Britain* the rhetoric was that only the ‘highly skilled’ should have a route to settlement. A fundamental change in government thinking has taken place, desiring to see all those who migrate for work as temporary migrants.

Meanwhile the development of sponsorship by employers, educational institutions and others, together with biometric identity documents for migrants and the lumbering ‘e-borders’ project have seen the net of control tighten around those who are not British citizens, at grave risk to their civil liberties. A company will exercise the immigration control functions with which it has been charged, usually against its will, alongside its other functions, which include, for example, making a profit. The system devised by the UK Border Agency is not robust enough to protect migrants against discrimination and, at worst, exploitation in this context.

Not that one can feel confident where the UK Border Agency itself is in charge. In last year’s Annual Report reference was made to the Agency’s ‘shocking disregard for the rule of law’ and that has been a constant theme during the year. The decision of the European Court of Justice in *Metock* (Case C-127/08I) is still not reflected in the Immigration (European Economic Area) Regulations 2006 (SI 2006/1003). It took a legal challenge, by the AIRE Centre and JCWI, with ILPA’s support, for the government to remove the fee for certificates of approval, as required by the House of Lords in its decision in *Baiai* ([2008] UK HL 53) and to make some provision for refunds. Too much of the rest of that judgment remains a dead letter, with the unlawful exception for the Anglican church still in force. December 2008 saw the case of *R (Abdi et ors) v SSHD* EWHC 3166 which revealed a secret Home Office policy. As set out in the judgment, Home Office lawyers had repeatedly raised questions as to the legality of the substance of the policy and its being kept a secret. Then came *RN (Zimbabwe)* [2008] UKAIT 00083 CG. Rather than recognise many Zimbabweans in the UK as refugees, the Home Secretary represented that she accepted the decision in *RN*, including before the Court of Appeal where this was the basis for persuading the Court to reject a challenge to previous country guidance in the case of *HS (Zimbabwe) v. SSHD* [2009] EWCA Civ 308. A consent order dated 11 March 2009 was issued, stating that *HS* would be reconsidered in the light of the new country guidance. Yet, less than two weeks later, on 24 March 2009, the Chief Executive of the UK Border Agency wrote to ILPA and others, enclosing a new Operational Guidance Note on Zimbabwe and indicating that the UK Border Agency would no longer comply with the judgment in *RN*.

Lessons from *Abdi* were not learned and in April 2009 the case of *X v SSHD CO/96/9617/2008* revealed another secret detention policy, unlawful and in any event wrongly applied in X’s case, resulting in his removal to a country from which he was brought back following the challenge and

recognised as a refugee in the UK. Then came *ZO (Somalia)* [2009] EWCA Civ 442, a judgment declaratory of existing rights of those who have made fresh claims for asylum to be given permission to work in the UK. The Home Office gave the appellants in that case permission to work, sought no stay from the Court of Appeal but nonetheless took a unilateral decision not to apply the judgment to anyone else until after they had sought permission to appeal to the House of Lords and that appeal had been concluded.

These cases will be all too recognisable to members who have had to litigate the same point again and again on each individual case because the Agency appears to treat statute law of which it approves as binding, and caselaw as not. The year has seen the number of appeals to the Asylum and Immigration Tribunal in 'managed migration' cases grow; members have achieved many successful challenges to arbitrary and unfair decision-making. ILPA members have continued to solicit and share information on these and on the workings of the Points-Based system. Their work has resulted in significant amendments to the scheme.

The UK Border Agency's unwillingness to implement judgments of the courts in a timely manner or at all places a heavy burden on both individuals paying for their own cases to go forward and the legal aid budget. This report is written on the eve of the publication of the Legal Services Commission tenders for 2010-2013. There must be doubts as to whether the tender will succeed or fail (as did the disastrous tender for detention work that took place this year). If it does succeed, it stands dramatically to change the face of legal representation in this area. ILPA representatives have worked tirelessly to bring the realities of our clients' situation and that of their representatives to the attention of the Legal Services Commission. This work has resulted in changes to the tenders that will make it easier for small firms and organisations to bid, and in persuading the Ministry of Justice not to go ahead with proposals to deny legal aid (albeit with exceptions) to those without an immigration status in the UK. There remains, however, great cause for concern.

As well as the legal aid tenders and the transfer of the work of the Asylum and Immigration Tribunal, the mammoth challenge of 'simplification' legislation remains before us. We now have a Draft Immigration Bill; a consultation on the immigration rules and one on asylum support and an indication of the Government's intentions as to matters not yet included in the Draft Immigration Bill, including about the regulation of advisors. These measures have an uncertain future given that we do not know what priority they will be given after the general election.

Training

ILPA has provided 74 training sessions since the last AGM across all areas of its work, most in London, but also outside, this year in Birmingham, Bristol, Glasgow, Leeds and Manchester, with the addition of one new city (Bristol). This compares with 76 sessions in the year to the last AGM. Glasgow, added to the list last year, has proved a popular place to hold courses and is now an established in ILPA's programme.

As will be seen from the accounts, training made a substantial contribution to ILPA's revenue in the tax year to March 2009, due in part to the pace of change, especially in the Points-Based System, where ILPA, through its work during the development of the system, was uniquely placed to provide training almost as soon as changes had been announced. While we do not anticipate such high revenue from training in the current year, we are very pleased with feedback that testifies to the quality and diversity of courses on offer. We have continued with the rolling programme of training that allows us to respond rapidly to new developments in the law and special thanks go to the staff in the Secretariat who continue to shoulder the extra work that this entails.

We continue to be very aware of the competitive market in which we are operating. In this as in previous years it is the quality of ILPA training and its responsiveness to the needs and demands of practitioners that mean that it holds its own. We continue to urge firms and chambers to discuss with us how they can achieve their marketing goals by providing training in conjunction with ILPA that will also help to raise the revenue essential for the survival of the Association and the provision of the range of services we offer to members, as well as our influencing work. We appreciate the assistance of all those who touch base with ILPA to avoid clashes with ILPA training and to look for opportunities to promote the value of ILPA membership at training sessions.

Following last year's decision to sell training packs, ILPA has continued to assess on a case-by-case basis whether packs are suitable for sale. When asked if we will sell a copy of a pack, we assess whether the pack is a stand-alone resource from which people could benefit even without the course, and suited to self-study. If so, the pack can be sold.

Our heartfelt thanks go to all our trainers. Their commitment to raising the standards of practice has never wavered. They have demonstrated considerable enthusiasm for devising new and innovative courses in response to the needs of members. Those who give up their time to train for ILPA, for love rather than money, for the remuneration is modest, stand up before their peers and lead a collaborative attempt to tease out the meaning of new and arcane laws and policies and to strive for excellence. All who participate in ILPA training are working together to achieve ILPA's objectives: to perform to the highest standards and to identify ways to challenge injustice and unfairness in the law. Our trainers' commitment to delivering these unique, collaborative courses is a source of inspiration to all members.

Training subcommittee

The training subcommittee continues to support ILPA to evaluate and develop its training programme. We are grateful to Tim Barnden, Sophie Barrett-Brown, S Chelvan, Caron Pope, Linda Rowe, Mandie Sewa, Alison Stanley, Jennifer Stevens, Sally Thompson and Andrew Tingley who have attended training subcommittee meetings during the year. The training subcommittee welcomes ideas from members whose suggestions and feedback continue to shape our training programme; do drop us an email or phone with your ideas as these play an important role in our planning. Many successful courses during the year might not have taken place without a prompt from a member. The training subcommittee also welcomes new members who wish to be involved in its work.

Training Partners

The Legal Services Commission funded ILPA training on Best Practice in Detained Cases for Legal Services Commission contract holders. The Network of Experts on Free Movement of Workers, funded by the European Commission, DG Employment, Social Affairs and Equal Opportunities supported ILPA's Silver Anniversary seminar, 31 years of free movement in the UK. The Immigration Advisory Service put on a series of training sessions throughout the country on the use of country of origin information in asylum applications, free at point of delivery, as part of the Silver ILPA celebrations.

ILPA and HJT training bid jointly and successfully for a contract to train MPs' researchers and this work is progressing well.

Venues

This year ILPA training courses have been generously hosted by Bindmans LLP, Broadway Chambers, CMS Cameron McKenna, Kingsley Napley LLP, Kenworthy's Chambers, the Immigration Advisory Service (Bristol office) and No.5 Chambers.

ILPA is always pleased to hear from firms and chambers who are willing to provide venues for ILPA training or assistance in copying materials.

ILPA/ILPA supported Seminars/Conferences

- 31 Years of free movement of workers in the UK: Silver ILPA seminar supported by the Network of Experts on Free Movement of Workers, funded by the European Commission, DG Employment, Social Affairs and Equal Opportunities and Kingsley Napley Solicitors
- Training for experts who provide reports to the Asylum and Immigration Tribunal, with John Campbell of SOAS and the Immigration Advisory Service, 29 October 2009
- International Bar Association Global Immigration Conference 19 – 20 November 2009
- Rule 39: Interim Measures from the European Convention of Human Rights in Extradition and Expulsion cases with the AIRE Centre and the Extradition Lawyers' Association, 16 November 2009
- International Bar Association 4th Biennial Global Immigration Conference, 19-20 November 2009

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):

Andrea Als, PricewaterhouseCoopers Legal LLP
Nick Armstrong, Matrix Chambers
Tim Barnden, Wesley Gryk Solicitors

Philip Barth, Penningtons Solicitors LLP
Russell Blakely, Wilson and Co Solicitors
Tom Brett-Young, Wornham and Co Solicitors
Nichola Carter, Penningtons Solicitors LLP
David Chirico, 1 Pump Court
Rosayln Chowdhury, Kenworthy's Chambers
Simon Cox, Doughty Street Chambers
Matthew Davies, Wilson and Co Solicitors
Judith Dennis, Refugee Council
Annette Elder, Elder Rahimi
Nadine Finch, Garden Court Chambers

Elsbeth Guild, Kingsley Napley LLP
Emma Haddad, UK Border Agency

Stephanie Harrison, Garden Court Chambers
Dr Jane Herlihy, Centre for the Study of Emotion and Law
Kalvir Kaur, Immigration Advisory Service
Charlotte Kilroy, Doughty Street Chambers
Graeme Kirk, Gross and Co

Naomi Angell, Osbornes Solicitors
Ali Bandegani, Wilson and Co Solicitors
Sophie Barrett-Brown, Laura Devine Solicitors
Adrian Berry, Garden Court Chambers
James Bloomer, Goldsmith Chambers
Gillian Brownlee, Kingsley Napley LLP
S Chelvan, Mitre House Chambers
Azhar Chohan, Solicitor
Chris Cole, Cole and Yousaf Solicitors
Kathryn Cronin, Garden Court Chambers
Graham Denholm, 1 Pump Court
Kathryn Denyer, Newland Chase
James Elliot, Wilson and Co Solicitors
Martina Flanagan, Immigration Advisory Service
Natasha Gya Williams, Atkins Law Solicitors
Lee Hamilton, PricewaterhouseCoopers Legal LLP
Alison Harvey, ILPA
Raza Husain, Matrix Chambers
Peter Jorro, Garden Court Chambers
Shazia Khan, Kenworthy's Chambers
Jonathan Kingham, Kingsley Napley LLP
Samantha Knights, Matrix Chambers

Raggi Kotak, 1 Pump Court

Emma Lampier, Kingsley Napley LLP
Jawaid Luqmani, Luqmani Thompson
and Partners

John McCarthy, Designated immigration judge
Nuala Mole, AIRE Centre
Barry O’Leary, Wesley Gryk Solicitors

Muhunthan Paramesvaran, Wilson and Co
Solicitors

Mahmud Quayum, Camden Community
Law Centre

Nick Rollason, Kingsley Napley LLP

Mark Scott, Bhatt Murphy Solicitors
Arshoo Singh, Kingsley Napley LLP
Abigail Smith, Tooks Chambers

Robert Sparks, Magrath LLP
Mark Symes, Garden Court Chambers
Richard Thomas, Doughty Street Chambers
Ronan Toal, Garden Court Chambers

Solange Valdez, Avon and Bristol Law Centre
and Southwark Law Centre.

Sue Willman, Pierce Glynn Solicitors

Surekha Kukadia, Bates, Wells, and
Braithwaite Solicitors

Stephanie Lewin, Simpson Wigle Law LLP
Rachael Mason, Ernst and Young LLP

Michal Meduna, European Commission
Sonali Naik, Garden Court Chambers
Julia Onslow-Cole, PricewaterhouseCoopers
Legal LLP

James Perrott, PricewaterhouseCoopers Legal
LLP

Paul Ramacieri, Simpson Wigle Law LLP
Philipa Roffey, Elder Rahimi

Linda Rowe, PricewaterhouseCoopers Legal
LLP

Anne Singh, Bhatt Murphy Solicitors
Navtej Singh Ahluwalia, Tooks Chambers
Elisa Sofocli, PricewaterhouseCoopers Legal
LLP

Jenny Stevens, Laura Devine Solicitors
Steve Symonds, ILPA

Andrew Tingley, Kingsley Napley LLP
Philip Trott, Bates Wells and Braithwaite
Solicitors

Frances Weber, Barrister

Colin Yeo, Renaissance Chambers

ILPA Meetings

Subcommittee meetings

All ILPA subcommittees are open to all members. Convenors give generously of their time to facilitate members’ activities in these specialist areas and the active members of the subcommittees are the driving forces behind each one, often contributing to consultation responses and representing ILPA at meetings. Members can participate in subcommittees whatever their level of expertise and whatever time they have to spare. Increasingly subcommittee members communicate by email, which helps to involve members in different parts of the country and those unable to attend meetings. The Economic Migration subcommittee email list moved to a google group this year, ensuring that all members of the subcommittee have access to its valuable archive, on which members have continued to share information during the year.

Subcommittee members are still meeting face to face and thus it is particularly pleasing that this year sees the formation of a new regional subcommittee, ILPA Yorkshire and North East, which has held regular meetings and also got involved in work to influence the UK Border Agency in the region. The fledgling ILPA South West struggled with Natasha Gya Williams’ maternity leave and Solange Valdez’ return to practice in London, but did manage to meet with the UK Border Agency in the region, and we hope that in the hands of Rosie Brennan it will find its feet this year.

Many subcommittees have made their meetings themed meetings this year. The Access to Justice subcommittee meetings were a Silver ILPA meeting on the transfer of the Asylum and

Immigration Tribunal to the Upper Tier and first Tier tribunal, addressed by Lord Justice Carnwath, Senior President of Tribunals and Mr Mark Ockelton CBE, Deputy President of the Asylum and Immigration Tribunal, and a meeting on Zimbabwean cases post *RN(Zimbabwe)*. European subcommittee meetings including a meeting on *Metock* in the European Court of Justice, a meeting on damages for delay in EEA cases and a special Silver ILPA meeting on Turkish Association Agreement cases with Kees Groenendjik from the University of Nijmegen among the speakers. The Family and General Immigration subcommittee generously gave up one of its slots so that a members meeting could be held on the Borders, Citizenship and Immigration Bill and also held themed meetings including meetings on earned citizenship, fees and forced marriage.

Subcommittee members and the Executive Committee have worked together to review the working of ILPA subcommittees, identifying strengths and weaknesses of the subcommittee structure and focusing on the importance of subcommittee reporting not only to the Executive Committee, but sharing their reports with each other, and identifying areas with potential for joint working. This work will be taken forward in the coming year.

Access to Justice	2
Detention and Asylum fast-track	0
European	8
Family & General	5
Economic Migration	9
Immigration Offences	2
Legal Aid	3
Training	3
Children	5
ILPA South West	1
ILPA Yorkshire and North East	4

Members' meetings

As described above, subcommittees frequently hold themed meetings and efforts are made to ensure that wherever possible meetings for members take place under the auspices of the most appropriate subcommittee, but that special topics and themes being dealt with by subcommittees are publicised widely to all members. This approach helps to strengthen the subcommittees and increase involvement in them. Some topics are clearly cross-cutting and these have formed the subject of members' meetings, as follows:

- Borders, Citizenship and Immigration Bill, 20 January 2009
- Borders, Citizenship and Immigration Bill, Citizenship provisions 11 February 2009
- Silver ILPA special meeting: reform to immigration detention in Australia: Success or Smokescreen with speaker Professor Susan Kneebone, Faculty of Law, Monash University, Australia, 10 June 2009
- UK Border Agency Consultation on the Regulation of Immigration Advice 29 June 2009
- Silver ILPA Manchester event as part of the events celebrating the life of Steve Cohen, 5 July 2009
- Silver ILPA, anniversary of the inaugural meeting in the House of Commons, hosted by Fiona Mactaggart MP, 9 July 2009
- Launch of the ILPA and HJT Training *Compilation of Immigration and Asylum Policies of the Home Office*, 7 September 2009.

In addition ILPA held meetings on the Borders Citizenship and Immigration Bill for a wider range of organisations and these were well attended by members.

Membership

Membership is down. As of 18 November 2009 the total number of ILPA members was 914, a fall of 64 on last year's figure. One hundred and twenty-four new members have joined since the last AGM. Of these, 71 are individuals and 53 are organisations, including 13 new OISC registered individual members and 24 OISC registered organisations. This year 52% of members are organisations and 48% are individuals; last year 43% of members were organisations and 57% individuals.

The overall fall in membership numbers is a result of existing members who have lapsed. In some cases firms have opted to replace the individual memberships of some individuals within the firm with organisational membership. This gives more people in the firm access to ILPA training at reduced rates and access to email lists and subcommittee meetings and gives ILPA access to their support, from which we benefit. In other cases, sadly, members have informed us that they are ceasing to do immigration work or letters come back indicating that they have closed down and this is the reason for not renewing their membership.

But we remain concerned at the high level of lapsing members. This is not for want of work during the year to achieve the aim set out in last year's annual report of increasing membership levels: we have taken information out to conferences and events and we have also written to lapsed members and encouraged them to rejoin. As described above, we hope that provision of direct debit facilities will prevent members lapsing by accident; we also hope that development of the website and communications will develop the services we are able to provide to members.

We recognise that we stand or fall by the value that membership provides to members. We count this in quality of training, information, support and assistance that the Secretariat and fellow members provide and we are proud to assert that part of ILPA's value to members is the opportunity to get involved in a collective project to contribute to a just and equitable immigration, asylum and nationality law practice.

We shall continue our work in the Secretariat to promote the value of membership and to seek to retain and attract members. We ask for your help. If someone asks to borrow your ILPA mailing, or to raise a question for them at an ILPA subcommittee, please urge them to join in their own right. They have identified that they need ILPA; but we need them too. If every current member could persuade just one individual or organisation to join/rejoin ILPA then together we could swell the support available to practitioners working to raise standards and influence the development of law and policy.

Dissemination of information

From December 2007 to November 2008 members have been sent 12 mailings and 431 numbered enclosures, an increase of 109 enclosures over last year. This has been supplemented by 65 documents/bundles of documents publicised through the mailing as documents available from ILPA, many of which are restricted documents and responses that we cannot put on our website and that are not available elsewhere. This compares to 66 documents/bundles of documents available last year, although it may not be a like for like comparison because of changes in record-keeping on these. The mailing represents the tip of ILPA's information iceberg. A vast amount of information circulates through the subcommittee email lists which see members sharing information and those attending meetings identifying matters to raise and reporting back to their peers. The Economic Migration subcommittee is another subcommittee now using a google group, ensuring that its archive of invaluable communications is fully searchable.

Info Service publications

The Information Service is part of the work led by the Legal Office that is supported by funding from the Joseph Rowntree Charitable Trust. Since the last AGM, the information service has produced eight Updates and 34 Information Sheets as well as nine notes from seminars and workshops. The production of information sheets is thus up on last year. The Information Sheets cover topics including *Making Asylum Claims and Further Submissions*, *The Human Provenance Project*, *The Borders, Citizenship and Immigration Act 2009*, *The Points-Based System*, *Legacy Cases*, *Access to Healthcare*, *Local Immigration Teams*, *Children*, *UK Border Agency Complaints and Customer Charter*, *The Path to Citizenship*, *Immigration Appeals* and *Judicial Review*.

Notes from workshops cover topics including issues arising from the Borders, Citizenship and Immigration Act 2009 and during its passage through Parliament (February, April, and September 2009), general updates on immigration (April and September 2009) and asylum (September 2009), *Asylum in the UK: a parliamentary and policy perspective* (June 2009) and *The legal framework for refugee claims (emphasis on gender and sexual orientation)* (June 2009). All of these publications are available in the Info Service section of the website. Many of those workshops are described in the section on liaison with other organisations below. In addition, the Legal Officer provides considerable one-to-one support to non-lawyers in these organisations keen to check their understanding of the existing system and proposals for change in the context of their influencing work.

Other Publications and Projects

The *Journal of Immigration, Asylum and Nationality Law*, ILPA's peer review journal, is now published by Bloomsbury Publishing (most famous for publishing the *Harry Potter* books) and we look forward to our prestigious journal going from strength to strength in its new home. I continue to attend the Editorial Board meetings and many ILPA members have written for the journal and acted as peer reviewers during the year. The ILPA pages in the journal continue to provide a valuable way to communicate information about ILPA's work

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

This year saw the publication of the ambitious *Compilation of Immigration and Asylum Policies of the Home Office*, a joint venture between ILPA and HJT Training. This makes a substantial part of the valuable archive of these policies available, with dates and details of judicial consideration where known, in a format that makes them easy to identify and use. Alison Stanley and Jim Gillespie, both of whom have trained for many years for ILPA on policies and concessions, were among the speakers at the launch of the publication in September. We look forward to many subsequent editions of this invaluable resource for practitioners.

Also published during the year, in electronic format, was *Consideration by the European Court of Human Rights of the UN Convention on the Rights of the Child 1989* (July 2009) by Jamie Moloney, Steve Symonds and Elinor Harper. This publication arose out of an initiative by the Children's subcommittee and provides practitioners with a comprehensive list of all judgments of the European Court of Human Rights in which the rights of the child have been discussed.

This year's AGM sees the launch, in electronic format, of *Ministerial statements on the Borders, Citizenship and Immigration Act 2009* by Steve Symonds and Elinor Harper, the latest in ILPA's series of Ministerial Statements for use by practitioners, and those working to influence policy. Parliamentarians of all parties also made considerable use of ILPA's Ministerial Statements this

year. The Ministerial Statements will come strongly into their own if there is consolidating immigration legislation, providing an opportunity to audit past promises made by Government.

Alison Harvey and Steve Symonds have worked to update the Community Legal Service leaflets on detention and removal and on asylum.

ILPA has participated in research projects by a range of organisations and individuals including the Anti-Trafficking Monitoring Project, which is researching the first year of the UK's implementation of the Council of Europe Convention Against Trafficking in Human Beings in the UK.

In addition to the on-going support that ILPA provides to members bringing cases, including 'test' and strategic cases, ILPA has provided evidence in particular cases. For example Steve Symonds provided a witness statement on the availability of Detention Service Orders for *X v SSHD CO/96/9617/2008*. ILPA supported the AIRE Centre and JCWI in their work to challenge fees for Certificates of Approval and I provided a witness statement for the Equality and Human Rights Commission's challenge to hub and spoke prisons for foreign national prisoners.

Liaison with government and other organisations

ILPA, it seems, is welcome everywhere. Vampire slayers have nothing on us, with the number of stakes we hold (many of which find their target, as recorded in this report), while we participate in many networks and endeavour to support other organisations as much as we can.

No formal lists can do justice to the extent of ILPA work; 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. Also, to the lists below must be added ILPA's own subcommittee and members' meetings at which external speakers were present. The number of official stakeholder meetings, the frequency with which some of them meet, and the short notice given of too many meetings, makes it inevitable that staff of the Secretariat feature heavily in the lists that follow (happily, usually supported by information and briefings from members). We are always pleased to see ILPA represented by members and look to active members of subcommittees, those who have worked on consultation responses for ILPA and those with specialist expertise and knowledge of ILPA's work in an area to represent the views of ILPA members at meetings and to report back to members on what took place there. Our liaison and influencing work has been supported during the year by the grants from the International Bar Association and the Joseph Rowntree Charitable Trust.

Home Office liaison

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

- Child Trafficking Advice Line Advisory Group: Alison Harvey
- UK Border Agency Detention User Group: Steve Symonds
- UK Border Agency Earned Citizenship Strategic Advisory Group: Adrian Berry
- UK Border Agency Employers' Task Force (and Intra-Company Transfer subcommittee) Nichola Carter, Philip Barth, Philip Trott
- UK Border Agency National Asylum Stakeholder Forum and its subcommittees (Case Resolution; Children; Operations; European) (and specific workshops): Steve Symonds, Liz Barratt, Alison Pickup, Solange Valdez, Tim Lawrence, Dr Valsamis Mitsilegas, Alison Harvey
- UK Border Agency Visa Services Directorate User Panel (and specific workshops): Nichola Carter, Alison Harvey

- UK Border Agency Corporate Stakeholders' Group and *ad hoc* stakeholding and strategy meetings of that group: Alison Harvey (Nichola Carter and Philip Trott also represented ILPA at a dedicated meeting of the group on the Points-Based System)

In addition to these regular, formal meetings, there were regular meetings with the Litigation and Appeals Management (now Guidance, Litigation and Appeals) part of the Agency, which were also attended by representatives of other parts of the UK Border Agency such as the Criminal Casework Directorate, attended by Nicola Cockburn, Mark Henderson, Mark Lille, Alasdair Mackenzie Steve Symonds and Alison Harvey. There were one- off meetings as follows:

- Nigel Farminer and Neil Hughes, UK Border Agency re Points-Based system, 24 November 2008: Sophie Barrett-Brown, Nichola Carter, Philip Trott, Philip Barth
- Peter Wrench of UK Border Agency Simplification Team re new legislation, 19 December 2008: Alison Harvey and Steve Symonds
- Home Office Interpersonal Violence Team and the UK Border Agency: no recourse and domestic violence, 15 January 2009: Cate Briddick, Alison Harvey; Tahera Patel; Raggi Kotak, Sue Shutter, Solange Valdez.
- UK Border Agency meeting on access to legal advice, 22 January 2009, Steve Symonds.
- Caroline Rowe and Barbara Donovan from the office of the Children's Champion in the UK Border Agency (Refugee Children's Consortium meeting), 28 January 2009, Steve Symonds
- UK Border Agency meeting to discuss proposals for the National Referral Mechanism for trafficking cases, 12 February 2009: Alison Harvey
- UK Border Agency on Zimbabwe, 18 February 2009: Steve Symonds
- UK Border Agency on Zimbabwe, 2 March 2009: Steve Symonds
- UK Border Agency re people seeking asylum whose claims have failed (Still Human Still Here meeting), 11 March 2009: Steve Symonds
- UK Border Agency to discuss EU Opt-in decisions and European Asylum Support Office proposals, 17 April 2009: Steve Symonds
- Mr Rob Yeldham, Head of Communications, UK Border Agency, 24 April 2009: Sophie Barrett-Brown and Andrew Tingley
- Emma Churchill, Head of Immigration Policy and Peter Wrench, UK Border Agency Simplification team, 4 June 2009: Alison Harvey, Steve Symonds
- Home Office Update to the UK Action Plan on Human Trafficking – workshop on enforcement and prevention, 16 June 2009: Alison Harvey
- UK Border Agency briefing on asylum support, 18 June 2009: Steve Symonds
- UK Border Agency Simplification meeting, 26 June 2009: Steve Symonds
- UK Border Agency meeting on section 55 children's duty, 17 July 2009: Steve Symonds
- UK Border Agency simplification project meeting on draft Protection Immigration Rules, 29 July 2009: Steve Symonds
- UK Border Agency meeting on active review, 18 August 2009: Tim Lawrence
- UK Border Agency legal practitioners' workshop on further submissions, 18 August 2009: Alison Harvey
- Meeting with UK Border Agency Children's Champion Kristian Armstrong and his office on draft section 55 guidance and matters affecting children, 4 September 2009: Liz Barratt Alison Harvey, Baljeet Sandhu, Steve Symonds;
- UK Border Agency Earned Citizenship meeting 23 September 2009: Mahmud Quayum
- UK Border Agency Simplification meeting (on Immigration Rules), 25 September 2009: Steve Symonds

- Home Office National Referral Mechanism child and adult victim workshops, 2 October 2009: Alison Harvey (child), Catherine Robinson (adult)
- With Jonathan Sedgwick, Deputy Director UK Border Agency, Peter Wrench and Sally Weston, Simplification project, re UK Border Agency and litigation, 8 October 2009: Alison Harvey, Steve Symonds
- With Lin Homer, Chief Executive, UK Border Agency re European applications: 9 October 2009; Alison Harvey, Alison Hunter, Nick Rollason
- UK Border Agency Simplification meeting on appeals/Judicial Review, 12 October 2009: Steve Symonds
- With Bharat Pamani, and Catherine Pool and Claire Wilkinson of the UK Border Agency re Public Enquiry Offices, 14 October 2009; Gillian Brownlee, Marian Dixon, Maria Fernandez Vaz, Wesley Gryk, Alison Harvey
- UK Border Agency Visa Services Directorate meeting on website, 5 November 2009: Alison Harvey
- UK Border Agency on Workshop on the Quality and Training in the New Asylum Model (NAM+), 5 November 2009: Steve Symonds
- UK Border Agency workshop on the implementation of the Migration Advisory Committee's Tier 2 recommendations, 17 November 2009: Nichola Carter, Andrew Tingley

In addition Elspeth Guild represented ILPA at a Fabian Society meeting with Phil Woolas, Minister for Borders and Immigration. ILPA representatives attended receptions given by the Minister with the UK Border Agency (Alison Harvey), of the Home Office International Group (Sophie Barrett-Brown, Alison Harvey) and of the Home Office Legal Advisors (Steve Symonds).

Liaison with courts and tribunals

- Administrative Justice and Tribunals Council: Mark Henderson, Alison Harvey
- Asylum and Immigration Tribunal Stakeholders' Group: Mark Henderson, Alison Harvey
- Asylum Support Tribunal Alison Harvey
- Administrative Courts User Group: Judith Farbey, Mark Henderson

In addition Alasdair Mackenzie, Mark Henderson Paul Morris and Hermione McEwen represented ILPA at Tribunals Service and UK Border Agency briefing events in London and Manchester on the Government response to the consultation *Immigration Appeals: fair decisions, faster justice*. Alasdair Mackenzie met with the Deputy President of the Asylum and Immigration Tribunal to discuss ILPA's letter re the handcuffing of detainees in the hearing room. See also subcommittee reports on meetings attended by Lord Justice Carnwath, Senior President of Tribunals and the Deputy President of the Asylum and Immigration Tribunal.

Legal Services Commission

We are grateful to the Legal Services Commission for supporting training free at point of delivery on the detained fast track using the 2008 publication *The Detained Fast Track a best practice guide* that the Commission supported ILPA to produce. The regular meetings are:

- Civil Contracts Consultative Group: Alison Harvey, Jackie Peirce
- Civil Contracts Consultative Group, Immigration Representative bodies meeting: Alison Harvey and Sonia Routledge
- Legal Services Commission Stakeholder Group: Alison Harvey and Sheona York

In addition Russell Blakely attended a meeting on the Equalities Impact Assessment findings on the key performance indicators on 15 September 2009 and Helen Williams and Alison Harvey met with Fiona Hannan of the Legal Services on 9 November 2009.

International Organisations

Inter-Governmental and Governmental

- Office for Security and Cooperation in Europe (OSCE), Office for Democratic Institutions and Human Rights, Anti-Slavery International and TUC meeting on the Identification and Referral of Victims of Trafficking and National Referral Mechanisms, 30 January 2009: Alison Harvey
- Debating integration policy: Danish and British perspectives, seminar held at Embassy of Denmark 5 March 2009: Helena Wray
- European Commission on Racism and Intolerance (ECRI) Rapporteurs, 13 March 2009: Alison Harvey
- Hong Kong Security Bureau re setting up a legal aid system in Hong Kong, 5 August 2009: Alison Harvey, Sonia Routledge, Steve Symonds
- Office of the High Commissioner for Human Rights of Migrants (Jorge Bustamante) meeting with NGOs, 22 June 2009: Steve Symonds

In addition Alison Harvey attended receptions at the European Commission in the UK and UNHCR in the UK, including a reception for Wilbert van Hovell, Regional Representative of UNHCR.

Non-Governmental

- Commonwealth Parliamentary Association (United Kingdom Branch) International Parliamentary Conference on International Migration and Human Trafficking, 2 – 7 February 2009: Michelle Brewer, Zofia Duszynska, Alison Harvey
- Eminent Jurists Panel on terrorism, counter-terrorism and human rights, launch of global report (hosted by Justice), 17 February 2009: Alison Harvey
- Mr Petro Georgiou MP, Federal Member for Kooyong, Victoria, Australia, 28 April 2009: Smita Bajaria, Alison Harvey, Dr Bernard Ryan, Dr Valsamis Mitsilegas, Abigail Smith, Steve Symonds
- European Council on Refugees and Exiles Directors and Presidents of Member Agencies Summit, 12 June 2009 (Brussels): Alison Harvey
- Migration Policy Group consultation meeting on EU Immigration Portal, 22 June 2009: Alison Harvey
- International Association of Refugee Law Judges Roundtable Seminar ‘Asylum Adjudication and Country Guidance: Function, Operation, and Future’ (hosted by the Nuffield Foundation), 9 June 2009: Mark Henderson and Colin Yeo.

Other Government Departments

- Office of Criminal Justice Reform (Cross-Departmental) Ministry of Justice NGO Stakeholders Group on Human Trafficking: Nadine Finch (regular meetings)
- Office of Criminal Justice Reform UK Action Plan on trafficking refresh workshop, 15 June 2009: Michelle Brewer (adult), Alison Harvey (children)

Other official bodies

Regular meetings:

- 11 Million (Office of the Children's Commissioner for England and Wales) Advisory Group (refugee children): Steve Symonds.
- Chief Inspector of the UK Border Agency Refugee and Asylum Forum: Colin Yeo
- Office of the Immigration Services Commissioner: Alison Harvey

One off meetings:

- Women's National Commission Migration and Asylum Working Group, 4 December 2008: Alison Harvey
- United Kingdom Human Trafficking Centre NGO Briefing and Consultation day, 10 December 2008: Alison Harvey
- Chief Inspector of UK Border Agency meeting on country information, 19 December 2008: Steve Symonds
- Chris Myant, Equality and Human Rights Commission, 13 January 2009: Alison Harvey and Steve Symonds
- Migration Advisory Committee Stakeholder Forum meeting, 30 January 2009: Andrew Tingley
- Glyn Rankin, UK Human Trafficking Centre, 5 February 2009: Alison Harvey
- Office of the Chief Inspector of the UK Border Agency, Presentation to staff, 17 March 2009: Alison Harvey
- Independent Monitoring Board conference 20 March 2009: Steve Symonds (speaker)
- Office of the Chief Inspector of the UK Border Agency re Pilot Inspection of Non-Suspensive Appeals, 12 May 2009: Steve Symonds, Colin Yeo
- 11 Million (Children's Commissioner for England and Wales) discussion of the recommendations of the UNHCR Quality Initiative 6th Report, 18 May 2009: Steve Symonds
- Meeting with Commissioner and Linda Allan from Office of the Immigration Services Commissioner re consultation on OISC regulation of advisers 23 June 2009: Alasdair Mackenzie, Sue Shutter, Kahiye Alim and Sonia Routledge
- Stephen Seymour, Director of Operations, Office of the Immigration Services Commissioner, proposals for changes to requirements for existing registration, 8 September 2009: Alison Harvey, Alasdair Mackenzie, Linda Rowe, Sue Shutter, Colin Yeo
- Jack McClure of the Office of Chief Inspector of the UK Border Agency, re thematic inspection of asylum, 9 September 2009: Alison Harvey, Tim Lawrence, Richard Lumley, Steve Symonds
- Office of the Immigration Services Commissioner Annual Conference 18 November 2009: Kahiye Alim

In addition Steve Symonds represented ILPA at a Refugee Council hosted meeting of London and South East social services practitioners on 2 March 2009 and attended a reception given by the Office of the Chief Inspector of the UK Border Agency.

Parliament

ILPA representatives attended meetings of the All Party Parliamentary Groups on Legal Aid (Sonia Routledge and Dr Elinor Harper), Trafficking (Catherine Robinson, Alison Harvey), Refugees (Adrian Berry, Steve Symonds), Migration (Ramnik Shah, Andrew Tingley). In addition ILPA representatives attended the following meetings in parliament:

- Joint Committee on Human Rights 10th Anniversary of the Human Rights Act, lecture by Dame Nuala O'Loan, 10 December 2008: Steve Symonds
- Briefing for Peers, Borders, Citizenship and Immigration Bill, 22 January 2009: Alison Harvey (speaker)

- Meeting with Baroness Miller, The Lord Avebury and the Baroness Falkner of Margravine re Borders Citizenship and Immigration Bill, 23 January 2009: Alison Harvey and Steve Symonds
- Borders, Citizenship and Immigration Bill briefing event in Parliament (Neil Gerrad MP host), 24 February 2009: Steve Symonds (speaker)
- The Lord Avebury's meeting with the Borders Citizenship and Immigration Bill team, the UK Border Agency Nationality Directorate and the UK Border Agency Simplification Team, 13 March 2009: Laurie Fransman QC and Alison Harvey
- Meeting between the Lords Kingsland, Lloyd and Thomas and the Borders, Citizenship and Immigration Bill Team and UK Border Agency officials re proposals to transfer judicial review to the Tribunals Service, 17 March 2009: Steve Symonds
- The Lord Avebury and Oliver Bancourt, Marie Sabrina Jean and other representatives of the Chagos Refugees Group re proposed amendments on nationality of Chagos Islanders, 19 March 2009: Alison Harvey
- Briefing event for peers on the Borders, Citizenship and Immigration Bill, 18 March 2009: Steve Symonds (Speaker)
- Briefing for MPs on the Borders, Citizenship and Immigration Bill, 29 April 2009: Steve Symonds (Speaker)
- Home Affairs Committee seminar on Human Trafficking and International Cooperation, 14 May 2009: Catherine Robinson
- All Party Parliamentary Group on Refugees meeting on Refugees and Citizenship, 12 October 2009: Adrian Berry (Speaker)

Non-governmental organisations, networks and others

The leading non-governmental organisations in the field are ILPA members, and non-governmental organisations are represented among the convenors of ILPA subcommittees. ILPA members are active in many networks and it is difficult to reflect the breadth and depth of engagement with non-governmental organisations. ILPA strives to provide continuity, support and the broader immigration law perspective to these networks. What follows can only be as a sample of our work in this field. Those with a specific mandate to represent ILPA are named, but ILPA members' attendance and engagement goes much wider. See also the training section for work in partnership with non-governmental organisations and networks for training.

Regular meetings include:

- Anti Trafficking Legal Project (ATLeP): Alison Harvey
- Anti-Trafficking Monitoring Project: Alison Harvey
- Asylum Rights Campaign: Steve Symonds
- Foreign National Prisoners Network: ILPA Immigration Offences subcommittee (convenors Jawaid Luqmani and Richard Thomas) has worked through and with the Foreign National Prisoners Network during the year
- Housing and Immigration Group: Sheona York, Alison Harvey, Steve Symonds
- The Law Society: Stefan Vnuk represents ILPA on The Law Society's Immigration Committee and Jackie Peirce on the Law Society's Specialist Practitioner Group.
- Children's Rights Alliance for England, Legal Advocacy for the Rights of Children seminars: Alison Harvey
- Medical Justice: Steve Symonds
- Refugee Children's Consortium: Nadine Finch, Steve Symonds, Alison Harvey
- 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, the Legal Officer and the General Secretary use the Refugee Legal Group (RLG) to ensure the dissemination of information of interest to its users.

In addition ILPA representatives attended meetings 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 the AIRE Centre, Amnesty International, Asylum Aid, Asylum Support Appeals Project, Bail for Immigration Detainees, Barrow Cadbury Trust, Blackstone's Chambers, British Refugee Council, Centre on Migration, Law and Society, Chagos Refugees Group, Children's Legal Centre, The Children's Society, City Parochial Foundation, Churches Refugee Network, Diana Fund, ECPAT UK, European Council on Refugees and Exiles, Esmee Fairbairn Foundation, Fabian Skills Forum, Fabian Society, GISTI (Groupe d'information et de soutien des travailleurs immigrés) (France), Glasgow Immigration Law Practitioners' Group, Hansard Society, Immigration Advisory Service, Information Centre for Asylum Seekers and Refugees, Institute for Public Policy Research, Justice, Joint Council for the Welfare of Immigrants, Joseph Rowntree Charitable Trust Kalayaan, Kalungan, LawWorks (Solicitors' *pro bono* group), Legal Aid Practitioners' Group, London Detainee Support Group, London Refugee Voice, LSE Migration Studies Group, Manchester Refugee Forum, Matrix chambers, Medical Foundation for the Care of Victims of Torture, Migrants Resource Centre, Migration and Law Network, Oxfam, Paul Hamlyn Foundation, Praxis, Public Law Project, Redress, Scottish Refugee Council, South London Citizens, Southall Black Sisters, Society of Legal Scholars, Student Action for Refugees, Terrence Higgins Trust, Testimony Project, The Law Society, TUC and a number of different trades unions including NUS, UCU, Unison, Unite, Volunteering England and Zimbabwe Association.

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

- Presentation to Kalayaan re Borders, Citizenship and Immigration Bill and biometrics, 15 February 2009: Alison Harvey
- London Detainee Support Group launch of report on human impact of long-term immigration detention, 29 January 2009: Alison Harvey
- Tackling the Trafficking of Women and Children Capita Conference, 25 March 2009: Alison Harvey
- Manchester Refugee Forum 2 April 2009: Steve Symonds
- Praxis withdrawal of 7 year children concession, 18 April 2009: Steve Symonds
- Oxfam advocacy session for refugee women, 15 April 2009: Steve Symonds
- London Refugee Voice Borders, Immigration and Citizenship Bill, 30 September 2009: Alison Harvey
- South London Citizens meeting on changes to Immigration Rules, 22 April 2009: Steve Symonds
- Kanlungan Annual General Meeting, 25 April 2009: Steve Symonds
- Inside Government 'Managing Migration and Reforming the Path to Citizenship' Conference, 19 May 2009: Ian Macdonald QC
- Churches Refugee Network conference, 6 June 2009: Steve Symonds
- National Coalition of Anti-Deportation Campaigns (NCADC) 2009 AGM 6 June 2009: Alison Harvey
- EIN (Electronic Immigration Network) launch of Mark Henderson's Best Practice Guide to Asylum and Human Rights Appeals, 18 June 2009: Alison Harvey
- Westminster Legal Policy Forum briefing event on the Borders, Citizenship and Immigration Bill, 15 July 2009: Steve Symonds

- Immigration Advisory Service Annual conference, 21 July 2009: Alison Harvey
- Terrence Higgins Trust mentoring group Borders, Citizenship and Immigration Act 10 September 2009: Steve Symonds
- Kanlungan meeting on earned citizenship, 12 September 2009: Steve Symonds
- Scottish Refugee Council conference, 23 October 2009: Steve Symonds (workshop)
- Amnesty/Still Human Still Here (Malvern), 26 October 2009: Steve Symonds
- Presentation to the Association of Charitable Foundations, 13 November 2009: Alison Harvey.

ILPA receives many requests for research, far more than we can ever accede to. ILPA representatives met with Sarah Craig, University of Glasgow to discuss her research on the EU procedures directive as well as a number of doctoral candidates.

Responses and submissions

ILPA wrote 67 responses, submissions and letters this year, marginally more than last year (when the figure was 63). Among the responses and submissions are the sorts of detailed documents, involving copious research, that other organisations would launch as a report. Just as important are the letters, many of which are a testimony to ILPA's pro-active work.

1. Letter to Paul Newell, Legal Services Commission of 3 December 2008 re Legal Services Commission Briefing provided as part of the NASF Briefing 19 November 2008
2. Letter to The Rt Hon Jacqui Smith MP, Secretary of State for the Home Office of 5 December 2008 re *RN Zimbabwe*
3. Letter to European Commission of 17 December 2008 re UK Implementation of Directive 2004/38/EC
4. Letter to the President of the Asylum and Immigration Tribunal of 6 January 2009 re Practice Direction, First Tier and Upper Tribunal: Child, Vulnerable Adult and Sensitive witnesses
5. Letter to Alan Kittle, Head of Detention Services, UK Border Agency of 27 January 2009 re Detention Users' Group meeting of 12 January 2009
6. Letter to Simon Meares, Assistant Director, Programme Officer, Case Resolution Directorate, UK Border Agency of 30 January 2009 re Section 4: application form and guidance
7. Response to Legal Services Commission consultation Civil Bid rounds for 2010 Contracts – January 2009
8. Comments on UK Border Agency latest draft of section 4 application form and guidance notes – January 2009
9. Letter to Legal Services Commission of 26 February 2009 re: Draft Guidance for Claiming Immigration Controlled Work Disbursements
10. Submission to Joint Committee on Human Rights inquiry on children's rights – February 2009
11. ILPA et ors letter to the Attorney General's office of 13 March 2009 re *R v Asfaw* [2008] UKHL31
12. Submission to Home Affairs Committee inquiry into Human Trafficking – March 2009
13. Letter to Julian Smith, Assistant Director, Litigation and Appeals Management Directorate, UK Border Agency of 1 April 2009 re Home Office Presenting Officers
14. Letter to Legal Services Commission of 2 April 2009 re revised proposals for billing disbursements
15. Letter to Jacqui Smith MP, Home Secretary of 14 April 2009 re new Country Guidance on Zimbabwe in RN
16. Letter to FRONTEX of 14 April 2009 re access to FRONTEX documents
17. Letter to Lin Homer, Chief Executive, UK Border Agency of 23 April 2009 re judicial review of removals

18. Letter to Lin Homer, Chief Executive, UK Border Agency of 24 April 2009 re Minister's comments and judicial review
19. Letter to Jeremy Oppenheim, Economic and Family Migration, UK Border Agency of 27 April 2009 re Same Day Service to Representatives
20. Response to the UK Border Agency "NAM+ Asylum Programme" presentation to the National Asylum Stakeholder Forum (NASF) on Thursday 19 March 2009 – April 2009
21. Response to the UK Border Agency Further Consultation on the draft Short-Term Holding Facility (STHF) Rules – April 2009
22. Letter to Phil Woolas, Minister of State of 6 May 2009 re delay in the European Casework Team
23. Letter to the Legal Services Commission of 6 May 2009 re report on the withdrawal of the detention centres tender
24. Letter to John Vine, Chief Inspector of the UK Border Agency, of 8 May 2009 re Independent Advisory Group on Country Information
25. Commentaries on proposed European Commission Directives (to the European Commission) – May 2009
26. Response to Tribunals Service consultation on draft Procedure Rules for the General Regulatory Chamber Rules - May 2009
27. Response to Legal Services Commission Phase 1 Civil Fee Schemes Review: Proposed Amendments from 2010: A Consultation - May 2009
28. Comments on UK Border Agency 'Hub and Spoke' model – May 2009
29. Comments on UK Border Agency Draft Protection Rules - May 2009
30. Letter to Mr Vladimir Spidla, Commissioner, DG Employment, Social Affairs and Equal Opportunities, European Commission of 8 June 2009 re Workers Registration Scheme (WRS)
31. Letter to Emma Dickens, EEA Team, UK Border Agency of 9 June 2009 re The Immigration (European Economic Area) (Amendment) Regulations 2009 – Mandatory Forms for Applications for Residence Certificate and Residence Cards and Implementation of *Metock*
32. Letter to Alan Kittle, Director, Detention Services, UK Border Agency of 16 June 2009 re use of handcuffs in court
33. Letter to Asylum and Immigration Tribunal of 16 June 2009 re use of handcuffs in court
34. Letter to Phil Woolas MP, Minister of State for Borders and Immigration, of 19 June 2009 re judicial reviews
35. Response to the Bar Standards Consultation on the Equality and Diversity Implications of the Recommendations of the Public Access Working Group - June 2009
36. Joint (ILPA and others) letter to The Rt. Hon. Alan Johnson MP of 9 July 2009 re the path to citizenship
37. Letter to Phil Woolas MP, Minister of State for Borders and Immigration of 9 July 2009 re changes to the Points-Based System under consideration (treated as a submission by the Migration Advisory Committee)
38. Submission to the (Administrative Court Users' Group) working group making recommendations for improvements to the Part 54 Practice Direction on Judicial Review, July 2009
39. Submission to the UK Border Agency regarding Five Year Review of Asylum Cases, July 2009
40. Response to the Guidance for the UK Border Agency Children's Duty, July 2009
41. Response to UK Border Agency Oversight of the Immigration Advice Sector consultation, July 2009
42. Letter to Phil Taylor, Regional Director, UK Border Agency of 5 August 2009 re elected representatives hotline service
43. Letter to The Rt. Hon. Sir Anthony May, President of the Queen's Bench Division and The Hon. Mr Justice Collins of 6 August 2009 re UK Border Agency practice on judicial review of removals

44. Comments on the UK Border Agency Draft Operating Standard for the provision of Welfare Services in Immigration Removal Centres, August 2009
45. Response to Ministry of Justice consultation on Funding Immigration and Asylum Legal Aid in the First-Tier Tribunal and Upper Tribunal, August 2009
46. Letter to Ian Robinson, Immigration Policy, UK Border Agency of 3 September 2009 re dependants of Points-Based System migrants
47. Letter to Ministry of Justice 11 September 2009 re consultation: Legal Aid: Refocusing on Priority Cases
48. Letter to Head of Asylum Policy, UK Border Agency of 18 September 2009 re failed Sri Lankan asylum seekers
49. Letter to Legal Services Commission of 23 September 2009 re timing of bid rounds and exemption from minimum matter start requirement for 2010 contracts
50. Comments to UK Border Agency on guidance for legal representatives on further submissions, September 2009
51. Response to Ministry of Justice call for views on the European Union Justice and Home Affairs Future Work Programme 2009 – 2014 (Stockholm Programme), September 2009
52. Comments on the UK Border Agency pro forma for further submissions and responses to further submissions, September 2009
53. Comments on draft posters for the UK Border Agency Commercial Partners offices, September 2009
54. Submission to Joint Committee on Human Rights re Child Poverty Bill, September 2009
55. Response to Tribunal Procedure Committee re consultation on The Tribunal Procedure (Upper Tribunal) Rules 2008 – Rule Amendments for Asylum and Immigration Upper Tribunal Chamber, September 2009
56. Submission to Joint Committee on Human Rights re Implementation of Strasbourg Judgments and Declarations of Incompatibility, September 2009
57. Letter to Phil Douglas, Country Analysis and Returns Strategy Team, Central Operations and Performance, UK Border Agency of 7 October 2009 re Human Provenance pilot project
58. Letter to Keith Lambert, Head of Guidance, Litigation and Appeals Directorate, UK Border Agency of 19 October 2009 re: draft job description for Home Office Presenting Officers
59. Response to Ministry of Justice Consultation – Legal Aid: Refocusing on priority cases, October 2009
60. Letter (2nd) to Phil Douglas, Country Analysis and Returns Strategy Team, Central Operations and Performance, UK Border Agency of 22 October 2009 re Sri Lanka: enforced returns of failed asylum seekers
61. Response to UK Border Agency consultation Earning the right to stay: a new points test for citizenship, October 2009
62. Letter to Lin Homer, UK Border Agency re Charter Flight to Iraq, 2 November 2009
63. Letter to Sir Anthony May re charter flights, 2 November 2009
64. Response to Ministry of Justice consultation Legal Aid: funding reforms, November 2009
65. Letter to Kerry Wood, Legal Services Commission re 2010 contracts, 3 November 2009
66. (Further) letter to Hugh Ind, UK Border Agency re further submissions, 4 November 2009
67. Comments to The Law Society re reaccreditation, 17 November 2009
68. Complaint to the UK Border Agency re further submissions, 18 November 2009.

This list does not include ILPA's briefings on legislation, a major project in themselves (all available on www.ilpa.org.uk) or the Information Service, described above. It is thanks to the tireless work of subcommittees, their convenors, the Legal Officer and other active members that we have been able to maintain this high level of output. And thanks to the Chair (and this year the Acting Chair) who approves the final text of all submissions and policy letters.

Summary

The year has seen change and preparation for change on all fronts. Members have, once again, risen to the challenge and have not allowed the need to react to so many proposals to overwhelm them. ILPA's training, dissemination of information and proactive work toward a just and equitable immigration and nationality law practice have been maintained and strengthened through the heroic efforts of members supported by the tireless work of staff in the Secretariat and of the Executive Committee.

Last year I identified six aims for the year. On four I can report good progress as set out below. The two where progress has not been made are taking forward plans for charitable status for ILPA and building the membership. The first fell to competing priorities and the intense pressure of work during the year. On the second, we are confident that we are offering a high quality of service to members and that all practitioners, and others in the sector, benefit from ILPA's work. As set out in this report, we are aware that we are working in a difficult financial environment and will be combining the work done on direct debits and communications with renewed efforts, supported we hope by the efforts of members themselves, to reach out to lapsed and potential members.

- **With the Executive Committee to assess and work to strengthen ILPA's subcommittee structure and representation at meetings to offer the best and most responsive structure that gives members the maximum possible number of opportunities to get involved;**

Meetings have been held between subcommittee convenors and reporting to the Executive Committee and the sharing of these reports with convenors of other subcommittees has been improved. Subcommittees have improved their dissemination of information and their suggestions have informed the training programme. New convenors have stepped up. We have increased the pool of those representing ILPA at meetings and also working on responses to consultations. We shall continue to build on this firm foundation during the year to come.

- **To increase revenue from funders to supplement income from training and membership;**
- **To redevelop the systems in the Secretariat, and ILPA's website, to find new ways of working that allows us to work more efficiently with you in the dissemination of information, in the delivery of training and in ILPA's influencing work;**

At the time of last year's AGM we had just had news of a grant from the International Bar Association. We were delighted that in March the Joseph Rowntree Charitable Trust agreed to the fund two-thirds of the Legal Officer post for three years. The end of the year brings more exciting news on the grants front. A grant from the Diana Princess of Wales Memorial Fund will enable us to provide training free at point of delivery, best practice guides and related work, with an extra post in the Secretariat to give us capacity to manage this project, to build on ILPA's proud record of work on refugee children. A grant from Unbound Philanthropy will allow us to upgrade our information technology and website, including a staff member to manage this project so that our current services to members can continue uninterrupted. We have made good progress developing systems in the Secretariat during the year and on upgrading our information technology, with a major overhaul of our accounts system. We identified that the work needed to undertake a major overhaul of the website would require us to reduce services to members and therefore held off until we could obtain the funding that would give us the capacity to develop new systems alongside maintaining existing work. We are confident that this approach will pay the greatest dividends for members. We are grateful to all those who have funded us for their support.

- **To ensure that ILPA members' expertise can be at the forefront of work on the new Immigration and Citizenship Bill and accompanying changes to the benefit of all those striving for a just and equitable immigration law practice;**

ILPA members' expertise has been called upon not only for draft simplification legislation and related measures but for an extra piece of primary legislation: the Borders, Citizenship and Immigration Act 2009, and by the UK Border Agency, the Tribunals Service and the Legal Services Commission, the Office of the Immigration Services Commissioner and now the Law Society, which is looking at questions of reaccreditation. ILPA members have given unstintingly of their time and have thus been at the forefront of work to influence developments, with notable successes as described in this report.

My main aims for the next year will be:

- To enable the Secretariat step up to the work associated with the new grants and to realise the benefits that these offer for all members;
- To build ILPA's membership and bed in the Direct Debit system for membership payments
- With the Executive Committee to take forward work on charitable status for ILPA
- With the Executive Committee to take forward work to strengthen ILPA's subcommittee structure and associated representation at meetings and contributions to consultations.
- To ensure that ILPA members' expertise can be at the forefront of work on new developments in law, policy and practice during the year to the benefit of all those striving for a just and equitable immigration law practice

My thanks go to all those who have supported their fellow practitioners and others during the year: the Executive Committee, trainers, the convenors and members of the subcommittees, those who have represented ILPA at meetings, those who have been involved in drafting consultation responses or ILPA's many letters and in contributing to publications, those who have contributed documents and notes for mailings or shared information with others via the subcommittees. The magnificent contributions of so many members are the reason for the many successes of which we can be so proud this year.

Alison Harvey
General Secretary

ACCESS TO JUSTICE SUBCOMMITTEE REPORT

ILPA has had a particularly busy year pressing members' views and concerns on access to justice issues. The big story during the year has been the Government's long delayed decision to abolish the Asylum and Immigration Tribunal and transfer its work to the two new general tribunals, the First Tier Tribunal and Upper Tribunal. Asylum and immigration appeals will be heard in both tribunals by an 'Immigration and Asylum Chamber' into which the immigration judges from the Asylum and Immigration Tribunal will transfer. The change will occur on 15th February 2010.

When the change was mooted, ILPA expressed grave concern that the Government's agenda appeared to be to achieve by the back door what it failed to achieve by the ouster clause which it proposed when the Asylum and Immigration Tribunal was established. In its response to the consultation, the Government backed away from its threat to legislate to oust judicial review of the Upper Tribunal. However, it is currently arguing before the courts that the Administrative Court should not entertain judicial review of the Upper Tribunal. A judgment is expected imminently from the Divisional Court as to the availability of judicial review of the Upper Tribunal in social security cases which may well have implications for judicial review of the Immigration and Asylum Chamber. It is not clear when this issue will finally be resolved.

Carnwath LJ, the Senior President of Tribunals and Mr Ockleton addressed a busy members meeting during the year and provided a number of insights about the new system. Amongst the most interesting was that on the arrangements for applications for permission to appeal. As with the rest of the two-tier tribunal structure, unsuccessful appellants will be able to seek permission to appeal from the First Tier Tribunal and if refused, renew their application for permission to appeal to the Upper Tribunal. Carnwath LJ indicated that Senior immigration judges would decide permission applications in the First Tier Tribunal and High Court judges and 'nominated Senior immigration judges' would decide renewed permission applications. This is intended to add value to the renewal of permission. The idea appears to be to reduce the need for access to the Administrative Court at this stage by ensuring that the case will not finally be refused by the Upper Tribunal without being considered by an Administrative Court judge or equivalent. The questions are whether this arrangement will withstand the pressure on Administrative Court judicial resources and what will be deemed equivalent to a High Court judge. At the recent Asylum and Immigration Tribunal stakeholder meeting, queries from ILPA suggested that Administrative Court judges on the Upper Tribunal might be less common than previously thought. That is also central to the argument about the extent to which judicial review of the Upper Tribunal should remain available.

At time of writing, it seems unlikely that the new President of the Immigration and Asylum Chamber of the Upper Tribunal will have been announced by the date of the ILPA AGM. It will be a High Court judge and his willingness to address the AGM if he had been announced in time indicates a welcome desire to engage with ILPA on the new system.

ILPA strongly opposed the Government's original proposal that the Lord Chancellor should continue to make procedure rules for asylum and immigration appeals for the new tribunals, notwithstanding that the rules governing all other appeals before the new tribunals are the responsibility of the independent Procedure Rules Committee. The Government withdrew that proposal in light of the criticism from ILPA and others. ILPA made detailed submissions in response to the consultation on amendments to the Upper Tribunal Procedure Rules for the Immigration and Asylum Chamber.

When the incorporation of asylum and immigration appeals into the new tribunal structure was first mooted, ILPA identified the main potential benefit as being the application of norms of

fairness from other jurisdictions to immigration and asylum appeals whereas previously, procedures favoured the Home Office over the opposing party. ILPA considers that as a matter of fairness and equal treatment, rules that apply across other chambers should also apply to the Immigration and Asylum Chamber in the absence of exceptional reasons. That position has informed our responses to consultations on the new system so far.

There is a long history in the Asylum and Immigration Tribunal and its predecessor tribunals of practices by the Home Office as a litigant that would be unacceptable in any other jurisdiction, e.g. repeated failure to respond to correspondence, allocate an official to address case management issues with the other side, or comply with directions. The Asylum and Immigration Tribunal and its predecessors failed to address these practices and allowed their attempts to improve case management to be blocked, in effect, by the Home Office's unwillingness and/or inability to engage with the case management process. That has included reluctance on the part of immigration judges to make directions against the Home Office, because of a perception that the Home Office will take no notice, and a reluctance to take any action when the Home Office fails to comply with any directions which are set. The results include unfairness to appellants; unnecessary adjournments; significant delays in resolving appeals; and unnecessary complication of hearings, in particular because of the Home Office's frequent failure to set out its case fully in advance of hearings, leading to longer and more costly hearings than should be necessary. We hope the new tribunal structure will lead to real change for the better.

Following requests from ILPA and others, there is currently a consultation on the draft practice directions and statements for the new tribunals which closes on 23rd November 2009. Again, ILPA is making detailed submissions. In particular, it will be pressing ILPA's longstanding opposition to the current procedure for designating a tiny proportion of determinations 'reported' and preventing citation of unreported determinations

As well as immigration and asylum appeals, the Government proposed transferring immigration and asylum judicial reviews to the Upper Tribunal. ILPA worked through the year to limit the transfer of immigration and asylum judicial review claims. Following sterling work in particular from Steve Symonds, ILPA's Legal Officer, ILPA was successful in restricting the transfer to fresh claim judicial reviews. In one sense, that is unobjectionable since ILPA members have long argued that there should be a right of appeal to the tribunal in relation to refusal to recognise a fresh claim. However, it is unclear what will happen to judicial reviews of other decisions, including challenges to removal directions, where fresh claim issues arise.

It is also unclear what will happen to urgent applications to stop removals, and whether they will continue to be made to the Administrative Court. Administrative Court judges have been firm in dealing with abuses by the Home Office in removal cases, including where appropriate by ordering that claimants are returned to the UK. It is to be hoped that the Home Office shows more respect for the rulings of the Upper Tribunal than it has for the Asylum and Immigration Tribunal (see above). However, great caution will be required before transferring judicial review claims in which urgent injunctions may be required.

The present position is that judges entitled to sit in the Administrative Court will hear all judicial review claims in the Upper Tribunal. However, given that part of the motivation for the change is the pressure on Administrative Court judges, there is some concern about how this will be achieved.

There is a further concern as to the quality of representation of the Home Office in the Upper Tribunal. In the Administrative Court, the role of the Treasury Solicitor usually avoided the worst litigation practices in which the Home Office engaged in the Asylum and Immigration Tribunal, and allowed a more realistic approach to settlement. It is unclear whether the Treasury Solicitor

will continue to act in all judicial reviews in the Upper Tribunal.

At present, there is no date for the transfer of fresh claim judicial reviews to the Upper Tribunal but we are told that it will not happen until the Immigration and Asylum Chamber is established and the transfer of appeals has bedded down.

ILPA was unsuccessful in attempting to change the legislation which will restrict appeals to the Court of Appeal from the Immigration and Asylum Chamber of the Upper Tribunal to points of public importance. However, the Minister for Borders and Immigration indicated that he agreed with the proposition that any appeal which raises human rights issues will be one of public importance. We hope the Court of Appeal agrees.

Other than the new tribunal system, ILPA's main priority during the year has been addressing a range of concerns about policy and practice in relation to judicial review of removal. Detailed submissions have been put before the Home Office and Administrative Court to which many members contributed case studies. Particular concerns relate to the exceptions to entitlement to notice of removal directions and arrangements for charter flights and repeat judicial reviews.

ILPA raised issues in correspondence with the Administrative Court and asked for the problems in relation to charter flights to be discussed at the Administrative Court Users Group. Members have complained that Administrative Court staff have refused to provide information, in particular about the timing of flights, that have been provided to the court by the Home Office. The Home Office has admitted to seeking to submit information to the court on a 'confidential' basis. It was therefore welcome that May LJ, President of the Queen's Bench Division, told the Administrative Court Users Group that he considered that the Court should never accept information from one party on the basis that it would not be disclosed to the opposing party.

ILPA has also made submissions to the working group of the Administrative Court which is considering changes to the Practice Direction on judicial review. It has pursued issues about access to the Court for detainees facing removal in a series of bilateral meetings with the Home Office. While many aspects of this exchange have been unsatisfactory, the Home Office has recently agreed that it will now provide written guidance about providing papers promptly to new representatives of claimants detained for removal where these cannot be obtained from a previous representative.

A third key issue has been Country Guidance, in particular relating to Zimbabwe. ILPA took the lead in challenging the decision of the Home Office to stop following the current Country Guidance in *RN (Zimbabwe)* [2008] UKAIR 00083 CG, only four months after it was given, and only weeks after ILPA had been assured that cases would be reviewed in line with *RN*. Detailed submissions were made which have also been relied on in court. Lively members meetings were held on tactics for dealing with Zimbabweans cases at various stages. ILPA contributed to a valuable Nuffield seminar on Country Guidance. While under Chatham House rules, a reliable indication was given that the AIT would not entertain the Home Office's position that *RN* should not longer be followed in Zimbabwean appeals in the absence of proper evidence from it.

Convenors: Mark Henderson, Michael Tarnoky (to November 2009) , Ali Bandegani (from November 2009)

CHILDREN'S SUBCOMMITTEE REPORT

Towards the end of the last ILPA year members were stirring with enthusiasm, but being fed unclear messages by the Home Office, about the lifting of the UK's reservations to the UN Convention on the Rights of the Child. As a result the Children's Subcommittee pressured the UK Border Agency into bringing forward the date by which the removal of the reservation to the CRC would take effect through a Parliamentary Question tabled by Neil Gerrard MP.

To celebrate this mammoth victory for ILPA members, of whom many have been fighting against the reservation for the last two decades, the Children's Subcommittee initiated ILPA's electronic publication entitled *Consideration by the European Court of Human Rights of the UN Convention on the Rights of the Child 1989*, which was finally published in July 2009. The subcommittee would like to thank Steve Symonds, Jamie Moloney and Elinor Harper for all the hard work that went into this work. The subcommittee hopes that the resource provides practitioners with a comprehensive list of all judgments of the European Court of Human Rights in which the rights of the child have been discussed.

During the year we invited Jan Doerfel, who was present when the UK appeared before the UN Committee on the Rights of the Child, to present to the subcommittee as part of our ongoing focus on the UN Convention on the Rights of the Child. Subsequently, subcommittee members also initiated ILPA training on the UN Convention on the Rights of the Child which took place on 21st October 2009, presented by Nadine Finch and Kalvir Kaur.

Over the last year the main function of the Children's subcommittee has been to share information and gather the views of members to ensure a more informed response to UK Border Agency practice, procedure and consultations. We have formally responded to a number of inquiries and consultations about children, and contributed to ILPA's response to others. A list of our main activities is summarised below:

Consultations and inquiries

1. In October 2008 the UK Border Agency contacted members of our subcommittee to confirm that the appropriate immigration application for children to obtain status in line with a recognised refugee parent was a FLR(O) application and the fee would be waived in such cases.
2. In January 2009 a letter was written to the President of the Asylum and Immigration Tribunal regarding Practice Direction, First Tier and Upper Tribunal: Child, Vulnerable Adult and Sensitive witnesses to influence the Court's treatment of children.
3. In February 2009 The Joint Committee on Human Rights conducted a short inquiry into children's rights with a particular focus on the removal of the reservation to the UN Convention on the Rights of the Child and the treatment of children seeking asylum. We submitted a response highlighting how the UK's treatment of migrant children continues to fall short of the standards set out in the UN Convention on the Rights of the Child.
4. In July 2009 we responded to the UK Border Agency consultation on the draft guidance for s55 of the Borders, Citizenship and Immigration Act 2009. In our lengthy response we called for the guidance to reflect fully the guidance for s11 of the Children Act 2004, on which s55 is modelled. Thanks in particular to Syd Bolton for all his work on the response.

5. In July 2009 members submitted a Freedom of Information request to the UK Border Agency regarding leave given to children granted asylum. The subcommittee was concerned that cases had arisen whereby leave for a shorter period than five years was given to refugee children. On 21st August 2009 the UK Border Agency confirmed that children granted asylum or Humanitarian Protection are granted five years leave to remain.
6. In September 2009 ILPA prepared a submission to Joint Committee on Human Rights regarding the Child Poverty Bill. Providing information in relation to the risk or reality of socio-economic disadvantage faced by children by reason of their and/or their parents' immigration status. This sought to raise awareness of this group of children, to ensure that these children are included in the targets and strategies that are implemented in order to achieve the UK Government's aims of the Bill and to ensure that this recognition is neither hindered nor precluded by the development of wider policy and practice. Moreover, the need for the Department for Children, Schools and Families to take responsibility for ensuring that generally accepted standards regarding the safety and welfare of children are applied to *all* children in the UK was highlighted in this submission. Thank you in particular to Steve Symonds for his work on the response.
7. We contributed to the ILPA's response to the Legal Services Commission's consultation on the Civil Bid Round 2010 in relation to the future funding of asylum/ immigration cases involving children.
8. We also contributed to ILPA's response to the Tribunal Procedure Committee regarding consultation on The Tribunal Procedure (Upper Tribunal) Rules 2008 – Rule Amendments for Asylum and Immigration Upper Tribunal Chamber. The subcommittee recognised the need for the procedure rules to include appropriate reference to children's cases. The subcommittee was concerned that if existing practice directions were to be withdrawn, on the new Chambers coming into effect, then new specific directions were required to accompany the new rules. We submitted that these rules must include specific guidance on the administration and management of cases involving all child appellants and witnesses, including provisions for guardianship and accompaniment in court by those exercising parental responsibilities and other formal care functions and for a child sensitive court arena and conduct of children's proceedings as minimum standards. Further, we highlighted the need to ensure children's cases are listed to enable the best interests of the child to be met and for their effective participation in proceedings (as required by Articles 3 and 12 of the UN Convention on the Rights of the Child respectively). Thanks in particular to Syd Bolton for his contributions.

Throughout the year ILPA has fed into and attended stakeholders' meetings, meetings with the UK Border Agency and regular meetings with other children's organisations including 11 Million (Office of the Children's Commissioner for England and Wales), Children's Rights Alliance for England, Legal Advocacy for the Rights of Children seminars and the Refugee Children's Consortium.

Meetings

1. On 28 January 2009 Steve Symonds met with Caroline Rowe and Barbara Donovan from the Office of the Children's Champion in the UK Border Agency (Refugee Children's Consortium meeting).

2. On 17th July 2009 Steve Symonds met with the UK Border Agency on what is now s 55 of the Borders Citizenship and Immigration Act 2009, the duty to safeguard and promote the welfare of children.
3. Representatives from the subcommittee, including Baljeet Sandhu, Alison Harvey, Steve Symonds, Liz Barrett and Syd Bolton met with the Office of the Children's Champion within the UK Border Agency, who were drafting the guidance for the new duty, in charge of the 'Unaccompanied Asylum-Seeing Children reform' programme and overall policy on children. We raised a number of concerns, including the draft s55 guidance, treatment of age dispute cases, the detention of children and the 'no notification of removal' of certain separated children being removed to third countries. In respect of the latter, members will be aware that in March 2007, the UK Border Agency (then the Immigration and Nationality Directorate) adopted a new policy on removals and judicial review in which it set out the minimum notice that would be given of a removal. The new policy, however, included that the UK Border Agency would not necessarily provide any notification of removal to certain groups, notably those at risk of self-harm and unaccompanied children facing removal to a third country. ILPA has consistently raised concerns regarding this. On 23 April 2009 ILPA wrote to the UK Border Agency expressing a range of concerns over judicial review of removal.
4. Subcommittee member Liz Barratt has attended the UK Border Agency Children's Stakeholder Group meetings on behalf of ILPA. This meeting brings together local authorities, central Government departments and NGOs to discuss children's policy. Liz has raised a number of concerns with the UK Border Agency including access to legal advice, proposals to forcibly return children to Afghanistan and failure of the UK Border Agency to provide notification of removal of separated children to third countries, amongst many other sub-committee concerns.

Achievements and ongoing concerns

We have enthusiastically welcomed the lifting of the UK's reservation to the Convention on the Rights of the Child.

Thank you to Alison Harvey for her concerted efforts to ensure that the definition of the crime of trafficking in the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 covers those who traffic babies and small children and the loophole that prevented prosecution where there was no coercion has now been addressed in legislation. Recently, subcommittee members attended a meeting with Keir Starmer, director of public prosecutions, to discuss the issue of children who are trafficked being prosecuted for offences.

Through the Refugee Children's Consortium, ILPA contributed to efforts to ensure that the UK Border Agency finally became subject to a duty to safeguard and promote the welfare of children. The guidance to s55 of the Borders, Citizenship and Immigration Act 2009 was changed to reflect the concerns raised by ILPA and others. Although we have a number of outstanding concerns about the guidance, including: the failure to place a duty on staff outside of the UK and lack of clarity on the duties owed to children outside of the UK, it is a substantial improvement on the draft, and reflects the format of the guidance to professionals subject to a statutory duty under s11 of the Children Act 2004.

Since the s 55 duty came into force on 2nd November 2009 the UK Border Agency has been frantically lifting, amending and replacing policy and guidance notes. Litigation is indeed a reality and ILPA members are encouraged to view cases involving children with a child-focused magnifying glass ensuring that the UK Government bears in mind its obligations under the UN

Convention on the Rights of the Child and the s55 guidance. It is crucial that ILPA members hold the government to account and force them to treat children first and foremost as children.

ILPA has pressed the UK Border Agency throughout the year for the Asylum Process Instruction on children to be published. This has remained under revision for over 18 months (ILPA responded in great detail to the initial, inadequate draft last year). We have been informed by the UK Border Agency that a comprehensive document will be forthcoming, taking on board our comments previously received, comments of the UNHCR and incorporating the s55 children's duty. We continue to wait and will continue to chase.

There has been a concerted focus this year on the immigration detention of children. ILPA has contributed to efforts to end child detention, including supporting the release of a report into "*The mental and physical health difficulties of children held within a British immigration detention center: A Pilot Study*" (Lorek, Entholt et al, 2009), welcoming the 11 Million report, *The Arrest and Detention of Children Subject to Immigration Control*, 2009, and supporting the OutCry! campaign – a joint initiative between The Children's Society and Bail for Immigration Detainees. Work by ILPA and others led to the a release of statistics detailing that almost 1000 children were held in immigration detention in 2008, and an estimated 36 age disputed children are found in detention every year.

The subcommittee has recently seen an increase in the numbers of age disputed children being detained.

ILPA members will be aware of some significant cases relating to age disputes that have been heard this year, un particular, the judgment of Collins J in *A v London Croydon and Secretary of State for the Home Department; WK v Secretary of State for the Home department and Kent County Council* [2009] EWHC 939. ILPA members should be aware that the judgment of the Supreme Court in *A v Croydon* should be handed down in the next month and the Court of Appeal have granted permission to appeal in *WK* in light of Collins J's recognition of the case being a test case in age assessment cases and the conflicting decisions in this area.

The outcome of Collins J's judgment has led to an avalanche of new practices and procedures by several local Authorities and the UK Border Agency. ILPA is concerned by the failure to consider paediatric evidence in its entirety, attempts by the Legal Service Commission to employ a blanket ban on funding such reports (under consideration due to subcommittee members' work) and the policy of Local Authorities to share the full age assessments of young people with the UK Border Agency caseowners, which are in turn being used in cases as an additional mechanism for testing a child's credibility in their asylum claim. The children's sub committee remains focused in observing and addressing issues in this arena be it with a view to wider policy change or litigation. We are heartened by the recent decision of Mr Justice Blake, *NA v London Borough of Croydon* [2009] EWHC 2357 (Admin). Members should read paragraph 70 of the judgment, which extends the procedural requirements on Local Authorities. This decision has already proved a potent authority in dealings with Local Authorities and should be read by anybody representing minors and disputed minors

The group is particularly grateful to Steve Symonds for his invaluable help and advice throughout the year.

Conveners: Baljeet Sandhu and Lisa Nandy

DETENTION AND ASYLUM FAST TRACK SUBCOMMITTEE REPORT

The Detention and Fast-Track subcommittee has continued to focus its work through our google group while responding to UK Border Agency initiatives and consultations. One of our sub-convenors, Russell Blakely, left his role as co-convenor during the year. We thank him for his sterling work with the subcommittee. Russell has been replaced by Kay Everett who is welcomed to her new role.

The subcommittee has recently seen an increase in the numbers of detainees held under the Fast-Track at Harmondsworth Immigration Removal Centre. This has been attributed by the UK Border Agency to the fact that more beds have been allocated to the Fast-Track at Harmondsworth, these having been freed up by the opening of Brook House Immigration Removal Centre. It is expected that there will be a further increase of the use of the Fast-Track once the rebuilt wings at Harmondsworth Immigration Removal Centre have been re-opened.

In the meantime the UK Border Agency has made it clear it does not consider there to be any possibility of assessment of suitability for the Fast-Track prior to detention and for many no possibility prior to asylum interview. The UK Border Agency's view is otherwise that the standard detention policy criteria are no less applicable to the Fast-Track. The UK Border Agency also responded to the United Nations High Commissioner for Refugees Quality Initiative (the report in relation to which was issued in September 2008) by effectively arguing that the Detained Fast-Track process is fair as evidenced by the fact that 98% of such appeals are dismissed.

The subcommittee responded to the UK Border Agency's consultation on its Draft Operating Standards for the Provision of Welfare Services at Immigration Removal Centres. One of the central points raised by ILPA is that the focus of the Standards should not be upon the provision of welfare services to detainees cooperating with voluntary departure but to all detainees. ILPA's response otherwise raised issues surrounding the roles and responsibilities of Welfare Officers.

ILPA also responded to the consultation on the draft Short-Term Holding Centre Rules which had been amended by the UK Border Agency following an earlier consultation. The main points that we raised most recently included the decision to exclude certain sections relating to the provision of health care that focused on issues of confidentiality and consulting other health professionals. We have argued that these provisions should be no less applicable in holding rooms than anywhere else. We also questioned whether it is truly intended that a detained person's access to other health care professionals should be disallowed in a Short-term Holding Centre and if so, the reasons for this being considered necessary.

ILPA also worked on the issue of Short-Term Holding Centres in the context of the Borders, Citizenship and Immigration Bill and called for the Police and Criminal Evidence Act codes to be applied to immigration detainees.

ILPA has alerted members to changes to the Enforcement Instructions and Guidance, including Chapter 53.1.2 that now encourages caseworkers to take into account "an individual assessment of the prospects of enforcing removal." This suggests that barriers to removal should not be disregarded when considering issues relating to removal. This lends force to the argument that such barriers should also impact upon an assessment of whether removal is imminent and therefore whether continued detention remains justified.

ILPA has also raised concerns with the UK Border Agency & the Asylum and Immigration Tribunal regarding the handcuffing of detainees in court hearings. The UK Border Agency has referred us to Detention Service Order (DSO) 08/2008 which sets out the authority for handcuffing detainees, noting that decisions are made on a case-by-case basis and that it is for escorts to justify their use in court and only in exceptional circumstances. We are otherwise waiting to hear from the Asylum and Immigration Tribunal on this matter so as to better understand what, if any, role immigration judges may have in relation to decisions to handcuff detainees in court.

ILPA met with the office of the Chief Inspector of the UK Border Agency to discuss a thematic review of asylum and the Detained Fast-Track process.

The subcommittee also assisted ILPA with submissions to the draft rules for the new Tribunal as they relate to bail.

ILPA has pressed the UK Border Agency throughout the year for more information on Detention Service orders including a request that these be made available on the UK Border Agency's website.

Throughout the year the subcommittee and ILPA have fed into the Asylum and Immigration Tribunal Stakeholders' meetings, the UK Border Agency Detention Users' Group meetings, the National Asylum Stakeholders' Forum and the Legal Services Commission's stakeholders' meeting.

ILPA welcomes the report of Her Majesty's Inspectorate of Prisons issued in August of this year and titled "Detainee Escorts and removals: A Thematic Review." The report makes several recommendations including calls that detainees be informed of the complaints procedure; that escorts be trained on how to provide appropriate care to distressed detainees; that detainees should be reunited with their property at the earliest opportunity; that there should be clear criteria for both monitoring and escorts and defining their roles and; that force should only be used as a last resort and that only a minimum of force be used to protect the safety of a detainee and escort staff.

Members will also be aware of some significant cases relating to detention that have arisen over the past year. These are numerous but include:

The case of *SK v SSHD* that is due to be heard before the Supreme Court in December 2009. SK is appealing a decision of the Court of Appeal (see *SK v SSHD* [2008] EWCA Civ 1204) relating to the failure of the Home Office to follow the requirement (in line with the Detention Centre Rules 2001) to issue Monthly Progress reports to detainees or to conduct monthly internal reviews of detention (in line with the former Chapter 38 of the Enforcement Manual (now Chapter 55 of the Enforcement Instructions and Guidance.)) The Court of Appeal ruled that strict adherence to the Detention Centre Rules and the Home Office's policy is not a requirement for establishing whether detention is lawful under paragraph 2(2) Schedule 3 of the 1971 Immigration Act or under Article 5 of the European Convention on Human Rights.

In the case of *Abdi & Ors v SSHD* [2008] EWHC 3166 (Admin) the court held that the Secretary of State had applied an unlawful 'secret' policy whereby there was a presumption of detention pending deportation in cases handled by the UK Border Agency's Criminal Casework Directorate. The Secretary of State had acted unlawfully in not disclosing the policy. However the court also concluded that unless a detainee could show, on a balance of probabilities that he or she would have been released but for the existence of the policy, the existence of the policy did not in itself lead to the conclusion that detention was unlawful.

In the case of *Orlando Polanco v SSHD* [2009] EWHC 826 (Admin) the High Court ruled that the continued detention of an overstayer was not justified on the basis that he posed a continued risk to society. Whilst such considerations *initially* justified his detention as an overstayer pending deportation they did not, *without more*, justify his continued detention over a long period of time.

In the case of *FR (Iran) v SSHD* [2009] EWHC 2094 (QB) the High Court ruled that the immigration detention of an Iranian national for 34 months in anticipation of his removal to Iran was unlawful, where confirmation of the detainee's identity was required by the Iranian authorities before they would issue emergency travel documentation to facilitate his return, but the detainee had refused to sign confirmation of his identity or co-operate with the removal process and it was clear that there was no reasonable prospect of securing his return within a reasonable time.

In the case of *Wang v SSHD* [2009] EWHC 1578 (Admin) the court ruled that the detainee who had been detained for 30 months had cooperated with efforts to identify and document him for the purpose of removal. The court found that the Secretary of State had not acted with sufficient speed and had otherwise not taken up the option of charging the detainee in relation to his alleged non-cooperation under Section 35 offences under the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. The court took into account the deterioration of the detainee's mental health that arose from his continued detention and concluded that detention had continued for so long so as to have become unreasonable.

In the meantime the decisions in the Somali cases of *MM*, *Daq* and *Abdi* lead to the conclusion that the continued detention of Somali nationals, particularly those from Mogadishu or facing return to Mogadishu is illegal. The UKBA does however continue to insist that there is no country to which persons cannot be removed and it has noted its intention to re-start removals to Zimbabwe despite the implications of the case of *RN (Zimbabwe)* [2008] UKAIT 00083 CG.

Convenors: Pierre Makhlouf, Kay Everett (from October 2009) and Russell Blakely (until May 2009)

EUROPEAN SUBCOMMITTEE REPORT

The subcommittee met regularly on a monthly basis over the period. The key themes which the subcommittee addressed this year were:

1. Third Country National Family Members of EEA nationals exercising treaty rights in the UK and British citizens who have exercised treaty rights in another Member State and return with their third country national family members.
2. The European Court of Justice handed down an important judgment in July 2008 (*Metock* (Case C-127/081) confirming the right of third country national family members to join or stay with their EEA national spouse in any Member State where treaty rights are being exercised irrespective of national immigration rules which are more restrictive. In particular the European Court of Justice confirmed that there was no need for the family members to have been admitted under national law of a Member State before being permitted to exercise treaty free movement rights. The UK Border Agency was tardy in changing the instructions on its website and to date has still not changed a misleading provision of the Immigration (European Economic Area) Regulations 2006 (SI 2006/1003) (regulation 12) which still give the impression that prior admission under national law is a prerequisite to joining a family member in the UK. The website at least was corrected in December 2009 not least as a result of the constant reminders which ILPA sent them on this issue.

In July 2009, the Commission issued long awaited guidance on the interpretation of Directive 2004/38 and third country national family members following the *Metock* judgment. The guidance is, frankly speaking, disappointing. It seems to us that it opens up a number of avenues for delay and investigation of individuals' private life which are not consistent with the jurisprudence of the European Court of Justice. The sub committee is drafting a note on the guidance expressing our concerns.

3. The legality of FRONTEX actions beyond the territorial waters of EU Member States: over 2008/9 the EU external borders agency has been engaged in coordinating activities by Member State border and coast guards beyond the territorial waters of the Member States most in the Atlantic beyond the Canary Islands and the Mediterranean beyond Italy (Lampedusa), Malta and Greece. ILPA has sought clarification from FRONTEX on the legality of the action. One explanation has already been given by FRONTEX (its actions are based on bilateral agreements between Spain and third countries but FRONTEX does not have copies of those agreements) but ILPA has sought further information and particulars as the answer is not satisfactory.
4. The European Commission proposed the establishment of European Asylum Support Offices to assist in the better coordination of refugee protection in the EU. Valsamis Mitsilegas on behalf of ILPA prepared a response to the proposal including the demand that the European Parliament should be entitled to appoint one member of the board of such an office. This proposal was picked up by the European Parliament and is now part of the proposal which was adopted in the summer.
5. The continuing delay of the UK Border Agency in dealing with registration of EEA nationals and the issue of cards to their third country national family members has resulted in much hardship. It is also contrary to Directive 2004/38 on rights of citizens of the Union which expressly requires registration to be immediate and the issue of cards to be as soon as possible

and in any event no longer than six months after submission. The sub committee organised a seminar for members on seeking damages in EU law for delay and loss. Further follow up work is taking place to inform members of the possibilities for damages under this head.

6. Much to our chagrin, in April 2009 the UK announced that it would retain the Worker Registration Scheme for nationals of the EU 8 and full restrictions on work for the EU 2. We considered that the justification of the UK government, which, according to its press release, was based on keeping EU 8 nationals far from social benefits rights, was not in conformity with the accession treaty which only allows an exceptional extension of limitations to labour market access after five years on the basis of a serious risk of labour market disruption. Together with the AIRE Centre we wrote a detailed letter to the Commission explaining the problem of dubious conformity with the treaty. For the moment, the Commission has come back asking for further particulars on the problems EU 8 nationals are encountering in accessing social rights.
7. As in the previous year, the subcommittee organised a training session on the rights of workers in the UK with representatives of the European Commission, the Asylum and Immigration Tribunal, the UK Border Agency and practitioners. From that meeting an ongoing discussion is taking place with the UK Border Agency over problem areas identified. Nick Rollason, Alison Harvey and Alison Hunter attended a meeting in October 2009 with Lin Homer and other UK Border Agency officials to take the matters further. Improvements are anticipated.
8. The subcommittee was concerned about the extension of powers to detain EEA nationals contained in the new Immigration (European Economic Area) (Amendment) Regulations 2009 (SI 2009/1117). The Regulations appear to extend detention powers to persons already in the UK rather than those arriving at the border. We prepared a letter outlining our concerns about the consistency of the Regulations with the jurisprudence of the European Court of Justice and Directive 2004/38.
9. The subcommittee is concerned that the UK Border Agency is still not implementing the decision of the European Court of Justice in *Soysal* (C 228/06) where the Court held that mandatory visa requirements for service providers is not consistent with the standstill provision in Article 42 Additional Protocol EC Turkey Association Agreement. However, the UK Border Agency is still requiring mandatory visa from all Turkish nationals (other than those exempt) irrespective of whether they are service providers or not. This is not consistent with the European Court of Justice's judgment. The subcommittee organised a members meeting with an expert from the Netherlands to discuss the actions of other Member States in response to the judgment and how best to proceed in the UK.

The subcommittee continued to produce the quarterly European Updates for members which provide concise and clear information on the developments at EU level.

Many thanks to all those who have helped so unstintingly this year with the activities of the subcommittee.

Convenors : Elspeth Guild and Alison Hunter

ECONOMIC MIGRATION SUBCOMMITTEE REPORT

In last year's report we explained that the year 2007-2008 had seen the biggest changes in the United Kingdom's economic migration law history with the introduction of the Points-Based System on 29 February 2008, when Tier 1 (General) was implemented for in-country applications and the Register of Licensed Sponsors opened.

On 27 November 2008 Tiers 2 and 5 of the Points-Based System were introduced in relation to skilled workers and temporary workers and the Work Permit Scheme was closed, other than for Romanian and Bulgarian workers whom it appears the UK Border Agency had forgotten about in the rush.

The employment of overseas nationals remains at the forefront of British political and media debate and since its introduction there have been numerous changes to the system of sponsorship.

We also reported last year that the Civil Penalty regime had been introduced on 29 February 2008 with the implementation of section 15 of the Immigration, Asylum and Nationality Act 2006. By October 2009 a check on the 'name and shame' pages of the UK Border Agency's website which lists employers who have received a Civil Penalty (including in October 2009 Baroness Scotland, aka Patricia Janet Malwhinney) showed that civil penalties with a value of around £20,000,000 had been issued. Up until the point at which Baroness Scotland became involved the detail of the scheme, the UK Border Agency's website was being updated on an almost daily basis with sensational reports of raids on, mostly ethnic cuisine related, businesses across the UK.

The subcommittee has continued to maintain an open yet firm dialogue with representatives from the UK Border Agency and continues to achieve considerable success in pushing through policy and legislative changes and in explaining core principles of employment and corporate law to policy makers.

The subcommittee thanks those ILPA members who have been involved with its work, particularly in ensuring that unreasonably restrictive UK Border Agency deadlines, which continue to be commonplace, are met. We hope that they will continue their support during the forthcoming year. We also give particular thanks to Alison Harvey, Linda Rowe and Andrew Tingley for their valuable assistance, energy and dedication to the subcommittee.

The Economic Migration Subcommittee meetings are open to all ILPA members interested in this area. At each meeting we update members and consult with them on representations being put forward by the Subcommittee on various aspects relating to Business and Employment Immigration Law. To meet the demand for new information and sharing of knowledge (in particular to report back on ILPA/UK Border Agency Points-Based System working group meetings) we increased our meetings from six weekly intervals to monthly meetings last year and have maintained this time-table through much of this year, only recently returning to six weekly intervals. The dates of our meetings are sent out in the ILPA mailing. We have also created a Google Group for the sharing of information.

Convenors of the subcommittee continue to represent ILPA on the International Group User Panel (previously UKVisas User Panel) dealing with Entry Clearance matters and on the Employer Taskforce (and the Intra-Company Transfer sub-group).

Over the last year the subcommittee has regularly discussed and raised issues relating to employment and business immigration law and practice by the Home Office (both to the UK

Border Agency and the UK Border Agency International Group)). The majority of this year has been dedicated to assessing and responding to the Government's implementation of Points-Based System, originally unveiled in February 2005 as part of the Five Year Plan.

There follow some examples of the specific matters with which we have been involved, however our Co-Convenors are working on a weekly, if not daily basis, to raise issues with the UK Border Agency, spread information to ILPA members and react to announcements by the Home Office throughout this period of change. The subcommittee has:

- been responsible for ensuring ILPA was promoted in the Financial Times: article on the points based system dated 18 August 2009 (<http://www.ft.com/cms/s/0/60714c4c-8b8e-11de-9f50-00144feabdc0.html>)
- provided comment for ILPA's May 2009 submissions on the 'hub and spoke' model for entry clearance;
- assisted with ILPA's responses to consultations on fees and British citizenship;
- highlighted to members via the provision of a number of new training courses the need to proceed with caution in relation to Sponsor Licence matters as we continued to seek clarity and advice on their behalf from UK Border Agency and the Law Society as to the potential conflict issues and inherent risks of the scheme for both employers and legal advisors alike and linked the Sponsor Licence system directly to the Civil Penalty regime;
- arranged a well attended meeting with Ian Robinson of the UK Border Agency following the Migration Advisory Committee report in August 2009
- continue to urge the UK Border Agency to reassess the maintenance requirements for both Tier 1 and Tier 2;

Finally, the subcommittee thanks all those ILPA members who have turned up and contributed to the meetings and work of the subcommittee and also wishes to thank the ILPA staff for all their support during the last year.

Convenors : Philip Barth, Philip Trott, and Nichola Carter

FAMILY & GENERAL IMMIGRATION SUBCOMMITTEE REPORT

The subcommittee has met on five occasions this year, at the ILPA office. The subcommittee has also facilitated ILPA members' meetings on the Borders, Citizenship and Immigration Bill, on the effects of raising to 21 the age for marriage partners under the immigration rules, and on the consultation document, *Earning the right to stay*, and has participated in ILPA's response to it.

The subcommittee has made representations on entry clearance matters, in particular the use of 'commercial partners' and problems in getting information from them, which makes it more difficult for applicants to know what is happening to their applications, and on delays in dealing with entry clearance and in implementing appeals. It took up issues of wrong refusals of spouse applications under HC 321 and passed on information for the use of ILPA representatives at the UK Border Agency International Group stakeholders' meetings.

The subcommittee facilitated a meeting on the 'earned citizenship' consultation document on 15 September 2009, to feed into ILPA's response, now on the ILPA website. Together with the Economic Migration subcommittee, we are working on ILPA's response to the latest UK Border Agency consultation on immigration fees.

Colin Yeo has spearheaded work on the possibility of a legal challenge to the increase in the age for marriage in the immigration rules to 21, discussed in a special meeting on 18 May 2009. Colin revealed Home Office-commissioned but not published research which showed that the age increase was unlikely to have any effect on its ostensible reason, deterring forced marriage. JCWI has taken a legal case on the point.

Members of the subcommittee were involved throughout ILPA's lobbying on the Borders, Citizenship and Immigration Bill and in ILPA's response to the consultation on the regulation of immigration advice.

All ILPA members are welcome to join in the subcommittee's work; contact the ILPA office to join our email list and get involved.

Convenor: Sue Shutter

LEGAL AID SUBCOMMITTEE REPORT

It has been another busy year, during which Jackie and I have been immensely grateful for the continued support, engagement and activism of the General Secretary. There are now so many Legal Aid-related meetings at which ILPA needs to be represented, and it would have been near impossible to manage this without Alison's effective and enthusiastic participation. Summoning up enthusiasm for sitting around tables with the Legal Services Commission ('LSC') can be quite a challenge in and of itself, one which is almost as taxing as the challenge of making such participation effective in terms of bringing about tangible benefits.

With so much coming at practitioners from the Legal Services Commission we have this year more than previously been involved in active co-operation with other representative bodies. This has been facilitated by the Law Society taking a much more active role.

We have adopted a deliberate policy of issuing early draft comments on documents to like-minded organisations including the Law Society and Legal Aid Practitioners' Group (LAPG) to highlight our concerns and influence their responses. This has been very successful and with much more information-sharing going on we see a more unified and informed response going in to the Legal Services Commission.

The weeks immediately following last year's AGM were largely taken up with preparing ILPA's response to the Legal Services Commission's 2010 bid rounds consultation. Much of the year subsequently has been spent dealing in one way or another with issues relating to the 2010 bid round proposals. We are grateful for the time taken by members to contribute their views for the consultation response, and in particular to convenors of other subcommittees for providing the benefit of their expertise on the proposals relating to, for example, children and detention. Members will be aware that many of the proposals contained in the bid round consultation were highly problematic, indicative of the Legal Services Commission being completely wedded to the concept of big being beautiful and patently, if not explicitly, hoping to contract with only the largest providers to the exclusion of the many smaller providers, not because the former are better (size being no predictor of quality) but just because they would then have fewer contracts (though there was never any information forthcoming about the administrative savings the Legal Services Commission hoped to make by having fewer, bigger contracts). The document made very depressing reading. Throughout it the Legal Services Commission was very clearly willing to contemplate ignoring or sacrificing quality and creating further perverse incentives for providers to take on only the most straightforward cases, running a real risk that those whose cases did not admit of opening and closing a file within a matter of weeks would go unrepresented.

Some of the concerns ILPA raised in our consultation response have in fact since been taken on board by the Legal Services Commission, after much lobbying through the various fora on which ILPA is represented. With others we have recently achieved movement on the issue of minimum matter starts. The original proposal in the consultation was a minimum bid size of 100 asylum with 50 immigration matter starts. The Legal Services Commission eventually responded to the pleas of ILPA and other representative bodies not to force smaller, specialist and quality providers out of the forthcoming bid round by setting this arbitrarily arrived at minimum, for which they admitted in a meeting that there was 'no robust evidence base'. They changed the minimum bid size to 70 asylum new matter starts with 30 immigration new matter starts. ILPA and other representative bodies insisted this adjustment was still not enough, and very recently the Legal Services Commission has agreed that whilst the minimum bid size will remain 100 matter starts per provider, the 'mix' has now been relaxed so that within that 100 providers will have to bid for a

minimum of 35 asylum with 15 immigration matter starts. We continued to lobby the Legal Services Commission to create a more general, quality-based exemption to the minimum matter start requirement as it still potentially causes problems for some ILPA members who currently have a very different profile. This lobbying has unfortunately recently been rejected in fairly final terms.

Unfortunately some (many, to be more accurate!) of our objections to the proposals were more or less disregarded. An example of this is the issue of access to advice, assistance and representation for immigration detainees in prisons and serving foreign national prisoners who are served with notices of intention to make deportation orders. This looks likely to remain a problematic area. The Legal Services Commission has stuck to its bottom line of requiring 90% of a provider's clients to be situated within the provider's procurement area. We had argued that for providers undertaking a significant amount of work for foreign national prisoners, this could pose a problem. The Legal Services Commission's consultation response still holds out the prospect of some flexibility on this if a provider can demonstrate that they are undertaking work for prisoners outside their procurement area, where more local providers are not providing access for all those prisoners that require assistance, but this it seems will have to be negotiated with the Legal Services Commission once a provider has used up the 10% out of area allowance, and it is unclear from the consultation response what standard of proof is required that more local providers are not meeting demand.

The issue of un-billable Work in Progress ('WIP') has been a much-discussed concern in meetings with the Legal Services Commission this year, going back so far as October 2008 when the Legal Services Commission convened an extraordinary Representative Bodies Meeting to discuss this issue alone. The Legal Services Commission repeatedly resisted calls by representative bodies for a return to fairer billing arrangements, such as for example, a six-month stage billing point on Controlled Work matters. At least part of the justification for removing the six-month stage bill, it was pointed out, had been the idea that 'New Asylum Model' cases would complete within six months. This was not happening.

ILPA and other representative bodies have repeatedly insisted that un-billable work in progress represents money the Legal Services Commission owes providers and under no normal commercial arrangement could a purchaser require a provider to wait for a third party, over whom the provider has no control, to take action (e.g. the Home Office to make a decision or the Asylum and Immigration Tribunal to promulgate a determination) before the services purchased will be paid for. Lobbying, persuading and – on at least one occasion – swearing (the latter obviously not from those representing ILPA!) eventually produced the 'one-off disbursements billing exercise' for matters started before 1st October 2007, which may or may not have made a vast difference to members. The Legal Services Commission until recently maintained there was no significant work in progress problem. Now they agree there is a problem but maintain they do not have the cash budget to do anything about it.

After the bid round consultation came the new draft specification and contract terms, except that the Legal Services Commission decided that there was to be no public consultation on these documents and they only needed to consult with the Law Society, LAPG and the Advice Services Alliance. We protested and bizarrely were permitted to be consulted 'by the Law Society' and so feed in to the discussion that way. Biting our tongues we submitted page upon page of responses ranging from correcting errors to arguing major matters of principle. Part way through the Legal Services Commission issued a new set of proposals for Key Performance Indicators (breach of which will be able to amount to a breach of contract). These included a hidden proposal to raise the effective success rate of immigration and asylum appeals, which was only uncovered by accident. The specification on which the tenders will proceed has now been issued. Despite clearly winning

the arguments few concessions appear to have been won on points of principle. Some of those battles will continue. Others we must reluctantly accept as unavoidable.

One issue that has remained highly contentious is the argument over the appeal success rate Key Performance Indicator (40% of relevant appeals should be ‘successful’) and whether it should apply to cases in the detained fast-track. ILPA and others have been arguing that it should not. The fast track system is so heavily stacked against appellants that the success rate across the scheme is only a couple of percent. Without doing anything wrong suppliers who grant Controlled Legal Representation to fast track clients are likely to find their success rate dragged down as a result. So the incentive is there to refuse Controlled Legal Representation wrongly. We have had some success in the year getting the Legal Services Commission to drop the success rate Key Performance Indicator from the measured criteria for the next bid round (so reducing the sanctions that apply now to a supplier who fails to meet the 40% mark). As regards the detained fast-track, the Legal Services Commission have finally and only very recently agreed that detained fast-track cases will not be counted in the success rate Key Performance Indicator.

In other news, regulations have been consulted on and drawn up for Legal Aid provision once the Asylum and Immigration Tribunal moves into the new Tribunal structure. For the time being the only judicial review cases which the Upper Tribunal will hear will be judicial reviews of Home Office decisions relating to fresh claims (i.e. when the Home Office decides that further submissions do not meet the paragraph 353 of the Immigration Rules test for a fresh claim) and such cases will remain on full public funding certificates. Immigration judges will lose the discretion they currently have to order funding for review and reconsideration applications which are ultimately unsuccessful. ILPA had objected to this in our consultation response but we were met with the idea that this was very much *de minimis*. Thus s.103D funding orders will be abolished; cases in which review and reconsideration is granted will be funded, those in which it is not, will not.

Legal Aid Impact Assessments still seem to be not as much in evidence as they ought to be, a recent and rather pertinent example being the lack of a Legal Aid Impact Assessment for the new UK Border Agency policy on ‘further submissions’, a policy which the UK Border Agency did not even tell the Legal Services Commission about before implementing it. The Legal Services Commission has recently acknowledged that spending on judicial reviews may increase as a result of the introduction of this policy – an understatement if ever there was one.

Finally, two more consultations. The first came from the Ministry of Justice on changing priorities for the Legal Services Commission fund (subtitled ‘what can we cut and get away with and at the same time stop those outraged headlines in the Daily Mail about ‘ludicrous cases’ being funded by legal aid’). This focused on removing funding, or making funding more difficult for many claims against public authorities. In the middle of it was a proposal to remove eligibility for any legal aid funding from anyone ‘non- resident’ in the UK. The Ministry of Justice’s pitch was something along the lines of ‘why should the tax payer fund cases where the applicant / claimant has no other connection with the UK than that the Courts of England and Wales have jurisdiction to hear their cases’? One might think that the question answers itself, but times are hard, the Ministry of Justice tells us, and so suggests that ‘non-residents’ (which it did not condescend even to attempt to define in legal terms) would have to take the hit in terms of access to justice in the Courts of England and Wales, even when those Courts may well be the only Courts with jurisdiction to hear the claims of the ‘non-residents’ in question, and even when their cases may concern the gravest allegations of wrong doing on the part of public authorities in Britain.

There was what seemed to be intended as a blanket exemption for immigration and asylum cases, although the extent of the exemption was in fact very unclear. The impact assessment estimated 40 cases a year would be affected, but this was somewhat meaningless when the concept of 'non-resident' had not been properly defined. Then, three days before the consultation closed, ILPA received a response from the Ministry of Justice to a letter seeking clarification of various issues in the consultation. In it the Ministry of Justice indicated it was minded by 'non-resident' to mean 'not lawfully resident' in the UK. Uproar ensued. 'Foul' was called. The Ministry of Justice has since backed down (a bit), but just how far is unclear, and with all eyes on that outrage perhaps others cuts will happen unnoticed.

The response to the consultation responses is due for publication on 19th November 2009, so by the time you are reading this report we may know the full extent of what the Ministry of Justice intends to try to get away with in restricting access to justice, which is what the proposals to a great extent amounted to.

The final Legal Services Commission consultation was largely about criminal defence services but included a general proposal to control the fees charged by experts. Odd to find ourselves having some sympathy with an aim of the Legal Services Commission, but there was of course much to be concerned about as regards the likely manner of implementation. One would have hoped that with all the consulting going on, those consulting would get better at it, but the consultations have rather become increasingly badly thought out and are often (deliberately?) misleading.

But, concluding back where we started, with the 2010 bid rounds, at the time of writing this report things remain very much up in the air as the Legal Services Commission is determined to press ahead with its intention to begin the immigration tender process on 30th November 2009, earlier than the tender process for all other civil categories (this is intended to commence in February 2010).

The proposal to bring forward the immigration tender was sprung on us at the Representative Bodies Group Meeting on 19th August 2009. The revised draft immigration specification for the Unified Contract from 2010 has only just been published, there are still unresolved issues around the Key Performance Indicators, and the Legal Services Commission has only recently provided some limited information about the 'selection criteria' (on the basis of which it hopes to create a ranking of providers where bids meeting the essential criteria exceed available matter starts in any particular procurement area, in order to determine the allocation of matter starts). In a recent letter to the Legal Services Commission we have urged them to start the immigration tender at the same time as the tenders for all the other civil categories to allow time for such matters to be addressed and in particular for a proper solution to the work in progress problem to be identified and implemented.

We have warned the Legal Services Commission that an early tender holds out a real prospect of providers bidding on an uneven playing field, i.e. as between those bidding only for an immigration contract and those bidding for immigration plus other civil categories.

The Legal Services Commission has produced research on the basis of which they assert only 17 providers may be adversely affected by an early tender. The point that 'only 17' (even if the research is accurate) still means an uneven playing field, which may fall foul of procurement law, appears to be falling on deaf ears. With the Legal Services Commission maintaining this stance, the possibility of appeals upon appeals and even higher Court litigation hoves into view, as does the prospect of a failed tender process. There is a distinct feeling that the early tender has been driven by sheer panic at the Legal Services Commission at the thought of conducting all the civil

tenders at the same time, without any pause for thought about the problems that singling out immigration to go first may entail. There is of course form for this, as those who spent days and weeks preparing their bids for the Immigration Removal Centre tender last year will be only too painfully aware. That tender was scrapped in February this year and there still has been no proper post-mortem report made available such as might inspire some measure of confidence that history will not be allowed to repeat itself. There were 'only' 259 bids for the failed Immigration Removal Centres tender. There will be a whole lot more than that for the 2010 contracts.

Convenors: Jackie Peirce & Sonia Routledge

IMMIGRATION OFFENCES SUBCOMMITTEE REPORT

In what has been a decade of enormous upheaval in the law relating to immigration related prosecutions, 2009 was a relatively quiet year.

As with previous years, much of the work of the subcommittee was shared with The Foreign National Prisoner Network and this provided an extremely valuable additional dimension to the work of the subcommittee.

The focus of the work on foreign national prisoners has been on reviewing the successes and failures within the High Court and beyond in respect of:

- (i) Exposing the application of unpublished policies on detention casework
- (ii) Identifying causes of action for damages claims
- (iii) Assessing the applicability of the detention powers under the automatic deportation provisions

The focus of the discussions on immigration related prosecutions has been an important debate on the extent to which the sub-committee (and therefore ILPA) should seek, by engaging with statutory agencies such as the Director of Prosecutions/the UK Border Agency, to revive the now defunct “Memorandum of Understanding” on the prosecutions for passport and other document offences involving persons fleeing from persecution abroad.

The advice to criminal practitioners on the ILPA website has had a (long overdue) update. On that note, it is hoped that training for criminal practitioners advising detainees at ports in respect of the potential defences available with each new raft of legislative change will be at the forefront of the sub-committee’s work. It is hoped that the work on producing training materials will also encourage more members of the sub-committee and the ILPA membership to be able to develop the training of immigration and criminal practitioners to spread knowledge in this important area, particularly to geographical areas at ports of entry where there remains a scarcity of immigration providers.

The year did see the Crown Prosecution Service issuing a long overdue policy relating to prosecutions of victims of trafficking and this has been discussed both in committee and also has been the subject of a training session, part of which included a useful discussion as to the often difficult relationship between criminal and immigration solicitors in these circumstances. With members of the committee involved in ongoing judicial reviews relating to that policy, 2010 may give rise to further action.

There is much work to be done and it is anticipated that a change of government would not be likely to reduce the workload.

Convenors: Richard Thomas and Jawaid Luqmani

ILPA SOUTHWEST SUBCOMMITTEE REPORT

ILPA South West was established in the autumn of 2008. There are currently 65 immigration practitioners on the mailing list who are distributed over a large geographical area from Southampton and Bournemouth in the east of the region, to Exeter, Plymouth, and locations in Cornwall in the west and also encompassing Bristol, Gloucester and Cheltenham, as well as Newport, Cardiff and Swansea in Wales.

The regional group is obviously fairly newly established but well attended meetings have been held bi-annually so far, the first in November 2008, followed by a training day and follow-on meeting in April 2009 held at the IAS offices in Bristol. Training was provided by Steve Symonds and Solange Valdez on “Challenging Immigration Decisions, Appeal rights and other remedies” and the follow-on meeting was addressed by the UK Border Agency Regional Chief of Operations for Wales and the South West of England together with a UK Border Agency Sponsor Account Manager. Both gave presentations dealing with the changes to the UK Border Agency structure and the establishment of the South West region in particular, the development of the Points-Based System and the future in the light of the numerous proposed and actual legislative changes. There was then a detailed question and answer session with practitioners who were able to raise a variety of issues and concerns regarding practice and procedure in the South West.

It is proposed that a further training day and meeting will be convened in December 2009 to follow up some of the issues raised with the UK Border Agency and provide another opportunity for practitioners to come together and exchange information and experience. The membership of the group has also been canvassed on training needs and proposals and whether other mechanisms for more regular contact are desirable (given the difficulty of all practitioners attending meetings and events due to geographical distance). It is hoped that ILPA South West can continue with its stated aim on establishment of acting as a conduit of information and support for practitioners in the region.

Convenor: Rosie Brennan (covering maternity leave for Natasha Williams)

ILPA YORKSHIRE AND NORTH-EAST SUBCOMMITTEE REPORT

For many years immigration practitioners in Yorkshire met to discuss issues on a regular basis in a gathering organised by the Regional Law Society and called the Yorkshire Immigration Practitioners' Group.

Unfortunately, the Law Society decided to centralise many functions and withdrew its support from the Yorkshire Immigration Practitioners' Group. The Group continued to meet as and when it could, but without the backing and the administrative support of a national representative body, life became increasingly difficult.

Then, towards the end of last year, rather fortuitously I was in a bar with Alison Harvey discussing the situation for immigration lawyers in the north and we discussed the recent establishment of a regional ILPA group in the South West and thus was born the germ of the idea that became the new ILPA sub-committee for Yorkshire & the North East.

The members of the Yorkshire Immigration Practitioners' Group were canvassed for their views and all were whole-heartedly supportive of the change. This led to the inaugural Yorkshire & the North East Sub-Committee meeting in Leeds on the 26th January 2009. This was a well-attended event with a lively discussion on current issues impacting on immigration lawyers.

The next meeting was on the 23rd March 2009. The meeting was preceded by a very interesting training session provided by Steve Symonds on *RN (Zimbabwe)* [2008] UKAIT 00083 CG and *Metock* (ECJ C-127/081). Steve stayed on for the subcommittee meeting and all the local practitioners greatly appreciated his input.

Another meeting was held on the 22nd June 2009. Again this was preceded by ILPA training, this time on Success in Reconsideration Applications. The meeting was attended by a Senior Caseworker from the UK Border Agency Asylum Team in Leeds. It is a very useful meeting with a good opportunity to share practitioners' views with the Home Office. Unfortunately, due to work pressures, it has not been possible to arrange any further meetings, although it is hoped that there will be one more arranged before the end of the year, possibly with a guest from the regional office of the Legal Services Commission to discuss the immigration tender and the new Contract/Specification.

There have, though, been other activities on-going in the region via the subcommittee. A number of members of the group attended an interesting UK Border Agency Open Day at the Asylum Team in Leeds on the 9th September 2009. The fascinating ILPA training on Professional Conduct and Ethics was held in Leeds on the 2nd October 2009. The subcommittee continues to receive and circulate monthly UK Border Agency Stakeholder Updates.

It has been a steady first year for the new subcommittee and I think that all those involved have been pleased with the change from being an 'independent' group to being part of ILPA. It has given us more authority and respect as a stakeholder, it has allowed us to be more involved in national campaigns and consultations and it has allowed us to take advantage of the fantastic training programme offered by ILPA and ensuring training tailored to the needs of regional practitioners is brought to the region.

Next year will of course present new challenges. It is hoped that the subcommittee will be able to hold more regular meetings, with even the possibility of meetings in the North East to ensure that we represent the whole region and not just Yorkshire. I am sure, though, that the Sub-Committee will go from strength to strength as an important and integral part of ILPA.

Convenor: Christopher Cole



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