

# THE SOCIAL SECURITY LAW PRACTITIONERS' ASSOCIATION

## MINUTES OF THE MEETING HELD ON 2/4/03

### **Present.**

Desmond Rutledge - Roehampton CAB  
Paul Sandford – Community Law Clinic,  
Arnold James- OSSC  
May May Teo- OSSC  
Lora Les Gaten - Ole Hansen and Partners  
Vilma Birmudez – Ole Hanson and Partners  
Ronnie Hopkins- Burke Niazi Solicitors  
Sarah Clarke – CPAG  
Mark Batten - Centre70

### **Apologies.**

Julie Hinnigan

### **Introduction.**

Jo Silcox welcomed members.

Thanks were expressed to Paul Sandford who has stood down as chair this year, and Desmond Rutledge was welcomed as the new Chair of SSLPA. Stated the groups aim to increase attendance at meetings any feed back on this would be most welcome.

### **Leggatt Report on Tribunals.**

Last year SSLPA submitted a response to the Leggatt Report. A year on the LCD has issued a Response to the Consultation Paper on Sir Andrew Leggatt's Review of Tribunals. Desmond Rutledge ("DR") gave some feedback on this. He noted that SSLPA was not named in the list of responding organisations. When he made enquiries he was assured that our comments had been incorporated in the body of the report. SSLPA response was for some reason filed under 'Solicitors.'

Leggatt's Report saw representation before tribunals as something that should not be encouraged but public funding should be available in exceptional cases. In SSLPA's responses it was argued that only a minority of clients are able to conduct their own cases despite the informality of the hearings and the inquisitorial role of tribunals. Many clients still need representation due to the complexity of the issues involved. Further the Leggatt Report had underestimated the barriers facing clients in presenting their case in social security law, particularly in cases before the Commissioners. Generally, representation should be viewed as a component in ensuring a fair hearing for appellants.

The Response to the Consultation said there is broad agreement that reform of tribunals should focus on service standards and staff training. The main proposal was to create a unified tribunals service under the LCD with an appellant level across the board. The LCD is going to implement these changes with the 10 largest tribunals. A white paper will be issued later this year.

In relation to the SSLPA response DR drew attention to the following. In the Summary of Responses it stated that respondents "... felt that ensuring fairer access to justice also implies that representation is available and affordable when needed, e.g. in specifically complex areas of law." DR also referred to paras 11, which states that whilst 80% of respondents supported the view that publicly funded representation was necessary in exceptional cases some were in favour of an extension of public funding. "The latter view "... arises from the perceived need to balance each party's knowledge of law and procedure. In these circumstances, funded representation is seen by a number of respondents as a means to ensure fair access to justice." DR therefore concluded that SSLPA's point regarding representation had at least been acknowledged in the Response, though it remained to be seen whether it would result in a change in policy, particularly in relation to funding before the Commissioners.

### **Ranjiv Khubber's Talk on the relationship between social security and Immigration Law.**

Ranjiv is a barrister at 6 King's Bench Walk practising in Immigration and Public Law and JR. He provides training in Immigration and Welfare Rights and has involved in a number of public law challenges as well as social security cases before tribunals, Commissioners and the Court of Appeal

Ranjiv produced an excellent set of notes, which are attached. In addition to his notes he suggested the following as reference materials form Immigration Issues: -

JCWI Immigration, Nationality and Refugee Handbook  
Mc Donald's Immigration Law and Practice.  
Butterworth's Immigration Law Service containing legislation and policy guidance.  
There are a number of useful web sites. Esp the Home Office site which contains statutory guides, details of policy

One could also use the extra statutory policies and guidance contained in Asylum Policy Instruments and the Immigration Directorate Instructions both available on the home office web site.

### **Info Exchange.**

EEA Nationals

If a couple are separated but not divorced the spouse can still benefit from EA rights  
Case of Diatta V Land Berlin 267/83[1985]ECR 567  
NB they may still fall foul of HRT

There was a brief discussion on Hinchey EWCA CIV 138. There appeared to be some uncertainty as to whether the misrepresentation issue within the case was going to be remitted to a Commissioner or a tribunal.

On the main point that the Secretary of State must have knowledge of his own decision on DLA so is disclosure made to IS office no need to make it to DLA as well was a major development in the law and should be used where the issue is disclosure. Anti-test case rule does not appear to apply to overpayments