

# **ILPA Annual Report**

**2006/2007**

# ILPA ANNUAL REPORT 2007/2008

## TABLE OF CONTENTS

OBJECTS OF THE ASSOCIATION .....	3
CHAIR'S REPORT .....	4
TREASURER'S REPORT .....	9
GENERAL SECRETARY'S REPORT .....	11
ROLE OF THE SECRETARIAT .....	12
TRAINING .....	14
MEETINGS .....	16
PUBLICATIONS AND PROJECTS.....	18
RESPONSES AND SUBMISSIONS .....	22
ILPA TRAINING.....	27
COURSES.....	27
SPEAKERS .....	29
ACCESS TO JUSTICE SUB-COMMITTEE REPORT .....	32
DETENTION FAST TRACK SUB-COMMITTEE REPORT .....	34
EUROPEAN SUB-COMMITTEE REPORT.....	37
ECONOMIC MIGRATION SUB-COMMITTEE REPORT.....	38
FAMILY & GENERAL IMMIGRATION SUB-COMMITTEE REPORT .....	41
LEGAL AID SUB-COMMITTEE REPORT.....	42
OFFENCES SUB-COMMITTEE REPORT.....	46
CHILDREN'S SUB-COMMITTEE REPORT .....	47

## **OBJECTS OF THE ASSOCIATION**

The objects of the Association shall be:

- 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 and practice in the United Kingdom and elsewhere.

## CHAIR'S REPORT

This has been another highly active year for the Association, with the trends and concerns that I identified in last year's report continuing.

The detail of this high level of activity can be seen from the reports of the Officers, from our new General Secretary and from the Convenors of our sub-committees, which are elsewhere in this report. I shall not repeat it all here; suffice to that as an organisation ILPA has once again punched well above its weight and continues to have a significant impact in the sector.

This has of course also been another highly active year for government and the relevant agencies in the sector. There is another new Act (and more on the way including the sinisterly named Simplification Bill), the continued development of the points-based scheme (with all the complications that we predicted and a few that we didn't), the Case Resolution project, the continued fall-out from the Carter reforms to Legal Aid, and (it almost goes without saying) a new Home Secretary. It is not always easy to gauge the impact of ILPA's work on any particular issue. But this year I would point particularly to the work we did in substantially mitigating the government's proposals to change their procedure on emergency judicial reviews, and the ongoing and vital work on the detail of the Points Based Scheme set out in the report of the Economic Migration sub-committee. But even where we do not clearly influence, ILPA plays 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. I hope that this annual report shows how ILPA has continued to respond quickly, thoughtfully and effectively in all its spheres of activity.

I am delighted that this year (for the first time in three years) there is an election for the Executive Committee, and for some of the officer posts. This bodes well for the organisation. Thank you to all those who served on the Executive this year, and particularly to those who will not be serving next year. Members will recall that no one put themselves forward for election as Treasurer at last year's AGM. So I would particularly like to thank Phil Turpin for agreeing to be co-opted as Treasurer in the course of the year – it was difficult running for the early part of the year without a Treasurer in post. I also particularly welcome Sophie Barrett-Brown who is standing unopposed as my successor. I have no doubt she will be a great success in the post, and that she will have the support of all members in her work. Unfortunately she had already booked a holiday at the time of this AGM when she decided to stand so I will not be able to hand over to her in person. I am sure that having the continuity of Sue Shutter as our long-serving Secretary (also standing unopposed) will be a great help to her. Thanks to Sue for all her work over the last year as well.

Members will know that in June our long-serving General Secretary Susan Rowlands left ILPA after over 20 years service, and that, in the early summer, we held a very well attended and successful party for members to thank Susan for her work, at which ILPA chairs past and present, and others, highlighted her different spheres of activity, and her great contribution to the sector and to the Association. I reiterate ILPA's thanks to Susan here, in the first annual report since her departure.

Alison Harvey was appointed as our new General Secretary, and started work in August. She has made an immediate impact, perhaps helped by the fact that she had preceded Steve Symonds as our legal officer, and so already had a good knowledge of the organisation and the staff. A new appointment invariably means something of a new approach; both members and the current Executive are already seeing the benefits of her ideas and energy, a process that I am sure has only just begun, as her own report makes clear. For the reasons set out below, the Association does

need to adapt to changing circumstances, and Alison is already grappling with this, with the Executive's support. Special thanks are also due to Kit Eaves, Helen Williams, and Elizabeth White, and to Steve Symonds, not just for their loyalty (all except Steve have been with the Association for in excess of five years) and their sterling work during the year, but especially for their work in holding the ring over the summer during the period before Alison started full-time.

Turning briefly to the contents of some of the other reports, the Legal Aid report makes sad reading. The year has been overshadowed by the introduction of the fixed fee regime in October, and although the regime has only just started, the fall-out in terms of the reduction of suppliers, and the pressure on quality is clear – even the LSC's computer chaos was perhaps predictable. I fear things will only get worse, both for private practice, NFP suppliers and for the junior bar, who may be hit particularly badly by the changes. One of the low points of my ILPA year was my meeting for ILPA with the new Legal Aid minister Lord Hunt, and realizing both the inevitability of competitive tendering, and the lack of concern about quality suppliers and advocates haemorrhaging from the sector. I hope that ILPA will redouble its commitment to this beleaguered sector of its membership in the next year. I would particularly like to thank Vicky Guedalla for leading for ILPA on this so effectively for some years. She is not standing again this year for the Executive, but I am sure she will continue to have an input.

Members will be aware of the excellent work undertaken by the European sub-committee, particularly through the detailed briefings that go out with the mailing. Our thanks its members for ensuring that ILPA remains so influential in this vital area.

I highlighted in my last report that I was particularly proud of the way in which ILPA worked co-operatively with other NGOs in the sector. Steve Symonds has continued this vital work through the year. Two thirds of his salary is covered by the grant from the Joseph Rowntree Charitable Trust, to whom we are very grateful. He has a particular brief from the Trust to support migrant and refugee community organisations. Members will note the section on the website devoted to his briefings, which we know are being circulated more and more widely. His work with a wide range of organisations and campaigns is set out in the report. His funding extends for a further year. I hope that securing further funding for this post will be one of the priorities for the next Executive.

The General Secretary's report sets out the very extensive written output of ILPA over the last year and our attendance at numerous meetings and stakeholder groups. This is partly in response to increasingly frenetic government activity, and to more and more consultations. We need to remind ourselves that members, who are already hard-pressed in their own areas of work, cannot shoulder the burden of all the responses and other work that ILPA wants to do. The increased role of the Secretariat in co-ordinating and drafting responses, even though we have only had a post of legal officer for two years, now seems a vital part of ILPA's effectiveness.

The Treasurer's report provides more detail about our financial situation. We set out the difficult environment in which the Association works in our last report. It goes without saying, but needs to be remembered, that ILPA cannot do the vital campaigning and lobbying work from which the whole sector benefits without funds. Our core source of income is you, our members, through your membership fees and through your attendance on our courses.

As far as our membership income is concerned, unfortunately, the publicly funded sector is contracting and suppliers specialising in that work are under huge financial pressure and in a state of uncertainty. There has also been some consolidation of suppliers into larger units (as the LSC wishes), and there will probably be more. It is a problem for ILPA financially if, unfortunately, there are fewer of you around, and those that are around are under more financial pressure. We have put membership fees up, although only after three years. We have also amended the

membership categories a little to reflect, amongst other things, the fact that larger NFPs were getting a particularly good deal and the slightly anomalous position of some barristers under the old structure. Membership has declined a little this year again; this may partly reflect shifts from individual to organisational membership, perhaps caused by the consolidation process mentioned above, as well as the contraction of the legal aid sector generally. We need to increase our membership again and I would ask all members to publicise the benefits of ILPA membership (including the extensive lobbying work we do) to potential new recruits in the sector – we have produced a new leaflet for this purpose, example of which will be available at the AGM.

Turning to our courses, they have to remain competitively priced given the very considerable competition – which is another relatively new development for us. We have tried to keep training costs down in a variety of ways, including by moving smaller courses to the ILPA office and using free venues where possible for larger ones. Training is of course also a vital part of achieving our objects, as well as being a vital income generator. However, small courses are not economic for us, particularly when they are based out of London, although we continue to try to run them. We have again cancelled some courses this year through lack of bookings. Basic courses have been particularly hard to fill. You will see that we have put on a wider range of courses than ever this year – numbers have risen again recently, particularly through the excellent work of Alison and Helen. Particular thanks to them and to the training sub-committee. As Alison mentions, we are also looking again at providing in-house training, although it is hard to find a model that is both widely applicable, attractive to trainers, and profitable for ILPA.

A big thank you is due to all those who train for us. Your contribution has been huge. Please continue it. As to members, please keep your suggestions for new courses coming in to Helen and to the Training Sub-Committee – one of our strengths in a competitive market is the speed with which we can react to requests. More importantly please remember that by choosing ILPA as your trainer you are not just choosing an excellent provider, but helping support all the lobbying, information and other work which we do, day in day out, and which other trainers do not.

In this difficult environment, we are looking closely at our costs base, although we are a lean organisation already. Alison referred to the fact that new contracts and benefits (including pensions) for staff have been negotiated and agreed, with the exception of the health and safety policy which is still pending. It is right that ILPA improves the conditions of its staff, although this also has a cost. There was in addition a one-off payment from reserves to the former General Secretary, in recognition of the low level of pension provision made to her over her 20 years of service, which occurred during this year but which will appear in next year's accounts.

One area of cost reduction under consideration is our premises, as we have indicated in recent mailings. Our lease is up for renewal, and given the landlord's proposals for increases, it is likely we will move. We may well be able to make savings by renting less space – the area in our office we use for training, useful though it is, does not really pay its way, and, for the reasons I set out above, our future should generally be in running larger rather than smaller courses. In addition, members have provided accommodation for small courses this year, and we may need to expand this practice. In the medium term the electronic distribution of the mailing, and the establishment of a website with a secure members' area is probably the way forward, but this will require considerable investment.

We will of course continue to look for additional sources of funding - we will need it to continue to fund the Legal Officer's work, for instance. But in the short term, the key must be to maximize income from training and membership

For me, this report marks the end of over 15 years on the ILPA Executive Committee, the last two as Chair. I have a huge respect for you, our members and our staff, and the quality of work that you produce year on year, for (amongst others) some of the most vulnerable and unpopular members of the community. I have always done my best to facilitate that work. ILPA has been a central concern in my life for such a long time that I will miss my close involvement with it greatly. But, after this last year of transition, and now with a new Executive, Chair, and an excellent new General Secretary already in place, I feel the organisation is well placed to surmount the challenges we have identified, and to thrive. ILPA will be greatly helped by the commitment of you, the members, and I know that ILPA can rely on you.

We have only to look around to see that there has never been a greater need for an organisation like ILPA.

*Chris Randall*  
*Chair*

**Executive Committee Members and Sub-committee convenors**  
**The Executive Committee**

Ian Macdonald, QC – President	Chris Randall – Chair
Sue Shutter – Secretary	Philip Turpin – Treasurer (co-opted)
Abi Smith	Vicky Guedalla
Bhupinder Singh	Mark Henderson (co-opted)
Hermione McEwen	Nichola Carter (co-opted) (resigned May 2007)
Sarah Keeley (resigned May 2007)	Jackie Peirce (co-opted)

**Sub-committee convenors:**

Access to Justice Sub-committee:	Mark Henderson
Detention Fast Track Sub-committee:	Russell Blakley, Pierre Makhoulouf
Economic Migration Sub-committee:	Philip Barth, Nichola Carter, Owen Davies, Philip Trott, Sarah Keeley
European Sub-committee:	Elsbeth Guild, Alison Hunter
Family & General Sub-committee:	Sue Shutter
Legal Aid Sub-committee:	Vicky Guedalla
Offences Sub-committee	Jawaid Luqmani, Richard Thomas
Personnel Sub-committee:	Chris Randall, Sue Shutter
Training Sub-committee:	Chris Randall

## TREASURER'S REPORT

I was co-opted as Treasurer, joining the Executive in July 2007, ILPA having been without a Treasurer for several months.

With excellent timing Chris Randall chose the leaving party for Susan Rowlands to suggest that I might like to consider taking on the role of Treasurer. It was a lovely venue and a cool summer evening and I was welling up with nostalgia as I surveyed more than two decades worth of immigration lawyers. It was in that mood that I embraced him and said that there was nothing I desired more...

I was able to gain an understanding of the financial complexion of ILPA with able assistance from Kit and many thanks to her. She is now providing monthly reports to the Executive in graph form, which I and some others find much more accessible and comprehensible.

The accounts for April 2006-2007 show a deficit of £16,842 as, for the second year running, expenditure has outstripped income. This is in great part a reflection of the high level of activity by ILPA and its members carried out in an increasingly difficult financial environment.

Since March 2007 expenditure has continued to exceed income. Expenditure has included a one-off payment from reserves to the former General Secretary in recognition of the low level of pension provision made to her over her 20 years of service. We do, however, remain in credit and a lot of hard work over the last couple of months has resulted in healthy incomes for September and October. While a projected statement of expenditure was drawn up for the current financial year 2007-8, it is right to say that this was not prepared with sufficient attention to the reality and the various spending priorities which are now being identified.

The new Executive, and the membership, will have to take on board the financial constraints and the need to reverse the decline in income against the increase in expenditure.

I am pleased to report that attention is being given to maximising our income in three ways:

- (i) Revising the membership fees. The executive instigated a scrutiny of membership fees leading to a revision (for most an increase) in the rates payable. This has been the first increase for three years.
- (ii) Maximising income from training courses. At the end of the day this means running courses with high quality speakers which members will want to attend. We no longer have a monopoly on training in immigration law. ILPA is aware of the importance of training in extending legal knowledge and raising standards but also in providing an income for the organisation. Sincere thanks must also be extended to the trainers who, for little reward, devote significant time and energies into designing, preparing and delivering training.
- (iii) Seeking alternative sources of funding (and this is touched upon in Chris Randall's report).

At the same time, attention is being given to keeping tight control on expenditure. Members are encouraged to be open to new ways of working and communicating; for example, in the financial year 2006-7 ILPA spent £67,614 on *printing, postage and stationary*. The new General Secretary is scrutinising all expenditure and potential savings are being identified.

The new executive will need to engage with the financial opportunities and constraints; projections for 2008-9 will need to be prepared, and agreed by the new Executive, early in 2008.

We are likely to have to incur expenditure in a possible move from the current ILPA office. The office in Lindsey House has performed the dual role of work place for the staff together with venue for meetings. Thus has the income from training been maximised. We are looking carefully at what will be needed for the new office, balancing the desire for space with the costs of rental. It is most likely that a new office, wherever that might be, will be smaller than the current premises and there will no longer be the facility for training in the office.

The new Executive will also have to address the matter of expenditure on upgrading the IT provision and bring ILPA into the (no longer so new) millennium. All the work done by ILPA is performed with tools which include struggling software, no server and a lot of duplicated data entry. The time has now come where this state of affairs cannot continue, it being a false economy to muddle along with the old equipment.

This forthcoming year will be a challenging one not only in the many ways described in the other reports but also in managing the financial resources effectively.

*Philip Turpin*  
*Treasurer*

## GENERAL SECRETARY'S REPORT

This year saw what most members will recognise as the major change in the ILPA Secretariat since it was established, as Susan Rowlands stood down as General Secretary in June 2007. Her work until November 2006 is covered in the 2005-2006 report. This report covers her work for the remaining part of the year 2006-2007 and subsequently, as well as the work of the Secretariat to November 2007. I can do no better than to echo here the words of Chris Randall, Chair of ILPA in his letter to members of 15 March 2007 (see ILPA mailing for [March](#)):-~~CHECK??~~

‘Susan has worked long and hard for ILPA, playing a central role in its development, and in its impact on immigration policy over the years. I am sure that no single individual has done more to ensure our success.’

### ILPA Staff

Kit Eaves	Administrative and IT Manager
Alison Harvey	General Secretary (since 30 July 2007)
Susan Rowlands	General Secretary (left June 2007)
Steve Symonds	Legal Officer
Elizabeth White	Personal Assistant to the General Secretary
Helen Williams	Training and Membership Administrator

We have been assisted during the year by Helen Dewar (librarian), Andy Humphreys (IT), Pat Kahn (designer), Brian McKinlay (Human Resources Consultant) and Jeremy Stone (Book Keeper). We thank them for their support and assistance.

It says everything about the staff of ILPA: Kit Eaves, Helen Williams, Elizabeth White and Steve Symonds that during the period between Susan's leaving and my coming into post they continued to fulfil the full range of these functions and provide the support on which members, the Executive Committee, subcommittees and ILPA's interlocutors have come to rely. While they made it look easy, I think that many of you will have personal examples of the professionalism, and dedication that the task required of them. They gave me a warm welcome back and have been unstinting in providing me with support since I came to ILPA at the end of July and in rising to the challenges facing ILPA and its membership.

The Legal Officer post is two-thirds funded by the Joseph Rowntree Charitable Trust for two years, of which the first is just ending, with a focus on providing information on and analysis of legal and policy developments to support the work of refugee and migrant community organisations and non-governmental organisations working with them. This work is detailed below. ILPA members, including but not limited to those who are NGOs, benefit from much of this work, in addition to drawing benefit from the rest of Steve's time which he gives most ably to direct support to the subcommittees and to ILPA members through training, drafting of submissions and responses, stakeholding and responses to enquiries.

Most of the review of staff conditions and terms of employment, mentioned in Susan's report for 2005-2006 was completed during the year. At the time of writing work is being finalised on the last stage of this: review of the Health and Safety policy. Weekly staff meetings have been

instituted, together with a system of monthly supervisions, and tools developed to facilitate these. There has been extensive work to collate management and financial information to support the work of the Executive Committee. Staff members have attended ILPA training sessions to develop their knowledge and understanding of the substantive law in ILPA's areas of work, and training sessions on, for example, information technology and software packages.

## **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 sub-committees and members active on ILPA's behalf
- Responding to enquiries from members the media and the public.

## **Context**

The most visible manifestations of change this year have been the Immigration and Nationality Department's change to the Border and Immigration Agency, and to agency status; once again, the appointment of a new Home Secretary and a new law: the UK Borders Act 2007. The focus of this Act is on control and enforcement including Biometric Immigration Documents, new deportation powers to powers to impose reporting restrictions on people with leave, new powers to obtain information, and new offences and powers of search and seizure. The strength of the checks and balances within the Act: a new independent inspectorate for the Border and Immigration Agency and provision for a statutory code of practice to safeguard children, have yet to be tested. They already face the challenge of proposals for a new status: Special Immigration Status, contained within the Criminal Justice and Immigration Bill. Steve Symonds, as Legal Officer, ably assisted by members (particular thanks to Richard Thomas), has done sterling work in maintaining ILPA's track record of being in the forefront of work on new immigration legislation. Steve has had to cut his teeth on one of the most impregnable Bills we have seen in recent years and there is no promise of respite in the coming year.

Home Office plans for further change have grown ever more ambitious during the year. A unified border force is to be created. UKvisas is to become part of the Border and Immigration Agency. There are proposals for change across the whole legislative and regulatory framework: a

'simplification' or 'immigration reform' process that may bring with it the long awaited consolidation of immigration law but may be a much larger project. Regionalisation gives geographical expression to the familiar split between 'policy' and 'operations' and increases the difficulties of influencing the latter or calling this to account. The period following the last AGM opened with the recreation of the Highly Skilled Migrants programme as a points-based system, heralding a points-based system for all economic migration, in tandem with the coming into force of new laws and a new level of activity to prevent illegal working. The New Asylum Model (NAM - now the Standard Asylum Model) and the Case Resolution programme are underway – the latter promising to be one of the most significant developments we have seen in the asylum field and on which Steve Symonds has become the leading expert. The review of work with unaccompanied children seeking asylum has yet to report, but those who have been following it will be aware that it holds out many prospects of terrors for next year. There are reviews in most areas of the agency's work, including citizenship, the Common Travel Area, and enforcement.

Nor has change been limited to the Home Office. The Asylum and Immigration Tribunal and the Asylum Support Adjudicators have become part of the Administrative Justice and Tribunals Council, under the auspices of a new Ministry of Justice. In the higher courts there has been no development so dramatic as the Administrative Court's proposal for a practice direction on judicial reviews on removal directions at the beginning of the year. ILPA's advocacy played the major role in revealing the injustice in the original proposal and in the development of a more rational, and more just, instrument. Special thanks to Mark Henderson for his work on this.

Every one of these changes has seen a response from ILPA: meetings, briefings, lobbying, freedom of information requests, dissemination of information and submissions, often detailed work over lengthy periods, as detailed in this annual report.

As usual, the challenges that have hit home have come from litigation and casework. Influencing work, campaigns, support from non-governmental organisations – all of these often find their target only when there is a lawyer to hand to take up an individual case. In *Huang and Kashmiri v SSHD* 2007 UKHL 11 the House of Lords set its face against a restrictive approach to Article 8 claims. *Tum and Dari* (Case C/16/05) in the European Court of Justice, vindicated the rights of Turkish nationals wishing to establish themselves in business in the UK. Important challenges to removals included *AA(Zimbabwe v SSHD)*, *HB (Ethiopia) and JL (Sierra Leone)*; *Nguma (Democratic Republic of Congo)*, CO/7088/2007), *HS (Iraq)* AA/03884/2007, and *Nasseri v SSHD* [2007] EWHC 1548 (Admin) on 3<sup>rd</sup> country removals. *AH(Sudan)* looked set to be the jewel in the crown of this line of cases, until the House of Lords took a restrictive view. *NA v UK* and other cases before the European Court of Human Rights have resulted in the European Commission requesting the UK government to suspend the removal of certain Tamils to Sri Lanka. *R v J (CA)* addressed the impropriety of custodial sentences for undocumented minors arriving in the UK, *MM*, before the Criminal Injuries Compensation Board, was the first case in which compensation was awarded to a survivor of trafficking, *N v SSHD* [2006] EWCA Civ 414 examined the constructive removal of British national children and *S et ors v SSHD* [2007] EWHC 1654 (Admin) dealt with damages for the unlawful detention of children. The ongoing *Baijai* litigation on the right to marry saw the Court of Appeal decision [2007] EWCA Civ 478 finding breaches of the European Convention on Human Rights. We are also grateful of Michael Fordham QC and Naina Patel of Blackstone Chambers for providing advice on representation the detained fast track and subsequent work to take this further.

What of the legal representatives who bring these challenges? The challenges facing members, be they solicitors, barristers, regulated by the OISC, private or non-governmental, are multi-faceted and are canvassed in detail in the sub-committee and other reports in this Annual Report. Changes to the funding of legal aid work, the first of which took effect on 1 October 2007, have led many to

question the financial viability of legal aid work while bringing home to all the fundamental role it plays in ensuring equality of arms and as a vital element of the constitutional settlement in holding government to account for both its policies and its practices. Nothing constitutes such a fundamental challenge of ILPA's objective of contributing to a just and equitable immigration law. Special thanks go to Vicky Guedalla, who has done everything that could be done as convenor of ILPA's Legal Aid Sub-committee to make our voices heard and none who heard it will forget Sue Willman's passionate defence of legal aid when she was recognised as Immigration Legal Aid Lawyer of the year in July. Immigration lawyers featured on many for the shortlists for those awards, to no-one's surprise.

In business immigration, as plans for the Points-Based System are rolled out, the shape of practice looks set to change, with a likely increased need for specialists in litigation in the higher courts, heralded by the challenges to the changes in December 2006 that produced a points-based Highly Skilled Migrants Programme and re-emphasised in recent weeks by the success in the Court of Appeal in *R (on the application of BAPIO Ltd & another) v Secretary of State for the Home Department and the Secretary of State for Department of Health* [2007] EWCA Civ 1139. With the citizenship review and promises of a review of family visitors and other aspects of family immigration, this area too will have its turn. As detailed in this report, ILPA members have been active in responding to all these changes.

Many legal aid firms are increasingly supplementing legal aid work with private work. Many business practitioners are looking outside the corporate sector at the private client market of individuals who do not qualify for legal aid to diversify their practices. In this climate, the need for the Secretariat's support in ensuring that ILPA can provide training, disseminate information and support sub-committees so that members can learn from and support each other becomes all the more vital, not least because, as these extra demands are made upon them, the changes are necessitating that members devote extra time and energy to supporting their own practices. If we can get it right, we shall ensure opportunities these changes present for strengthening the ties, interdependencies and exchange of skills between different parts of the membership can be seized and that all members' capabilities are enhanced.

## **Training**

ILPA has provided 55 training sessions since the last AGM across all areas of its work, most in London, but also outside, this year in Manchester, Birmingham and Leeds.

Thank you to all those who have contributed their time, ideas and support to the development of the ILPA training programme, through suggestions and completion of evaluation forms. We continue to encourage suggestions from all members.

### **Training sub-committee**

The training subcommittee has been a rich source of ideas for training and how to deliver it as well as contributing to the evaluation of our existing work and the elaboration of strategies to develop it. Thanks to those who have attended our training Thank you in particular to those who have attended our training sub committee meetings: Tim Barnden, Sophie Barrett-Brown, S Chelvan, Jane Coker, Matthew Davies, Hermione McEwen, Chris Randall, Sally Thompson and Alison Stanley.

## Partners

In July we ran a training session in conjunction with UK Lesbian and Gay Immigration Group (UKLGIG) on Asylum on the grounds of sexual and gender identity, which also raised funds for UKLGIG.

## Venues and Materials

This year ILPA courses have been generously hosted by Bates Wells and Braithwaite LLP, Bindman and Partners, CMS Cameron McKenna, Greater Manchester Immigration Aid Unit, Kingsley Napley Solicitors, PricewaterhouseCoopers Legal LLP, and UKLGIG. ~~We continue to ??~~

Training in business immigration has been particularly successful. In other fields, pressure on firms' time and budgets has been felt in attendance levels on training courses. ILPA is also operating in an increasingly competitive market, where many individuals or commercial providers offer training and where many chambers and firms regard provision of training for free as an integral part of marketing. These developments have the potential to improve the quality of advice and representation in immigration law and ILPA values them. They have concentrated our attention on identifying the unique elements of ILPA training and work to develop this.

The early part of the year saw reduced attendance on many training courses, necessitating cancellations, with the result that the total number of training sessions delivered this year is lower than last year. Happily this trend appears to be reversing over recent months, as each element of the programme has been examined. Evaluation and monitoring of feedback have been increased including evaluation of our training programme as a whole. New courses have been instituted and we have worked to augment the training programme throughout the season, a methodology that, while it is extremely hard work, allows us to respond rapidly to developments in law and practice.

Some training sessions are still small. Some always will be, because they are targeted at a few specialists. Where sessions are small, we have been able to hold them in the ILPA Secretariat, giving members the opportunity to meet staff, pick up publications, and see the Secretariat in action as well as ensuring that courses that it would not otherwise be viable to run can be put on to the benefit of members. Holding training in the Secretariat has created extra demands on staff, and I have appreciated their very positive attitude to this. Special thanks go to Helen Williams, whose determination and commitment to providing the training members want never falters, who provides a constant stream of new suggestions, and cheerfully shouldered the extra administrative work involved in delivering the programme. Elizabeth White, who has ably managed the ILPA training programme in the past, is now taking on work alongside Helen on the programme in recognition of the demands of this work.

One of the biggest challenges continues to be securing attendance on training courses outside London. The autumn 2007 training programme offered a large programme of out of London training and extensive work was put into promoting it. Experience has been mixed. Our commitment to giving members outside London the training you need is unwavering; we need your feedback to do that.

ILPA continues to receive requests to deliver in-house training. This has been the subject of detailed discussion at the Executive Committee and the training sub-committee. Requests will be examined on a case by case basis: we can see our way clear where training can be delivered by Secretariat staff, subject to capacity; it is more difficult to come up with a model where we would be brokering training by members specialist in their fields.

We are enormously grateful to all our trainers, who train for ILPA because of their commitment to ILPA's objectives and commitment to supporting the range of ILPA's work, often turning down more lucrative offers, and giving up otherwise billable hours, to do so. The sense of trainers and participants being involved in a common project to seek excellence and promotes ILPA's objectives pervades training sessions; thanks to all those, trainers and attendees, who make them the unique product that they are.

### **Seminars/Conferences**

- Article 8: Migrants and their rights to a family and private life (Supported by British Institute of Human Rights) Friday 9 February 2007
- ILPA conference The Points Based System where are we now? (15 February 2007 London)
- Refugee Council conferences (in association with ILPA) Practice and procedure, an asylum policy and legislation update, 7 March 2007 (London), 22 March 2007 (York)
- Assessing the first year of the Immigration (European Economic Area) Regulations 2006 and Directive 2004/38 (the 'Citizens' Directive) June 2007, generously hosted by Kingsley Napley Solicitors 19 June 2007
- Seminar on expert evidence in the Asylum and Immigration tribunal 19 July 2007
- International Bar Association 3<sup>rd</sup> Global Immigration Conference – ILPA was a co-sponsor of this conference

### **Meetings**

#### **Subcommittee meetings**

The subcommittees are at the heart of ILPA's substantive work in specific areas. Convenors give generously of their time to facilitate members' activities in these specialist areas. The driving force behind the subcommittees are the active members within each one. In recent months, I have reviewed the activities of the subcommittees with convenors and am now working with them and with the Secretariat to strengthen them, including through the dissemination of information through dedicated email groups, to increase members' opportunities to get involved at whatever level of skill and with whatever time they have. The Secretariat is committed to facilitating the broad reach, transparency and accountability of the subcommittees, the flow of information and joint working between them and to supporting their smooth administration and will be working to develop this during the coming year.

<u>Access to Justice</u>	<u>0</u>
<u>Asylum fast-track</u>	<u>1</u>
<u>European</u>	<u>9</u>
<u>Family &amp; General</u>	<u>6</u>
<u>Economic Migration</u>	<u>9</u>
<u>Immigration Offences</u>	<u>0</u>
<u>Legal Aid</u>	<u>0</u>
<u>Training</u>	<u>3</u>
<u>Children's</u>	<u>4</u>

## Members' meetings

There have been fewer members' meetings this year than in previous years, in part because matters have been dealt with through sub-committee meetings and training sessions. The Secretariat will continue to work with the Executive Committee to ensure that members meetings are put on in response to demand.

- [The work of the Complaints Audit Committee and the proposed role of the 'single inspectorate' Speaker: Dr Ann Barker, Chair of the Complaints Audit Committee Thursday 26 April 2007](#)
- [Consultations on UKLGIG/ILPA sexual and gender identity guidelines for the determination of asylum claims in the UK Newcastle, Birmingham, Manchester, Bristol, London May – June 2007](#)
- [Members' meeting on Simplification Bill consultation Monday 2 July 2007](#)
- [Economic Migration sub-committee social evening Wednesday 17 October 2007](#)

## Membership

As of 15 November 2007 the total of ILPA members was 932.

115 new members have joined since the last AGM. Of this number, 53 were individual members and 62 organisations. Of these new members, 24 are OISC regulated organisations and 3 are OISC regulated individuals.

This represents a fall in membership of 77 since this time last year. Some of this can be attributed to individuals within an organisation replacing their individual membership with organisation membership. However, there are other causes, of which the most significant, to judge from communications with members, has been the closing of immigration departments within individual firms due, primarily, to the changes in the legal aid regime. ILPA has produced a new membership leaflet as part of a membership drive and, at the same time revising its membership fee structure to reflect inflation and increased costs has introduced new categories of membership for pupil barristers and trainee solicitors to make membership more accessible to non-members. The target for the year is to reverse the decline in membership and bring it back above the November 2006 level by November 2008. We are also looking at payment methods, to avoid the problem of members who lapse by accident.

## Dissemination of information [~~\*\*\*previously 'mailings' Elizabeth to complete~~]

From December 2006 to November 2007 members have been sent 14 mailings and 274 numbered enclosures. The publications section is now disseminated electronically to members to enable them to make full use of the hyperlinks therein. Four European updates have been produced during this period and disseminated to members as well as to specialists throughout the European Union. A review of the dissemination of the updates to specialists has resulted in substantial savings to ILPA.

In August a members' area was established on the ILPA website to provide members with information on all areas of ILPA's activity, and thus increase their opportunities to participate. In October a jobs advertisement section of the website was created. The training section of the website has been developed and work is underway to develop this further.

This work is a drop in the ocean compared to what needs to be done to give ILPA the on-line presence it requires best to service members. A new website is desperately needed, along with an upgrade of all aspects of information technology including accounting and membership databases, publishing software, back-up programmes and other tools Secretariat staff require to work effectively. This is a major project, requiring capital expenditure and funds will need to be raised. We are reviewing all aspects of our information dissemination, thinking about whether the end use is in electronic or printed form, and all aspects of our IT. Hand in hand with planning and developing new systems taking all possible steps to make the best of what we have in the interim, as exemplified by the changes to the website.

## Publications and Projects

ILPA's leading publication is the *Journal of Immigration and Nationality Law*. The proceedings of the 19 June seminar on the Citizens Directive were published as a special edition of the journal, guest edited by Dr Bernard Ryan of ILPA's European Sub-Committee. During recent months I have met with the Editorial Board and also worked to ensure that the editors of the journal can draw on ILPA's work, in particular for their news section. Proposals for more joint working are under discussion.

The **European Update** is also a flagship (in-house) publication. Thanks to the convenors of the European Sub-committee and to all contributors.

This year saw the publication of *When is a child not a child: Asylum, age disputes and the process of age assessment* by Heaven Crawley for ILPA (May 2007), supported by the Nuffield Foundation and with a foreword by Sir Al Aynsley Green. We are grateful to all those who contributed to this project and to the splendid report. Neil Gerrard MP hosted a launch at the House of Commons. Speakers included Sir Al Aynsley Green, Children's Commissioner for England and Wales, Lin Homer, Chief Executive of the Border and Immigration Agency and Heaven Crawley. There could be no more fitting tribute to the extensive research programme that Susan Rowlands undertook for ILPA than this top quality piece of work. The research has been widely disseminated including to social and children's services and work to promote it is ongoing. It has been widely cited and has influenced advocacy work and discussion. Kate Jessop and Alison Harvey gave presentations on it at The Children's Society fringe meetings at Party conferences. We are optimistic that with continued work, including, and most notably, by individual ILPA members as representatives, its central message, that children must be given the benefit of doubt, will find its way into law and practice.

Mick Chatwin did work updating the **Community Legal Service leaflets** described in last year's report during the year.

The text of the *Detained Fast Track Best Practice Guide*, supported by the Legal Services Commission, was completed in October and design and work is underway to publish it. Thanks to all those members who have given generously of their expertise in support of the project and to Helen Williams for her extensive work on the final text.

ILPA and UK Lesbian and Gay Immigration Group held six consultative meetings and a training session on the proposed *Guidelines on Sexual Orientation*, including consulting on early draft guidelines. The proposed launch date of July 2007 proved too ambitious, not only for securing funding but for taking on board the results of the consultative meetings, which have led the project group to reevaluate whether guidelines should be the first output of the project. ILPA and UKGLIG are currently putting together a funding bid for the development of this programme of work.

ILPA and the Trafficking Law and Policy Network are discussing materials to support those working with survivors of trafficking.

### **Liaison with other organisations**

The most significant development in our work with non-governmental organisations has been the development of the work of the Legal Officer, Steve Symonds, funded by the Joseph Rowntree Charitable Trust. It benefits ILPA members if those who provide services or seek to influence immigration law and policy understand the law and concerns of practitioners and this work is central to our objectives of contributing to the development of a just and equitable immigration law. The work developed gradually during the year, carefully assessing where ILPA could add value and the existing need. The result has been a focus on adding the value of specialist legal expertise to existing non-governmental fora and networks, including supporting them at the official stakeholder groups described below and in their work on the Bill that became the UK Borders Act 2007 and in responding to proposals described in this annual report.

The service has worked with larger non-governmental organisations and networks, who in their turn support community organisations, to provide support for parliamentary work on legislation, to advise others on the legal content of briefings and responses to government, to support them in 'stakeholding' activities. There has been a particular focus on regionalisation where accountability risks being in short supply. In March 2007 ILPA launched an information service, available on the website and distributed by email, often for onward dissemination, making complex matters of law accessible to non-specialists.

### **Home Office and UKvisas liaison**

This year saw significant changes to Home Office 'stakeholding' arrangements; the overall effect being a reduction in opportunities for 'stakeholding'. There has been much talk of the development of 'stakeholding' arrangements in the six new Home Office regions, but little tangible evidence of this to date. Thanks to the members who give their time to the threefold task of gathering sufficient information to represent members at these meetings, attending and reporting back. The Secretariat has worked hard in recent months to ensure that feedback from meetings is rapidly disseminated to members.

Steve Symonds met with Liam Byrne, the Minister of State, in January 2007 to discuss ILPA's concerns in the context of the UK Borders Bill. In addition to the formal 'stakeholding' groups described below, representatives of the Economic Migration subcommittee attended regular meetings with the Home Office on the Points-Based system, and meetings on the Highly Skilled Migrants Programme and on charging. A liaison meeting with asylum caseworkers in Liverpool was attended by Susan Rowlands, Hermione McKwen and Paul Morris. Steve Symonds, Susan Rowlands and Paul Morris attended meetings with the Asylum Screening Units.

The 'stakeholding' groups that have disappeared in the course of the year and the ILPA representatives who attended, are as follows:

- Asylum Process Stakeholder Group: Susan Rowlands and Steve Symonds
- European Policy Group: Dr Valsamis Mitseligas
- Unaccompanied Asylum Seeking Children Stakeholder Group: Liz Barratt
- National Asylum Support Service Stakeholder Forum: Sheona York, Nancy Fancott
- New Asylum Model Workshops: Susan Rowlands, Sally Thompson, Steve Symonds
- Work Permits UK User Group: Philip Barth, Marian Dixon

The groups that continue or have appeared are:

- Border and Immigration Agency Corporate Stakeholders' Group and ad hoc stakeholding and strategy meetings: Susan Rowlands, Alison Harvey.
- Child Trafficking Advisory Group Alison Harvey
- Detention User Group: Nadine Finch, Matthew Davies, Susan Rowlands, Russell Blakely and Abigail Smith
- Employers' Task Force: Philip Trott and Nichola Carter
- National Asylum Stakeholder Forum and its Case Resolution Sub-committee: Steve Symonds
- Home Office Human Trafficking - NGO Stakeholder Consultative Group: Nadine Finch
- UKvisas Entry Clearance User Panel: Nichola Carter, Alison Harvey

#### **Liaison with courts**

- Administrative Justice and Tribunals Council: Mark Henderson
- Asylum and Immigration Tribunal Stakeholders' Group: Mark Henderson Administrative Courts User Group: Judith Farbey, Jawaid Luqmani, Mark Henderson
- Asylum Support Adjudicators User Group: Susan Rowlands

#### **Other liaison**

In July Chris Randall met with Lord Hunt the new Legal Aid minister and made representations about the likely impact of fixed fees on ILPA members.

#### **Government**

- Advisory Panel on Country Information: Mark Henderson and Alison Harvey
- Citizenship Review: Alison Harvey
- Foreign and Commonwealth Office on economic citizenship: Alison Harvey and Philip Trott

## Other official bodies

- 11 Million (Office of the Children's Commissioner for England and Wales) Advisory Group (refugee children): Steve Symonds and Alison Harvey
- Mayor of London Board for Refugee Integration in London and Community Safety Forum: Steve Symonds
- Independent Police Complaint's Commission: Steve Symonds
- Legal Services Commission – meetings and liaison by Vicky Guedalla, Susan Rowlands, Matthew Davides, Liz Barratt and Simon Pugh.

## Non-governmental organisations and networks

ILPA counts the leading non-governmental organisations in the field among its members. ILPA members are active in work with such organisations and in more informal networks around particular topics and it is difficult to do justice to the full range of interdependencies and interactions between ILPA and these groups. 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; focusing on cases where significant resources from the Secretariat have been engaged.

- Access to Justice Alliance: specialist immigration input Vicky Guedalla and Alison Harvey
- Asylum Support Appeals Project: Sheona York, Susan Rowlands
- Bail for Immigration Detainees (BID): close joint working with ILPA on detention and the fast track, including parliamentary work. ILPA's Detention and Fast Track subcommittee is co-convened by Russell Blakely and by Pierre Makhoul of BID.
- Electronic Immigration Network (EIN): Alison Harvey spoke at the EIN 10<sup>th</sup> Anniversary Conference.
- European Council on Refugees and Exiles (ECRE): ILPA continues to contribute to the work of ECRE and of fellow ECRE members. Fiona Lindsley and Nick Oakeshoot are the UK representatives of the European Legal Network on Asylum (ELENA). Dr Valsamis Mitseligas of the European Sub-committee represented ECRE at the Expert meeting on Member States' police and other law enforcement authorities access to Eurodac (8 October 2007)
- Foreign National Prisoners' Network ILPA Offences subcommittee has worked through and with the Foreign National Prisoners Network during the year.
- Housing and Immigration Group (HIG): Through Sheona Yorke and others ILPA continues to work closely with HIG.
- Law Society - Stefan Vnuk represents ILPA on the Immigration Law Committee and Jackie Peirce attended a meeting of the Access to Justice Sub-committee on behalf of ILPA
- Refugee Children's Consortium: Nadine Finch, Steve Symonds, Susan Rowlands and Alison Harvey all work closely with the Consortium, including in parliamentary lobbying and responses to consultations.

- Refugee Legal Group (RLG): the Asylum and Access to Justice, and Detained Fast Track subcommittees and the Legal Officer use the RLG to ensure the dissemination of information of interest to its users.
- Still Human Still Here campaign: Steve Symonds and Katherine Henderson
- Trafficking Law and Policy Network: Alison Harvey.
- UK Lesbian and Gay Immigration Group: joint training has been undertaken and see also under publications and projects.

In addition to the seminars and conferences described below, Steve Symonds has provided workshops at an OISC/Refugee Council conference for Refugee Community Organisations in April, to support groups for unaccompanied children seeking asylum (Hounslow, April), at a Migrant and Refugee Forum in Manchester in May, to the Migrant Resource Centre in May, in June at a meeting of the North-South Immigration Forum, bringing together practitioners and some smaller NGOs working north and south of the border in Ireland, to Bail for Immigration Detainees on complaints procedures, to a Scottish Refugee Council Course in Glasgow in November with Baljeet Sandhu on child-specific persecution. In July Chris Randall addressed the Immigration Advisory Service conference on the impact of the recent Home Office Policy changes on the sector.

## Responses and submissions

ILPA responds to numerous UK and EU proposals and consultation documents. The list below illustrates the work that has been done not only by the sub-committees, their convenors, other members, the General Secretary and the Legal Officer, but the Chair who has approved the final text of all submissions and policy letters.

Oral evidence should not be forgotten: thanks to Richard Thomas for giving evidence on the UK Borders Bill and to Kathryn Cronin for giving evidence to the Joint Committee on Human Rights inquiry into the *Treatment of Asylum Seekers*.

Briefings on legislation form a substantive part of ILPA's output, as does the Info Service that forms part of the Joseph Rowntree Charitable Trust funded work of the Legal Officer.

1. Response to Home Office consultation on a new charging regime for immigration and nationality fees December 2006
2. ILPA comments to the Minister of State re rolling out the Points Based System 1 December 2006
3. Further response to Consultation on Establishing a Migration Advisory Committee January 2007
4. Response to Asylum and Immigration Tribunal Consultation on Bail Applications January 2007
5. Response to Department of Constitutional Affairs Consultation on proposed amendments to the Community Legal Service (Asylum and Immigration Appeals) Regulations, January 2007

6. Response to Home office consultation on establishing a Migration Advisory Committee January 2007
7. Response to the Home Office Consultation on an Independent and Transparent Assessment of Immigration February 2007
8. Letter to David Stokes, Department of Constitutional Affairs, Civil & Family Legal Aid Strategy re Consultation on proposed amendments to the Community Legal Service (Financial) Regulations 2000 21 February 2007
9. Letter to David Stokes, Department of Constitutional Affairs, Civil & Family Legal Aid Strategy re Consultation on proposed amendment to the Lord Chancellor's authorisation on the scope of legal aid – business cases, 21 February 2007
10. Letter to Liam Byrne MP, Minister of State re Knowledge of Language and Life in the UK, 5 March 2007
11. Letter to Robert Whalley CB, Immigration and Nationality Directorate, Harmondsworth Immigration Removal Centre Investigation re Harmondsworth Immigration Removal Centre Investigation, 8 March 2007
12. Letter to Keeley Cracknell, AIT Detainee Programme, Asylum & Immigration Tribunal re AIT Detainee Review consultation on Workload Allocation List for bail hearings, 26 March 2007
13. Response to the Legal Service's Commission draft immigration specification March 2007
14. Response to IND's proposal to use video-conferencing for substantive asylum interviews of prisoners, March 2007
15. Letter to Border and Immigration agency, Managed Migration re settlement applications from 2 April 2007
16. Letter to Border and Immigration Agency Managed Migration Directorate re European Economic Area (EEA) Dependant Applications, 12 April 2007
17. Response to the Legal Service's Consultation on the draft detention advice specification, April 2007
18. Response to the Legal Services Commission consultation on the draft Unified Contract Specification, April 2007
19. House of Lords European Union Select Committee Inquiry into Annual Policy Strategy 2008, April 2007
20. Letter to Border and Immigration Agency re DNA testing of dependants of EEA nationals, April 2007
21. Response to New Asylum Model DVD and briefing presentation feedback, April 2007
22. Comments on Home Office pilots to test arrangements for identifying foreign nationals in the criminal justice system May 2007
23. Response to the Home Office Immigration and Nationality Directorate Consultation Paper, February 2007, *Planning Better Outcomes and Support for Unaccompanied Asylum Seeking Children*, May 2007

24. Letter to Jeremy Oppenheim, Director, Social Policy re Border and Immigration Agency's Child Safeguarding Strategy, 7 June 2007
25. Comments on the Legal Services Commission draft Immigration SPAN guidance June 2007
26. Representations to the Asylum and Immigration Tribunal on a pilot project for the use of video conferencing for bail applications July 2007
27. Response to the Ministry of Justice consultation on Legal Aid Regulations July 2007
28. Comments on the advance copy of the Legal Services Commission's Immigration Specification, 25 July 2007
29. Response to Border and Immigration Agency consultation on Prevention of Illegal Working - the Implementation of New Powers to Prevent Illegal Migrant Working in the UK, 7 August 2007
30. Response to the Border and Immigration Agency Simplifying Immigration Law – an initial consultation, August 2007
31. Letter to Border and Immigration agency, Managed Migration re Work Permits UK Published Guidance, August 2007
32. Letter to Border and Immigration Agency (BIA) Diversity Policy Team re BIA data collection exercise, 30 August 2007
33. Letter to the Legal Services Commission re Immigration SPAN and claims code guidance 7 September 2007
34. Letter to Asylum and Immigration Tribunal re use of video-conferencing in bail applications 3 September 2007
35. Response to Consultation on Controlled Access to UK Labour Market for Romanians and Bulgarians, September 2007
36. Submissions to the House of Lords Select Committee on the European Union Sub Committee F – FRONTEX Inquiry, September 2007, September 2007
37. ILPA response to the UK government's response to the Joint Committee on Human Rights Report on the Treatment of Asylum-Seekers 7 September 2007
38. Letter to Legal Services Commission re Controlled Legal Representation (CLR) report form, 11 September 2007
39. Submission in response to the European Commission Green Paper on the future Common European Asylum System COM(2007) 301 final, October 2007
40. Response to Border and Immigration Agency consultation on the Independent Police Complaints Commission (IPCC) Oversight of Border and Immigration Agency Incidents, October 2007
41. Response to the Border and Immigration Agency Consultation on the Transposition of the EU Asylum Procedures Directive 2005/85/EC into national law, October 2007
42. Response to the Asylum and Immigration (AIT) consultation on amendments to the AIT Procedure Rules as a result of the EU Asylum Procedures Directive, October 2007

43. Freedom of Information Request on the Asylum and Immigration Tribunal pertaining to listing in the light of the introduction of fixed fees and training of immigration judges, October 2007
44. Response to consultation on London Enriched – the Mayor’s Strategy for Refugee Integration in London, October 2007
45. Letter to Susan Shaw, Employment and Europe Team, Border and Immigration Agency of 15 October 2007 on the Points-Based System
46. Letter to Lin Homer, Chief Executive border and Immigration agency re policy guidance and instructions to caseworkers, October 2007
47. Letter to Alan Bucknall of Managed Migration in the Border and Immigration Agency on dependants in the Points-Based system 5 November 2007
48. Response to the Border and Immigration Agency Consultation on the draft Immigration and Asylum (Provision of Services or Facilities) Regulations 2007, November 2007
49. Response to the Border and Immigration Agency consultation on fees for the first phase of the Points Based System, 9 November 2007

### **Info Service publications**

As of the AGM, the info service had published seven Updates and 21 Information Sheets, as well as Notes from seminars and workshops. The Information Sheets cover judgments in leading cases, the UK Borders Bill, the New Asylum Model, Applying for Settlement, Legacy Cases, Children’s Asylum Claims, the Still Human Still Here Campaign, the Simplification Project, Special Immigration Status, Removals and Judicial Review, Age Disputes and Age Assessment, and Legal Aid. Notes from workshops cover Legal Criteria for Protection (February 2007), Asylum (April 2007), Detention Rights and Remedies (May 2007) and the UK Borders Bill (June 2007).

### **Summary**

ILPA exists to the extent that members need it. The bulk of ILPA’s work is done by members in a voluntary capacity; ILPA’s main sources of funding are membership fees and revenue from training. This is good for us; it keeps us responsive to the needs of members. It is challenging when members are under such pressure as it means that at the time when you most need ILPA, ILPA too faces the greatest challenges, but the role of the Secretariat lies in facilitating your work, not in substituting for it.

I took up post at a time when ILPA faces enormous challenges, from external developments and from the pressures that those developments have placed on members and, in consequence, on the Secretariat. Time has been shared between management of the Secretariat and support to the Executive Committee and subcommittees and contribution to substantive work and my focus for the coming year will be to see the Secretariat and the Association through the coming period of intense change. My current and future work programme includes work to:

- With the Executive Committee, to develop a strategic plan for ILPA
- Develop new tools, systems and procedures for work with the Executive Committee, subcommittees and those representing ILPA to support accountability and the timely flow of information between them and to members.

- Build and strengthen management information within the Secretariat, including systems for information management, budgets and reporting timescales, evaluation and monitoring
- Review and address ILPA's dissemination of information, recognising methods of dissemination in the format of what is produced, finding the right balance between hard copy and electronic materials, and overhaul ILPA's antiquated IT system
- Support the Executive Committee in getting the Association back on a secure financial footing, including overseeing a change of premises, consideration of charitable status for ILPA, accessing funding for the legal officer's post and project work, developing the use of support in kind from members and fundraising events and reinvigorating the training programme
- Strengthen links between training and publications, research and influencing work

I opened this report with thanks, I reiterate them. To my predecessor, for the Association that she did so much to build up and the high standards she set. I have inherited a reputation for excellence; the challenge is to deserve it. To the staff: a very professional and skilled team the extent of whose skills sometimes goes unnoticed because, helpful, flexible, calm, good humoured and kind as they are, they make it look so easy. Make no mistake, it has been a very tough year and only a strong and diverse skills base, as well as an enormous commitment to ILPA, could have produced the results you have seen. To the Executive Committee, who have given so generously of their time and skills and been supportive, encouraging and patient as I have worked to find my way in these first months.

Thanks to all ILPA's members who convene subcommittees, represent ILPA or contribute on an *ad hoc* basis but often in very intense ways to responses and initiatives. I shall strive to ensure that you receive the support you need from the Secretariat and the opportunities to support each other that it facilitates.

*Alison Harvey*  
*General Secretary*

## **ILPA TRAINING**

### **Courses**

NB: course location is London unless stated otherwise

<b>Date</b>	<b>Title</b>
28 November 2006	JR for business practitioners
29 November 2006	Credibility issues in asylum applications
30 November 2006	An introduction to immigration law, getting started, the first step to accreditation (Manchester)
5 December 2006	The new highly skilled migrant programme, an essential guide
6 December 2006	ILPA immigration rules snapshots: Students
23 January 2007	An introduction to immigration law, getting started, the first step to accreditation
24 January 2007	Demystifying the accession of Bulgaria and Romania to the EU
25 January 2007	How to prepare and present a deportation appeal (Birmingham)
6 February 2007	The Immigration Asylum and Nationality Act, an update
15 February 2007	The points based system: where are we now?
20 February 2007	Update: recent developments in immigration cases
22 February 2007	Getting started in business immigration law
23 February 2007	The new highly skilled migrant programme, an essential guide (Leeds)
7 March 2007	The highly skilled migrant programme, where are we now?
8 March 2007	'Significant others' applications for fiancé, partners and spouses
13 March 2007	ILPA immigration snapshots: expert evidence in the Asylum and Immigration Tribunal
20 March 2007	Race discrimination and immigration
27 March 2007	An introduction to immigration law, getting started, the first step to accreditation
29 March 2007	Challenging the legality of detention in immigration and asylum cases: law, strategy and approaches
18 April 2007	The new practice direction on Judicial Review of removal: new tactics and strategies for emergency proceedings
21 March 2007	Home office policy, concessions and the exercise of discretion outside the immigration rules
25 April 2007	The investor: making a successful application

30 March 2007	Home office policy, concessions and the exercise of discretion outside the immigration rules (Leeds)
15 May 2007	Starting out in advocacy: tips from an immigration judge and a barrister
6 June 2007	Making applications for self employed Turkish nationals
13 June 2007	Adoption – a guide for immigration practitioners
19 June 2007	Assessing the first year of the Immigration (European Economic Area) Regulations 2006 and Directive 2004/38
20 June 2007	An introduction to immigration law, getting started, the first step to accreditation
28 June 2007	Key developments in appeals procedures
4 July 2007	Student Applications under the Current Immigration Rules
5 July 2007	Common procedural issues in asylum claims and how to handle them
12 July 2007	ILPA/UKLGIG training: Asylum on the grounds of sexual and gender identity
17 July 2007	Overseas Domestic Workers - Current Practice and Procedure the Way Ahead
19 July 2007	NEW Seminar on expert evidence in the Asylum and Immigration Tribunal
16 August 2007	HSMP UPDATE: Published and Unpublished Changes
10 September 2007	Money laundering: The Proceeds of Crime Act 2002, where are we now and where are we going
17 September 2007	UK nationality law: current developments
18 September 2007	Foreign national prisoners: from conviction to deportation in the blink of an eye
20 September 2007	Basic Immigration law: training towards first level accreditation, (2 part course)
24 September 2007	An introduction to immigration law: getting started, the first step to accreditation
25 September 2007	Legal aid: strategies for coping with the new regime
4 October 2007	Applications for entry clearance all you need to know
10 October 2007	Home office policy, concessions and the exercise of discretion outside the immigration rules
16 October 2007	Introduction to UK nationality law, problem solving and case studies
18 October 2007	New rules for refugee status, UK implementation of the EU qualification directive

23 October 2007	Introduction to U S Immigration law
24 October 2007	HSMP update: published and unpublished changes
26 October 2007	Home office policy, concessions and the exercise of discretion outside the immigration rules (Birmingham)
30 October 2007	An introduction to immigration law: getting started, the first step to accreditation
1 November 2007	Training towards second level accreditation, exam techniques and problem solving
1 November 2007	A comprehensive update on the Points Based System
2 November 2007	New rules for refugee status, UK implementation of the EU qualification directive (Birmingham)
8 November 2007	Getting started in business immigration law
12 November 2007	EU Law, problem solving and case studies
20 November 2007	An introduction to immigration law: getting started, the first step to accreditation

### Speakers

The following speakers are thanked for their contributions

<b>Speaker</b>	<b>Organisation / Firm (at time of course)</b>
Naomi Angell	Osbornes
Tim Barnden	Wesley Gryk Solicitors
Philip Barth	Penningtons Solicitors LLP
Liz Barratt	Bindman and Partners
Sophie Barrett Brown	Laura Devine Solicitors
Adrian Berry	Garden Court Chambers
Nicholas Blake QC	Matrix Chambers
Pieter Boeles	Leiden University
Nicholas Bratza	Judge of the High Court and the British Judge of the European Court of Human Rights
Nichola Carter	H2O Law LLP
Mick Chatwin	Renaissance Chambers
S Chelvan	Mitre House Chambers
David Chirico	1 Pump Court Chambers

Magdalena Ciesislska	Unit E3 DG Employment
Jane Coker	Immigration judge
Naomi Coombes	HSBC Private Bank
Hakan Cortelek	HSBC Private Bank
Simon Cox	Doughty Street Chambers
Linda Coxon	Bindman and Partners
Shakhura Dawood	Greater Manchester Immigration Aid Unit
Emily Dickens	BIA
John Ellinor	BIA
James Elliot	Wilson and Co
Judith Farbey	Tooks Chambers
Nigel Farminer	BIA
Nadine Finch	Garden Court Chambers
Laurie Fransman QC	Garden Court Chambers
Vicky Guedalla	Deighton Guedalla
Elspeth Guild	Kingsley Napley Solicitors
Mark Henderson	Doughty Street Chambers
Alison Hunter	Wesley Gryk and Co
Catriona Jarvis	Senior Immigration judge
Graeme Kirk	Gross and Co
Surekha Kukadia	Bates Wells and Braithwaite LLP
Jawaid Luqmani	Luqmani Thompson & Partners
Alasdair MacKenzie	Doughty Street Chambers
Rachael Mason	Magrath and Co
John McCarthy	Immigration judge
Hermione McEwen	Greater Manchester Immigration Aid Unit
Michal Meduna	DG JLS C.3 Citizenship and fundamental rights
Kishor Mistry	UKvisas
Valsamis Mitsilegas	Queen Mary University of London
Sonali Naik	Garden Court Chambers
Clinton Neild	BIA

Declan O'Dempsey	Cloisters
Barry O'Leary	Wesley Gryk Solicitors
Julia Onslow-Cole	CMS Cameron McKenna/PricewaterhouseCoopers Legal LLP
Muhunthan Paramesvaran	Wilson and Co
James Perrott	Fragomen, LLP
Emily Pope	CMS Cameron McKenna
Jason Prince	BIA
Mahmud Quayum	Camden Community Law Centre
Simon Pugh	Wilson and Co
Chris Randall	Bates, Wells & Braithwaite LLP
Nicola Rogers	Garden Court Chambers
Kate Roberts	Kalayaan
Nick Rollason	Kingsley Napley Solicitors
Laurence Saffer	Immigration judge
Rick Scannell	Garden Court Chambers
Sonya Sceats	British Institute of Human Rights
Duran Seddon	Garden Court Chambers
Emily Shaw	8 Kings Bench Walk
Ben Sheldrick	Magrath and Co
Abigail Smith	Tooks Chambers
Philip Trott	Bates Wells and Braithwaite LLP
Alison Stanley	Bindman and Partners
Charlotte Taylor	BIA
Richard Thomas	Doughty Street Chambers
Ronan Toal	Garden Court Chambers
Judge Tulkens	Judge of the European Court of Human Rights
Fran Webber	Garden Court Chambers
Amanda Weston	Tooks Chambers
Nicholas Woolf	Woolf Simmonds Solicitors
Trevor Wornham	Wornham and Co Solicitors
Colin Yeo	Barrister/IAS

## **ACCESS TO JUSTICE SUB-COMMITTEE REPORT**

ILPA has been busy as usual pressing members' views and concerns in relation to various consultations and on various consultative bodies dealing with access to justice.

The year has seen amendments to the AIT's Procedure Rules and procedures. ILPA made substantial submissions on these and on the implementation of the Procedures Directive. ILPA has been represented on the users groups of the Administrative Court and the AIT and argued members' concerns on a range of issues.

ILPA's biggest success of the year in the access to justice field related to its opposition to the proposed new practice direction on JR of removal.

In November 2006, the DCA issued a consultation on a new Practice Direction governing judicial review challenges to removal. It was presented as a response to the new Home Office policy by which the Home Office would allow a minimum of 72 hours including two working days between service of removal directions and removal. The Home Office maintained that this was an adequate period for representatives to move from receipt of decision to lodging proceedings in the Admin Court accompanied by detailed grounds. The Home Office position was that it would no longer normally defer upon the lodging of a claim in the Administrative Court unless the claim was accompanied by detailed grounds.

The Practice Direction proposed by the DCA required the claim, accompanied by detailed grounds, to be lodged within the same 72 hour period, failing which, an Administrative Court reference number would not be issued unless exceptional circumstances could be shown.

ILPA complained strenuously both about the very short consultation period permitted to it and the fact that the DCA appeared to have engaged in a prior consultation with the Home Office to the exclusion of other court users.

ILPA's main concern about the substance of the proposed PD was that by setting a 72 hour time limit for lodging with detailed grounds, and indicating that only in exceptional circumstances would a claim otherwise be accepted, the PD appeared to be endorsing the Home Office position that this was an adequate time limit in which to lodge. The 72 hour time limit would also have applied even in cases where longer notice of removal is given by the Home Office.

As a result of the response of ILPA and others to the consultation, the Civil Procedure Rules Committee decided not to implement the PD according to the timetable requested by the Home Office and to set up a Working Group on the PD. ILPA was represented on the Working Group. As a result of the Working Group's deliberations, the PD was substantially amended. The 72 hour time limit for lodging an application was removed as was the reference to a claim only being accepted in "exceptional circumstances" if it did not include detailed grounds.

ILPA continued to use its position as an observer on the Home Office's statutory Advisory Panel on Country Information (APCI) to press for effective scrutiny of Home Office country information, especially information used to justify designating countries for the non-suspensive appeals process. This had mixed results. The APCI declined to approve the COI on some candidate countries for

designation through the year on the basis that it had inadequate information to do so. It also deemed it “unfortunate” that it was asked to approve the COI on candidates for designation without being invited to review the Operational Guidance Notes for these countries. This is especially important in light of the fact that when countries have previously been designated for the NSA process, the Home Office have relied in Parliament upon the APCI’s alleged approval of its country information.

ILPA has continued its campaign to persuade the APCI to consider OGNs as a matter of course as they may well include far more controversial country information used to designate a country or refuse individual claims than do the COI reports. Unfortunately, notwithstanding the APCI appearing receptive at the beginning of the year, it has so far declined to take that step in the face of strenuous Home Office opposition.

Another major priority recently for ILPA has been pressing the AIT to adopt a more reasonable listing policy in light of the new fixed fee regime and in light of the indications by Vera Baird QC, then DCA minister, at last year’s ILPA conference that she expected the AIT to work more co-operatively on listing.

*Convenor: Mark Henderson*

## **DETENTION FAST TRACK SUB-COMMITTEE REPORT**

### Summary

The year has been marked by the entrenchment of the Detained Fast Track system (DFT) in the UK's asylum determination mechanism. In the absence of a willingness on the part of the judiciary to control the Border and Immigration Agency and the Asylum and Immigration Tribunal, the future depends largely on the outcome of the Saadi litigation in the European Court of Human Rights.

### The current picture

Tribute should be paid to the work of Bail for Immigration Detainees (BID), who have been tireless in their lobbying and research activities. BID published "Refusal Factory - Women's experiences of the Detained Fast Track asylum process at Yarl's Wood Immigration Removal Centre". The study details the current situation for people in the DFT. We provided comments on a draft, and ILPA Legal Officer Steve Simmons spoke at the launch.

The research concludes that despite rules that only 'straightforward' cases are dealt with in detention, people with complex cases are being sent there. Once in detention people are set up to fail because the process is over in a matter of days and is simply too fast to allow people to disclose their experiences and get evidence to support their case.

The research found that 99% of women in Yarl's Wood are refused asylum by the Home Office, compared to around 83% for cases decided outside detention. Most are also refused at their appeal: in 2005 and 2006, only 20 women won their appeals in detention (a 3% success rate compared to around 17% in all appeals). The research found that decisions on which cases end up in detention are arbitrary.

### Legal Practitioners

Work in the DFT remains subject to exclusive contracting with the Legal Services Commission. The existing contract arrangements have been rolled forward, Legal Help and Controlled Legal Representation remaining payable by time rather than by fixed fee. However, as of October 2007, immigration clients are unique in that if they are in detention, their legal aid has a three hour per trip cap on travel time; thereafter the solicitor has to provide the LSC with a 100% subsidy for the travel.

It is regrettable to note that there are continuing concerns regarding the quality of the representation provided by some solicitors under the exclusive contract. The LSC agreed to fund ILPA producing a best practice guide to representation in the DFT. Matthew Davies has written the guide, and this is in press. ILPA plans further training courses on the DFT following publication.

### Legal challenge to legal aid arrangements for DFT

Many people in the DFT face their asylum appeal without representation. They can only receive legally aided representation through a solicitor acting under the exclusive contract. The solicitor must assess the prospects of success, and if, when there is sufficient material available upon which to base a decision, the prospects of success are less than 50%, the solicitor must withdraw funding. If a solicitor achieves a success rate in his legally aided immigration cases of less than 40%, this jeopardises his LSC funding. All this further stacks the odds against the person in the DFT.

Michael Fordham QC and his colleague Naina Patel were kind enough to put many hours into producing a detailed opinion on the merits of mounting a judicial review challenge to the current arrangements. Meetings were held on this project.

It is expected that a coalition of organisations will proceed with taking the judicial review action. The action will challenge terms in the LSC's specification for DFT work. It is expected that we can find a firm of solicitors to work pro bono.

#### Tribunal members and the Judiciary

Practitioners applying to the AIT to have complex cases transferred out of the DFT are finding this very difficult. There have been several judicial reviews of refusals to transfer out, and it appears that all these have failed. The judiciary's attitude is that the appeal and reconsideration procedures in the AIT itself, provides the appropriate forum for the transfer issue to be dealt with.

The Court of Appeal looked at the issue of judicial review of interlocutory decisions of the AIT in the decision of *AM (Cameroon)* [2007] EWCA Civ 131 (21 February 2007). This is notable for the great reluctance of the Court to intervene, and indicated that judicial review was available only in extreme circumstances. However the case did not involve the DFT, and therefore gave no consideration to the detention issues involved in DFT cases. The case is listed for a further hearing in the Court of Appeal on 4.12.7.

The *Saadi v UK* litigation continues before the European Court of Human Rights. This challenged the legality of the original detained fast track, Oakington. The ECHR was split, but the majority ruled in the Government's favour. The case has now been heard in the Grand Chamber of the ECHR. Should the case go in the applicant's favour, it will be a major blow to whole edifice of the DFT.

#### Trafficking

The Council of Europe Convention against Trafficking in Human Beings will enter into force on 1 February 2008; however the UK is not expected to ratify for some time. The UK has published an Action Plan on trafficking, which is an evolving document; it is likely that specific immigration provisions will eventually appear in this.

The sub-committee has spent substantial time considering how the Convention could be used to help trafficked people who are in the DFT. There is a problem with asking the BIA people responsible for the DFT to formulate policy in response to the Trafficking Convention. In keeping with the draconian nature of the DFT, they are likely to respond with an extremely restricted policy. Once created, this policy might take on a life of its own outside the DFT, and form the model for policies applying to NAM. It is intended to review the position following the next minister-led stakeholders' meeting.

#### Bail

The AIT consulted on venues for bail hearings. The AIT wants to list the hearings wherever is most convenient for it, with no regard to convenience for advocates or sureties. We responded to this consultation, but there has been no response.

The use of video conferencing is a fact of life in criminal practice, and widespread use of this in the AIT seems inevitable for bail applications. We monitored part of the pilot; our observations included witnessing an instance of a prison officer acting as an advocate for an unrepresented detainee. We have been in correspondence with the AIT about video conferencing, and discussed this in stakeholders' meetings.

### Police Station Telephone Advice Pilot

This is an LSC-driven scheme to provide thirty minutes' telephone advice to people held at police stations. We have provided briefings to parliamentarians. Although a well-intentioned effort by the LSC, it is being exploited by the Government to maintain the fiction that there is adequate legal representation available.

It should be noted that call-centre based legal advice is already being rolled out in criminal practice, and could well be the way of the future for specific kinds of legally-aided immigration advice.

### Other consultations

We responded to the BIA's internal investigation into the Harmondsworth disturbance, and met with the chairman of the investigation. Most of the points made by ourselves, and other groups working to help detainees, appeared to make little impact. The main conclusion of the investigation was that the fabric of the buildings needed to be stronger to increase the ability to control detainees.

In July, the BIA were kind enough to have a special one-off stakeholders' meeting, entitled "Focus on Detained Fast Track and Detention." The sub-committee did considerable work preparing for this, and co-ordinating with other NGOs, particularly BID. However the attitude of the BIA in this meeting only demonstrated how little they were prepared to engage with concerns about the fairness of the DFT, and the effect of detention on vulnerable people. For instance, the BIA were unapologetic about the phenomenon of torture-survivors being inducted into the DFT.

The sub-committee continued working through stakeholders' meeting to try to improve working conditions in detention centres.

*Co-convenors : Russell Blakley and Pierre Makhlouf*

## EUROPEAN SUB-COMMITTEE REPORT

We must start this report with a most heartfelt thanks to Nicola Rogers who has stepped down as co chair of this subcommittee after many years. She has worked hard and continuously to make this subcommittee a success and to ensure that the impact of the views of the organisation are heard at the European level. We would also like to thank Alison Hunter for stepping into Nicola's place as co-chair of the subcommittee.

One of the key projects which we undertook in 2006/7 was a detailed analysis of the UK's implementation of the new EU directive on citizens of the Union and their family members. This culminated in an excellent training course at which BIA and Commission officials participated where we addressed all the outstanding issues (of which, sadly, there remain quite a few). A final report will be forthcoming shortly.

We addressed the issues of the treatment of nationals of the A8 EU countries who are subject to the worker registration scheme and the lack of rights of the A2 workers (Bulgarian and Romanians). While the UK has applied transitional restrictions on A2 workers, the 2004 Member States have not with the exception of Malta nor has Sweden or Finland. The introduction of the new right to reside test, which appears to be a further restriction after habitual residence, which applies to A8 (and A2) nationals who seek social benefits has been a matter of some concern.

The Sub committee has relied heavily on the hard work of all the members which has made it possible for us to make submissions to the House of Lords European Union Sub Committee F on FRONTEX, the EU's external border agency. We have been invited to attend to give oral evidence in November. The Sub committee has also responded to the European Commission's consultation on the development of the second phase of the Common European Asylum System. Copies of the document can be found on the ILPA website. The BIA consultation on the implementation of the asylum procedures directive was also the subject of a submission from the sub committee. We are very concerned about the weaknesses which the implementation of this directive may reveal.

Every three months the sub committee prepares an update on the latest information on EU developments, including decisions of the European Court of Justice. Many thanks to Steve Peers for his unstinting cooperation in preparing the legislative updates for these European Updates.

In February the Sub Committee held a conference on the application of the right to family life and the right to respect for family life in UK and EU law and practice. This was a joint conference with the British Institute of Human Rights and was held at Kings College London. Alison Hunter was central to the organisation which brought together judges from the European Court of Human Rights and experts from the UK and beyond to discuss the issue of family life.

The sub committee has kept an eye on the key decisions in the national and European courts in the field and kept its members well informed about developments. It has proved a valuable venue for practitioners to discuss cases they have and issues which they see on the horizon which engage an aspect of EU law.

Many thanks to all the members of the sub committee for their hard work which has made the activities of the sub committee possible.

*Co-convenors : Elspeth Guild and Alison Hunter*

## ECONOMIC MIGRATION SUB-COMMITTEE REPORT

Throughout this year the Government has continued to promote its plans for the most fundamental changes in Business and Employment Immigration Law in history and we have actually started to experience the early stages of those changes in practice. The employment of overseas nationals is currently at the forefront of British political and media debate. Consequently the Sub-Committee has had an exceptionally demanding and highly active year.

The diverse experience of the Co-convenors and members has continued to ensure that the Sub-Committee remains effective. Philip Trott is a Partner and Head of Immigration at Bates Wells & Braithwaite. Philip has substantial experience in acting for a variety of corporate and individual clients in particular in entertainment and the arts. He is also an employment lawyer. Philip Barth is a Partner and Head of Immigration at Penningtons [Solicitors LLP](#). Philip has substantial experience acting for corporate and individual clients with a particular emphasis on economically driven migration. Owen Davies is a Senior Solicitor at Fragomen ~~Del Rey Bernsen & Loewy~~ LLP and also acts for a number of large corporate, as well as individual, clients. Nichola Carter is a Partner and Head of Immigration at H<sub>2</sub>O Law LLP. Acting for businesses and individuals Nichola also challenges adverse government decisions in her appeals and judicial review work. Nichola is also a family lawyer. Sarah Keeley is a solicitor at CMS Cameron McKenna and acts for a number of household name corporate clients in addition to high net worth individuals. [The number of Co-convenors allows for a spreading of the workload generated by the Sub-committee and for flexibility.](#)

The Sub-Committee continues to rely heavily on several ILPA members who are often called upon to react to issues; frequently, due to the nature of Home Office practice, at very short notice. We thank all ILPA members for being involved in the work of the Sub-Committee and hope that they will continue their support during the forthcoming year. We also thank Susan Rowlands and Alison Harvey particularly for the valuable assistance, energy and dedication given to the Sub-Committee this year.

To reflect the Government's re-classification of Business and Employment Immigration Law, the Employment and Business Sub-Committee became the Economic Migration Sub-Committee early in the year. 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 Sub-Committee on various aspects relating to Business and Employment Immigration Law. We have recently increased our meetings from six weekly intervals to monthly meetings to deal with the rapid change in this niche practice area and to update members on Home Office consultation in a quicker timeframe. The dates of our meetings are sent out in the ILPA mailing.

The Sub-Committee represents ILPA on the UKVisas User Panel dealing with Entry Clearance matters. The Work Permits (UK) User Panel, which discussed both work permit matters and also general business immigration related issues, was disbanded by the Home Office earlier this year but, following lobbying by the Sub-Committee, representation of ILPA on the Employer Taskforce was secured.

Over the last year the Sub-Committee has regularly discussed and raised issues relating to employment and business immigration law and practice by the Home Office (both to the BIA and UKVisas). The majority of this year has been dedicated to assessing and responding to the Government's continued pursuit of the Five Year Plan announced in 2005, which is in its most recent form embodied in the March 2006 publication '[A Points-Based System: Making Migration Work for Britain.](#)'

The Sub-Committee has represented ILPA at several meeting with senior officials of the Home Office in this regard and has already persuaded them to change their initial policy line in relation to a number of areas. In addition, the Home Office agreed to hold monthly liaison meetings with the Sub-Committee Co-convenors and invited the EMSC to a Model Office walk through of how the Points Based System would work in practice. Discussion points at the liaison meetings have included: funds; English language; immigration history; general grounds of refusal; verification of documentation submitted in support of applications; investor and businessperson categories under Tier 1; sponsorship under Tier 2, dependant status, documentary requirements.

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 disburse information to ILPA members and react to announcements by the Home Office throughout this period of change. We have:-

- reacted promptly and firmly to the Home Office announcement on 7 November 2006 that, without any warning period at all, the HSMP scheme would be suspended with immediate effect, that new criteria for extensions would be operational from 8 November and that an entirely new scheme would be introduced on 5 December 2006. This has included reporting throughout the year to ILPA members on progress of the Judicial Review relating to the change in criteria and continued lobbying activity with regard to the evidentiary requirements of income for the self-employed and independent contractors;
- formulated a response to the Home Office January 2007 consultation document on establishing a migration advisory committee, strongly pushing for ILPA to be represented;
- formulated a response to the Home Office through the liaison meetings on the evidence to be produced in support of investor and businessperson categories under the new Points Bases System;
- persuaded the Home Office to reconsider the disbandment of the sole representative category under the new Points Based System;
- used the Freedom of Information Act to persuade the Home Office to disclose numerous internal guidance notes and policy material, of particular benefit to the hospitality and catering and information technology sectors and statistics on the impact on approval rates of the new HSMP;
- continued to lobby senior officials working on the Points Based System to retain a Domestic Overseas Worker route for employees and business-persons transferring to the UK (although the current proposals fall woefully short of the system we believe would be fair);
- consistently lobbied for a statements of policy on permitted absences for migrants in categories leading to settlement.
- consistenly lobbied for a reversal of policy on dependants switching in country.
- Responded to the Government consultation on Penalties for Illegal Working/ Employer Sanctions
- successfully lobbied senior officials working on the Points Based System to retain the Retired Person of Independent Means route for individual wishing to live in the UK;

Formatted: Bullets and Numbering

- successfully lobbied senior officials working on the Points Bases System to lower the threshold of the English language requirement and to incorporate alternative methods to evidencing English language capability other than English language certification alone;
- formulated a response to the Home Office October 2007 consultation on charging under the new Points Based System;
- in addition, the EMSC has contributed to ILPA training on business and employment related immigration law and has hosted several open meetings with Home Office speakers.

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

*Co-convenors : Philip Barth, Philip Trott, Owen Davies, Sarah Keeley and Nichola Carter*

## **FAMILY & GENERAL IMMIGRATION SUB-COMMITTEE REPORT**

The subcommittee has met on six occasions through the year at the School of Oriental and African Studies, courtesy of Professor Werner Menski, and again some of his students have attended meetings and given secretarial support - thank you to all. The meetings have generally been small – all ILPA members interested in joining us, or in receiving email from the subcommittee, please do get in touch. We meet on the third Tuesdays of alternate months.

Fees for immigration applications and the 'knowledge of language and life in the UK' test have remained a focus for the group, especially after the extension of the test from naturalisation applications to become a requirement for settlement applications, and the vast fees increase, from April 2007. The subcommittee worked with the Economic Migration subcommittee on ILPA's response to fees consultations in December 2006 and in October 2007. When the result of the former was announced, we drafted ILPA's letter to the Home Office to protest about the amount it was decided to charge. We are now working with JCWI to collect evidence about the effects these changes have on families and settled communities, for use in pressing the BIA to reduce the fees.

The new edition of the Home Office book, *Life in the UK*, is more accessible than previous ones. We continue to urge that ESOL classes should immediately be available free for those intending to settle in the UK, rather than having to wait three years. The DfES listened to representations about its changes of funding for ESOL and retained some priority for low-paid workers and for dependent women.

Entry clearance procedures, in particular the 'outsourcing' of the process to 'commercial partners', remain a priority for the subcommittee. There are concerns about the behaviour of staff in some of the Visa Facilitation Service offices in India and Pakistan, when advice has been given to applicants, or documents which they claim to have submitted appear not to have been received at the British High Commission. There is confusion about whether the non-British partner in a long-married couple who have lived overseas together can enter the UK as a visitor in order to take the 'Life in the UK' test, and thus to qualify for entry clearance for settlement, rather than the two-year probationary period and we are in correspondence with the Home Office about this. The premium-rate telephone line which is the only way applicants in North America can get information about their application is another problem. It is hoped that the Entry Clearance Monitor may look into this, and these points should be raised in UKVisas' user panel meetings. Members have raised issues with the BIA about the lack of provision for divorced elderly parents and for refugees' families formed after refugee status was granted, in the immigration rules, but without movement.

The subcommittee again worked with the Economic Migration subcommittee on ILPA's response to the Home Office consultation on preventing illegal working. We joined in ILPA's lobbying on aspects of the UK Borders Bill as it went through Parliament, and is following the Criminal Justice and Immigration Bill's creation of a 'special immigration status.' Perennial problems continue - the inordinate delays in the Home Office 'family settlement exercise' allowing families who applied for asylum before 2 October 2000 to settle, there are still a few families waiting and some unreasonable and petty refusals. Delays in dealing with working holidaymakers' applications in the subcontinent continue, and it is still not possible to apply in Pakistan.

And finally, the subcommittee would welcome more participants - the BIA has threatened a further consultation on changes in the rules on marriage shortly - please contact the ILPA office if you would like to become more involved.

*Convenor : Sue Shutter*

## LEGAL AID SUB-COMMITTEE REPORT

No sun – no moon!  
No morn – no noon –  
No dawn – no dusk – no proper time of day –  
No sky – no earthy view –  
No distance looking blue –  
....  
No travelling at all – no locomotion,  
No inkling of the way – no notion  
....  
No comfortable feel in any member –  
No shade, no shine, no butterflies, no bees,  
No fruits, no flowers, no leaves, no birds –  
November!

*Thomas Hood*

Perhaps there is a touch of poetic exaggeration here, but it does come close to reflecting the bleak state of the immigration legal aid landscape this November, the month after the start of the new funding regime.

It has been a hard year, dominated by the issues of the Unified Contract and fixed (or, as the LSC would have it, “graduated”) fees scheme. I have, however, been able to take comfort throughout from the commitment and endurance of ILPA legal aid practitioner members who are hanging on in there, determined to make the new scheme work if humanly possible, and from the quality of members’ contributions (at meetings, via e-mail consultations and otherwise) which have enabled ILPA to put up as good a fight as it has, and to achieve some amelioration of the worst excesses of the scheme as originally proposed.

No criticism of the high quality practitioners who, sadly, have been driven from the field is implied. ILPA mourns their going. We predicted that some would do the sums and be forced to the conclusion that they could not survive under the new regime. We did not want to be right, but sadly we were. Neither do we want to be right in fearing that more may follow in their wake as the scheme bites deeper. On the contrary, ILPA remains committed to continuing the struggle even now to improve the scheme, to hold the LSC to its commitments to monitor its operation, and to help our remaining LSC supplier members, through training and the dissemination of information, to survive without sacrificing quality of service to clients.

Work undertaken since my report to the last AGM has included:

- participating in “Legal Aid- A Sustainable Future?” post-consultation at the LSC with other representative practitioners’ bodies (including LAPG and the Law Society), and continuing liaison on relevant issues;
- attending various campaign, representative body and planning meetings at the Law Society on unified contract, immigration and allied legal aid issues;
- instructing counsel for advice (alas eventually negative) on the feasibility of a legal challenge to the immigration fixed fees scheme;
- preparing, with the help of the stalwarts of ILPA legal aid e-mail subcommittee, an initial critique of the first draft of the Immigration Specification when published in March – our

questions and comments were adopted as the agenda for a representative bodies meeting convened by the LSC Immigration Policy Team on 4 April;

- taking time out from fixed fee issues to respond to three LSC/DCA consultations on amendments to regulations & Lord Chancellor's authorisations;
- circulating the membership with news of developments and exhortations to participate, to send in information from their practice experiences, to write to their MPs, and so forth;
- co-ordinating and preparing ILPA/s formal response to the consultation on the Immigration Specification and those aspects of the General Specification which affect immigration work – a huge task in which I was well supported by the gallant few who contributed comments via the e-subcommittee – while Matthew Davies did likewise for our response to the simultaneous consultation on the draft Detention Advice Exclusive Contract;
- responding, with Jackie Peirce's help, to an LSC response for comments on the draft revised SPAN codes and guidance for reporting concluded cases from 1/10/07;
- submitting comments on an advance copy of the redrafted Immigration Specification circulated to us by the LSC in August;
- running an ILPA training session, with Simon Pugh, Practice Manager at Wilson & Co, in late September as the implementation date of the new scheme loomed and guidance from the LSC itself remained patchy, with many queries raised at its own training session fobbed off to be dealt with in FAQs, which were not published until *after* 1/10/07 and have already been subject to revision in the light of continuing questions from ILPA and others;
- preparing for upcoming training of barristers and clerks, with a view to preparing a fact sheet for ILPA members (barristers, solicitors and others) about instructing counsel in the funding new regime;
- continuing to plague the LSC with queries about the operation of the regime.

A lot of work, to what effect? Achievements have tended to be undramatically technical rather than fundamental, but are nevertheless significant to suppliers' chances of survival. Without our input, supported by the Law Society and the Legal Aid Practitioners' Group, I do not believe that, for example, any of the following would have been accomplished:

- The iniquitous proposal to make the fixed fee for asylum work inclusive of interpreting fees was killed. These are now disbursements payable in addition to the fixed fee, as in all other types of case, immigration and non-immigration.
- It was accepted that the fixed fee calculations did not, and could not, take account of the vagaries of Home Office practice in old asylum cases outside the New Asylum Model, with the result that all cases deriving from asylum claims which pre-date the start of the scheme on 1 October 2007 fall outside the Graduated Fee Scheme and continue to be remunerated as before at hourly rates for the time spent. This is regardless of the date when the supplier takes on the client, and includes appeals and fresh claims, even if made on or after 1 October 2007, provided the initial asylum claim was before that date.
- At least some, albeit inadequate, provision has been made for payments for travelling and waiting time for attendances on clients in prisons and detention centres not covered by exclusive contracting arrangements.

- The bail provisions are relatively speaking generous, albeit complicated.
- The change to the general specification making it impossible to accept applications on behalf of clients outside the European Union was modified by the Immigration Specification to retain the possibility of sponsors in the UK being accepted as clients in entry clearance appeals in which they have sufficient interest.
- As difficult as it may be to believe, without our input the SPAN guidance would have been even more incoherent than it now is - to those reading this report who do not know what a SPAN code is I can only say be grateful, and cultivate that ignorance.

So it would be worse if we had not been in there contending, and the experience of doing so would have been much worse without the contributions of members and the support of the Chair, Executive Committee, both General Secretaries and the ILPA office staff. It would also have been worse if individual LSC policy team members were not almost always good humoured and pleasant to deal with – but pleasantness is not enough. We need a Legal Services Commission capable of standing its ground in the path of the government.

In my opinion the most significant areas in which we have failed thus far to make effective inroads into the new funding arrangements are:

- The sheer over-complexity of the schemes, which I suspect is at least part the explanation for the computer debacle which is currently tormenting all participants. I fear too that the multiplicity of codes is going to result in many an inadvertent input error by suppliers, resulting in underpayments.
- Hourly rates (which are the foundation on which the fixed fee levels are based) are still stuck at April 2001 levels. This of course is an issue not only for immigration suppliers, so I hope that the Law Society may yet be persuaded to take up the cudgels and mount a united campaign for at least a cost of living increase.
- The “Additional Payments” for representation at appeal hearings remain too low, and are inclusive of travel and waiting time, despite the obvious disadvantage to clients with appeals in far flung centres, and the threat to the viability of the junior immigration bar. The LSC has said that it will monitor this to ascertain whether the amount putatively allowed for travelling and waiting time is set right, and ILPA will try to ensure that it is held to that. Vera Baird as DCA Minister at our last AGM indicated that the Tribunal would adapt its listing practices to ameliorate the waiting time problem, but this seems to be news to the Tribunal and no progress has been made, although ILPA continues to raise the question.

The over-arching anxiety arising from all of this is of course that standards may be depressed as practitioners struggle to make ends meet, find themselves unable to do so by balancing quick easy cases against time consuming complex ones (the mythical swings and roundabouts) so are faced with the choice of bowing out or cutting corners. ILPA will be addressing this dilemma, and discussing strategies for maintaining excellence in the teeth of the gale at a members meeting and training course in the new year.

The future looks tough. The new scheme has to “bed in” as the LSC’s jargon has it, and exclusive tendering lies ahead. We know something of what that means for detention work, but a fog lies over the LSC’s intentions for unaccompanied children, in which it seems content to be led by the Home Office rather than by child welfare principles. Meanwhile issues about peer review, the

CLR merits test, Key Performance Indicators, the future of accreditation and competitive tendering, to name but a few, are all still lurking.

So there is much still to do. I myself need to spend more time on my own practice than my role as legal aid convenor for ILPA has allowed over the past 3 years. I am therefore stepping down from that role, and from the Executive Committee, but I remain committed to the struggle, and hope to be able to continue to contribute as one convened rather than convening. I wish fortitude and all good fortune to my successor, and hope that ILPA members will continue to arm the organisation with the strength of their pooled knowledge, and their principled commitment to their clients and the cause of high quality immigration advice and representation for the most vulnerable.

*Convenor: Vicky Guedalla*

## OFFENCES SUB-COMMITTEE REPORT

The focus of this year's activity has been not only on the immigration offences themselves, but the repercussions in terms of treatment in prison and deportation. This has resulted in a busy year for the sub-group, which has worked closely with the Foreign National Prisoners Network. This co-operation has brought together practitioners and NGO's from a broader range to include immigration, prison law and criminal practitioners. As a consequence, the experiences of non ILPA practitioners who work primarily in other disciplines helped to inform ILPA on "grass roots" decision making and how this impacts on advisers across the detained persons sector.

There have been a number of significant judicial developments in relation to sentencing and recommendations for deportation in which members have been involved, and other legal challenges to the blanket policy of re-categorizing foreign national prisoners (or those believed to be foreign national prisoners) in the light of the announcement of the then Home Secretary Charles Clarke in May 2006.

In addition to the work on information exchanging and litigation, the group has also been assisting in the drafting of submissions and preparing briefing papers and amendments to the UK Borders Bill 2006 in relation to new immigration offences, widened investigatory powers for immigration officers, and the application of the Police and Criminal Evidence Act 1984 to immigration officers. The group was also involved in making representations on the "automatic deportation" provisions in the Bill. This involved giving oral evidence before the Public Bill Committee in the House of Commons; formerly named Standing Committees, this constitutional innovation allows for expert evidence to be heard by the Committee examining a Bill. Whilst there has been interest by MPs in the expanding powers and control of immigration officers in relation to offences, there was little interest across the board in any serious amendment to the new deportation provisions. The co-convenors of the group also presented a training session designed to address the key issues for those advising in the field, in terms of the process between conviction and deportation, with an insight on to the potential future.

With the Criminal Justice and Immigration Bill having just received its first reading and a House of Lords case listed in February on the extent to which defendants in criminal proceedings can rely on the protections in Article 31 of the Refugee Convention, it looks as if 2008 will be equally busy.

*Co-convenors: Richard Thomas and Jawaid Luqmani*

## CHILDREN'S SUB-COMMITTEE REPORT

The Children's Sub-Committee met for the first time on Friday, 23<sup>rd</sup> March 2007 and has met 3 times subsequently. A need for a specific Sub-Committee looking at children's issues was identified because of a number of significant policy and practice changes affecting them: the Home Office amendment to Discretionary Leave Policy relating to unaccompanied asylum seeking children (UASC); the Reform Programme, the New Asylum Model (NAM), the Legal Services Commission (LSC) exclusive contracting proposals for children's work, and ILPA's "When is a child not a child?" research on age disputes.

The Sub-Committee's first task was to respond to the Home Office Consultation paper on the Reform Programme: "Planning Better Outcomes and Support for Unaccompanied Asylum Seeking Children". We submitted our response on 31<sup>st</sup> May 2007 and this was reproduced in the ILPA mailing in June.

Shortly after the Sub-Committee's submission to the Home Office on the Reform Programme, the Home Office circulated a draft of their "Child Safeguarding Strategy". The Sub-Committee responded to the Home Office proposal, recommending that the Border and Immigration Agency (BIA) as it now was, should be under a statutory duty (section 11) to protect children akin with other public bodies. The UK Borders Act (section 21) will now require the BIA to have regard to their Code of Practice in its dealing with children. We await further consultation on this Code.

The Sub-Committee critically examined the inclusion of UASC in NAM and raised concerns with the Home Office by letter and through attendance at stakeholder meetings: child un-friendly Statement of Evidence Form (SEF) questionnaire, child un-friendly SEF interview format, access to good quality legal advice on the NAM Rota.

The Sub-Committee critically examined the LSC proposal for exclusive contracting for legal advice and representation to children and their omission of legal aid for "legal events" in the NAM process envisaged by the Home Office. We raised our concerns with the LSC by letter and included an offer to run ILPA training for practitioners on the NAM Children's Rota funded by the LSC: "Best Practice Representing UASC in NAM". We also offered to prepare an ILPA "Best Practice Handbook" for practitioners again funded by the LSC. Our offers have not been taken up to date.

A standing item on the Sub-Committee's agenda has been the sharing of experiences of UASC in NAM. The difficulties UASC and practitioners have experienced have been fed-back to the Home Office through the stakeholder meetings regionally and nationally.

The Sub-Committee would welcome new members to join their e-group and to attend their meetings. They request practitioners to keep sharing their experiences with them relating to their work with children.

*Convenor: Hermione McEwen*