

ILPA Annual Report 2005/2006

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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 both a highly active and a very worrying year for the Association.

The activity can be seen from the reports of the officers and the convenors of the individual sub-committees within this document. This is of course partly because it has been a highly active year for government and the relevant agencies, what with the new Act [and another on the way], the foreign national prisoner debacle, the development of the points-based scheme, the new asylum model, the citizenship directive, the fall-out from the Carter reforms to Legal Aid, and the effects of yet another new Home Secretary. This annual report shows how ILPA has responded quickly, thoughtfully and effectively in all these areas, as well as many others. I am particularly proud of the way that we have worked co-operatively with other NGOs in the sector, whether it be BID on detention, Refugee Action on destitution, the CBI on the points based scheme, the Refugee Council on their annual conferences, or other practitioner organisations on Carter. We will need to work more in this way in the future.

In some areas we can point to significant successes, such as the retention of a proper in-country appeal for variation refusals, in the new Act. In others, such as the work we did on s2 and on foreign national prisoners, we can say that due partly to our activities, practitioners were better able to help migrants, as a result. In other areas again, such as Carter, and the points based scheme, it is still too early to know how big an impact we have had, but it will not have been for want of trying. We may certainly hope that we have prevented some changes from being any worse. And of course, even where we do not influence, we play a vital role in informing our members, quickly and effectively, of important changes, through our mailings, e-mails, and in the longer term through our courses.

So members can be assured, if they do not already know, that ILPA staff, the Executive Committee, and others have been working phenomenally hard on their behalf and in support of the objects of the Association, and to great effect. We should thank in particular the work of our staff who have all reached landmarks this year. Our General Secretary Susan Rowlands, has been with us for 20 years this year; and Kit Eaves, Helen Williams and Elizabeth White, who all work in our office, have each been with us 5 years, this year. We owe them a huge debt of gratitude. Other organisations within the sector are constantly surprised that we achieve so much with so few staff. Their commitment and hard work is central to the success of our organisation. So, many thanks. In addition last year, we employed our first legal officer, Alison Harvey and we are also grateful for the dedication she showed in her hugely effective work across the organisation during her year with us, as the various convenors reports recognise. I should also thank Jawaid Luqmani our retiring [in some senses] Treasurer, for all his work for the organisation over the years.

I also said at the outset that this was a worrying year. There is no suggestion that life in this sector is going to get any easier soon, I am afraid. We can expect more demands on our time in the year to come, rather than fewer. I am particularly worried about the effect of Carter on the publicly-funded aspect of our work, which is why I welcome the presence of Vera Baird at this AGM. I spent 17 years working mainly in that sector, and I have never been more concerned for its future than I am now. In addition the Home Office has shown a growing tendency to make administrative changes with little or no notice, and without proper or any transitional provisions- the recent changes to the HSMP scheme, and to procedure on judicial review, are a case in point. There seems little doubt that this will continue as well. This practice makes it hard for advisers and for clients to plan ahead, and smacks of government by dictat. These practices of course have an effect on the organisation. Staff, executive committee members, and ordinary members with particular interests will need to be even more active and energetic.

This reality means that I must make some other points in concluding this report, which I hope will provide food for thought, and a spur to action, in the coming year.

Firstly, this is the second year in a row that there has been no election for the executive committee, even though I e-mailed all members about the forthcoming elections recently. We will no doubt have little difficulty in co-opting talented individuals to help us, but a vibrant organisation, achieving to the level described above, would be helped by more members putting themselves forward for positions of responsibility. I repeat our hope that more members will get involved in the running of the organisation.

Secondly, ILPA survives mainly on the income it receives from membership, and from the courses it runs. It cannot do the vital campaigning and lobbying work, from which the whole sector benefits, without funds. But in both areas we are under some pressure. So please spread the virtues of membership far and wide, and point out that new members are not just subscribing to a vital source of information in the sector, but are helping fund the year long lobbying process that helps both them, and the migrants we all work for. Membership has declined a little over this year – bit then so probably has the number and size of those organisations providing immigration advice. Likewise with our training; this area has become more competitive than ever in recent years. The quality of our training has never been in doubt. But members should know, and should tell others, that when they choose ILPA as a training provider they are not just getting the highest quality training [and like Jawaid Luqmani, our retiring treasurer I thank to all those members who provide training for us, for no great reward]; they are also funding the wide range of lobbying activities set out above - a double benefit. It may well be that course fees and or some membership fees go up in the next year. I ask that members understand why that is, to explain to others why that is, and to continue to support this organisation in any event, and to encourage others to do so. Membership and course income is vital for us to be able to fulfil our campaigning and policy objectives.

The Treasurers report and our accounts provide more detail about our financial situation. However we are pleased to announce that for the first time we have won financial help from the Joseph Rowntree Charitable Trust in funding our new legal officer post, which now has a wider remit to provide information on migration to NGOs and community organisations, as well as to members. We funded last years one year post from reserves, something we knew we could not sustain. We will continue to look for additional sources of funding, but our core source is likely to remain you, our members.

There has never been a greater need for an organisation like ILPA, and we have never experienced such pressures. We can expect a busy year ahead no doubt. I urge our membership to rally round, like never before, to defend our sector and our clients.

Chris Randall
Chair

Executive Committee Members and Sub-committee convenors
The Executive Committee

Ian Macdonald, QC – President	Chris Randall – Chair
Sue Shutter – Secretary	Jawaid Luqmani – Treasurer
Nadine Owen (co-opted)	Abi Smith (co-opted)
Ravi Low-Ber (co-opted)	Mick Chatwin
Matthew Davies	Kathryn Cronin
Mark Henderson	Vicky Guedalla
Ronan Toal (co-opted)	Nichola Carter (co-opted)
Hermione McEwen (co-opted)	

Sub-committee convenors:

Access to Justice Sub-committee:	Mark Henderson
Detention Fast Track Sub-committee:	Matthew Davies
Employment & Business Sub-committee:	Philip Barth, Nichola Carter, Philip Trott
European Sub-committee:	Elsbeth Guild, Nicola Rogers
Family & General Sub-committee:	Sue Shutter
Legal Aid Sub-committee:	Vicky Guedalla
Offences Sub-committee	Mick Chatwin, Jawaid Luqmani
Personnel Sub-committee:	Jawaid Luqmani, Rick Scannell, Chris Randall, Sue Shutter
Training Sub-committee:	Mick Chatwin

TREASURER'S REPORT

Last year we were able to report to the membership a surplus of over £20,000 which had been a trend of surpluses for the organisation over the last few years. This year for the first time in many years we are reporting a deficit of over £50,000 which is the equivalent of the surpluses made over the previous two years. Members will want to know why this is so and what if any risk this poses for the organisation as a whole.

The turnover is down by more than £20,000 and our expenses have risen as members can see partly as the costs of running the organisation continue to rise but the costs to members in terms of subscriptions and course fees have not.

The organisation exists to support the membership, to provide training, disseminate news and developments and to take part in and be part of the debate and decision making process that will have an impact on the work that many of our members do and upon the lives of the countless thousands of people our members represent. Our income is derived primarily from a combination of membership fees and from course fees. We do receive additional funding from time to time in connection with our projects, but given the nature of our work and the political climate in which we operate, the range of activities that we are now seeking to become involved in and help to shape is greater than ever before.

For many practitioners, the withdrawal further of appeal rights, the almost unimaginable changes to the delivery of publicly funded services, the introduction of the New Asylum Model are all critical areas in which members will want their voices to be heard and their views represented.

The diversity of the activities that we are involved in has a financial implication. As we grow in terms of our spheres of influence, the financial costs to us will also increase, as we seek to get involved at every level of debate from meetings with ministers at one end and meetings with community organisations or business interest groups at the other. Each is an essential element of the work that the organisation does to ensure that opinions are sought, views are expressed, and that members have a voice in radical changes that will impact in most cases unfavourably upon them and their clients.

Last year we appointed our first legal officer, on a one year contract, funded from our reserves. The post has been a success, but we cannot continue to fund it on that basis. In the year we have also tried to improve the conditions for our staff who all work tirelessly to ensure that the organisation is well represented. We have also revamped the premises to allow not only for a better working space but also enable the office to be used as a meeting place for members meetings, and meetings with other NGO groups. We continue to be at the forefront of the controversial changes and our aim is as ever to inform the debate, even though our views are not universally appreciated. We have always been very fortunate not only in having tremendous dedication from our General Secretary and her team, but also to be able to call upon members for their time and energy. Members will be aware that the executive committee, the sub committee co-ordinators and a very large number of individual members who assist in the lobbying, drafting, information collating and disseminating are unpaid in these activities. Had it been necessary for us to reward them financially, the organisation would have gone bust years ago.

Many members are also involved in delivering training at rates which, since preparation is not paid for, make legal aid look vaguely profitable. This is done not because our members have a lot of free time on their hands but in appreciation that the value of the training will be for the benefit of the organisation as a whole, that revenue produced will enable the organisation to continue to

represent the wider community of interests that ILPA speaks for and to provide an even greater level of representation and debate in other forums.

We have not raised our course fees, nor have we increased membership fees over the last 12 months, partly in recognition of the fact that practising in this area for many continues to become increasingly expensive, but less profitable, especially for practitioner firms undertaking legally aided work with the need to get people through the accreditation training.

We have also looked at additional methods of raising funds to support ourselves. The recent appointment of a new legal officer for a 3 year period has mainly been funded by a grant from a charitable donor in recognition not only of the valuable work that the organisation does on a lobbying front, but with a specific request that information be fed back to individual community groups on a nationwide basis.

For many years ILPA has been encouraging members to get involved. This has never been more important than now. From the position of Treasurer I would suggest if you cannot get involved in terms of giving time to the organisation, then please give us your money by attending more of our courses! We know that we do not always offer the cheapest courses on the market, but that is because our course fee revenue is ploughed back into the organisation which is of benefit to the practitioner interest groups that we represent as a whole. By supporting our courses, you are not just getting high quality training, you are contributing vital funds to the campaigning work of ILPA, from which all immigration practitioners, and most migrants benefit. Without this income, we would not survive in the longer term without radically increasing our membership rates or course fees, or significantly reducing the level of input into other debates, or reducing the considerable amount of information which ILPA is now delivered to members through the regular bulletins. Although it is true to say that we have healthy reserves which remain in excess of £170,000, they are reduced by about 25% over the last year alone.

The organisation will survive, it will continue to do valuable work for every sector represented by its membership but to enable us to do more, to provide a high level of commitment to all of the issues that confront us we need more than ever the support of our members, so please book your courses now.

I would also like to take the opportunity formally to thank a number of people for their support and hard work over the last few years. Susan Rowlands, who has not only worked for 20 years for the organisation but has managed to remain sane in the process, Kit for providing me with the facts and figures and for helping to set the budget with Susan and myself, Helen and Elizabeth for reminding me of what I was supposed to be doing or where I was supposed to be in time for me not to ever be too late, Sue Shutter for her work for the last few years as Secretary, long may she run, and also to Chris Randall who as Chair for the last year has let me get away with absences from some meetings without being too cross about it.

Jawaid Luqmani
Treasurer

GENERAL SECRETARY'S REPORT

The work of the Secretariat

The core functions of the ILPA secretariat are:

- liaison with government 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 on all matters of asylum, immigration and nationality law, practice and policy
- servicing the Executive Committee and implementing its policy decisions
- responding to enquiries from members, the media, and the public

During the last twelve months, the Immigration, Asylum and Nationality Act 2006 was passed and a new Border and Immigration (Asylum and Immigration?) Bill has been announced in the Queen's Speech: this may be a record.

It has been a year of change in the Home Office. Following the assessment of his department as "not fit for purpose" the new Home Secretary and his new minister for nationality, citizenship and immigration initiated a flurry of activity resulting in two publications in July 2006. **From Improvement to Reform** (July 2006) and

Fair, effective, transparent and trusted - Rebuilding confidence in our immigration system (July 2006). IND will be moving to agency status next year.

ILPA has responded to all of the following developments:

The Managed Migration directorate published **A Points-Based System: making Migration Work for Britain** (March 2006) and more recently: **A Consultation on a New Charging Regime for Immigration & Nationality Fees** (October 2006)¹ EU Directives came into force and were implemented in the UK. Development of the New Asylum Model continues and we await NAM Plus. The fast track detained segment has been expanded to include the detention of women at Yarl's Wood. A special Criminal Casework Team was established to deal with deportation of foreign national prisoners. Meanwhile, those seeking extensions to ELR, those with fresh asylum applications pending, those who have applied in country for leave in line with family members with refugee status, and others awaiting acknowledgement of applications made – on which their access to support, education, etc depends – are told that their cases are now in a Legacy Directorate: over the next five years it will deal with 450,000 files – possibly not representing quite as many people.

For a short time, there was an enhanced voluntary returns scheme; voluntary return will soon be proposed to unaccompanied asylum seeking children before they reach 18, after which time they will face forced return. We await the document setting out proposals for reviewing all procedures for processing claims and for supporting these children. An Independent Asylum Commission was

¹ Other Home Office publications: **Tackling Human Trafficking – Consultation on Proposals for a UK Action Plan** (January 2006); IND's Stakeholder Team: **Joint Statement IND's Relationship with External Stakeholders** (October 2006)

launched in October. This month, there are changes proposed by way of a practice direction to procedures for removal and access to the courts. The scheme IND has established to encourage highly skilled migrants to the UK was suspended this month without advance warning and a new scheme established without consultation.

ILPA members providing publicly funded advice and representation are dealing with proposed changes to fees and contracts, and to accreditation. The many DCA/LSC publications and consultations are covered in the Legal Aid Sub-committee's report.

This brief summary of some of the year's developments might demoralise practitioners were it not for the fact that ILPA members are succeeding in challenging policies and statutes and winning cases in the courts. To mention just a few that ILPA has reported to members in mailings this year: Rahimi, and K (06.01.02 and 06.04.24); Bai (06.04.02); Pharis (06.04.25); Karas (06.05.01); D & K (06.05.04); S and others (August news 2006); ongoing litigation of Zimbabwe removals (eg AIT 06.08.11); Parmaksiz; JM Liberia (October news 2006); K and Fornah, Soe Thet (November news and 06.11.16, 06.11.18). WM (DRC) and AR (Afghanistan) (see December news 2006).

The detail of all the year's developments are to be found in the sub-committee reports and in the responses/submissions listed in this Annual Report.

ILPA has briefed, lobbied, responded to consultations and met with officials to advance its objectives. Some members contribute to this work through sub-committees, membership of the Executive Committee, or on an ad hoc basis. ILPA continues to work closely with HIG. Thanks to Sue Willman, Nancy Fancott, Sheona York and Simon Cox for their valuable contributions to ILPA responses.

This year has also seen some changes in ILPA's work, changes that reflect not only the developments listed above but also the changing landscape of advice and legal representation in the UK. ILPA's membership includes many advisers regulated by the OISC and their attendance at training, meetings and the AGM is welcomed. Most significantly, ILPA has recognised the need to support the work of refugee and migrant community organisations and the sector in general by providing information on legal and policy developments that has up until now only been made available to practitioners. The Joseph Rowntree Charitable Trust recognised the value of this work and has part funded the work of the ILPA legal officer to provide this service for the next three years.

ILPA has shown its commitment to this work in various ways this year. In March 2006, ILPA held joint conferences with the Refugee Council in London and Birmingham; others are scheduled for London and York in March 2007. In June, ILPA organised an information session as part of Refugee Week, at which Jawaid Luqmani and Alison Harvey provided an update on legal developments, access to support, and the impact of the IAN 2006.

In September, together with GMIAU and the South Manchester Law Centre, ILPA organised an event to mark "100 years of immigration law" in Manchester. Don Flynn, Migrants' Rights Network; Ian Macdonald QC, President of ILPA; Rick Scannell, former Chair of ILPA; Steve Cohen, *No-one is illegal*; and Farhat Khan gave presentations; Beate Dasarathy, Director of GMIAU, and Paul Morris, SMLC, chaired the meeting. The 90 participants included local ILPA members, campaigners, members of the advice sector and community organisations. It is intended to replicate this event to engage all those involved in immigration and asylum issues, to ensure that accurate legal information is widely available and that common concerns are taken up by all involved in lobbying and campaigning. The next event is scheduled for March 2007. Thanks to all speakers and everyone at SMLC and GMIAU for their invaluable input.

Steve Cohen was the driving force behind this event, which also marked the publication of his book **Standing on the Shoulder of Fascism: from immigration control to the strong state**. Thank you Steve for ensuring that the good intention to replicate the London “100 years” event in Manchester was realised and that it was so successful.

A summary of the work done by staff, the Executive Committee, sub-committees and other ILPA members follows:

Home Office liaison

In addition to participating in stakeholder groups, ILPA attended many meetings with Home Office officials in London, Sheffield and Liverpool. Chris Randall, Philip Trott, Philip Barth, Nichola Carter, Owen Davies, Alison Harvey, Susan Rowlands represented ILPA on various occasions. ILPA is represented at the following user groups. IND is currently reviewing all stakeholder groups.

IND Stakeholder events Susan Rowlands

Asylum Processes Stakeholder Group Susan Rowlands

Detention User Group Nadine Finch, Matthew Davies, Susan Rowlands

UKvisas User Group Susan Rowlands, Nichola Carter, Owen Davies

Work Permits (UK) User Group Marian Dixon; Philip Barth - Business and Employment sub-committee co-convenor

European Union Policy Group a member of the ILPA European Sub-committee

Unaccompanied Asylum Seeking Children Stakeholders Group Liz Barratt

NASS forum Sheona York, Nancy Fancott

New Asylum Model Workshops Susan Rowlands, Sally Thompson

Liaison meetings with the IND in Liverpool: Asylum Casework Group North, NAM, Immigration Service and Nationality: Paul Morris - South Manchester Law Centre; Hannah Lomax, Corine Hims - Jackson and Canter; Alison Parkinson and Neve O’Riley - Liverpool Central CAB; Beate Dasrathy and Hermione McEwen – GMIAU

Liaison with courts

Asylum and Immigration Tribunal: Stakeholders Group: Chris Randall, Mark Henderson

Administrative Court Users Group: Judith Farbey, Jawaid Luqmani, Mark Henderson

Asylum Support Adjudicators User Group: Susan Rowlands

Liaison with other organisations

BID joint briefing meeting hosted by Neil Gerrard at the House of Commons on fast track procedures and legal aid

JCWI regularisation campaign and migrants rights work supported by ILPA

ECRE (European Council on Refugees and Exiles): ILPA continues to contribute to ECRE’s and other ECRE members’ position papers, conferences and research. Fiona

Lindsley (Hackney Law Centre) and Nick Oakeshott (Refugee Legal Centre) are the UK representatives of the ELENA (European Legal Network on Asylum).

Law Society Immigration Law Committee: Stefan Vnuk represents ILPA on the committee

LSC - meetings and stakeholder meetings attended by Vicky Guedalla, Matthew Davies, Stefan Vnuk, Jawaid Luqmani, Susan Rowlands

DCA in the context of the proposed legal aid changes, Vicky Guedalla, Kathryn Cronin and Alison Harvey met with the Permanent Under Secretary of State and DCA and LSC officials.

Refugee Action – Kathryn Cronin and Susan Rowlands were involved in the research and publication of the destitution of asylum seekers in the UK.

Thanks go to all those who contributed to these meetings either by attending the meetings, raising agenda items, commenting on correspondence and outcomes, and requiring further action/information.

Seminars/Conferences

IARLJ/ILPA seminar on **The Refugee Qualification Directive** on 26 June 2006. (Generously hosted by Baker and McKenzie) Minutes available

REDRESS/ILPA seminar on **Non-refoulement under threat** on 16 May 2006 (Generously hosted by Matrix chambers) Proceedings published

Publications and Projects

Publications:

CLS Leaflets *Claiming Asylum : your rights if you are a refugee* (April 2006)

Immigration and Nationality : your rights to live and work in the UK (June 2006)

These were prepared for publication by Mick Chatwin for ILPA.

Ministerial statements made during the passage of the IAN Asylum and Immigration (Treatment of Claimants, etc) Act 2004 Alison Harvey, for ILPA. Available on disk.

Non-Refoulement Under Threat, proceedings of a seminar held jointly by The Redress Trust and ILPA, November 2006

www.redress.org/publications/Non-refoulementUnderThreat.pdf

Projects launched:

Child first, migrant second: ensuring every child matters Heaven Crawley, November 2005 (funded by the Nuffield Foundation). Launch hosted by Neil Gerrard at House of Commons on 10 May 2006 Speakers included Lin Homer, DG, IND, Karen Mackay, Resolution, Heaven Crawley, Selam Kedane, BAAF.

ILPA Best Practice Guide to Immigration Appeals, in association with OISC Jane Coker, Jim Gillespie, Sue Shutter, Alison Stanley, November 2005 (funded by OISC and the Legal Services Commission). Launch at ILPA on 25 March 2006. Speakers: Paul Newell, LSC, and Suzanne McCarthy, ISC.

Current projects:

Age-disputed children subject to immigration control - funded by the Nuffield Foundation.

UKLGIG/ILPA Guidelines on sexual orientation

ILPA best practice guide to fast track asylum cases - funded by the LSC

Forthcoming project:

RIS/ILPA guide to asylum legislation

Meetings

Sub-committee meetings: ILPA members were invited to attend meetings of the sub-committees. The number convened by the sub-committees were:

Access to Justice	0
Asylum fast-track	2
European	6
Family & General	6
Business & Employment	8
Immigration Offences	1
Legal Aid	2
Training	3

Members' Meetings:

- **Tackling human trafficking – a consultation on proposals for a UK action plan**
8 February 2006
- **Members' meeting on 'Ankara, post-Tum and Dari reference, and with Parmak down'**
8 March 2006
- **Representation at Immigration Appeals – a best practice guide Launch of ILPA/OISC publication**
15 March 2006
- **Members' meeting with Ann Barker, Chair of the IND Complaints Audit Committee**
Tuesday 28 March 2006
- **The AIT: one year on**
25 April 2006
- **UKvisas presentation on outsourcing of entry clearance applications**
4 May 2006
- **Child first, migrant second: Ensuring that every child matters launch of ILPA policy paper**
10 May 2006
- **Members' meeting on the CLR merits test and the 40% success target**
26 July 2006 and 16 August 2006
- **Members' meeting on Regularisation**
6 September 2006
- **Special ILPA/GMIAU/South Manchester Law Centre event: 100 years of immigration law: 1905-2005**
28 September 2006, Manchester

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 and the legal officer, but the Chair who approves the final text of all submissions and policy letters.

1. Submission to the Home Affairs Committee Inquiry Into Immigration Control, *December 2005*
2. Response to European Commission Communication: Fighting trafficking in human beings – an integrated approach and proposals for an action plan COM(2005) 514 final, *December 2005*
3. Submission to House of Lords Select Committee on the European Union: Sub-Committee F: Inquiry into Draft Directive on Common Procedures for the Return of Illegally Staying Third Country Nationals, *December 2005*
4. Submission to the Joint Committee on Human Rights Inquiry Into Human Trafficking, *January 2006*
5. Annexe to ILPA Submission to the Joint Committee on Human Rights Inquiry into Human Trafficking, *January 2006*
6. Comments on draft MPS Community and Equality Impact Assessment Process, *January 2006*
7. Further Submission to the Joint Committee on Human Rights Inquiry into Counter-Terrorism and Human Rights, *February 2006*
8. Response to the draft Short Term Holding Facility (STHF) Rules, *February 2006*
9. Letter to Yasmin Tengnah, Civil and Family Legal Aid Policy, DCA re Proposed amendments to the Community Legal Service (Financial) Regulations 2000, *3 March 2006*
10. Letter to Emma McGovern, Legal Services Commission re Consultation on Proposed Amendments to the General Civil Contract CLR performance standards, *27 March 2006*
11. Response to Board of Refugee Integration, *March 2006*
12. Response to Tackling Human Trafficking – Consultation on Proposals for a UK Action Plan, *April 2006*
13. Response to Consultation: The Immigration (Notices) Amendment) Regulations 2006, *April 2006*
14. Letter to Paul Newell, Immigration Policy Team, Legal Services Commission re Consultation on CLR performance indicator, *9 May 2006*
15. Letter to Freda Chaloner, Director, New Asylum Model Team RE Improving Asylum Decisions through Early and Interactive Advice and Representation, *16 May 2006*
16. Response to questionnaire IND National Review of Family Removals Processes, *June 2006*

17. Letter to Brian Harvey, Acting Chief Executive, Legal Services Commission, Preferred Supplier Consultation Response, *12 June 2006*
18. Response to Practice Directions Consultation, *June 2006*
19. Letter to Helen Johns, Asylum and International Legal Aid Branch re Consultation on draft Lord Chancellor's Authorisation for the New Asylum Model Early Legal Advice Pilot at Solihull, *30 June 2006*
20. Letter to Gillian Haimes, Assistant Director, Central Information & Advice Unit – Policy, National Asylum Support Service re consultation on NASS s.4 Support Draft Regulations, *10 July 2006*
21. Letter to Fiona Hannon, Senior Legal Adviser, Immigration Policy Team, Legal Services Commission re Proposed Amendments to General Civil Contract for 1 October 2006, *14 July 2006*
22. Response to Consultation Document: Private freight searching and fingerprinting at Juxtaposed Controls, *July 2006*
23. Letter to the Information Compliance Team, Secretariat, Legal Services Commission re Request for information under the Freedom of Information Act, *17 August 2006*
24. Response to the Home Office Consultation on the Implementation of the Refugee Definition Directive, *August 2006*
25. ILPA/HIG response to IND Initial Consultation on Policy Bulletin 75, *25 August 2006*
26. Letter to Karla Morris, Asylum and Immigration Tribunal re Consultation regarding Bail Applications, *1 September 2006*
27. ILPA/SSLPA response to SSAC Consultation on the Social Security, Housing Benefit and Council Tax Benefit (Misc Amendments) Regs 2006 - Advance Claims for Habitual Residence, *14 September 2006*
28. ILPA's comments on August 2006 Draft Practice Directions, *September 2006*
29. Letter to Karla Morris, Senior business Lead, AIT Detainee Programme re AIT Bail Applications, *5 October 2006*
30. Submission to the CAC Inquiry into the implementation of the Carter Review, *October 2006*
31. Letter to Jayne Elliott, Head of Customer Service, LSC re Requesting signatures from physically disabled clients, *11 October 2006*
32. Response to the LSC / DCA consultation paper *Legal Aid: a sustainable future*, *October 2006*
33. Evidence to the Joint Committee on Human Rights Inquiry into Treatment of Asylum Seekers, *October 2006*
34. New developments on border controls in the European Union – comment prepared by Valsamis Mitsilegas, *16 October 2006*
35. Letter to Sarah Garside, Legal Services Commission re Consultation on the Draft Unified Contract, *21 November 2006*

Training

ILPA has provided 72 training sessions since the last AGM. Although most of these were held in London, we have continued to offer courses outside London, this year in Birmingham, Leeds and Manchester. We continue to encourage members, especially those outside London, to put forward any proposals to meet their training needs.

This year ILPA has also provided several LSC funded training sessions on 'Fast track asylum determination procedures - how best to represent your clients' training a total of 90 practitioners.

ILPA is committed to running training to prepare practitioners for the Law Society Accreditation exams and will continue provide training through out 2007 for probationers, level 1 and level 2.

Training sub-committee: Invaluable input to the programme has been made by those who attended training sub-committee meetings and many others have contributed with ideas and suggestions and we greatly appreciate their support. A big thank you to you all especially to Tim Barnden, Mick Chatwin, Jane Coker, Matthew Davies, Alison Stanley, Sally Thompson.

Partners: Some courses have been jointly provided with Bail for Immigration Detainees (BID), and UK Lesbian and Gay Immigration Group (UKLGIG), Asylum Support Appeals Project (ASAP).

Venues and materials: This year ILPA courses have been generously hosted by Baker and McKenzie Solicitors, Greater Manchester Immigration Aid Unit, Kingsley Napley Solicitors and H2O Law LLP.

Membership

Current total number of ILPA members 1009

138 new members have joined since the last AGM. Of this number, 76 were individual members and 62 organisations. Of these new members 18 are OISC regulated organisations and 6 are OISC regulated individuals.

Mailings

Members have been sent 14 mailings and 240 numbered enclosures.

ILPA Staff

Susan Rowlands	General Secretary
Alison Harvey	Legal Officer (left October 2006)
Steve Symonds	Legal Officer (since November 2006)
Elizabeth White	Personal Assistant to General Secretary
Kit Eaves	Administration and IT manager
Helen Williams	Membership and Training administrator

We are assisted by Pat Kahn (designer), Helen Dewar (librarian), Andy Humphreys (IT), Jeremy Stone (book keeper), Rosie Brennan (consultant), Brian McKinlay (human resources consultant), Antoinette Jucker (company lawyer). We thank them for their support and assistance.

Staff

Kit Eaves, Helen Williams and Elizabeth White have all worked for ILPA for five years now. The strength of the team is in their diverse skills and in their commitment to ILPA and to each other. Anyone who has worked in a team for five years knows the value of this consistency. They are a strong team who have built on their individual strengths and teamwork to provide the support and expert service that the Executive Committee and ILPA members have grown to expect. I am happy to repeat my appreciation of them for their professionalism, flexibility, good humour, and dependability.

I am hoping that the thorough review of conditions and terms of employment, mentioned by the Treasurer in last year's annual report, will be completed this year to recognise the value of their commitment to ILPA.

It is hard to imagine how ILPA ever coped without a legal officer. Alison Harvey had worked for ILPA on a previous occasion so we had every expectation that she would fulfil this role with dedication and skill when she joined us in October 2005 for a year. She made an enormous contribution to ILPA's work during that year and I add my thanks to those expressed elsewhere in this report.

On 21 November, we welcomed Steve Symonds to ILPA. He has been appointed for three years as ILPA's legal officer; he will set up the service for migrant and refugee community organisations and the voluntary sector described above. The first occasion most members will have to meet him is at the AGM; he will speak on the bill that we anticipate will be introduced early in 2007.

Finally, thanks are due to all ILPA members who keep us busy, informed and inspired. This includes all members of the Executive Committee who have had to meet the deadliest of consultation and response deadlines – with rarely a request for an extension – and have amazed us with their output.

Susan Rowlands
General Secretary

ILPA TRAINING

Courses

NB: course location is London unless stated otherwise

Date	Course Title
November 29, 2005	Welfare benefits and housing for EU nationals and their families
December 1, 2005	Introduction to Immigration Law - getting started, the first step to accreditation
January 9, 2006	Unmarried partners in EU law: time for a new approach?
January 16, 2006	Basic Asylum Law - towards level 1 accreditation
January 17, 2006	What the UN can do for you - seminar on the use of UN mechanisms by immigration practitioners
January 19, 2006	Introduction to Immigration Law - getting started, the first step to accreditation
January 26, 2006	Immigration and Disability: adjusting IND's mindset
February 1, 2006	Basic Immigration Law
February 7, 2006	Training towards 2nd level accreditation : exam techniques and problem solving
February 9, 2006	Getting started in business immigration law
February 10, 2006	Basic Immigration Law : Exam techniques and problem
February 16, 2006	Making Bail Applications at the AIT
May 2, 2006	ILPA/European Sub-Committee/Kingsley Napley: Free Movement of Persons in the EU
February 27, 2006	Introduction to Immigration Law - getting started, the first step to accreditation
March 9, 2006	Home Office policy; concessions and the exercise of discretion outside the immigration rules
March 13, 2006	AIT appeals - proper preparation in light of recent case-law on article 3 and article 8
March 16, 2006	Adoption - a guide for immigration practitioners
March 17, 2006	Home Office policy; concessions and the exercise of discretion outside the immigration rules
March 21, 2006	Appeals from the AIT to the Court of Appeal under 103B NIAA 2002 (as amended) - Practice & Procedure

Date	Course Title
March 22, 2006	AIT appeals - proper preparation in light of recent case-law on article 3 and article 8
March 23, 2006	Introduction to Immigration Law - getting started, the first step to accreditation
March 25, 2006	Training on the new Immigration, Asylum, Nationality legislation - London
March 28, 2006	The Immigration aspects of the Civil Partnership Act 2004 - an update of the act in practice
March 30, 2006	Changes to business and employment streams including the new ILR and FLR procedures from 3 April 2006
March 31, 2006	Training on the new Immigration, Asylum, Nationality legislation (Manchester)
April 24, 2006	Basic Asylum Law - towards level 1 accreditation
April 25, 2006	Introduction to Immigration Law - getting started, the first step to accreditation
April 26, 2006	Basic Immigration law - training towards first level accreditation
May 4, 2006	Training towards second level accreditation: exam techniques and problem solving
May 10, 2006	ILPA/UKLGIG training: Asylum on grounds of sexual orientation
May 16, 2006	An introduction to immigration law - getting started, the first step to accreditation (Manchester)
May 18, 2006	UK nationality law - current developments
May 19, 2006	The immigration aspects of the Civil Partnership Act 2004 (Leeds)
May 23, 2006	Work permits and other applications to work in the UK
May 24, 2006	Introduction to Immigration Law - getting started, the first step to accreditation
June 1, 2006	Immigration, Asylum and Nationality Act 2006, Appeals
June 8, 2006	Immigration rules snapshots: parents and other dependent relatives
June 13, 2006	HSMP all you need to know
June 15, 2006	EU law and human rights in an immigration context: understanding the European Court of Justice and the European Court of Human Rights
June 19, 2006	Immigration, Asylum and Nationality Act 2006, Appeals (Leeds)
June 21, 2006	Reconsiderations and Opt-in procedures

Date	Course Title
June 22, 2006	An introduction to immigration law - getting started, the first step to accreditation (Manchester)
July 5, 2006	JR for business practitioners
July 6, 2006	Tips on advocacy from a barrister and an immigration judge
July 10, 2006	The Citizens Directive and its domestic implementation by the Immigration (European Economic Area) Regulations 2006
July 11, 2006	Taking cases to strasbourg: the dos and don'ts of litigating immigration and asylum cases before the ECtHR
July 12, 2006	Fast track asylum determination procedures – how best to represent your clients
July 13, 2006	An introduction to immigration law - getting started, the first step to accreditation (Manchester)
July 13, 2006	Employer sanctions - the new regime under the Immigration, Asylum and Nationality Act 2006
July 14, 2006	Fast track asylum determination procedures – how best to represent your clients
July 14, 2006	Training on the Immigration, Asylum and Nationality Act 2006 (Birmingham)
September 12, 2006	Getting started in business immigration law
September 14, 2006	Home Office policy; concessions and the exercise of discretion outside the immigration rules
September 18, 2006	Basic asylum law, towards level 1 accreditation
September 20, 2006	Training towards second level accreditation, exam techniques and problem solving
September 22, 2006	Home Office policy; concessions and the exercise of discretion outside the immigration rules (Manchester)
September 28, 2006	Basic Immigration law, training towards first level accreditation
October 3, 2006	How to prepare and present a deportation appeal
October 4, 2006	Recent developments in asylum and human rights law for immigration practitioners
October 9, 2006	Home Office policy; concessions and the exercise of discretion outside the immigration rules
October 11, 2006	Fast track asylum determination procedures – how best to represent your clients

Date	Course Title
October 18, 2006	Advanced business immigration law
October 20, 2006	Using the Refugee Qualification Directive in English courts: an essential guide for asylum lawyers
October 23, 2006	An introduction to immigration law - getting started, the first step to accreditation
October 26, 2006	An introduction to the National Asylum Support Service (NASS) Section 4 support for failed asylum-seekers
October 30, 2006	How to prepare and present a deportation appeal (Leeds)
November 8, 2006	Bail applications - how to challenge detention
November 9, 2006	Gender and asylum - refugee status, humanitarian protection or discretionary leave
November 14, 2006	Applications for entry clearance, all you need to know
November 16, 2006	Immigration offences
November 21, 2006	An introduction to immigration law - getting started, the first step to accreditation
November 23, 2006	The Citizens Directive and its domestic implementation by the Immigration (European Economic Area) Regulations 2006

Speakers

The following speakers are thanked for their contributions

Speaker	Organisation / Firm (at time of course)
Neena Acharya	Bail for Immigration Detainees
Naomi Angell	Osbornes Solicitors
Nick Armstrong	Tooks Chambers
Tim Barnden	Wesley Gryk Solicitors
Philip Barth	Penningtons Solicitors
Sophie Barrett-Brown	Laura Devine Solicitors
Liz Barratt	Bindman and Partners
Tim Baster	Bail for Immigration Detainees
Nichola Carter	H2O Law LLP

Mick Chatwin	Renaissance Chambers
S Chelvan	Mitre House Chambers
David Chirico	1 Pump Court Chambers
Azhar Chohan	Paddington Law Centre
Jane Coker	Immigration Judge
Kathryn Cronin	Garden Court Chambers
Shakhura Dawood	Greater Manchester Immigration Aid Unit
Owen Davies	Fragomen (GB) Ltd
Matthew Davies	Wilson and Co Solicitors
Jan Dorfel	Chambers of Lord Gifford QC
Laura Dubinsky	Doughty Street Chambers
Jonathan Ensor	IAS
Nancy Fancott	Hammersmith and Fulham Law Centre
Nadine Finch	Garden Court Chambers
Laurie Fransman QC	Garden Court Chambers
Jim Gillespie	Renaissance Chambers
Vicky Guedalla	Deighton Guedalla Solicitors
Elsbeth Guild	Kingsley Napley Solicitors
Wesley Gryk	Wesley Gryk Solicitors
Stefanie Harrison	Garden Court Chambers
Alison Harvey	ILPA
Catriona Jarvis	Immigration Judge
Charlotte Kilroy	Matrix Chambers
Graeme Kirk	Gross and Co Solicitors
Fiona Lindsley	Hackney Community Law Centre
Ravi Low-Ber	Refugee Legal Centre
Jawaid Luqmani	Luqmani Thompson and Partners
John McCarthy	Immigration Judge
Hermione McEwen	Greater Manchester Immigration Aid Unit
Michal Meduna	Directorate-General Justice, Freedom and Security
Nuala Mole	The Aire Centre

Anna Morvern	Bail for Immigration Detainees
Clinton Nield	IND
Barry O'Leary	Wesley Gryk Solicitors
Declan O'Dempsey	Cloisters
Rory O'Ryan	Garden Court North
Muhunthan Paramesvaran	Wilson and Co Solicitors
Jackie Pierce	Glazer Delmar Solicitors
Melanie Plimmer	Garden Court North
Mahmud Quayum	Camden Community Law Centre
Nicola Rogers	Garden Court Chambers
Nick Rollason	Kingsley Napley Solicitors
Lawrence Saffer	Immigration Judge
Rick Scannell	Garden Court Chambers
Abi Smith	Tooks Chambers
Alison Stanley	Bindman and Partners
Zoe Stevens	Bail for Immigration Detainees
Maria Steccazzini	UN Representative
Hugo Storey	Senior Immigration Judge
Ronan Toal	Garden Court Chambers
Philip Trott	Bates Wells and Braithwaite
Seonaid Webb	IND
Fran Webber	Garden Court Chambers
Amanda Weston	Tooks Chambers
Lisa Woodall	Asylum Support Appeals Project
Sarah Woodhouse	TRP Solicitors
Trevor Wornham	Wornham and Co Solicitors
Colin Yeo	IAS

ACCESS TO JUSTICE SUB-COMMITTEE REPORT

ILPA has been extremely busy 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 both the AIT's Procedure Rules and Practice Directions. In relation to both, ILPA made substantial submissions. It has also made submissions in relation to changes to Immigration Notices, appeal forms, and the CPR. ILPA has attended the meetings of the users groups of the Administrative Court and the AIT and argued members' concerns on a range of issues.

Strong representations have, for example, been made regarding the operation of the AIT's Country Guidance system in meetings and written submissions to the AIT. The concerns included ensuring adequate notice that a case had been designated for Country Guidance, clarity as to the issues to be considered, and concerns about the practice of giving Country Guidance on issues that do not arise on the individual case and therefore will not be appealable in that case, and about the treatment of expert evidence.

It has also used its position as an observer on the Home Office's statutory Advisory Panel on Country Information to press for effective scrutiny of Home Office country information, especially information used to justify designating countries for the non-suspensive appeals process. That 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 argued throughout the year, and initially against strong Home Office opposition, that the APCI should consider not only country of origin information reports and similar materials (which are often now anodyne) but also the Operational Guidance Notes which may include the far more controversial country information used to designate a country or refuse individual claims. That work now appears to be bearing fruit with the most members of the APCI supporting it. We also raised concern about the Home Office's approach to country information in relation to specific countries, especially with regard to the deterioration in Sri Lanka, and attended a seminar of the International Association of Refugee Law Judges to discuss use of country information in asylum appeals.

ILPA pressed the Home Office throughout the year with its concerns about absence of adequate notice of removal directions preventing access to the court before removal takes effect and also to ensure that the Home Office complied with its policy of deferring removal to enable judicial review proceedings to be lodged.

On 6th November 2006, the Home Office announced that it would no longer defer removal upon receipt of notice of an intention to lodge judicial review proceedings. ILPA responded the same day with detailed questions and requests for disclosure of the evidence for various Home Office assertions. At the Home Office's suggestion, ILPA met with the Director General and others at IND on 16th November 2006. At that meeting, ILPA was informed for the first time about a further change in policy by which the Home Office would no longer defer even on receipt of a Home Office reference number in the absent of 'detailed grounds', and that a draft Administrative Court Practice Direction was being developed in conjunction with the Home Office to reflect this new policy. ILPA is now working intensively to obtain further information, and prepare - at exceptionally short notice - a robust submission to the Civil Procedure Rules Committee objecting both to the proposals and the way that they have been formulated.

ILPA's lobbying and campaigning work in this regard is important in ensuring that members' voices are heard and taken into account. For example, the submissions of ILPA along with others on the draft amendments to the AIT Procedure Rules persuaded the DCA to withdraw amendments which would have dictated that certain out of country appeals be decided on the papers even where there may be a UK sponsor and to withdraw amendments to the rules relating to reconsideration which would have encouraged technical objections to claimants' arguments on the basis that they were not properly set out in the original notice of appeal.

Convenor: Mark Henderson

DETENTION FAST TRACK SUB-COMMITTEE REPORT

It has been a busy but often depressing year for those practitioners working with immigration detainees.

The statistics tell the story. A snap shot of the detention figures as of the 24th of June 2006 show that on that day there were 2540 people detained in the U.K under Immigration Act powers. 245 of these were detained in prison establishments solely under Immigration Act powers and 15 of the detainees were children under the age of 18. During the second quarter of 2006 there were 360 people detained in the Harmondsworth Super Fast Track so that their asylum claims could be processed within a few days. Of these 270 received decisions on their applications for asylum - 5 detainees (1%) were granted asylum and 265 detainees (99%) were refused asylum. 110 new Super Fast Track asylum cases were received at Yarlswood during the second quarter of 2006. Of these women none were recognised as refugees – 1% were granted discretionary leave but the remaining 99% were refused any status. Of those appealing within the super fast track against refusal of asylum only 1% succeeded on their appeal at Yarlswood and only 3% at Harmondsworth (compared with success rates at non fast track hearing centres of 14% and 28%).

It is in this context that ILPA has been working during the last 12 months. We have been lobbying for change, trying to improve access to quality representation for those detained and arguing at every opportunity that fast track is not fair.

ILPA attended the Detention User Group meetings held by the Home Office which provided a forum with other organisations for raising general concerns. Attendance at these meeting was shared with Nadine Finch and Susan Rowlands. Susan and I also met with the Home Office and the Legal Services Commission jointly on two occasions to discuss our concerns around fast track and lack of access to immigration advice for those detained in police stations. We have tried to work closely with the LSC over the year and whilst not always agreeing on what needs to be done some positive developments can be reported:

1. The LSC agreed to fund training for fast track representatives. During the year we held three successful sessions and have trained over 60 fast track representatives. Ravi Low-Beer and Charlotte Kilroy delivered the training with myself and their contribution was very much appreciated. The training sessions received excellent feed back.
2. The LSC agreed to fund the publication of a Best Practice Guide to representing Clients detained in the fast track. This is in the process of being written.
3. The LSC agreed to write to all fast track representatives making clear that their duty to detained clients does not cease if they decide the client does not meet the CLR merits test for any appeal. They must continue to represent the client under Legal Help throughout their time in detention making applications for temporary admission and bail.
4. The LSC extended the duty advice pilot to more detention centres and increased their frequency. There are now detention advice sessions in most detention centres on a weekly basis. Representatives contracted by the LSC provide advice to detainees in 30 minute sessions and can, if the case meets the merits test, take on the detainee's case.
5. A police station advice pilot commenced during the year. The LSC have contracted with four organisations to provide telephone advice 24 hours a day to immigration detainees in police stations.

All the initiatives from the LSC are to be welcomed but we are very concerned that any good work done by these will be undermined by the Legal Aid reforms proposed from next April. The LSC has proposed exclusive contracting for all detention work but with just over four months to go before April 2007 none of the detail has been published so no one knows on what terms the LSC proposes to enter exclusive contracts. ILPA is concerned that exclusive contracting will mean that smaller organisations who do very high quality detention work will no longer be able to undertake this work and there is a risk that those organisations that are awarded the exclusive contracts will not be funded sufficiently to provide the level of service that is required. The proposed fixed fees may well drive firms out of legal aid in any event – this will lead to fewer and fewer suppliers willing and able to advise detainees under legal aid.

One positive development was that the number of applications for bail being made to the AIT increased. Unfortunately, it increased to such a degree that the AIT was not able to list bail hearings within three days. There were some cases where a detainee waited almost one month before the bail hearing was listed. The AIT's initial response was to suggest that detainees not be produced to bail hearings. ILPA made representations that detainees should be produced to bail hearings and the AIT should look to increasing its resources and its capacity for hearing bail applications as the solution. ILPA attended a meeting along with Bail for Immigration Detainees (BID) at the AIT to discuss the issues arising and the AIT are currently undertaking a detention review.

There were numerous Home Office/AIT consultations or Parliamentary Committees where there was a detention angle to be commented upon and arguments to be put forward. My thanks to Alison Harvey who worked hard on putting these together. We also worked closely with Vicky Guedella and the Legal Aid Sub Committee in formulating ILPA's response to the Legal Aid reforms and Vicky did a grand job there – but will our concerns be listened to by government?

We continued to work closely with outside organisations doing detention work, in particularly BID, Refugee Council, Asylum Aid, AVID and the Medical Foundation. BID carried out an excellent piece of research called "Working Against the Clock: Inadequacy and Injustice in the Fast Track System" in which they monitored and followed through all fast track cases heard over a particular period of time. We joined with BID to launch this report at a meeting at the House of Commons chaired by Neil Gerrard MP at which former detainees from within the fast track spoke movingly. We worked closely with BID in formulating the demands for reform. One of the most important demands is that the DCA and the LSC ensure equality of arms at appeal hearings in the fast track by scrapping the merits test and removing fast track appeals from the 40% success rate which representatives have to meet as a performance standard. We wrote to the Minister Vera Baird requesting she consider this reform to give fast track some semblance of fairness but sadly, just at the time of writing, we have received her response which is negative. We are now actively considering a legal challenge to the imposition of a merits test in fast track coupled with a 40% success rate target.

With Asylum Aid and BID we attended a meeting with the Home Office to discuss specific gender issues concerning women detainees in Yarlswood. Anne Marie Tootell attended on behalf of ILPA.

During the year there were significant developments in respect to foreign national prisoners and criminal offences. These were dealt with by the criminal offences sub committee and the excellent work done by the Foreign National Prisoners Group.

The year saw some noteworthy cases touching on detention. In the ECHR case of **Saadi** the Court held, by a majority of 4 to 3, that detaining a person in Oakington for seven days in order to fast track their asylum claim, on that basis alone, did not breach Article 5. However, the Court did find a breach of Article 5 (2) given the failure to provide reasons for detention for 76 hours. An application to the Grand Chamber is pending in respect to the case. In **Faulkner v SSHD [2005] EWHC 2567** it was also held that the failure to serve an IS91R giving reasons for detention rendered a two month period in detention on completion of a prison sentence unlawful.

In **Karas v SSHD [2206] EWHC 747** it was held that detention was unlawful because it was oppressive, unreasonable and unnecessary to detain the Claimants where further representations had been outstanding for over three years and were only responded to 4 hours before the detention. The Claimant's detention was deliberately planned with a collateral and improper purpose – the spiriting away of the Claimant from the jurisdiction before there was likely to be time for them to obtain and act upon legal advice or apply to the Court. The judgment in Karas and the strong judicial criticism of the practice of giving insufficient notice to proposed returnees was endorsed recently by Lord Justice Hooper in the Court of Appeal in the case of **Gedow [2006] EWCA CIV 1342**.

In the case of **D & K v SSHD [2006] EWHC 980** it was held that the failure of the Secretary of State and GSL Ltd (who ran Oakington Detention Centre) to provide the physical and mental examination required by Rule 34 of the Detention Centre Rules within 24 hours of the Claimant's admission, combined with the policy operated by the medical staff at the centre of not informing the Secretary of State of their views on whether observed injuries or other symptoms were consistent with claims of torture, rendered the detention unlawful from the period when they should have received the medical examination.

During the year we had a number of sub committee meetings and I would like to thank all those who attended these meetings. The meetings were relatively informal but we always try to have a headline issue for discussion and I would like to thank those who agreed to speak on caselaw and policy developments. We were pleased to have counsel in Karas (Amanda Weston) and the solicitor in D & K (Mark Scott) speak about those cases. The sub committee meetings were not a regular event – they were arranged as and when it was thought that a meeting was necessary. Between meetings we communicated on detention issues through an e mail group that I set up at the beginning of the year. There are now over 200 individuals in the e mail group.

I am standing down from the ILPA Executive after two years but am confident that the baton will be taken up by someone else within ILPA to continue this important aspect of our work.

Convenor : Matthew Davies

EUROPEAN SUB-COMMITTEE REPORT

This has been an important year for EU immigration and asylum law. Not only did this year see the unfolding of the second five year plan of the European Commission on immigration and asylum but it also saw the entry into force of a number of measures which directly affect the UK such as the refugee definition directive and the directive on the rights of citizens of the Union to name just two.

There have also been a number of key proposals which were adopted this year and which will impact on practitioners such as the asylum procedures directive which the UK has opted into. The Sub committee has met once a month with the exception of August and has maintained a constant membership. The Sub Committee has regularly sent one of its members to the Home Office Users Group meetings to discuss EU issues. This has provided an excellent mechanism to ensure that IND is aware of problems and issues which we see in the application of EU law in the UK. Many thanks to Steve Peers, Valsamis Mitsilegas, Alison Hunter, Bernard Ryan, Alison Harvey and all the other members of the sub Committee.

Refugee Definition Directive

Over the summer 2006, the Home Office held a short consultation on the implementation of the Refugee Definition Directive which was due to be implemented by 10 October 2006. We responded in full to that consultation. In part at least our response (and that of other consultees) appears to have been successful in that some of our comments on draft regulations and draft amendments to the Immigration Rules were taken on board. We were very concerned that the Home Office had neglected to include the more fluid language of the Directive which would permit for broad interpretation of the Directive but this appears to have been rectified in a number of crucial places. New Regulations and amendments to the Immigration Rules are now in force in the UK.

It remains to be seen what impact the Directive (and the implementing legislation) will make on refugee law and Article 3 ECHR case law in the UK. However the House of Lords decision in the recent case of **Fornah** rather suggests that where possible the Courts will give effect to a full and inclusive effect to obligations under the Refugee Convention.

Citizens' Directive

On 30 April 2006 the Citizens' Directive 2004/38 was implemented into UK law. This has been hugely controversial. The sub-committee held a training session on 2 May 2006 to which the Home Office and a representative from the European Commission and a member of the Asylum and Immigration Tribunal were invited. The session was important for discussing the more difficult aspects of the Directive and UK implementation. It is clear that the Home Office is intent on a very restrictive approach towards third country national family members of EU nationals. We have been engaged in correspondence with the Home Office ironing out some problems of interpretation. However implementation is likely to lead to much litigation and the sub-committee is much exercised about how to bring challenges to the Home Office approach

Association Agreements

In early 2006 the sub-committee became concerned about applications under the Association Agreements with Bulgaria and Romania and with Turkey. We had a series of meetings with the Home Office to discuss areas of concern for our members. We were encouraged that the Home Office appeared to be taking a more productive and sensible approach to applications for Bulgarians and Romanians. Sadly the same could not be said for the approach to Turkish applications where the vast majority of applications are refused based on sometimes senseless

refusal letters. The sub-committee continues to discuss litigation strategies to undermine the Home Office approach. Undoubtedly the awaited decision from the ECJ in **Tum and Dari** will be of some assistance.

Bulgaria and Romania are both set to join the EU in January 2007. The sub-committee is now engaged in monitoring the accession arrangements for those countries and in particular the position the Home Office will take to access to the labour market for Bulgarian and Romanian nationals.

Extraterritorial Immigration Controls

The Sub Committee followed with some concern the development of various systems of extraterritorial controls on persons seeking to come to the UK and the privatisation of some of those controls. The allocation to VFS of exclusive rights to submit visa and entry clearance applications at some posts abroad and the extension of powers to private sector agents in juxtaposed controls in France have been raised by the Sub Committee. In response to the IND consultation, the Sub Committee together with Alison Harvey prepared a detailed response to private freight searching and fingerprinting at juxtaposed controls. Further work is on going on this issue headed by Bernard Ryan.

Submissions and Other Activities

The Sub Committee carried out a substantial exercise in response to the European Commission's proposal for a directive on returns. Detailed submissions were made to the European Commission and the Sub Committee subsequently gave evidence both written and oral to the House of Lords EU Select Committee (F) on the issue. The Sub Committee also prepared submission to the House of Lords Select Committee (F) inquiry into the Schengen II Information System and gave oral evidence on the issue. In response to the proposal that the Commission made to include British nationals who are not British citizens on the Schengen visa black list, Nicolas Blake QC prepared an opinion for the Sub Committee on the undesirability of such a measure.

As regards the deportation of foreign nationals who have been convicted of criminal offences which became a Government priority in the Summer, the Sub Committee prepared an information note on the rights of citizens of the Union and their third country national family members against expulsion except in compliance with Directive 2004/38.

The Sub Committee also participated in the drafting of a press release in August expressing concern and demanding action in respect of immigration matters to ensure the safety of victims of the fighting in Lebanon and the Middle East.

In September the Sub Committee prepared submissions to the European Commission on the proposal for rapid border intervention teams. We raised specific concerns about the legal basis for such teams and the legal framework in which they would be operating. At the moment the Sub committee is preparing submission to the European Commission on its proposal for a code on visa issuing which would be applicable to all consular officials (except those of Ireland and the UK).

Conclusions

For the forthcoming year there will be substantial activity as regards the control of the EU common border (with Ireland and the UK on the outside). The Regulation containing the Border Code came into force on 13 October 2006 and it include precise grounds for admission or refusal to the EU common territory for a short stay as well as procedural rights including a written decision and notification of a right of appeal (without suspensive effect). The application of this new regulation should provide an orderly manner for individual arriving for instance in the Canary Islands to be processed properly and with dignity. The same should be true in Lampedusa or Ceuta and Melilla.

The EU institutions are currently considering the counter part to the Border Code – the Visa Instructions which they have proposed in the form of a regulation. The Commission’s draft includes a right of appeal in respect of the refusal of a visa for a short stay and similar procedural rights as in respect of the border. It will be important to see if these provisions survive the negotiations at the Council and European Parliament.

In addition the arrival of a new EU agency FRONTEX which responsibility for the common external border and the RABITs (rapid border intervention teams) will add new dimensions to the nature and control of the external EU border.

Co-convenors : Elspeth Guild and Nicola Rogers

EMPLOYMENT & BUSINESS 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. More recently 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. 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 H₂O 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.

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 Alison Harvey particularly for the valuable assistance and dedication she gave to the Sub-Committee during her term as ILPA's Legal Officer.

The Employment and Business Sub-Committee 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 meet at six weekly intervals and the dates of our meetings are sent out in the ILPA mailing.

The Sub-Committee represents ILPA on the Work Permits (UK) User Panel for both work permit matters and also general business immigration related issues, and on the UKVisas User Panel dealing with Entry Clearance matters.

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 (including WP(UK), IND 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.

There follow some examples of the specific matters 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;
- begun to formulate a response to the Home Office October 2006 consultation document on Immigration and Nationality fees;
- drafted submissions to the Home Office following its April 2006 announcement to extend the time frame for Indefinite Leave to Remain applications from four years to five years;
- 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 sector;
- persuaded the FLR(IED) team to agree to accept certified copy passports on an exceptional basis to avoid lengthy disruption to frequent business travellers;
- lobbied 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). We also ensured that the same senior officials approached the Points Based System from a other angles such as cultural benefit, rather than a purely economic benefit perspective by persuading them to retain, for instance, the ability for cultural exchange schemes and schemes for young people to sample life in the UK;
- in combination with the charity UKLGIG we pressured the Home Office to ensure that following the December 2005 implementation of the Civil Partnership Act, the Civil Partners of those in employment and business related categories received the same treatment as spouses and unmarried partners;
- in addition, the Employment and Business Sub-Committee has contributed to ILPA training on business and employment related immigration law.

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 and Nichola Carter

FAMILY & GENERAL IMMIGRATION SUB-COMMITTEE REPORT

The subcommittee has met on six occasions through the year at the School for Oriental and African Studies, courtesy of Professor Werner Menski, and again several of his students have attended meetings and given secretarial support - thank you to all. Alison Harvey's updating reports and enthusiasm have been greatly appreciated.

The subcommittee joined in ILPA's lobbying on aspects of the Immigration, Asylum and Nationality Bill as it went through Parliament, in particular on the loss of the right of appeal against variation of leave (largely successfully) and entry clearance refusal (not), and on nationality issues. The separate 'points-based system' proposals have not yet been implemented and there are many practical problems in doing so.

The subcommittee followed the effects of the still-pending case of *Baiai* on couples who have been unable to marry. It was brought by JCWI, and in several separate judgments the court ruled that the requirement for certificates of approval for marriage was contrary to the ECHR in some cases. Applications were placed on hold for many months and only recently have some started to be considered. We support the 'Brides without Borders' campaign which has worked to raise this issue, and gave evidence to the Home Affairs Select Committee.

As in last year, we remain concerned about the inordinate delays in the Home Office 'family settlement exercise' allowing families who applied for asylum before 2 October 2000 to settle, causing great distress for applicants. Although it was planned to be completed by April, there are still some families waiting and some unreasonable and petty refusals, such as those of unaccompanied children. The Home Office across-the-board pressure on people to use the enhanced Voluntary Assisted Returns scheme also led to waiting families also being asked to leave, as well as people from countries such as Iraq or Somalia where travel is very hard.

The introduction of visas for members of civil partnerships had several teething difficulties, we were able to share information about individual cases and, together with UKLGIG, advise ILPA members. A member challenged the excessive delays allowed to entry clearance officers in entry clearance appeals but was not successful. Delays in dealing with working holidaymakers' applications in the subcontinent continue and it is still not possible to apply in Pakistan.

The 'foreign national prisoner crisis' meant that there were increased delays in almost all other areas of Home Office immigration work. Members of the subcommittee have been involved in the foreign prisoners' network yahoo email group, exchanging information of use to practitioners. There are many erroneous deportation decisions made, the Home Office apparently taking the attitude that the courts will sort them out.

Lobbying, by ILPA and others, on the 2006 Immigration, Asylum and Nationality Act resulted in the government dropping proposed restrictions on British nationals' rights to register as British citizens. Work on the continued problems for families in India where a parent has qualified for British citizenship but adult children do not and also do not fit into the immigration rules has not progressed further after an individual case was successful on appeal. We welcomed the belated implementation of s. 9 of the 2002 Act, on 1 July 2006, allowing non-marital children to inherit their father's citizenship. We also followed the introduction of the new requirement for naturalisation, the 'knowledge of life in the UK' test in force from 1 November 2005. Many of our comments on inaccuracies in the Home Office book, *Life in the UK*, the basis for this test, were incorporated into its second edition. We are glad to know that the next rewrite will include input from ESOL professionals. 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 subcommittee remains concerned about the Identity Cards Act and how it will be enforced, fearing that there will be discrimination in its operation and effects if, as suggested, it comes into force for foreign nationals first. And finally, the subcommittee would welcome more participants – please contact the ILPA office if you would like to become more involved.

Convenor : Sue Shutter

LEGAL AID SUB-COMMITTEE REPORT

Last year I reported that we had “endured another year of changes on the legal aid front”; that the indications were “that an all-devolved power scheme, presumably involving a fixed fee regime, is on the horizon for 2007”; and that “government attitudes are by no means softening”. No change there then so far as we can tell.

Public funding for immigration and asylum work, never generous, has been beleaguered in various ways over the past several years. The threat posed by the DCA/LSC consultation paper “Legal Aid: a sustainable future” is the most serious yet. It is at least as grave as the “hard cap” proposal for the 2004 “reforms” which, if implemented as originally proposed, would have driven many more good practitioners from the field than was actually the case. The fixed fee proposals as presently formulated risk finishing the job as good practitioners will be unable to furnish clients with the service that good practice according to ILPA standards requires while maintaining the financial viability of their organisations.

The government’s response to the consultation is expected by the end of this month. Unless it contains a significant shift on the immigration and asylum proposals there is a real risk that I myself will not be in position to offer my services to ILPA as legal aid representative for 2007-08 because my firm will no longer be able to afford to undertake publicly funded immigration work. I believe that this would be replicated across the private sector, and that both the private and Not for Profit sectors would have difficulties in retaining principled practitioners if organisations attempt to survive financially by distorting their service to fit the present proposals.

Last year I began the concluding paragraph of my report by saying “we should not lose heart”. I am trying to heed my own exhortation, and to remain hopeful as we await the government’s response. Meanwhile, however, I did take heart from the quality of the responses from those ILPA members, both individuals and organisations, who replied in various ways to my requests for input into ILPA’s response to the consultation document. There is a quality of serious commitment in our membership of which ILPA can be proud, and which the LSC and DCA ought to value.

“Legal Aid: a sustainable future” has dominated my legal aid work for ILPA since its publication in July. We held consultation meetings with members and other interested organisations. We formulated and submitted a Freedom of Information Act request to the LSC to help formulate our response. We met the Minister and LSC officials. We canvassed opinions and information from members by e-mail, and liaised with other organisations including BID, the Law Society, the Legal Aid Practitioners Group and the Access to Justice Campaign. We produced a very substantial evidence based written response to the consultation which is available on the ILPA website and which in my opinion deserves to change minds at the DCA/LSC. It would not have been possible to produce this to such a standard without the input of my fellow EC member Matthew Davies and of ILPA’s then Legal Officer Alison Harvey. I pay tribute to them, and face the coming year without them in those positions with some trepidation.

Since the submission of our written response we have continued to lobby against the proposals, and are preparing for appropriate prompt reaction to the government’s response to the consultation when published. I look forward to hearing what the Minister has to say when she comes to address our AGM on 25th November.

There was of course life before the fixed fee consultation, although it seemed to consist largely of one consultation after another. Part of my work for the forthcoming year will be to review and take forward such other issues as may have survived the shadow of “Legal Aid: a sustainable future”.

Consultations from earlier in the 2005-06 year to which ILPA responded included:

- the LSC's consultation on the review of accreditation work restrictions;
- the DCA's Financial Regulations consultation;
- the LSC's consultation on guidance for requesting signatures from physically disabled clients;
- the LSC's consultation on the CLR Performance Indicator
- the Home Office's NAM consultation on "Improving Asylum Decisions through Early and Interactive Advice and Representation";
- the DCA's consultation on the Lord Chancellor's Authorisation for the Solihull pilot;
- the LSC's Preferred Supplier consultation;
- the LSC's consultation on the amendments to the General Civil Contract which came into force on 1 October.

As I write, I face the prospect of drafting yet another response with a looming deadline, this time to the consultation on the Draft Unified Contract. I am hampered by the fact that the LSC has not published the part of the proposal relating specifically to immigration, and has no plans to do so before the consultation period closes!

Is it all worth it? I hope so. I think things would be worse without ILPA's input. I think we can, for example, claim some limited success in relation to the CLR Performance Indicator (aka success rate), but its implementation will bear close scrutiny. ILPA urges its members to have the courage to continue to grant CLR in borderline cases, to do battle to defend that position and to keep ILPA informed so that if need be we can join the fray.

ILPA urges members generally to keep it informed about their experiences of life on the LSC coalface. Please inform us of your queries and difficulties, and of any practice and policy clarifications you manage to extract from NIAT which might be of assistance to others. Where it seems that an issue may be of general concern ILPA is happy to take it up with the LSC. The more our dealings with the LSC are informed by the experiences of our members the more effective they are.

Convenor: Vicky Guedalla

OFFENCES SUB-COMMITTEE REPORT

Set up in the wake of the introduction of the new document offences in the 2004 Act, the sub-committee was particularly active last year, attempting to co-ordinate responses to the prosecution of arriving passengers under section 2, and to ensure that duty criminal solicitors were aware of the significance of these prosecutions. The sub-committee has met less frequently this year, but has continued to act as a forum for information and support for those assisting with section 2 prosecutions.

We are very pleased to be able to end the year by congratulating two of the most active participants in the sub-committee, Nigel Leskin and Richard Thomas, on the High Court result in *Soe Thet*. This year's AGM will give an opportunity for members to consider the implications of this landmark judgement, but it seems evident that a great many, if not most, of the convictions achieved under s 2 may have been wrong, and that those convicted should have had a defence, in the light of the Court's ruling on the section.

The Home Office has not yet indicated how it intends to respond to this judgement, and the sub-committee may yet need to be vigilant about alternative approaches. A new Borders and Immigration Bill is expected shortly, and it seems highly probable that this Bill, like every other immigration statute in recent years, will contain new criminal offences, or widen the criminal powers of the Immigration Service. The government has already, in November, announced the recruitment of 800 new officers in the Immigration Service enforcement division, and the intention to give them extended powers of arrest.

Co-convenors: Mick Chatwin and Jawaid Luqmani