

# **ILPA ANNUAL REPORT 2000/2001**

## **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 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.

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## Chair's Report

A year ago many practitioners may have looked forward to a period of consolidation. After all, many of the significant new changes implemented by the Immigration and Asylum Act 1999 had come into force and whilst the Human Rights Act would doubtless bring new challenges for ILPA members a reasonable expectation might have been that there would be little political imperative for yet further change. This was certainly my hope for my first year as Chair of ILPA, but of course I could not have been more wrong!

First, the political appetite of the Home Secretary for further change in areas with which members are concerned is voracious. The appalling events of 11<sup>th</sup> September 2001 provided the political imperative for the Anti-Terrorism, Crime and Security Bill (objectionable on many grounds and notable not least because whilst in the Terrorism Act 2000 this country already has the widest anti-terrorism measures available in Europe, we stand alone amongst our European partners in derogating from the provisions of Article 5 by making provision for indefinite internment of those subject to immigration control). These events however are unrelated to the Home Secretary's plan of "a fundamental overhaul of the asylum and immigration systems" announced on 3<sup>rd</sup> October (as part of a "concerted drive against illegal immigration"). We must wait to see the detail, but in announcing that Ministers planned to examine ways of expanding "sensible, managed" migration routes it is clear that the Home Secretary's target is to secure change on a worldwide level. The efficacy of his plan to stop trafficking with the introduction of up to 40,000 green cards remains to be seen. But one thing is certain: even more busy times lie ahead!

Second, whatever the future holds, this last year has in any event been ILPA's busiest and most productive (and not just in financial terms). I commend the whole of this Annual Report to members, but would highlight a number of points that arise. As the Treasurer's Report shows, the last year showed a surplus of £95,000, with reserves of some £160,000. Whilst for a not-for-profit organisation this might cause some concern, members should keep in mind that such security is to be welcomed given, amongst other things, staff commitments and the re-negotiation of our lease which will doubtless prove a considerable expense.

Membership is higher than ever with 253 new members having joined since the last AGM. There were (at least) 28 sub-committee meetings and (at least) 10 members meetings. I say 'at least' simply because I well know that the output of sub-committees in terms of briefing papers and written submissions relies in addition on numerous ad-hoc meetings of members over and above the more formal meetings. As the General Secretary's report shows there has been a huge amount of 'liaison' with the IND and other organisations – certainly too much to attempt to summarise here.

ILPA has responded to requests for consultation and made submissions on some 45 matters. In fact one-third of all this has been the out-put of the European Sub-Committee. Since I read this material before it goes out I can but congratulate all who have been involved. The quality of the work has been quite exceptional. In addition

members have also given oral evidence to both the Home Affairs Committee and the House of Lords Select Committee.

ILPA has produced four publications during the last year – and a further five (including two ‘Best Practice’ guides) are in preparation (and eagerly awaited).

ILPA training has been busier than ever – up on last year at 63 courses – and this without taking into account the Asylum Caseworking Training Project (as to which see below). As always the breadth of topics covered has been impressive and many thanks to all who have provided the training. As the Treasurer’s report acknowledges, such commitment is all the more encouraging given the lack of any real financial incentive! I believe ILPA’s ethos to education and training is unique in the legal profession and long may it continue.

As the sub-committee reports show, all have had busy years. I have already mentioned the output of the European Sub-Committee which is exhausting to even think about; there seems no end to European activity and I do not think there has been a time when work on a major scoreboard was not on going!

The Employment and Business Sub-Committee has also had a busy year having been exercised by, amongst other things, major reviews undertaken in respect of TWES, entertainment applications and audit and security. In a flurry of activity in August/September when the Home Office announced the withdrawal of the Fast Track the sub-committee secured the reinstatement of the service.

The Family & General Immigration Sub-Committee put much work into the preparation of guidelines on forced marriages. Although no document could finally be agreed this reflects the difficulty of the issue (and whether ILPA can – or even should – take a ‘position’), rather than any lack of commitment to it. Indeed, the difficulty of the issue was well shown by the lively debate caused at the ethics meeting held at the Law Society when one of the ethical problems raised related to a practitioner faced with a sponsor saying that she did not want to go through with a marriage.

For the Legal Aid Sub-Committee it has also been a very busy year. The sub-committee seems to be in constant correspondence with the LSC and has grappled with problems including those arising from first costs audits and the introduction of staged billing. There have also been members meetings and many consultation document responses.

Finally, the Refugee Sub-Committee has been equally active having dealt things with wide ranging issues including the Home Office's attempt to renege on its *Pardeepan* undertaking, non-compliance refusals, the draft refugee definition directive from the European Commission, the Anti-Terrorism, Crime and Security Bill and the confidentiality of asylum appellants.

Such breadth and volume of work carried out by ILPA in the last twelve months has been quite remarkable. But the year has also seen major staff changes. Remarkably our General Secretary is (at present) the only person in the office who was there at the time of last year’s AGM! We now have ten permanent members of staff, not to

mention the additional seven consultants carrying out roles from book-keeper to librarian and IT and 'web' support. Much of such expansion is accounted for by the ACT Project (a £280,000 contract with the LSC to provide training outside London) which thanks to the efforts of Jane Aspden, Gail Elliman and Jane Savory has been so successful that the LSC is now funding a similar project in London (with Susana Calsamiglia already in place as the recently appointed Project Administrator). ILPA's training and membership administered by Helen Williams. Since October, ILPA has for the first time had an Administration and IT Manager (Kit Cheung), whilst from the same date Elizabeth White has worked as the General Secretary's Assistant. I would like to pay tribute to them all. In particular however I pay tribute to our General Secretary, Susan Rowlands, who has overseen all these changes and without whom they would not have been possible. Not only do these major changes make ILPA unrecognisable from the organisation that it was a year ago, but throughout all this period of change Susan has continued to represent ILPA on the widest 'political' level with an appetite even greater than that of the Home Secretary! I should say also that her help to me has been invaluable and for which I am extremely grateful.

There is no doubt that the massive 'expansion' during this last year has been extremely successful and we have doubtless become a much more professional organisation. Such success however does pose new challenges for the organisation. We have long relied on the good will of members often provided on something of an ad-hoc basis by a core of people that the EC has been able to call on at short notice. But we are all busy practitioners and the demands now are such that we will have to find a way to be more systematic and formalised about the work we undertake and the way in which we do it. It seems likely that the EC will have to co-opt more widely if it is to cope with future demands (not least in view of the fact that only seven members stood for election). But the EC is now responsible also for a much larger staff compliment and that in and of itself raises challenges to which we must rise.

EC meetings throughout the year were well attended and measures introduced at the beginning of the year to try and save time and unnecessary work for the office (for instance circulation pre-meeting by e-mail of reports and the practice of simply 'noting' matters that did not need to be discussed) generally worked well giving more time for discussion of policy matters. The work of the last year's EC is apparent from this report and it is my pleasure both to thank them for it and for making the chairing of meetings a pleasurable experience.

Finally I end with an inevitable call to the membership. Keep up the good work everyone, but be warned - more help is needed!

*- Rick Scannell*

## **The Executive Committee**

Ian Macdonald QC – President  
Rick Scannell – Chair  
Julia Onslow-Cole – Secretary (until July 2001)  
Sue Shutter – Secretary (from August 2001)  
Jawaid Luqmani – Treasurer  
Nadine Finch  
Laurie Fransman QC  
Raza Husain  
Chris Randall  
Jane Coker  
Mark Henderson  
Sue Shutter  
Nicola Rogers  
Tony Haque (Co-opted)  
Pierre Makhlouf (Co-opted) – on sabbatical from 1<sup>st</sup> May 2001  
E J Davis (Co-opted) April 2001 – June 2001  
Emma Saunders (Co-opted) – from June 2001

## **Sub-committees**

European Sub-committee Convenors	Elspeth Guild Nicola Rogers
Employment and Business Sub-committee Convenors	Julia Onslow-Cole Philip Trott Philip Barth
Family and General Sub-committee Convenors	Jane Coker Richard McKee Sue Shutter
Refugee Sub-committee Convenor	Mark Henderson
Legal Aid Sub-committee Convenor	Chris Randall
Membership	Jawaid Luqmani Nicola Rogers
Personnel	Rick Scannell Sue Shutter / Julia Onslow-Cole Jawaid Luqmani Chris Randall

## **Treasurer's Report**

The last financial year has been exceptionally good for ILPA in terms of showing a surplus, with an income outstripping our expenditure by just over £95,000.

Whilst such a profit would normally be commendable, and indeed is an indication that we are running the organisation well, our aim as ever is to make neither a profit nor a loss, and arguably such a level of profitability may be regarded as evidence that our efforts have outstripped our expectations. The last financial year has seen a significant rise in the following areas:

### **Membership fees**

As we are now recognised as a truly representative organization which speaks for the immigration law professionals, it is perhaps not surprising that our membership has increased in recognition of the value of membership. We have more members than ever, and at the present time consideration is being given to widen the scope of membership further to include those persons and organisations registered with the OISC.

### **Course fees**

The numbers of courses provided, and the attendance level on courses has been quite phenomenal this year. This is partly due to the increased diversity of courses on offer, and also as the Legal Services Commission had underwritten the costs of attendance for a great number of our members, thereby relieving individuals and organisations from a liability for courses from their training budgets.

### **How will we spend the money**

The benefit of healthy reserves of in excess of £160,000 enable the organisation to survive on a cash flow basis to draw on reserves in times of need. As with any financial enterprise the income and expenditure patterns will not always coincide, and the reserves present a buffer. In addition, there are some expenses which we have identified are likely to reduce those reserves over the next 12-24 months.

### **Training costs**

At present those practitioners who are good enough to give up their time to teach courses are paid the rather meagre sum of £40 per hour divisible by the number of speakers. In practice therefore speakers are paid at the rate of £20 per hour, with no allowance being made for travel. I should pause to reflect that that was the rate of pay when I first started teaching courses for ILPA 9 years ago, and consequently we have increased the levels paid to speakers to not less than the legal help level, regardless of the number of speakers. This is done not simply to provide a slightly fairer rate of remuneration (since preparation time remains unpaid) but also in recognition of ILPA's desire to attract more of its members to become involved in the delivery of teaching and increase the burden which at present falls to a very small percentage of members. The rates are not supposed to be commercial, but simply not to remain so unattractive.



## **Premises costs**

We are in the process of renegotiating our lease. The premises were originally occupied at a time when we were situated above a wholesale butchers. The sound of carcasses being hacked and sawn has been replaced with the sound of champagne corks popping and it will come as no surprise that the freeholders are looking at a significant increase in the rent. We are likely to have a rise of in the region of 130% and the reserves will obviously be utilised to enable the organisation to remain at a central London location without the disruption of moving.

## **Staff costs**

Anyone who has visited the office over the last few months will have seen a veritable hive of activity. That activity is simply going to increase further. At the present time there are 6 people employed, some on a full and some on a part time basis, and in addition there are temporary staff associated recruited from time to time to deal with the overspill of work within the office.

It is a testament to the hard work and dedication of our existing staff, and indeed to those who have left us recently as to how effectively they have been able to do the workload of so many in fulfilling the needs of our members, our professional colleagues in other NGOs and the fact that the organisation is still able to find time to act as a signpost for individual client callers who seek advice from the organisation directly.

## **Pension plans**

As part of the government's strategy to introduce work based pension schemes for all employers other than those employing less than 5 staff, stakeholder pensions became compulsory as from October 2001. As employers, we have agreed to contribute towards the pensions of our staff in reflection of their commitment to us. This is a cost which ILPA had not previously had for all of its staff and is in part an attempt to bring the organisation and its remuneration of staff closer to that in other comparable organisations.

## **The future**

- I would not expect the same level of growth for the organisation for the next year, albeit that our numbers will continue to rise and accordingly, we can certainly freeze the costs of membership fees to the present level which have been maintained for the last 2 years
- I would expect a dip in the number of attendances at courses as the Legal Services Commission have indicated that they are not prepared to underwrite further course costs, given the large financial commitment given by the LSC to fund the ILPA project to provide training on asylum casework matters within the regions.
- I do not see that there is any need to increase the course costs for the next financial

year, again enabling the organisation in real terms to offer exceptionally good value for money courses, far lower than many of our commercial competitors.

- The money from the ILPA Asylum Casework training project has been made on the basis of the organisation making neither a profit nor a loss. The figures in the profit and loss accounts include nearly £20,000 from the LSC. This sum which will simply be drawn from over the lifetime of the project, which puts our reserves closer to £140,000.
- I am happy to report that lunch at the AGM has been paid for by ILPA, rather than asking members for a contribution, and I would hope that we can continue in this vein by providing a small light refreshment at some of our evening meetings as well.

We have healthy reserves, built up largely as a result of the hard work of many of our members who give up their time freely to assist with the running of the organisation behind the scenes. It should be remembered that none of the EC members, including the Chair, receive payment for the time and effort put in to prepare briefing notes, chair or speak at meetings, co ordinate committees or represent the organisation both here and abroad on issues of concern. In addition much work is undertaken by those responsible on committees, who may themselves not be on the EC as a wider strategy in disseminating information across the organisation as a whole. I am sure that tribute will be paid to many of these individuals in the other reports, but I would like to take the opportunity to single out Julia Onslow-Cole who has served as Secretary of the organisation for the last 3 years until she stepped down part way through the year as a result of other commitments. Notwithstanding this, she continues to play a valuable role in many of our activities, and I hope she is able to do so in the future.

*- Jawaid Luqmani, Treasurer*

## General Secretary's Report

### ILPA's Activities

#### ILPA Staff

General Secretary:	Susan Rowlands
Administration:	Josephine Brain (to 31 September 2001) Lucy Glazebrook (maternity leave) Helen Williams (Temporary)
Administration and IT Manager:	Kit Cheung (October 2001)
Assistant to General Secretary:	Elizabeth White (October 2001)
ACT Project Co-ordinator:	Jane Aspden (April 2001)
ACT Project Administrator:	Jane Savory (July 2001) Christine Samuel (March – July 2001)
ACT Project Trainer (Part Time):	Gail Elliman
London Project Administrator:	Susana Calsamiglia

#### Membership

Current total number of ILPA members: 1087  
253 new members have joined since the last AGM. Of this number 138 were new individual members and 115 new organisations.

#### Members' meetings

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

European	5
Family and General	8
Business and Employment	7
Legal Aid	2
Refugee	6

Members were also invited to meetings on:

- Entry Clearance Refusals (joint ILPA/Law Society meeting) with Rabinder Singh, Entry Clearance Monitor
- Ethics and Conflicts
- Problems Relating to the Terrorism Act 2000 (hosted by Bindmans)

- A members' meeting on Constitutional Amendment (re OISC registration)
- The Europe Agreements – the Judgements of the European Court of Justice on the right of self employment for CEEC Nationals
- Family Visitor Appeals Review (joint ILPA/Law Society meeting)
- ILPA Extraordinary General Meeting
- Implementing the Savas Judgement – the UK practice on self employment for Turkish nationals
- Dispersal (joint ILPA/Law Society meeting) – Wakefield

### **Liaison with IND and other organisations**

Andrew Nicol QC and Nick Blake QC are Vice Chairmen of the Board of the Bar Council's Immigration Accreditation Scheme. ILPA has been asked to promote the scheme and Rick Scannell is in communication with the Bar Council on this subject.

This year, Rick Scannell and Susan Rowlands have attended meetings of the Taylor House Users Group. Jawaid Luqmani and Pierre Makhoulouf liaise with the Asylum Rights Campaign (ARC); Nicola Rogers represents ILPA at the ARC European Sub-Group and the IND User Panel meetings.

Julia Onslow-Cole represents ILPA on the Overseas Labour Service's User Panel; Philip Barth and Philip Trott are ILPA's representatives on the Business User Panel of IND. Nadine Finch represents ILPA on the Detention User Group.

Chris Randall is the UK representative on ELENA, the European Legal Network on Asylum. ILPA has been involved in many ECRE policy documents and position papers this year.

Nicola Rogers, Steve Peers and Nick Rollason represent ILPA at the IND meetings on: Immigration & Asylum Developments in Europe.

Susan Rowlands represents ILPA at meetings of the Immigration Advisory Group of the Commission for Racial Equality, the Immigration Law Committee of the Law Society and JCORE. Chris Randall and Susan Rowlands have attended meetings convened by the London Regional Services Committee of the Legal Services Commission. Susan Rowlands represents ILPA on the After-Entry IND User Panel, the IND Asylum Process Stakeholders Group, the JECU User Panel and the Asylum Support Adjudicators' User Group.

Susan Rowlands attended a meeting on the review of the Family Visit Appeals Scheme convened by the Asylum and Appeals Policy Directorate and is a member of the Advisory Group on the Home Office Early Legal Representation Research Project. She chaired a session on Immigration at the UKREN meeting convened by the Runnymede trust in Birmingham in March and attended various meetings convened by the UNHCR on behalf of ILPA.

Several ILPA members are now on the advisory group of the OISC. ILPA was asked to provide training for OISC caseworkers and Jane Coker, Tony Haque, Pierre

Makhlouf, Peter Moss, Chris Randall, Rita Sethi, and Alison Stanley contributed to the training design and presentation.

Judith Farbey, Raza Husain and Jane Coker have prepared ILPA's responses on the Judicial Review Pre-action Protocol working group. Jim Gillespie has prepared ILPA's response to the revision of the Procedure Rules and represent ILPA at many meetings convened by the Lord Chancellor's Department.

ILPA met with Margaret Hodge (Minister DfEE) and Barbara Roche (Minister for Immigration) before the election. In November 2001 a meeting with Lord Rooker was attended by Nadine Finch, Sue Shutter, Nicola Rogers and Susan Rowlands. This was a brief meeting to discuss the ministerial authorisations under the Race Relations (Amendment) Act and a further meeting will take place in January 2002.

Rick Scannell, Vicky Guedalla and Susan Rowlands attended a meeting with Felicity Clarkson, director of Asylum and Appeals Policy Directorate, and officials in July, and have been invited to another meeting in January – this is to be a regular event.

Matthew Davies, Tony Haque, Jane Coker, Hilary Belchak, Julia Onslow-Cole and Susan Rowlands attended meetings with Bill Branden, Deputy Director Integrated Casework Directorate, and colleagues. Rick Scannell, Chris Randall and Susan Rowlands met with Stephen Boys Smith (Director General, IND) about issues of concern to ILPA.

ILPA members continue to meet to draw up guidelines for best practice in relation to clients with mental health problems; these meetings are convened by Tim Barnden and Nadine Finch. Members are also involved in the Housing Immigration Group.

The ILPA European sub-committee is organising a meeting with the association of German immigration lawyers and other experts on 30 November and 1 December to discuss refugee directives. The AIRE Centre is hosting the meeting and participants will attend the ILPA AGM/Conference.

Susan Rowlands was invited to meetings of practitioners convened by the local Law Society in Leeds and Darlington. Together with Jane Aspden she attended meetings in Newcastle, Liverpool and Birmingham to promote the ACT Project and encourage regional meetings. Visits were also made to ICD Leeds and ICD Liverpool.

The launch of ILPA/RIS (Asylum Seekers: A Guide to Recent Legislation) on 30 May 2001 was well attended and generously hosted by Bindman & Partners. Speakers included Steve Orchard, Chief Executive LSC and Duncan Lane, Director of Advice and Training Unit, UKOSA.

All ILPA's work is informed by the contributions of members, who copy ILPA in on correspondence, submit information on policy and practice observed, and bring their concerns to the attention of the Executive, sub-committees and staff. There are too many to thank individually but it is important to acknowledge that their input is crucial to the effective work of the Executive Committee and staff.

## **Mailings**

It is a combination of ILPA's work with government officials, non-governmental and professional organisations that provides the information that is the basis of the monthly mailings. This is augmented by contributions from members of all correspondence and information they consider to be of interest to fellow members.

ILPA members received 12 mailings during the last year; they remain essential reading for all practitioners.

The quarterly European Update, produced by the ILPA European sub-committee, is a valuable contribution to the mailings: it continues to inform both ILPA members and contacts about EU developments in law, policy and practice.

## **ILPA Journal**

*Immigration and Nationality Law and Practice* published by Tolleys.

Jim Gillespie heads the editorial panel responsible for editing ILPA's quarterly journal. Anyone wishing to contribute material for the Journal or assist with the editing of it should contact Jim Gillespie at ILPA.

## **Responses to consultation and submissions**

### I.A.A.

Bail Guidelines, Submission to Judge Hodge, May 2001

Human Rights Appeals, Letter to President of Tribunal, July 2001

### Immigration and Nationality Directorate

Skilled Migrant Entry Programme - Consultation with ILPA, May 2001

Comments on illegal working: Section 8 Asylum and Immigration Act 1996 and Section 22 Immigration & Asylum Act 1999

Comments on the IND Protocol governing the Conduct of Substantive Interviews and the Role of Interviewing Officers, Representatives and their Interpreters, November 2001

Comments on Work Permit Season Ticket Consultation, April 2001

Reduction in the PCU 24-hour turnaround service, August 2001

Comments on in-country switching into the work permit category, May 2001

## DfEE

Comments on TWES Proposals, March 2001

Comments on Audit and Security Project, April 2001

Comments on Immigration and Asylum Act 1999 (Part V Exemption: Eligible Voluntary Bodies and Relevant Employers) Order 2001, May 2001

## European Issues : Submissions to Commission of European Parliament

Scoreboard on The Commission Proposal for a directive on minimum standards on procedures in Member States for granting and withdrawing refugee status January 2001

Submission to the House of Lords Select Committee on the European Union on a Community Immigration Policy, February 2001

Response to the proposed amendments under consideration by the European Parliament's Committee on Citizens' Freedoms and Rights, Justice and Home Affairs to the European Commission's Proposal for a Directive on Minimum Standards Of Temporary Protection In The Event Of A Mass Influx, February 2001

Response to the opinion of the European Parliament on the European Commission's proposal for a directive on minimum standards of temporary protection in the event of a mass influx, March 2001

Comments on amendments to the proposed Directive on temporary protection, May 2001

Comments, amendments and alternative scoreboard on Commission Proposal for a Council Directive on the status of third-country nationals long-term residents COM (2001) 127 final of 13 March 2001, July 2001

Alternative Scoreboard on the Commission Proposal for a Council Directive laying down minimum standards on the reception of applicants for asylum in Member States Brussels 3.4.2001 COM (2001) 181 final – 2001/0091 (CNS), September 2001

Scoreboard on the proposed Directive on the rights of citizens of the Union and their family members to move and reside freely within the territory of the Member States, October 2001

Comments on Proposal for Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status (COM(2000) 578), October 2001

### Lord Chancellor's Department

Comments on Consultation Concerning Draft Guidance To The Lord Chancellor On Applications For Exceptional Funding Under S.6(8)(B) Access To Justice Act 1999, September 2001

Bowman Review, June 2001, October 2001

Comments On The Proposed Amendments To The Asylum And Immigration Appeals (Procedure) Rules 2000, October 2001

### Legal Services Commission

Costs Audits, March 2001

CLS – Changes to financial conditions for funding by the Commission, July 2001 Consultation Document

Legal Services Commission documentation, 13<sup>th</sup> July 2001

Response to LSC Documentation, 13 July 2001 and September 2001

Controlled Legal Representation and other matters, September 2001

LSC File Management Consultation, September 2001

Guidance on Exceptional Funding, September 2001

LSC Funding Consultation, September 2001

Stage Billing and Asylum, October 2001

New Immigration Providers, October 2001

Immigration Reconciliation, October 2001

### Parliament

British Overseas Territories Bill Debate, July 2001 and November 2001

Proposal for a Council Directive concerning the status of third country nationals who are long term residents Submission to House of Lords Sub Committee F, July 2001



Submissions to the House of Lords Select Committee (E) on the Commission's proposed directive laying down minimum standards on the reception of applicants for asylum in Member States, July 2001

Submissions to the House of Lords Select Committee (E) on the Commission's proposed directive laying down minimum standards on the reception of applicants for asylum in Member States, July 2001

Human Rights Committee Response on the Desirability of Establishing a Human Rights Commission, July 2001

Submissions to the Home Affairs Committee on Forthcoming Emergency Anti-Terrorism Legislation, November 2001

Briefing on Anti-Terrorism, Crime and Security Bill – House of Commons, November 2001

Briefing on Anti-Terrorism, Crime and Security Bill – House of Lords, November 2001

#### G.L.A

GLA Response on Refugees in London, October 2001

#### Bar Council

Comments on the Immigration Accreditation Scheme, October 2001

#### Oral Evidence

Nicola Rogers submitted oral evidence on the Asylum Procedures Directive, Reception Conditions and EU Law to the Home Affairs Committee, and with Rick Scannell gave oral evidence on the Anti Terrorism Bill. Nick Rollason gave oral evidence on Third Country Nationals to the House of Lords Select Committee.

#### **Publications**

- **Asylum Seekers: A guide to recent legislation**  
3<sup>rd</sup> Edition/ILPA/Resource Information Service, March 2001
- **Ministerial Statements: The Immigration Exemption in the Race Relations (Amendment) Act 2000** - Ann Dummett  
ILPA/with the support of the Commission for Racial Equality, April 2001
- **Immigration and Nationality – Your rights to live and work in the UK**

Consumers' Association with ILPA and Mick Chatwin for the Legal Services Commission, August 2001

- **Claiming Asylum, - Your rights if you are a refugee**  
Consumers' Association with ILPA and Mick Chatwin for the Legal Services Commission, April 2001

## **Funders**

ILPA is grateful to the Legal Services Commission for funding the extensive national asylum casework training project (ACT Project) and the training of London expansion asylum caseworkers (London Project). The LSC also funded the production and publication of Asylum Seekers: A Guide to Recent Legislation (3<sup>rd</sup> edition, ILPA/RIS, March 2001). Funding has also been agreed for a Best Practice Guide to Asylum Applications – now in preparation.

The Joseph Rowntree Charitable Trust has generously funded the Schengen project and the forthcoming publication: Schengen, borders and discrimination.

## **Work in progress and planned**

- Challenging Racism Using the Human Rights Act (DLA, CRE, 1990 Trust and ILPA) – in preparation
- Best Practice Guide to Human Rights and Asylum Appeals – (with The Law Society Immigration Committee and the Refugee Legal Group) – in preparation
- Best Practice Guide to Asylum Applications – 3<sup>rd</sup> Edition in preparation
- Ministerial Statements made during the passage of the Immigration and Asylum Act 1999
- Schengen, borders and discrimination - R Cholewinski, publication imminent.
- An Immigration Lawyers Guide to Family Law, J Coker, N Finch, A Stanley, to be published by LAG

## **ILPA Training Projects**

The establishment and implementation of the ACT Project has been a large part of ILPA's work this year; the previous year was spent designing the project and agreeing a funding proposal with the Legal Services Commission. This was largely the work of Chris Randall and Susan Rowlands, who now manages the project. Members of the advisory group have been involved in the planning of the courses and in recruitment. Susan Rowlands has had the opportunity of visiting most of the courses and would like to record here her appreciation of both Jane Aspden's and Gail Elliman's skills in

running the courses. This has not only involved the design and production of materials, but also inspiring practitioners all over the country to contribute to the programme. Through their and their tutors' detailed knowledge of and commitment to the practice of asylum law, they are constantly improving the materials and the presentation of the courses to provide excellent, intensive training of new asylum caseworkers. Jane Aspden, the project co-ordinator, has (since July) been ably assisted by Jane Savory.

The ACT Project has assured funding until April 2003.

ILPA has recently been contracted to provide similar courses in London for LSC contract holders who have taken on new asylum caseworkers as part of the expansion programme. Trainers and tutors who are experienced in providing the ACT Project courses will be running courses in London. Susana Calsamiglia has worked to a tight schedule to set up the courses. The London Project is funded for the period October 2001 to April 2002.

### **Training programme**

ILPA has organised 63 training sessions during the year since the 2000 AGM. Most were held in London as in previous years, some courses have had to be duplicated due to demand for places. This year many more courses were held outside London to meet the needs of firms expanding or establishing immigration departments. Courses were held in Wakefield, Newcastle, Manchester, and Cardiff. Participation at many courses has been funded by the Legal Services Commission: particularly those dealing with asylum casework and appeals.

Since March, with the establishment of the ACT Project, training has not been possible at the ILPA office. ILPA members have been extremely helpful in providing venues for courses – sometimes at short notice.

The Law Society, the Bar Council and the Institute of Legal Executives accredit all ILPA courses. ILPA courses are intended to cover the range of law, practice and procedure members are involved in. Many courses are proposed by sub-committees; others have arisen from meetings with members in different parts of the UK. Members' suggestions for courses are always welcomed and provided whenever possible.

**The following speakers are thanked for their contributions:**

<b>Speaker</b>	<b>Organisation/Firm at time of course</b>
Elkan Abrahamson	AS Law
Sally Adams	Kingsley Napley
Peter Alfandary	Warner Cranston
Hamish Arnott	Bhatt Murphy Solicitors
Tim Barnden	Gill & Co
Philip Barth	Mishcon de Reya
Tim Baster	Bail for Immigration Detainees
Hilary Belchak	Kingsley Napley
Sarah Booker	Bindman & Partners (Freelance Clerk)
Mungo Bovey QC	Advocate, Edinburgh
George Brown	Greater Manchester Immigration Aid Unit
Tony Bunyan	Statewatch
Jonathan Burt	Baker & McKenzie
Christine Bustin	Kingsley Napley
Eileen Bye	Scudamores
Rebecca Chapman	Tooks Court Chambers
Mick Chatwin	Solicitor
Emma Cohen	Bates, Wells & Braithwaite
Jane Coker	Coker Vis Partnership
Mathew Davies	Wilson & Co
Sophie de Bellissen	Warner Cranston
Gareth Edwards	Eversheds
Tim Eicke	Essex Court Chambers
Annette Elder	Gill & Co
Judith Farbey	Tooks Court Chambers
Nadine Finch	2 Garden Court Chambers
Lisa Gibbs	Sookias & Sookias
Jim Gillespie	Renaissance Chambers
Tanya Goldfarb	CMS Cameron McKenna
David Gray	David Gray & Co
Ann Grimes	Law Centre, Northern Ireland
Kate Handforth	UKCOSA
Michael Hanley	Wilson & Co
Tony Haque	Baker & McKenzie
Ben Hayes	Statewatch
Phil Heywood	Doughty Street Chambers
Mark Henderson	Doughty Street Chambers
Alison Hunter	Wesley Gryk Solicitors
Raza Husain	Matrix Chambers
David Jones	2 Garden Court Chambers
Peter Jorro	2 Garden Court Chambers
Alison Lamb	FIAC
Ian Lewis	2 Garden Court Chambers
Fiona Lindsley	Birnberg Pierce & Partners
Jawaid Luqmani	Luqmani Thompson & Partners

Pierre Makhlof	Hackney Law Centre
Peter Moss	Bates, Wells & Braithwaite
Tublu Mukherjee	Renaissance Chambers
Julia Onslow-Cole	CMS Cameron McKenna
Anna Orobator	Eversheds
ChrisRandall	Winstanley Burgess
Nick Rollason	Kingsley Napley
Rick Scannell	2 Garden Court Chambers
Duran Seddon	2 Garden Court Chambers
Graham Smith	Solicitor
Martin Soorjoo	Tooks Court Chambers
Hugh Southey	Tooks Court Chambers
Alison Stanley	Bindman & Partners
Karen Sturtivant	Sturtivant & Co
Anne-Marie Tootell	Wilson & Co
Philip Trott	Bates, Wells & Braithwaite
John Walsh	Doughty Street Chambers
Amanda Weston	Chambers of Ian Macdonald QC
Sarah Woodhouse	Birnberg Pierce & Partners

## ILPA Training Courses December 2000 – December 2001

*NB – course location is London unless stated otherwise*

Date	Course Title	No. Attending
2 December 2000	New Perspectives in EU Immigration & Asylum Law, II: The Dublin Convention & Moving Asylum Seekers around Europe	35
5 December 2000	Basic Immigration Law	34
11 December 2000	Basic Asylum: Making Applications and Lodging Appeals – Cardiff	26
16 January 2001	Judicial Review in Immigration Cases	42
25 January 2001	Leave to Enter and Remain: the New Regime	41
29 January 2001	Representation at Asylum Interviews – Liverpool	28
6 February 2001	Drafting Grounds of Appeal – Basic	41
9 February 2001	Completing Statement of Evidence Forms (SEFs) - Cardiff	27
13 February 2001	Turning Asylum Seekers into Work Permit Holders: The Work Permit Scheme for Asylum Advisers	36
15 February 2001	Family Reunion in the Context of Asylum	37
1 March 2001	How to Prepare a Client for Appeal	37
5 March 2001	Representation at Asylum Interviews – Wakefield	31
6 March 2001	Basic Asylum Law: Making Applications and Lodging Appeals	54
6 March 2001	Turning Asylum Seekers Into Work Permit Holders: The Work Permit Scheme For Asylum Advisers	58
14 March 2001	Basic Business and Employment Law I: Work Permits	43
20 March 2001	How To Make A Bail Application	38
21 March 2001	Basic Business and Employment Law II: Business Person Categories	37
19 March 2001	Drafting Grounds of Appeal - Basic –Manchester	44
27 March 2001	Procedure in Human Rights, Asylum & Immigration Appeals	55
30 March 2001	Half-day Conference: Human Rights Protection in the Harmonisation of Asylum Law in Europe	20
3 April 2001	Support Under the NASS System and Appeals Against NASS Decisions	47
25 April 2001	Statutory Appeals to the Court of Appeal	36
28 March 2001	How To Make A Bail Application (Repeat)	42

Date	Course Title	No. Attending
29 March 2001	How To Prepare For An Appeal (Repeat)	54
2 May 2001	Asylum, Immigration And Family Law	36
16 May 2001	Asylum Training For Barristers – Newcastle	4
17 May 2001	Drafting Grounds Of Appeal – Wakefield	16
23 May 2001	Students, Work Permit Holders And Working Holiday Makers	27
24 May 2001	Basic Immigration Law	32
31 May 2001	Family Settlement (with special reference to South Asia)	14
5 June 2001	Basic Asylum: Making Applications and Lodging Appeals – Manchester	12
7 June 2001	Representation At Asylum Appeals – Cardiff	14
13 June 2001	Home Office Policy: Concessions And The Exercise Of Discretion Outside The Immigration Rules	63
14 June 2001	Seminar For Members: Employment And Business Related Immigration	83
15 June 2001	Asylum and the European Convention: the domestic courts' approach	36
18 June 2001	Immigration Practice: How to supervise under an LSC contract in immigration law – Wakefield	25
19 June 2001	Leave To Enter And Remain: The New Regime: An Update	57
21 June 2001	How To Prepare For An Appeal – Newcastle	30
22 June 2001	How To Prepare For An Appeal – Manchester	25
28 June 2001	How To Manage An Asylum Case In A Solicitors' Practice Under An LSC Contract	49
3 July 2001	Representation At Asylum Interviews	44
5 July 2001	Immigration Practice: How To Take A Statement	16
9 July 2001	EC Association Agreements With Central And Eastern Europe – Basic	37
17 July 2001	'One-Stop' Notices: Procedure And Practice	47
18 July 2001	How To Manage An Asylum Case In A Not-For-Profit Organisation Under An LSC Contract	3
24 July 2001	Researching European Immigration Law Documents On The Internet	16
25 July 2001	Immigration And Taxation	33

Date	Course Title	No. Attending
2 October 2001	Basic Immigration Law I	40
10 October 2001	Basic Immigration Law II	40
17 October 2001	Basic Immigration Law III	41
16 October 2001	Support Under The NASS System And Appeals Against NASS Decisions – Manchester	25
12 October 2001	Representation & Advocacy Before the Appellate Authority – Newcastle	28
16 October 2001	ECHR & Human Rights Case Law: An Introduction - London	50
24 October 2001	Third Country Cases – London	42
30 October 2001	Detention, Bail & Prisoners’ Rights	42
31 October 2001	Employment Law for Immigration Lawyers – London	39
1 November 2001	ILPA Training For New Asylum Caseworkers (1): Basic Asylum Law – London	31
2 November 2001	Preparing & Presenting an Asylum Appeal – Newcastle	20
7 November 2001	Detention, Bail & Prisoners’ Rights – Wakefield	17
14 November 2001	Preparing & Presenting an Asylum Appeal – London	49
14 November 2001	Detention, Bail & Prisoners’ Rights – Manchester	21
21 November 2001	Deportation & European Community Law	35
27 November 2001	ECHR & Human Rights Case Law: An Introduction – Leeds	20
11 & 12 May 2001	<b>ILPA/Meijers Committee:</b> Development of the EU's Borders: Schengen and Beyond	30



## **Thanks**

On behalf of ILPA, Susan Rowlands would like to thank colleagues from the following UK organisations for their assistance during the last year; she has relied on their support and co-operation: Amnesty (British Section), Asylum Aid, CRE, IAS, JCWI, JCORE, Justice, LAG, Law Society Immigration Law Committee, Medical Foundation, NACAB, Refugee Legal Centre, Refugee Council, RLG, RWLG, UCKOSA, UNHCR.

Enormous thanks also go to current ILPA staff members and to Josephine Brain, who left ILPA in September after four years of committed work. Many temporary administrative assistants made contributions to ILPA's systems and operations during the course of the year: thanks go to them all.

ILPA is greatly indebted to all our "consultants": Jeremy Stone is ILPA's bookkeeper; together with Phil Cole of Computercraft, he is putting in place new accounting procedures. Andy Humphreys has provided ILPA with much needed IT support; John Pipal has worked on the directory for the web-site and regular updating; Ben Hayes has redesigned the website and has brought it up to date; Pat Khan has designed many ILPA documents and publications; Helen Dewar maintains order in our library.

## **THE ASYLUM CASEWORKER TRAINING PROJECT**

In December 2000 the Legal Services Commission confirmed that they would fund ILPA to provide training to help to address the shortfall of competent legal help in the regions. With the introduction of the system of dispersing asylum seekers from London to the regions, access to legal representatives experienced in asylum casework had become critical. The Legal Services Commission responded by increasing the number of franchised firms in the regions but there was not at that time an increased number of experienced caseworkers to meet the demand for quality advice.

The Asylum Caseworker Training Project was designed to meet the training needs of regional asylum caseworkers with little or no casework experience. An eight day training course was put together aimed at meeting those specific training needs. The programme covers substantive and practical areas of asylum casework.

The course includes: an examination of the 1951 Convention, the Human Rights Act 1998, the Immigration and Asylum Act 1999, the asylum decision process, interview skills, working with interpreters, clerking a Home Office interview, case management, NASS, written representations, detention and bail, preparing an appeal and post-decision work. All of this is delivered within the framework of an immigration overview and concentrates on 'best practice' in all areas of asylum casework. The training is practical and designed to be interactive.

Since June seven courses have been completed in the following areas:

Newcastle (2)

Liverpool

Leeds

Cardiff

Birmingham

Manchester.

Two are currently running in Oxford and Leicester.

The Asylum Caseworker Training Project has proved to be very popular with providers of asylum advice in the regions and with the trainees.

Course participants are asked to give formal assessments of the course. The feedback from the courses has been extremely positive. Typical comments have been:

“Very useful to study how to apply the law effectively.”

“Thorough, very good tutors/explanations. Good course material.”

“A wide range of topics all imparted with enthusiasm which was very stimulating.”

“Being given a good grounding re immigration law and then being shown how to make effective use of this knowledge.”

Trainees have approached the tutors and expressed the view that they now felt more able to represent their clients rather than just process their claims. Some trainees have given specific examples of how the information and skills acquired on the course have given tangible and positive results for their clients. A few of these examples include: a number of successful bail applications, a grant of ELR following written representations and the successful resolution of a NASS problem that had been threatening a client with eviction.

By December one hundred and thirty five asylum caseworkers will have been trained by The Asylum Caseworker Training Project.

The Project Coordinator would like to thank all the people who have contributed to the success of the Asylum Caseworker Training Project:

### **Tutors**

Alan Caskie  
Alison Stanley  
Amanda Weston  
Annette Elder  
Arta Heath  
Buster Cox  
Charles James  
Chris Randall  
David Jones  
Dara Baban  
Emma Cohen  
Felix Rukara  
Garry McIndoe  
George Brown  
Hari Sanga  
Hari Ulaeto  
Hooman Jaffari

Hugh Southey  
Jane Coker  
John Mccarthy  
Laurence Saffer  
Manjit Singh  
Mark Swchenk  
Michael Malutshi  
Patrick Lewis  
Peter Jorro  
Salma Bashir  
Sarah Woodhouse  
Sarah Booker  
Sead Masic  
Tim Barnden  
Tim Baster  
Tublu Mukherjee  
Valbona Kacinari

### **Advisory Committee**

Barry Stoyale  
David Gray  
George Brown  
Mark Philips  
Rick Scannell

Chris Randall  
Duncan Lane  
Jarwaid Luqmani  
Marie Burton  
Susan Rowlands

### **ACT Project Staff**

Gail Elliman  
Jane Savory

Part-time Project Trainer  
Project Administrator

*- Jane Aspden  
Project Coordinator*

## **London Project: Asylum Caseworker Training**

The Legal Services Commission is funding ILPA to provide training for asylum caseworkers recruited under the LSC immigration expansion package in London.

This is an intensive training course; six days plus two follow up days, which is designed to increase the competence of new asylum caseworkers working to solicitors with conduct of cases. It is based on the ACT project-training programme; the trainers and most tutors will have contributed to ACT materials and courses.

As of 29 November, the six-day courses will not be exclusively available to expansion caseworkers but attendance will also be funded for other asylum caseworkers in contracted firms/organisations.

The courses will take place in December, January and February.

Anyone interested in attending should contact: Susana Calsamiglia:

telephone no. 020 7490 1553

[london.project@ilpa.org.uk](mailto:london.project@ilpa.org.uk)

## **European Sub-committee**

This has been an extremely busy year for the European Sub-committee. Most of its work has been focus on the European Commission's proposals on immigration and asylum under Title IV. Following the ILPA/MPG Amsterdam Proposals, the European Sub-committee has been following this progress very carefully. The sub-committee responds to each proposal put forward by the Commission or a Member State by preparing a detailed scoreboard, monitoring compliance with international human rights law, comparing the proposal with the Tampere Conclusions and monitoring the degree to which the proposal might involve a diminution in rights in Member States. The scoreboards contain detailed analysis of the proposal and suggested amendments. The scoreboards are then sent to the Commission, Government, Parliament, MEPs and other interested bodies and are used as lobbying tools.

The sub-committee has given evidence to Committees in both Houses of Parliament on a number of these proposals this year. It continues to work closely with other NGOs both in the UK and elsewhere in Europe and regularly attends strategy meetings.

### **Immigration Proposals**

The sub-committee continued to monitor the EU proposals relating to carriers' sanctions and expulsion of migrants to other Member States, which were adopted in the spring, along with proposals on smuggling and traffickers, on which the Member States reached agreement during the year. Previously the sub-committee had reported its concerns about these proposals' to the UK and European parliaments.

Additionally the sub-committee continued to monitor discussions at EU level on the family reunion proposal submitted in December 1999, upon which it had suggested amendments to the Commission and the UK and European parliaments last year. As for new proposals on migration, the sub-committee is now completing its scoreboards on recent proposals on economic migration and on the freedom to travel for up to three months within the EU for third country nationals, which will be submitted to the UK and European parliaments as ILPA's contribution to the discussions. The sub-committee will now lobby for the UK Government to opt-in to these measures.

The sub-committee has done a lot of work on the Commission's proposal for a directive on third country nationals who are long-term residents of an EU member state. Whilst maintaining criticisms on some of the details of this proposal, it was broadly welcomed by ILPA in that it will grant rights to third country nationals who have resided lawfully for five years in one member to move to a second member state.

Together with other NGOs especially the JWCI and the AIRE Centre, ILPA has urged the Home Office to respond positively to the proposal and to opt-in to further discussions on its detailed provisions with the other member states. In July the Government decided not to opt-in to further discussion on the grounds that the proposed directive would have implications for the way immigration controls were exercised at the UK borders. However, the Home Office indicated that it had noted points raised by ILPA and other organisations and they would keep their position under review.

### **Asylum Proposals**

The sub-committee's work on the asylum proposals started this year with the proposed directive on temporary protection in a mass influx situation. ILPA urged the Commission to withdraw the proposal in light of the radical changes proposed by Member States and the widening of the circumstances in which it could be used and preclude the application of the normal asylum procedure. Despite strong objections from many NGOs the directive was adopted in the spring.

The sub-committee's scoreboard on the proposal on minimum standards for asylum procedures was critical of the lack of harmonisation, the use of safe third country concepts and accelerated procedures and the lack of suspensive appeals. The scoreboard on the proposal for reception conditions was more welcomed by ILPA although there is real concern at the circumstances in which facilities can be withdrawn and the use of detention. The scoreboard on the proposal to replace the Dublin Convention is critical of the whole basis for determining which State is responsible for examining an asylum claim.

The Commission has now proposed its final directive in the asylum field on the criteria for determining refugee status and subsidiary protection which will be the focus of the sub-committee's work for the next few months.

### **Members' Meetings on ECJ developments**

The European Sub-Committee has held a series of members' meetings on developments on the Association Agreements with Central and Eastern European countries following the long awaited three ECJ judgments in Kondova, Gloscyck and Barcoci and Malik; on development on the EC Turkey Agreement following the ECJ decision in Savas and the last meeting of the series will be held in December on citizen's rights. ILPA is very grateful to Kingsley Napley solicitors for hosting the meetings.

### **Borders and Discrimination in the European Union**

This research study, written by Ryszard Cholewinski and generously supported by the Joseph Rowntree Charitable Trust, argues that the fundamental human right to be free from discrimination is undermined considerably by the European Union rules on the crossing of the external border and the issuing of visas. The research establishes that there are serious deficiencies in the way these rules have been formulated and in the way they are applied in practice. The study suggests that the rules, which make distinctions on the grounds of nationality, lack a reasonable and objective justification and may also mask discrimination on more invidious grounds, such as race, ethnic or national origin, and religion. The study is set in the context of the Europeanisation of borders and the movement of borders beyond the physical territories of EU Member States to the EU external border and further to EU consulates in third countries. The research has now been completed and currently awaits publication. It will also be employed in a NGO lobbying and information campaign on such issues as community law and discrimination, which is to be conducted in EU Member States by the Brussels-based Migration Policy Group (MPG).

*- The European Sub-committee*

## **Employment & Business Sub-committee**

The sub-committee has had a very active year and has responded speedily to a range of business immigration issues.

The diverse experience of the co-convenors has helped to make the sub-committee very effective.

Julia Onslow-Cole is a Partner and Head of Global Immigration at CMS Cameron McKenna and has substantial experience in business immigration practice, typically representing large investment banks, manufacturers, and businessmen in UK, Europe and the Far East. Philip Trott is a Partner and Head of Immigration at Bates Wells & Braithwaite. Philip has substantial experience principally in small business applications and also in entertainment and the arts. He is also an employment lawyer. Philip Barth is a Partner and Head of Immigration at Mishcon De Reya. Philip has substantial business immigration experience and also practices corporate law.

The sub-committee has relied heavily on several ILPA members who have participated in drafting sessions and attended meetings on behalf of ILPA at 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.

The Employment and Business Sub-committee meetings are open to all ILPA members interested in the area and at each meeting we update members and consult with them on representations being put forward on behalf of the sub-committee on various aspects relating to Business and Employment Immigration Law. We meet at 6 weekly intervals and the dates of our meetings are set out in the ILPA mailing.

The sub-committee represents ILPA on Work Permits (UK) User Panel and the Home Office Business Case Unit User Panel.

The last year has been marked by a number of changes in business immigration law, practice and procedure. Work Permits (UK) became part of the Home Office, there was a major review of TWES and entertainment applications and a review by Work Permits (UK) on audit and security. There have been changes concerning switching and the introduction of multiple entry work permits for workers based overseas. The Employment and Business Sub-committee were consulted on all the changes and meetings were held with Work Permits (UK) and written representations were also made.

The Employment and Business Sub-committee has enjoyed close working relationships with the Home Office. For example, when the Home Office announced the withdrawal of the Fast Track the sub-committee acted swiftly and after a series of meetings the service was reinstated and a new 48-hour turnaround service will be implemented shortly.

The Employment and Business Sub-committee has also been involved in a number of meetings and ongoing discussions concerning the Skilled Migrant Entry Programme which will be brought into force in January 2002 and has had discussions concerning the new categories of work permits for seasonal workers and the low skilled.

On 23<sup>rd</sup> November 2001 Work Permits (UK) announced the way ahead for work permit matters, details of which will be notified to members in writing.

The Employment and Business Sub-committee has also maintained contact with the Business Case Unit and representatives from the Business Case Unit as well as Work Permits (UK) have spoken at ILPA seminars. The Employment and Business Sub-committee have played a large part in ILPA training on business employment immigration law.

In addition to ILPA members the sub-committee wishes to thank Susan Rowlands and her staff for all their support during the last year.

*- Julia Onslow-Cole, Philip Barth and Philip Trott*



## **Family and General Immigration Sub-committee**

This sub-committee meets regularly on the third Tuesday of the month, at the Brunei Gallery, School of Oriental and African Studies, University of London, by courtesy of Dr Werner Menski. It has been co-ordinated by Richard McKee, Jane Coker and Sue Shutter, and has had a lively year.

The sub-committee spent much time on trying to draft guidelines for the Foreign Office on forced marriages, in the immigration-law context. The government had set up a working group which produced a report, *A choice by right*, in June 2000, which set out a framework for government action to counter this and to inform young people of their rights. This is an issue of concern to many ILPA members and there was detailed and complicated discussion on this complex issue, including a debate on who the client is (the person applying for entry clearance, the spouse in the UK, other family members concerned), on issues of confidentiality between joint clients, particularly when a sponsor in the UK does not want anyone else to know of her reluctance to marry or to continue with the marriage, and when it is necessary to withdraw from a case if the sponsor and the appellant's interests are different. The sub-committee was unable to agree on any draft guidelines. Members of the sub-committee were in contact with Foreign Office officials and met the Home Office Minister, Mike O'Brien on 25 April 2001 for a wide-ranging discussion on Home Office plans for action. The calling of the election meant no announcement of action was made then and it has not been since.

The sub-committee has also drafted representations to the Home Office on proposed changes in the immigration rules to allow family reunion, preferably to ensure that all nationalities have the same rights as EU nationals to family reunion. It has also discussed the situation of British citizens who have spent time abroad and then return home to study, only to find that they are treated as overseas students and have to pay overseas fees and are not entitled to student loans. We have discussed family visit visa appeals and will be drafting ILPA's response to the Home Office report on their first year of operation. A meeting was addressed by the Overseas Adoption Helpline, to learn more about adoption procedures and the law in other countries and how these fit in with British immigration law procedures. We have also had a discussion with members of ILPA's Refugee Sub-committee, to discuss refugee family reunion issues and practice.

The sub-committee always welcomes anyone interested in these areas of immigration and nationality law to meetings – please come and make this an even more interesting group next year!

- *Sue Shutter*

## Legal Aid Sub-committee

This has been an active year for members and therefore for the sub-committee. I would like to thank all members who participated in meetings, and shared their experiences and expertise with us. I would particularly like to thank Jane Coker for looking after the sub-committee's work in my absence on sabbatical in the summer.

Throughout the year members have raised frequently with us their individual organisations' difficulties with the LSC. Clearly the mechanics of the exclusive contract have put many members under considerable pressure. ILPA's practice, because of limitations on time but also as a matter of principle, has continued to be to raise issues of principle with the LSC based on the patterns identified by the complaints, rather than advocate on behalf of particular members.

In the early part of the period ILPA was in correspondence with the LSC over the further guidance needed about the meaning of various aspects of the **GCC**. Some of these matters have been addressed in recently issued guidance referred to in more detail below. Other matters will need to be addressed once more in the New Year.

The first part of the year also saw a number of issues arise from the first **cost audits** undertaken by the LSC. Members raised many complaints about the audit procedure itself and about the principles used during it. There were widespread complaints of inconsistent and incorrect applications of rules by the auditors, and of poor quality identification of issues, making response more difficult and time-consuming. Members found the threats of swingeing cuts in payments, even if not in the end carried out, to be deeply unsettling. ILPA will be watching the next round of audits closely. However there is no doubt that serious and unnecessary damage was done to the relationship between some providers and the LSC by this process.

Following a members' meeting ILPA made detailed representations about these matters to the LSC. In response the LSC accepted that there were procedural improvements to be made, although ILPA would argue that more needs to be done. Some of the confusion as to the principles to be applied on audit has been addressed thus far by the production this October by the LSC of detailed guidelines for cost auditors, upon which we will be consulting with members in January. The conduct of the next round of cost audits will be watched closely.

The introduction of a **staged billing process** for asylum cases has allowed some providers to make up some of the gap between their claimed work and their scheduled monthly payment total. Perhaps the biggest issue for the next year will be the extent to which special allowance is made for immigration providers in the reconciliation process due next March. ILPA has been lobbying strongly for change. We have argued for either the introduction of further stages to the stage billing process and its extension to non asylum case, or the recognition that because immigration cases last longer and cost more, immigration providers cannot hope to meet the same % proportion of bills to payments as other providers. We wait to see the outcome. In the course of the year many providers have also reported carrying prohibitively high disbursements. The absence of a method for claiming these back on an ongoing basis is another continuing problem and makes threats of recoupment even more galling.

The current inflexible payment system has given many providers **cashflow** problems, to the extent that some quality providers have ceased to do immigration work this year, whilst others are considering their position. Ironically many members reported receiving an

unsympathetic hearing from their contract managers on these matters. We hope to try to improve this position in the next year.

In July there was a successful members' meeting at which the issues of CLR, financial eligibility, stage billing and problems with the ASU were all raised. At around the same time ILPA responded to 2 consultation documents; firstly Community Legal Service – Changes to financial conditions for funding by the Commission, July 2001 – a consultation document; and secondly the Exceptional Funding and Funding Code Guidance

ILPA's relationship with the LSC is a complex one. The story set out above is principally one of frustration and conflict. Yet ILPA and the LSC share the desire to establish high quality provision of immigration advice. Furthermore the LSC is an ally in our continuing but unsuccessful attempt to persuade the Home Office to accept the principle of frontloading of legal advice. The LSC has funded the innovative Asylum Caseworker Training project, which, thanks to the excellent work of Jane Aspden and her team, is a tremendous success, to the extent that the LSC is now funding a similar project in London. Until recently the LSC continued to fund other ILPA training courses. It also funded the ILPA/RIS book on the welfare aspects of the 1999 Act which was published during the year, and is also the next Best Practice Guide. Some providers have also benefited from the LSC expansion project, providing financial incentives to expand provision in areas of shortage. I hope that over the next year ILPA will be able to extend those areas in which the relationship has been a successful one.

Nevertheless it remains the case that there is an absolute shortage of immigration providers, so much more work needs to be done to expand supply. There also remains the other issue of where that supply is to be delivered. Thus, in the medium term ILPA will need to keep a close watch on the proposals for reception centres, and the apparent absence of serious consideration by the Home Office as to the provision of legal advice there. There may also be a need for work to be done in maintaining asylum work within the specialist quality mark definition, as various standard-setting organisations [for instance the LSC, and the OISC seek to rationalise the different quality standards they have established]. However in the short term the likely deluge of appeals and removals next year is likely to stretch current providers more than ever and to make sensible procedures for early payment for work done even more important.

- *Chris Randall*

## Refugee Sub-committee

The Refugee Sub-committee had a series of lively and well-attended meetings over the year to discuss current issues. Members said that they found the sub-committee a valuable information exchange.

Significant issues dealt with over the year included s.65 appeals and the Home Office's attempt to renege on its Pardeepan undertaking; certification after Zenovics; the draft amendments to the Procedure Rules; non-compliance refusals; third country cases; the effect of the Terrorism Act on refugee cases; the Anti-Terrorism Bill; asylum support; and confidentiality of asylum appellants. ILPA is now writing to the IAA asking it to anonymise determinations in light of evidence of an asylum appellant being threatened.

The draft refugee definition directive from the European Commission was considered in detail, as well as the directive that will replace the Dublin Convention (Dublin II) and the draft directive on reception conditions.

Recently, the sub-committee has been studying the feasibility of ILPA commissioned generic expert reports to deal with recurring issues and comment on contentious parts of Home Office country assessments. The aim is to address the problems caused by the IAA's antipathy towards the use of expert reports originally prepared for other cases, especially where the number of suitably qualified experts renders it impractical to obtain an individual report on every case. Anyone else who is interested in working on this study, please email me at [m.henderson@doughtystreet.co.uk](mailto:m.henderson@doughtystreet.co.uk).

The sub-committee intends to continue monthly meetings next year when a new immigration and asylum bill and a 50% increase in the number of appeals promises to make it even busier. All ILPA members are welcome to attend.

*- Mark Henderson*