

Where justice is denied...

Due to the election and problems with processing contract applications, immigration practitioners were still waiting for the results of the tender round at the time of writing (see page 5 of this issue). LAG is aware of rumours that some good-quality firms have decided to give up publicly funded immigration work as they are sick of the uncertainty and rates of pay in the legal aid system. This exodus could have a particularly damaging impact as LAG believes that there are fundamental problems with the administration of asylum claims.

It seems that rather than making a decision based on the facts of each case, a 'culture of disbelief' has prevailed in the Home Office when deciding applications for asylum. The media has reported the revelations of Louise Perrett, who worked for the UK Border Agency (UKBA) in Cardiff for three-and-a-half months in summer 2009 and was shocked at the bias shown against asylum-seekers. She claimed that staff at the UKBA were in general hostile and rude towards asylum-seekers. She told the Home Affairs Committee in March that staff who granted asylum applications were made to display a toy gorilla known as the 'grant monkey' on their desk. If her allegations are substantiated, there needs to be a radical change in management at the UKBA Cardiff office.

Given the revelations from Louise Perrett, there can be little surprise that the latest statistics released by the Home Office for 2009 revealed that only 27 per cent of initial asylum claims were successful. Asylum applicants were forced to take their cases to the Asylum and Immigration Tribunal, at which 28 per cent were successful. Clearly, the system is failing asylum-seekers and this is a wider problem than one rogue UKBA office. More must be done to ensure that the right decisions are made at the application stage rather than dragging often vulnerable people through long, stressful and expensive appeal processes.

Like much legal work, better decisions can be arrived at in

asylum cases if the resources are put into investigating them in the initial stages. Time needs to be spent with the applicant to obtain a detailed statement of his/her case. This is a difficult task, often involving interpreters and trying to interview a person who is stressed and anxious, having suffered traumatic experiences. Fixed fees offer a perverse incentive to skimp on the time spent with clients at this vital first stage. There seems to be a real tension among asylum advice providers about what some see as 'factory casework' organisations, which they believe do not give the time needed to applicants. Many of those organisations which give more individual attention to clients say that they cannot make a profit and are often forced to pick up the pieces after less dedicated caseworkers have dropped a case. Many advice agencies tell stories of seeing desperate clients seeking advice on asylum claims who have exhausted their right to legal aid. As with other areas of law, the Legal Services Commission (LSC) has reduced its commitment to monitoring quality. This needs to change if the problem of shoddy work is going to be addressed.

An issue which also needs to be tackled by the new coalition government is country bias in decision-making by the Home Office. For some countries there is a marked difference between the number of claims refused by the Home Office and the number of asylum-seekers from those countries who are successful on appeal. One in three applicants from Zimbabwe, for example, was successful on appeal last year and half of all applicants from Somalia were successful. This suggests that systematically the Home Office is ignoring both the country reports and tribunal decisions on applicants from these countries, which constitutes a system of institutionalised racism that should not be tolerated and throws away public money by defending the indefensible.

A pilot was carried out in Solihull by the Home Office and the LSC in 2006 which could point the way forward: more individual attention was given to pilot applicants and this resulted in some reduction in the number of cases going to appeal.

It will be interesting to see which organisations have opted to remain in the system when the results of the bid round are known. LAG hopes that the quality immigration law providers will be retained. Clients claiming asylum particularly need such services; we would urge the government to put time and thought into getting Home Office decisions right at first instance. This saves public money and brings justice to those denied it in the countries from which they have been forced to flee.

News 4-5

MoJ ministerial team's duties announced/**news feature**: Should the polluter pay?/Civil contracts bids: outcome delayed/Cyril Glasser CMG 1942-2010

Feature 6-8

Legal profession 6

The 2010 LALYs: an evening of inspiration/Fiona Bawdon

Law & practice 9-40

Asylum-seekers 9

Support for migrants update/Sue Willman

Employment 15

Employment law update – Part 2/Tamara Lewis and Philip Tsamados

Public law 20

Recent developments in public law – Part 2/Kate Markus and Martin Westgate QC

Local government 24

Gypsy and Traveller law update – Part 1/Chris Johnson, Dr Angus Murdoch and Marc Willers

Mental health 29

Mental health law update – Part 1/Robert Robinson and Michael Konstam

Mental health 30

Social circumstances reports for mental health tribunals – Part 1/Christopher Curran, Malcolm Golightly and Phil Fennell

Housing 33

Recent developments in housing law/Jan Luba QC and Nic Madge

Legal aid 39

Legal aid round-up/Carol Storer

Legal profession 40

Recent developments in practice management/Vicky Ling

LAG training