

**MINUTES OF THE MEETING OF THE BOARD
OF DIRECTORS OF ILEX PROFESSIONAL STANDARDS LIMITED
HELD ON 22 JULY 2010 AT KEMPSTON MANOR,
KEMPSTON, BEDFORD, MK42 7AB**

Present: Mr. Alan Kershaw (Chair), Mrs. Sandra Barton, Mrs. Thelma Brown, Ms. Hilary Daniels, Mr. Faizal Essat, and Mr. Andrew Middleton.

In attendance: Mrs. Baljeet Basra (Professional Standards Manager), Ms. Gemma Burnett (Professional Standards Assistant), Ms. Alison Hollyer (Head of Awards) (for Item 11 & 12), Mr. David McGrady (ILEX President), Ms. Amanda Pipe (Quality Assurance Manager) (for item 11 & 12) and Mr. Ian Watson (CEO).

ITEM 1 APOLOGIES FOR ABSENCE

**Action
points**

1. There were no apologies for absence.
2. Mr. Kershaw welcomed Mr. David McGrady, attending as ILEX President.

ITEM 2 DECLARATIONS OF INTEREST

3. There were no declarations of interest.

MINUTES OF MEETING HELD ON 13 MAY 2010

4. The Board approved the Minutes of its meeting held on 13 May 2010 as a true record for publication on the IPS website and report to the ILEX Council. **GB/LN**
5. Members asked about progress in arranging online Equality and Diversity training for the Board. The office would confirm arrangements. **GB**
6. The Board discussed whether they required director training. The office would enquire whether there was a course being provided for ILEX Council members which could be attended by Board Members focusing on duties of directors. **GB**

ITEM 4 GOVERNANCE

Draft annual report

7. The draft IPS annual report had been produced. It was a factual document with a number of appendices and would be published. The report included biographies of Board Members. Board Members were asked to check the biographies and to forward any comments to the CEO by 6 August 2010.

ALL

Board vacancy

8. The Board noted that Dr. Nicholas Smedley had stood down from membership of the IPS Board. Dr. Smedley had been asked by the Law Society to undertake a preliminary scoping study into whether it should develop or endorse qualifications for paralegals. Dr. Smedley had recognised that his carrying out the study would inevitably pose a conflict of interest if he remained a member of the Board.

9. The Board noted that Dr. Smedley had not provided three months notice; the Chair had accepted his resignation with immediate effect. The Board accepted that it had been appropriate to accept Dr. Smedley's resignation with immediate effect in this case, but agreed that the IPS Board Code of Conduct should be reviewed with regard to this issue.

IW/HD

10. The Board agreed that a letter would be written to Dr. Smedley expressing the Board's regret that he resigned and requesting a formal non-disclosure statement. The Board also agreed that the ABS working party would be invited to decide whether it needed to coopt someone to replace Dr. Smedley.

IW

11. The Board agreed that the new appointment to the Board post would be for a three year term. This would benefit the Board as it intended to introduce staggered appointments. The Board also agreed to review the skills audit and to correlate gaps identified by the skills audit to the job specification of the new member.

IW/BB

12. The Board discussed whether candidates from the previous recruitment process could be reconsidered. The Board decided that it was good practice for the position to be advertised and a full appointment process undertaken. The advert would be placed in early September in conjunction with adverts for lay members of the Disciplinary Tribunal and Appeals Panel and the new Admissions and Licensing Committee. The Board agreed that the cost of advertising with PARN, Whitehall Industry Group, The Times and Guardian would be investigated; the Chair and CEO would decide, on the basis of this, where advertisements should be placed.

IW/BB

13. The Board noted the Protocol for the Appointment or Reappointment

of Chair and Board Members which stated that that to appointment a new member the IPS Board would be required to create an ad hoc Appointments Committee. The Appointments Committee would have delegated authority for the whole process from deciding the job specification to interviewing. The Committee would include the IPS Board Chair, the IPS CEO one IPS Board member and a member independent of IPS and ILEX. It was agreed that Board Members interested in joining the Appointments Committee would express their interest to the Chair by 30 July 2010.

ALL

Internal Governance Rules

14. The Board noted the letter received from the LSB regarding IPS/ILEX IGR Dual Certification. The Board did not believe the amendments which needed to be made to the IGR documentation were substantial. They agreed that the office would respond by 27 August 2010. Board Members were asked to submit any comments to the office by 20 August 2010.

IW

ALL

Financial statement to end June 2010

15. The Board noted expenditure to date and made comments. The Board commented on the fact that travel and subsistence costs shown under 'Other IPS Costs' included some fees paid to non-Board Members. The Board agreed that the fees paid to non-Board Members of working groups should be separated from their expenses.

IW

16. The Board noted expenditure on Investigating and Complaints and enquired what action the office was taking to recover fines and costs of the Disciplinary Tribunal. The Board was informed that Professional Standards Officers wrote to members to chase fines, most of the time with limited effect. It was noted that under the sanctions guidance, a member's ability to pay should be considered. The Board agreed it was worthwhile to obtain County Court Judgments and charging orders as another mechanism to recoup fines and costs. Members considered that if fines were not adequately pursued the penalty had no force and effect. The Board decided that IPS needed to improve its fines and costs recovery.

BB

Draft budget for 2011

17. The Board considered the report setting out the key issues that would impact on the budget setting process for 2011. The establishment of a new CPD working group would increase the total cost of meetings. Such a working group could lead to a commissioned review of CPD next year. The Board discussed whether sufficient funds were being allocated in the budgets.

18. The Board agreed the draft budget subject to the following amendments:

- ‘Training Lay & Council Members’ would be amended to ‘Training Panel Members’
- An amount would be added in for recruitment costs.
- ‘Other’ would be replaced by ‘communications’.

BB

Practising Certificate Fee Rules

19. The Board noted the work which was underway regarding the Practising Certificate Fee Rules. ILEX was on track to produce final statements required by the LSB in relation to determining practice fees.

Levies

20. The Board noted that the LSB consultation on the levies had been published. Board Members were provided with a hard copy of the consultation and asked to provide comments by 29 September 2010. The Board requested that hard copies of any significant consultations be sent to them in the future.

GB

Remuneration Committee

21. The Board noted that the Remuneration Committee had met on 13 May 2010 and recommended that there should be no increase in Board Members’ fee for the year 2010/11. The Committee had however agreed that the Chair and Members should be remunerated in respect of days spent on IPS business over and above the indicative time commitments (20 days for Members, 60 for the Chair) advertised at the time of their appointment.

Board member expenses

22. The Board noted a draft schedule of broad principles aimed to provide clarity for Board Members in what they may claim; and for ILEX’s purposes what had been claimed.

23. The Board agreed that the IPS Board Expenses Policy would be used as a guideline to be followed in normal circumstances, with adjustment possible where justifiable. The Board amended point 10 to read ‘All flexible in extreme and best value circumstances’.

IW

Directors’ Status

24. Board Members considered the advice provided by the ILEX Group Auditors relating to the employment status of IPS directors and decided to defer further action pending further research by ILEX on the issue.

25. The advice included the comment that the HMRC guidance on the position of Directors for tax and national insurances purposes pointed strongly to IPS Directors being regarded as employees. Board Members highlighted that they were professionally obliged to be honest and therefore obliged to submit the correct information to HMRC. Members requested an indemnity from tax and national insurance liability. Members were assured that penalties would be charged to ILEX in the event that they should have been treated as employees.

26. It was agreed that the status of Directors would remain as 'self-employed' pending further advice. The issue would be kept under close review.

IW

Separation of IPS accounting arrangements

27. The Board was informed that, following discussion with Linden Richardson, of the ILEX Group Auditors, Collett Hulance it was agreed that there was no requirement for there to be a separate bank account or for separate data processing of IPS transactions, beyond those that already existed.

28. The Board agreed that there was no real risk that expenditure incurred by IPS was not clearly identifiable from the records. It was agreed that the ILEX Finance Director would work with the IPS CEO to ensure that current arrangements for reconciliation of accounts were fit for purpose; and would improve the procedures if necessary. The Board also agreed that reconciliation of accounts should take place more frequently.

IW

PERFORMANCE AND RISK

29. The Board agreed adjustments to the risk register. The Board agreed that a further risk should be added within Education, regarding centre risk assessments: the risk attended the possibility of a centre failing to comply with a requirement.

30. The Board discussed whether risks 15 and 16 should be combined; but agreed that the risks should remain separate. However risk 15 within Governance would be updated to reflect the changes needed to meet the commitments given to the LSB in the IGR submission.

BB

31. The Board received a copy of key performance indicators (KPIs) produced for IPS and noted the measurement against the KPIs from 1 January 2010 to date.

32. The Board agreed further adjustments to the KPIs. The performance assessment of KPI 2 was amended to read 'Skills audit completed for 2010. Next due 2012'. Furthermore, the performance assessment of

KPI 4 was amended to read, 'Companies House and HMRC requirements met for 2009. Next return due October 2010'. **BB**

33. The Board also amended the performance assessment of KPI 12 to read, '70% referred within 6 months' and '91% referred within 9 months'. **BB**

ITEM 6 REGISTRATION AND ACCREDITATION

34. The Board received a report updating it on the progress of work in relation to the development of the revised qualifying employment arrangements and applications for new rights.

35. A meeting of the Admissions and Licensing Working Party was scheduled to follow the Board meeting. The working party would be asked to consider a draft logbook, guidance and a consultation regarding work based learning outcomes. The Board agreed that the consultation including a draft logbook would be issued after agreement by the working party. The consultation would be included in the agenda for the next Board meeting. **BB**

36. The rights applications for probate, civil and family litigation and for Associate Prosecutors had been submitted to the LSB. The consultations for conveyancing and criminal litigation would be published during the summer. The Board agreed that publication could proceed without further consideration by the Board.

37. The Board discussed adding the development of immigration rules to IPS' work framework. There were only a small number of immigration lawyers practising on their own account; but regulating immigration lawyers as entities would be valuable to IPS' application to the LSB to become a licensing authority.

COMMUNICATIONS AND PARTNERSHIP

Website usage

38. The Board received a report providing an update on the IPS website usage. It was noted that the site received a good number of hits, with a large number of hits onto the disciplinary pages. Staff were asked to check that statistics excluded in-office visits. **LN**

ABS

39. The Board received an update on the development of ABS licensing arrangements. IPS was working to the timescales set out in the project plan which had been agreed by the ABS Working Party. The Board was informed that the Chair and CEO had met a number of organisations which had expressed interest in helping IPS prepare a licensing application. Bircham Dyson Bell had been asked to take the

Smaller regulators

40. The Board was updated on the progress IPS had made with smaller regulators who were interested in IPS taking on their complaints handling. The Board was informed that no further approach had yet been received from any of these. The Chair indicated that any regulatory work carried out by IPS for other regulators would be charged at a premium.

Consumer engagement

41. The Board was informed that the Legal Services Consumer Panel held a conference on 16 July 2010 focussing upon consumer engagement. The meeting comprised two presentations, one from the health sector and the other from a consumer focus group that worked with utility companies. The notes of the meeting would be circulated to Board Members. **IW**

42. The Board discussed consumer engagement and how ILEX/IPS could increase interest in the work of Legal Executives. IPS had contacted the Legal Services Consumer Panel for assistance on consumer engagement. It was also noted that IPREG and ALCD were keen on collaborating with IPS to meet their obligations under this initiative.

43. The Board highlighted a useful crossover from consumer engagement to employer engagement. A report had been written by Jenny Pelling on employers' expectations of ILEX. It was agreed that the report would be good background reading for the Board. The CEO would circulate the report. **IW**

ITEM 8 FITNESS TO PRACTISE

44. The Board was asked to note and comment on the 'lessons learnt report', recruitment and appraisal of panel members, progress of the s90 Order, and developments in relation to the Legal Ombudsman.

Code of conduct – lessons learned report

45. The Board was informed that IPS met with LSB staff for a 'lessons learnt meeting' after approval of the new Code of Conduct. IPS received positive feedback from the LSB at the meeting. The LSB commented on IPS' application being easy to read, navigate and understand. The Board considered the decision notice from the LSB which set out areas where the LSB had made comments.

Recruitment of lay members

46. The Board was asked to consider whether IPS should continue to defer recruitment of additional lay members for the Disciplinary Tribunal and Appeals Panel. The Board agreed that the recruitment should be carried out at the same time as the recruitment of a new Board Member in September 2010.

IW/BB

Appraisal of panel members

47. The Board was informed that work on an appraisal system for all members serving on the various committees operating under IDAR had commenced.

Order under section 90 Immigration and Asylum Act 1999

48. The Board noted the progress of the s90 Order and that the Home Office aimed to table this before the parliamentary recess on 29 July 2010. The Board was asked to note that once the Order was in place IPS would need to commence work to implement it.

49. Due to the fact that schedule 18 of the Legal Services Act, which transfers oversight of immigration matters from the OISC to the LSB, was not yet in force, both IPS and the UK Border Agency were unsure whether the rules IPS would need to develop to deal with non-members would require LSB approval.

50. The Board agreed that an up-to-date draft of the proposed order would need to be obtained.

IW

Office for Legal Complaints and first tier complaints handling

51. The Board noted the work that would need to be undertaken on first tier complaints handling and development of an MOU with the SRA and other regulators.

52. The LSB was intent on ensuring that complaints were handled appropriately by firms at first tier. The LSB expected all regulators to require their members to make it clear to clients that they could complain; and to inform them of how to complain.

53. The Board agreed that work in this area would need to commence quickly, as the Legal Ombudsman service would come into operation on 6 October 2010.

IW

ITEM 9 QUALITY ASSURANCE OF ADVOCATES

54. The Board received a report on the work of the Joint Advocacy Group (JAG).

55. The Board noted that the draft consultation on a proposed scheme for quality assuring advocacy had been received in the office on 21 July 2010. The JAG meetings had been challenging. It was decided that IPS would continue to participate in the group in order to protect the interest of members of ILEX.

ITEM 10 MEETING DATES 2011

56. The Board agreed the following meeting dates for 2011:

- 24 February 2011
- 6 May 2011
- 22 July 2011
- 14 October 2011
- 12 & 13 December 2011

BB

ITEM 11 EDUCATION

57. The Board considered reports prepared by the Awards department in compliance with the education matters reserved to the Board. They included:

- A review of the January 2010 assessment session
- Awards Department self-assessment
- Executive summary
- Action plan
- Malpractice cases from the January 2010 session.

Minutes of the APSC meeting held on 1 July were tabled for the Board's attention.

58. The Board was joined by Amanda Pipe and Alison Hollyer. January 2010 had been a difficult period for the Awards department due to staffing and administrative issues. The Awards department currently inputted marks for each question answered by each candidate and this had led to a high increase in data input. The process had also exposed problems with the Concept database.

59. There were now two examination sessions each year, in January and June. The assessors used had generally been of a high standard and Level 6 training sessions for assessors would be arranged. The Awards Department was on target to producing a good centre risk assessment programme.

60. Mr. Middleton reported that he felt a good working relationship was developing between Awards and IPS. He was pleased to see robust self-evaluation and commitment to improvement. The Board raised concerns about centre performance reflected in the report titled

'Review of the January 2010 Level 3 and Level 6 assessment session' in particular the poor performance of colleges in Nottingham and Manchester in comparison to colleges in Kenya. The Board was advised not to be over reliant on the statistics. A sense of proportionality was required when making comparisons between colleges because the statistics did not reflect the wide difference in the number of student that took exams in each college.

61. The Board was reassured that a risk register had been implemented and would be under continual monitoring. The Board agreed that centres in high risk categories should be inspected. The Board was advised that the Awards department were currently developing job specifications for inspectors. The Chair proposed that Board members be invited to observe a small number of inspection visits.

AP/AH

62. Ms. Daniels observed that the reporting might be more expectations-based. The Board agreed that in the future it would like to receive summaries of the Awards Malpractice Committee meetings with salient issues highlighted, an outline of action taken and if necessary supplementary information provided.

63. The Board agreed that it did not wish to see the 2009 feedback from Ofqual but confirmed that the 2010 report and Ofqual's response would be required for the Board's consideration.

64. The Board agreed that Andrew Middleton's participation at APSC was sufficient to identify significant issues. The Board would consider all reports from the Awards department at its full meeting and not by way of a sub-committee.

AM

65. Andrew Middleton and Faizal Essat would review the documentary material produced by Awards and report on any key issues at the next meeting of the Board.

AM/FE

ITEM 12 EDUCATION – REPORT ON KENYAN CENTRES

66. The Board received a paper relating to Kenyan accredited centres which set out accreditation arrangements and candidate results.

67. The report highlighted John Westwood's recent visit to centres in Kenya. There had been a change to the arrangements for accrediting courses in Kenya; and the problems that existed with Kenyan centres would probably be resolved as a result of failing centres being unable to get the government approval that was now required.

68. The Board agreed that ILEX's aspiration to offer courses worldwide should be assessed on a cost/benefit basis. It was noted some centres had not paid accreditation fees. ILEX standards should be offering the same product throughout the world; otherwise there would

be a risk to the reputation of ILEX. The Chair observed that ILEX needed to have regard to regulatory issues and risks when setting policies. The Board agreed that a report providing an update of problem areas would be included in the agenda for the next Board meeting.

AH

ITEM 13 DATE OF NEXT MEETING

69. The next meeting was scheduled for 30 September 2010 and would commence at 10:30am.

**ALAN KERSHAW
CHAIRMAN**