



**MINUTES OF THE MEETING OF THE BOARD
OF DIRECTORS OF ILEX PROFESSIONAL STANDARDS LIMITED
HELD ON 11 FEBRUARY 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, Miss. Gemma Burnett - Professional Standards Assistant, Miss. Judith Gordon-Nichols - President, Ms. Alison Hollyer - Head of Awards (for item 10), Ms. Amanda Pipe - Quality Assurance Manager (for item 10) and Mr. Ian Watson (Head of Professional Standards),

ITEM 1 APOLOGIES FOR ABSENCE

**Action
points**

1. Apologies were received from Dr. Nicholas Smedley who was fulfilling another commitment.
2. Mr. Kershaw welcomed Miss. Judith Gordon-Nichols who attended the meeting in her role as ILEX President.

ITEM 2 DECLARATIONS OF INTEREST

3. There were no declarations of interest.
4. The Board considered whether declarations of interest should be made once a year by annual return instead of at each meeting. No firm decision was made.

**ITEM 3 MINUTES OF MEETING HELD ON 15 DECEMBER 2009
AND REPORT OF THE REVIEW MEETING HELD ON 14
DECEMBER 2009**

5. The Board approved the Minutes of its meeting held on 15 December 2009 as a true record.
6. The Board agreed further adjustments to the Report of the Review Meeting held on 14 December 2009. The Board agreed that as IPS

GB/LN

should be perceived as a proportionate regulator rather than a soft touch regulator, bullet point 2, section 2 of Visibility and Image should be amended to read 'a high profile of any disputes IPS has with ILEX is not necessary'.

GB

7. It was agreed that an IPS presence at events instead of or as well as ILEX may be appropriate and as result bullet point 3, section 2 of Visibility and Image should be amended to read 'an IPS presence would also be appropriate'.

GB

8. The office would ensure that action points within the Report of the Review Meeting were included in the Business Plan. The office was praised on the effort that had gone into the papers for the Board meeting at a time of particular pressure and the demands of new working groups as well as regular business.

BB

ITEM 4 FITNESS TO PRACTISE

9. The Board was asked to consider a number of matters. These included the implementation of the Investigation and Disciplinary Rules. Approval of the Code of Conduct and s.90 Immigration and Asylum Act 1999.

10. The Board noted that the new complaints rules were working well in practice. There had been a smooth transition from the old rules to the new rules. One event to train panel members on the new rules had taken place. IPS was working to the new rules and procedures, with only three cases falling within transitional arrangements.

Code of Conduct

11. The Board considered the final draft of the revised Code of Conduct. This had been amended to take account of the new non-practising status introduced by ILEX for all its grades of members. The Board agreed that, as non-practising members would pay a reduced subscription fee, in the current economic climate there was a risk that a member could claim to be non-practising when in reality they were engaged in legal work. As a result the Board considered how the new Code of Conduct and membership byelaws should be updated to incorporate the criteria for non-practising membership. A draft amendment had been suggested by the office.

12. The Board agreed further amendments to the Code of Conduct:

- Section 'About this Document' bullet point 2, remove 'clients, that is'
- Section 'About this Document' 2nd paragraph, include 'This Code of Conduct has been drawn up by IPS (the regulatory body for ILEX members)'
- Section 'Status of the Code of Conduct' 2nd sentence, remove 'As

an ILEX member'

- Section 'Status of the Code of Conduct' 3rd sentence should read 'Compliance with the Code will be taken into account in considering information which raises a question about a member'
- Principle 1, 2nd sentence should read 'You must act lawfully and must not knowingly breach the law'.
- Principle 5, paragraph 3, 2nd sentence should read '...advise them openly and honestly and keep them up to date...'
- Principle 9, paragraph 4, 3rd and 4th sentence should be moved to Principle 4 as a separate paragraph and to read 'Neither must you register in a grade of membership to which you do not belong. You must not claim to be a non-practising member when you do not meet...'

BB

13. The Board questioned whether 'non-practising' was a membership grade or status. The office would confirm and amend the Code of Conduct accordingly.

IW/BB

14. The Board agreed that the Code of Conduct would be reviewed by IPS on an annual basis. It might need to be reviewed in light of the EU Directive on services, taken on board by the LSB, which prescribed complaints procedures that regulators should have. The Board considered that, as part of the Code of Conduct review, feedback should in due course be considered from panel members of the Professional Conduct Panel and Disciplinary Tribunal on the effectiveness of the Code and whether it met requirements.

Immigration and Asylum Act

15. The Board considered the effects which would follow from the Order relating to s.90 of the Immigration and Asylum Act 1999 (IAA) in relation to disciplinary proceedings carried out by IPS. This was an order proposed by the Home Office.

16. ILEX was designated a qualifying regulator for the purposes of the IAA. IPS had been able to take disciplinary proceedings against its members practising as immigration advisers; however, it had had no power to deal with any person who was employed by or working for an immigration adviser. S.90 IAA was designed to address the regulatory gap identified by the OISC. Under s.90, the ILEX Disciplinary Tribunal would be specified as a disciplinary body and would acquire the ability to take disciplinary action against any person acting on behalf of an authorised person.

17. The Board agreed the public interest in regulating employees and others made it difficult for ILEX not to address the regulatory gap identified by the OISC. Furthermore if ILEX was considering becoming a licensing authority for ABS, it should consider comprehensive regulation of immigration law services. A paper would be produced for the next Board meeting outlining implications for IPS

of the s.90 order and the work that needs to be undertaken.

BB

18. The Board were advised that the Statutory Instrument, seeking to make an order under s.90 IAA was fundamentally flawed. It agreed that the Home Office should be advised of errors within the Statutory Instrument as soon as possible. The Board agreed that, subject to amendments, an order should be made under s.90 IAA. IPS would liaise with the Home Office in that regard.

IW

IW/BB

19. The Board discussed the risks arising from the making of the Statutory Instrument. The risks included significantly increased workload and implications for resources. The Board was concerned that, if IPS' jurisdiction in relation to immigration services was extended IPS should be able to control entry and qualification.

20. The Board agreed that an accreditation process would need to be developed and an enhanced practice fee for immigration advisers in independent practices would need to be considered. Also the Code of Conduct would need to stipulate that members would be obliged to employ accredited immigration advisers. The office would liaise with OISC in relation to the Statutory Instrument and report to the Board at its next meeting.

BB

IW

ITEM 5 LEGAL OMBUDSMAN (OFFICE FOR LEGAL COMPLAINTS)

21. The Board was informed of discussions with the Legal Ombudsman office and was asked to agree a Memorandum of Understanding (MOU) between IPS and the Legal Ombudsman.

22. The Board agreed that the MOU was well written and approved it for sign-off, subject to amendments. It was agreed that paragraph 15(g) should be reciprocal so that the Legal Ombudsman should be expected to advise IPS of any rule changes. Furthermore 'solicitor' would be removed from the last sentence of paragraph 17. It was agreed that Alan Kershaw could sign-off the MOU as Chair of the Board.

IW

ITEM 6 RISK REGISTER

23. The Board was asked to review the updated risk register and to outline any further amendments or revisions. Board members were asked to consider whether the risk register accurately reflected their portfolio area and the risks posed to IPS as a whole.

24. The Board agreed with the format and style of the new risk register. That style would be adopted for the future.

25. The Board agreed that the following amendments should be made to the risk register:

- The effectiveness rating for risk 1 within *Generic Risks: Finance* would be amended to 2
- Another risk would be added within *Generic Risks: Finance*, to reflect unexpected calls on IPS funds
- The effectiveness rating for risk 2 within *Generic Risks: Finance* would be amended to 2
- The effectiveness rating for risk 5 within *Generic Risks: Finance* would be amended to 2
- The present control procedures for risk 6 within *Generic Risks: Resources* would be reworded to 'ILEX made resources available to IPS...'
- Risk 11 within *Generic Risks: ABS* was amended; the impact would be amended to 2 giving a total of 4 and the effectiveness rating would be amended to 2.
- A 12th risk would be added within *Generic Risks: ABS* to reflect the risk relating to ILEX's future plans in respect of IPS
- Another risk would be added within *Generic Risks* to reflect the risk relating to ILEX's future plans in general and the impact they have on IPS. Mitigation action would include liaison with ILEX at meetings.
- The present control procedures for risk 12 within *Governance* would include the robust annual appraisal system that was in place
- Risk 22 within *Fitness to Practise* was amended; the likelihood would be amended to 2 giving a total of 6 and the present control procedures would include the panel having received training
- Risk 28 within *Registration: Reserved Activities* would be amended; the likelihood would be amended to 3 and the impact would be amended to 3 giving a total of 9. The effectiveness rating would be amended to 3
- A 29th risk would be added within *Registration: Reserved Activities* to reflect the future risk in respect of regulating employees of immigration advisors as a result of legislation changes
- Another risk(s) would be added within *Registration: Reserved Activities* to reflect the risks associated with future applications for more rights to undertake reserved activities
- The present control procedures for risk 36 within *Image and Visibility* would be amended to include discussions with the LSB Consumer Panel

26. The Board agreed that the underlined items within the Risk Register should appear on the Risk Register. With regard to risk 11, the register would be updated and presented at every Board meeting and a covering paper produced advising the Board of any recent changes. Regarding risk 38, it was indicated that website monitoring and security was the responsibility of the IT Director.

BB

27. The Board considered whether risk awareness was embedded in

IPS/ILEX departments. It was agreed that the issue, including whether departments could advise IPS of potential risks, would be brought up at the next GMT meeting.

IW

ITEM 7 KEY PERFORMANCE INDICATORS

28. The Board was asked to provide comments on the measurements against the key performance indicators (KPI) and to agree that a fresh assessment should commence with effect from 1 January 2010 to 31 December 2010.

29. The Board agreed that a fresh assessment of complaints data should be recorded from 1 January 2010, in the next KPI report. The Board were informed that skills audit work was under way. The Board agreed that the complaints handling annual report would be emailed to members and agreed prior to the next meeting in May 2010.

BB

HD/IW

BB

30. The Board commented on the KPIs and agreed amendments. It was decided that the Board would monitor attendance of members at meetings. 'Board attendance' would be included in the KPIs under 'Board' at number 3. The Board also decided that KPI 10 should not be removed and confirmed that the office should measure and record the number of days within which acknowledgement letters are sent.

BB

BB

31. The Board decided that KPI 18 should be removed and that KPI 19 would be assessed as part of the budgeting process.

IW

ITEM 8 VISIBILITY AND IMAGE

32. The Board received a report informing it of the progress on the website, other promotional materials and the IPS Launch in March.

33. The Board noted that the web-site was launched on time (4 January 2010) and that all areas identified for development prior to the launch had been actioned.

34. The Board acknowledged that Luane Nesbit and Deborah McDonald were looking for images for the website. The Board would be kept updated as to their progress. The website images would be signed off and Nick Smedley would be involved in the final sign-off.

**IW/BB
NS**

35. The Board noted that further work on linking the Fellows Directory to the ILEX database and disciplinary records was on target for completion by the end of February 2010.

36. The Board noted that the banners for the IPS launch were being developed and would be signed off week commencing 15 February 2010. It was noted that brochures were being produced for the IPS launch. The Board delegated responsibility for signing off the banners and corporate brochures for the IPS launch to Alan Kershaw and Nick

ITEM 9 GOVERNANCE

37. The Board received a report presenting items for decision. The items included the LSB's newly-published Internal Governance Rules, Dual Self-Certification, Remuneration Policy for Board Members, Service Level Agreement, and Whistleblowers Policy.

38. The Board was asked to note the Practising Fee Rules and to note the steps taken in relation to a skills audit.

Dual Self-Certification

39. The Board noted the LSB Internal Governance Rules and acknowledged that there were two areas which required conclusion in readiness for dual self-certification. The two areas were the Service Level Agreement and the arrangements for setting the remuneration of Board members. The Board decided that Alan Kershaw would sign-off the dual-certificate. **IW**

Board Members' Remuneration

40. The Board agreed to consider setting up a remuneration committee tasked with determining Board member remuneration. Members would include the President of ILEX, Chair of IPS, and the Chief Executives of both ILEX and IPS. It was agreed that the idea would be presented to Council with the aim that the committee would meet by mid-July 2010. **IW/AK**

41. To aid the remuneration committee, Board members would submit their time sheets and a benchmarking exercise would be undertaken by the office to look at remuneration in other sectors. The Board also considered a system in which remuneration was reviewed at the end of members' 3 year term. **ALL**

Service Level Agreement

42. The Board agreed that the following amendments should be made to the draft Service Level Agreement:

- 'IPS Officer' would be defined
- 'Lead Officer' would be redefined to include job titles
- Clause 3 would be amended to reflect a 'rolling agreement' over a financial year period
- Clause 3.1 would be amended to read 'written notice...no later than 6 months'
- Clause 3.2 would be amended to add 'rules' after 'governance'
- Clause 4.2 would be amended to reflect that substantive variations would be agreed at Board and Council level

IW

- Clause 4.3 would be amended to reflect that minor variations would be approved at staff level
 - Service 2 in schedule 2 would be amended to include Board invoices
 - '2010' would be removed from Service Level/Timeframe 11 and 12 of Schedule 8
 - Service Level/Timeframe 6 in schedule 9 would be amended to read 'a final finding of examination misconduct'
 - Within Methods and Procedures of schedule 9 'the minimum' would be replaced with 'threshold'
 - clause 12 would be amended to allow the ILEX President and IPS Board Chair to sign the agreement
 - Clause akin to a 'Third Party Rights Act clause' stating that the Service Level Agreement is not intended to create legal relations would be included
- GB**

43. The Board delegated responsibility for agreeing and signing off the final draft of the Service Level Agreement to Alan Kershaw. **AK**

ILEX Whistleblowers Policy

44. The Board agreed to be subject to the ILEX Whistleblowers Policy and noted the amendments that had been made to the policy to make it applicable to IPS. **IW**

ITEM 10 EDUCATION

45. The Board received a report providing a draft statement of matters reserved to the Board in respect of Education issues and a draft annex to the ILEX/IPS Protocols dealing with the same issue.

46. The Board discussed the drafts, in particular the requirement for reporting mechanisms to secure the accountability of the awards function to IPS. The Board agreed that the Reserved Matters would be updated to include education matters. **IW**

47. The meaning of the word 'approve' within the Reserved Matters was debated in depth. The Board clarified that 'approve' did not mean that the Board would examine every standard but that the Board would need to be assured that a process that involved consulting, testing and monitoring was in place. In 7.1 to 7.7 'approve' meant approving the arrangements and making sure that they are fit for purpose. The Board agreed the draft would be reworded to reflect that. **IW**

48. With regard to point 7.1, 'training' would be removed. Amanda Pipe agreed Awards would need to engage in early discussions with IPS in relation to development of new qualifications or changing existing qualifications. It was also noted that 7.3 was the responsibility of the IPS/ILEX Admissions Working Group. **IW**
AP

49. With regard to 7.5 Amanda Pipe would provide details to IPS on exemption arrangements. Furthermore, with regard to 7.7 Amanda Pipe would provide an action plan to IPS and IPS would need to determine its sufficiency. Point 7.8 would not be amended. **IW/AP**

50. The Board agreed that key reports that are given to Awards Performance and Strategy Committee (APSC) would also be copied to the Board with a covering report drawing out major points. The Board also directed that, at its next meeting, it would receive the Executive Summary from the Self-Assessment Report that would be submitted to Ofqual by the Awards department. It would be supplemented with other materials, as necessary, to form the annual report of the Awards department to IPS. **AP/AM**

51. The Board agreed that the Education appendix to the IPS/ILEX Protocol would be amended in accordance with the amendments made to the Reserved Matters. It would be agreed with Council at its next meeting. **IW**

ITEM 11 REGISTRATION AND ACCREDITATION

52. The Board received a report providing an update on the progress of work to develop revised qualifying employment arrangements and reviewing the ABS arrangements.

53. The Board acknowledged that the Admissions Working Group had a strong membership with members making valuable contributions. In addition, the Board noted that IPS was considering regulating all areas of legal practice and the ABS Working Group's recommendation that ILEX should make an application for independent conveyancing rights for its members. IPS would give an indication to ILEX of its intention to apply for conveyancing rights and to become a Licensing Authority. **IW**

54. Judith Gordon-Nichols indicated to the Board that ILEX would be willing to write a letter supporting an application for conveyancing rights. The matter would be put before Council at its next meeting. **IW**

ITEM 12 BUSINESS PLAN

55. The Board received a copy of the updated business plan, meeting schedule for 2010 and report on timing of business planning and budgeting.

56. The business plan had been updated to address activity that had been completed. The Board agreed that the completed matters could be removed from the business plan.

57. The Board agreed adjustments to the business plan. The Board agreed to update the last action point within key target 4 of Education

and Standards so that it included IPS' plan to make an application to the LSB for conveyancing rights. **BB**

58. It was agreed that the first action point within key target 1 of Governance and Process, to read 'Code of Conduct to be implemented and monitored for Board members'. **BB**

59. The Board agreed to include two more action points within key target 5 of Governance to reflect its decisions to assess Board members' remuneration and to monitor attendance. **BB**

60. The Board agreed to bring forward the timing of budgeting activities to July 2010 and to amend the business plan accordingly. **BB**

61. The Board approved the 2010 meetings schedule subject to amendments. Item 1 within the agenda for 13 May 2010 would include agreeing the appendix on education matters to the Protocol between ILEX and IPS and item 7 would include the approval of accounts for 2009. **BB**

ITEM 13 FINANCIAL REPORT 2009

62. The Board received a report providing an update on the Financial Report for IPS to the end of 2009. The Board was also provided with an IPS Income and Expenditure analysis report.

63. The Board noted the budgetary overspends reflected in the Financial Report for 2009 and acknowledged that IPS Board travel and subsistence expenses, solicitor fees and consultancy costs were originally under budgeted.

64. The Board discussed whether professional Board members should pay for attendance at the ILEX National Conference. A decision would be made by Alan Kershaw or Ian Watson.

AK/IW

ITEM 14 DATE OF NEXT MEETING

65. The next meeting was scheduled for 13 May 2010.

**ALAN KERSHAW
CHAIRMAN**