

**APPLICATION TO THE LEGAL SERVICES
BOARD TO BECOME AN APPROVED
REGULATOR
FOR PROBATE RIGHTS**

21 July 2010

CONTENTS

Part I - ILEX, IPS and ILEX members.....	5
Part II - Probate Rights, Regulatory Objectives & Better Regulation Principles.....	24
Part III - The Certification Scheme....	33

ANNEXES

ANNEX 1	ILEX Memorandum and Articles of Association.....	49
ANNEX 2	List of ILEX Council members.....	73
ANNEX 3	ILEX business plan.....	74
ANNEX 4	ILEX annual report.....	85
ANNEX 5	IPS Memorandum and Articles of Association.....	86
ANNEX 6	IPS Board members list.....	97
ANNEX 7	ILEX and IPS Protocols and service level agreement.....	98
ANNEX 8	IPS Board members Code of conduct, reserved matters & standing orders.....	126
ANNEX 9	IPS business plan.....	138
ANNEX 10	Probate rights business implementation plan.....	158
ANNEX 11	Summary of ILEX education scheme.....	171
ANNEX 12	ILEX Code of Conduct.....	180
ANNEX 13	Investigation, Disciplinary and Appeal Rules.....	185
ANNEX 14	Probate rights consultation responses and analysis.....	217

CONTACT DETAILS

Mrs Baljeet Basra
Professional Standards Manager
ILEX Professional Standards Ltd
Kempston Manor
Kempston
Bedford
MK42 7AB

Tel: 01234 845776
07792 774937

Email: bbasra@ilexstandards.org.uk

ILEX Professional Standards Ltd company registration number: 6712409

ILEX company registration number: 235139

PART I – ILEX, IPS AND ILEX MEMBERS

APPLICATION FOR APPROVED BODY STATUS

1. This document is an application made by the Institute of Legal Executives (ILEX) to the Legal Services Board to become an approved regulator under Part 2 of Schedule 4 Legal Services Act 2007 (the 2007 Act) to grant probate rights to ILEX members as set out in s12 Legal Services Act 2007 and defined at clause 6, schedule 2 of the 2007 Act.
2. This Application is made in accordance with guidance issued by the Legal Services Board under Part 2 of Schedule 4 of the 2007 Act. References in this application to ILEX include, where appropriate, references to the regulatory company established by ILEX to carry out regulatory functions, ILEX Professional Standards Ltd.
3. ILEX believes that its application to be an approved regulator in relation to probate services is in compliance with the regulatory objectives and professional principles set out under the Legal Services Act 2007. If granted, this application will ensure that the public will have access to a wider choice of individuals able to provide these services with the confidence that those individuals are properly qualified and effectively regulated.
4. ILEX believes that the strengths of its application for approved body status are in 6 key areas:
 - ILEX is an experienced regulator of legal services. It is an approved regulator under the Legal Services Act 2007 in relation to rights of audience.
 - It plays a central role in legal education and training in England and Wales.
 - It will broaden the scope of providers of probate services who are appropriately regulated by creating a new category of membership, Probate Associate member, which will be open to any eligible person wishing to deliver probate services who is not registered in any other grade of membership of ILEX.
 - It will establish a certification scheme under which it will issue a Probate Services Certificate (Certificate) to enable qualifying members of ILEX who meet its requirements for education, training and experience to carry out probate services.

- ILEX has in place rules of conduct that it is able to enforce against its members and these rules will apply to those authorised to deliver probate services.
 - ILEX will put in place compulsory compensation and indemnity schemes for its members in independent practice, including those holding a Certificate, which will provide added protection for their clients and greater assurance for the public at large.
5. A person is a qualifying member if, at the time of his application for a Certificate, he is:
- a Fellow or Graduate member of ILEX, or
 - a Probate Associate member of ILEX, or
 - within any other category of membership, which ILEX may establish from time to time and which it has determined as being appropriate to those applying for a Certificate.
6. Under the certification scheme proposed by ILEX those applicants who are not qualifying members at the date of their application for a Certificate may apply at the same time for membership. Applicants who are not eligible for any other category of qualifying membership may be accepted as a Probate Associate member. Members in this category must comply with ILEX's eligibility and conduct rules.

INSTITUTE OF LEGAL EXECUTIVES (ILEX)

7. ILEX is the professional body which represents Legal Executives and trainee Legal Executives and enhances their role and standing in the legal profession. It is a company limited by guarantee, not having a capital divided into shares.
8. It was a body authorised to grant Rights of Audience to suitably qualified Fellows, under section 29 of the Courts and Legal Services Act, by virtue of the Institute of Legal Executives Order 1998 (SI 1998/1077), which came into force on 23 April 1998. It is now an approved regulator under the Legal Services Act 2007 for the purposes of awarding rights of audience to ILEX members and the power to administer Oaths and a designated qualifying regulator in respect of immigration advice and services.
9. ILEX is the successor to the Solicitors Managing Clerks Association which was founded in 1892, incorporated in 1928 and adopted its current title of Institute of Legal Executives in 1963. The Memorandum and Articles of Association of ILEX appear at **annex 1** of this Application. ILEX's primary objects are, amongst others, to provide an organisation for those who are registered or studying with

ILEX who provide legal services; to provide for the education, training and development of knowledge and skills for Fellows, paralegals, legal assistants and other support staff who wish to become experts in the law; to advance and protect the status and interests of Fellows and those who wish to become experts in the law; to promote professional unity, co-operation and mutual assistance amongst those who are employed in the legal profession or engaged in legal work; to promote and secure professional standards of conduct amongst Fellows and those who are registered with ILEX, by publishing codes of conduct, guides to good practice and the protocol between ILEX and its regulatory body, ILEX Professional Standards Ltd, and regulating the membership through that body to ensure compliance with those standards; and to promote public interest and fair access to justice and the professions.

10. ILEX is governed by its Council, which is responsible for determining its policy. Council comprises Fellows engaged in legal work, who are elected to represent constituencies throughout England and Wales. There are 27 constituency places on Council and 6 places for Fellows who are co-opted onto the Council. A list of the current council members appear at **annex 2**. Council currently meets six times each year. Council members are responsible for ensuring that the affairs of ILEX are conducted diligently, legally and honestly.

11. The ILEX Council has adopted, and maintains, a three year Business Plan which defines the strategic and policy direction that the ILEX group will follow. It provides a focus for ILEX staff to enable them to deliver to targets. The current business plan, which covers the period 2010 to 2012, appears at **annex 3**.

12. ILEX's current strategic aims include the following:

- To ensure its professional qualification remains relevant to the needs of law firms, legal departments, employers and clients, and that it is delivered to meet national standards.
- To develop its role as a natural home for all those seeking education, training or qualification relevant to their role in the legal environment.
- To make itself more relevant to its members through the services it provides and by seeking new professional opportunities for members.
- To develop its role in the public interest as an efficient and respected professional association and regulator of legal services.
- To increase accessibility and diversity amongst the legal profession.
- To enhance its focus on customer service.

13. ILEX has in place policies, which apply to Council members and employees, designed to ensure compliance with best practice in relation to the ethical management of ILEX including matters such as discrimination, freedom of

information and data protection. The policies include the Code of Conduct, Whistleblowers policy and the Equality and Diversity Policy, under which a Group Single Equality and Diversity Scheme and Action Plan is published.

14. Each year the annual accounts of the ILEX group are subject to an audit. A copy of the 2009 annual report and statement from the auditors appears at **annex 4**.

ILEX PROFESSIONAL STANDARDS LTD

15. ILEX is recognised as an approved regulator under the Legal Services Act 2007 (the LSA). In accordance with the provisions of the LSA ILEX has established a subsidiary company to which it has delegated its regulatory activities to ensure that its regulatory functions are carried out independently from its leadership and representative functions. The subsidiary company is called ILEX Professional Standards Ltd (IPS).
16. ILEX Council has delegated to IPS responsibility for complaints handling, development of the Code of Conduct and oversight of professional standards including its qualification schemes and regulatory structures. IPS is also responsible for the continuing professional development scheme and ILEX's qualifying employment requirements. IPS will regulate in the public interest in accordance with its Memorandum and Articles of Association, which appear at **annex 5**.
17. IPS was incorporated in October 2008. It is governed by a Board of Directors comprising 4 Lay Members and 3 Fellows of ILEX. The Chair of the Board is a Lay Member. A list of the current Board members appears at **annex 6**.
18. Protocols have been agreed between ILEX and IPS to facilitate good working relationships between the two companies and to ensure the requirements of the LSA regarding independent regulation of ILEX members are met. The protocols recognise that each company has its own obligations and priorities and that the best results for the public and ILEX members will be achieved by collaboration. The protocols are supported by a Service Level Agreement. A copy of the protocols and service level agreement appear at **annex 7**.
19. IPS is committed to openness and accountability. It has developed a number of documents setting out how the Board will work and the standards it aims to achieve. The documents are the Code of Conduct for Board members, reserved matters and standing orders. Copies of these documents appear at **annex 8**. IPS also maintains a risk management document, which is reviewed on a regular basis both by the IPS Board and IPS staff.
20. The Board is accountable to ILEX, ILEX members and the Legal Services Board. It has set out its strategy for the next three years and has developed a business plan against which performance can be assessed. A copy of the business plan

which incorporates the strategy appears at **annex 9**. It also evaluates the performance of itself and IPS each year, including appraisal of Board members. During 2010, IPS will publish its first annual report to bring all these matters together.

21. The IPS strategy links with the vision statement adopted by the ILEX Group. IPS is committed to underpinning the rule of law and the administration of justice and to acting in accordance with the regulatory objectives and professional principles set out in the Legal Services Act. The strategy commits IPS to:

- maintain an independent approach in its work
- develop an understanding of the needs of those to whom ILEX members provide legal services
- work closely with ILEX to support professional development and sustain good professional practice
- be a proportionate regulator which targets risk
- demonstrate good governance and achieve value for money in all it does.

22. The Board has divided its responsibilities into six work streams. The strategy sets out key aims for each of six work stream areas. The work streams are governance and process; education and standards; registration and accreditation; fitness to practise; communication and partnership; and performance and risk. Each member of the board has special responsibility for one of these areas, with the chair focusing on overall strategy, finance and relations with the professional leadership side.

REGULATORY CONFLICT

23. The protocols set out arrangements for resolving any conflict that may arise between ILEX and IPS. They set out arrangements for the sharing of information and consultation.

24. Disputes which arise between the Companies, whether in relation to the protocols or otherwise are resolved by discussions involving the Chief Executives of ILEX and IPS, the President for the time being of ILEX and the Chairman of the IPS Board. Where a dispute is unresolved it may be referred to an independent external facilitator. Nothing in the protocols prevents either company from referring a dispute which cannot be settled between them to the Legal Services Board to be resolved. At least 5 working days notice will be given to the other company if either company intends to refer a dispute to the Legal Services Board

25. ILEX and IPS believe that these arrangements offer a suitable and proportionate mechanism for dealing with regulatory conflicts.

APPROVED REGULATOR ROLE

26. IPS has scoped out business plan for the implementation of the probate rights scheme. A copy of the business plan appears at **annex 11**.
27. The plan sets out the activities that will need to be undertaken to implement the qualification scheme and the proposed timescale for each activity. Each activity has been subdivided to show in detail the work that will be involved.
28. Annexed to the implementation plan is a document setting out the resources that IPS will require to implement and administer the scheme. Wherever possible IPS will make use of existing resources and expertise, including staff members who have experience of implementing and administering the present rights of audience scheme. It is envisaged that a member of staff will be recruited to undertake the long term administration of the scheme, although it is likely that they will only need to devote half of their time to this area of work. However, should the scheme receive a large number of applications, to the extent that a staff member is required to devote more time to it, IPS will be able to assign a full time member of staff to it. The new member of staff will develop their capability through mentoring and training that will be provided by current experienced staff members.
29. The implementation plan includes a financial forecast outlining the projected income and costs for running the scheme. They also include costs of recruiting committee members and external advisors which will be one off costs. It is envisaged that IPS will recruit one external advisor because it does not anticipate receiving a large number of applications from members wishing to become probate practitioners. However, if it becomes necessary IPS will be able to recruit additional external advisors. The scheme should be self-financing with its ongoing costs being met by income generated from applications. The income will be able to support the appointment and costs associated with additional staff and external advisors. The forecast attributes all the set-up costs to the litigation scheme whereas the committee costs will be shared with other schemes.
30. Under the protocol between ILEX and IPS, ILEX agrees that it will make available such resources as are reasonably required and are appropriate to enable IPS to carry out its regulatory functions. It is envisaged that such costs will only be necessary for the implementation of the scheme rather than its ongoing administration. The ILEX Chief Executive and President has received and agreed the implementation business plan.

ILEX MEMBERSHIP

Core membership

31. ILEX members register in grades of membership appropriate to their level of qualification and experience. ILEX introduced new membership grades in September 2009. The new grades are Student member; Affiliate (level 2 or level 3 qualification or three years legal experience); Associate (level 3 or qualifying law degree); Graduate member (level 3 and 6 qualification or passed the LPC or BVC); and Fellow. A separate grade of Associate Prosecutor has also been created. It will create a new grade of Probate Associate Member.

32. In April 2010 there were 21,555 members registered with ILEX. Of those, 7,409 were Fellows and 1,815 had attained the Graduate membership grade.

33. Only Fellows are full corporate members of ILEX and entitled to the benefits and privileges conferred by membership. They are entitled to describe themselves as "Fellows of the Institute of Legal Executives", or "Legal Executives", and to use the designatory letters "F.Inst.L.Ex." To be admitted as a Fellow it is, briefly, necessary to have:

- passed the ILEX Professional Qualification in Law and Practice, or been exempted from it;
- completed 5 years employment experience in legal work, including at least 2 consecutive years after completing the ILEX Professional Qualification in Law and Practice;
- satisfied ILEX as to fitness for admission.

34. Graduate members are those trainees who have completed the ILEX Professional Qualification in Law and Practice, but have not yet complied with the requirements as to legal experience.

35. ILEX members come from diverse backgrounds. Over half of its membership is female and it has a proportion of members from ethnic backgrounds. In particular the flexibility of the earn and learn approach to the ILEX qualification attracts members who may otherwise have not sought to obtain a professional qualification.

Proposed new category of membership

36. ILEX proposes to create a new category of membership, Probate Associate member. Application for this category of membership will be open and is aimed primarily at those individuals wishing to deliver probate services under ILEX's proposed certification scheme who are not Fellows or Graduate members of ILEX. Probate Associate members will be subject not only to the rules of the certification regime but also to any relevant Institute membership rules for this category, including the Code of Conduct and the complaints handling and disciplinary rules.

ILEX AND EDUCATION AND TRAINING

37. The education and training requirements for those who will be authorised by ILEX to carry out probate services are described in **Part III** (The Certification Scheme) of this application. However, ILEX's professional education and training arrangements for Legal Executives will provide the benchmark against which the eligibility of those applying under the certification scheme will be assessed. In particular, those subjects of the ILEX Level 6 Professional Diploma in Law relevant to probate services will be used as a point of reference for those applicants for certification who have non-ILEX qualifications. It is important, therefore to explain ILEX's scheme of education and training and its role in legal education.
38. The ILEX scheme of education and training is set out at **Annex 11**. ILEX introduced a new Level 3 qualification scheme in September 2008 and a new Level 6 qualification in September 2009. These schemes have been accredited by OFQUAL, (formerly the Qualifications and Curriculum Authority), which recognises Level 6 to be of honours degree standard.
39. ILEX was originally established to provide education and training and to act as a professional body for people employed in the offices of solicitors in private practice, or in law departments in local or central government and in commerce or industry where they were supervised by solicitors. Most Fellows still qualify, and are employed, within the solicitors' branch of the profession. However, ILEX's remit, in terms of its education and training programmes is now much wider and trainees may be supervised by other authorised practitioners such as barristers or licensed conveyancers. Through its membership qualification, its Legal Studies Certificate programmes, the distance learning and professional study programmes provided by its subsidiary, ILEX Tutorial College (ITC), ILEX now offers education, training and qualification facilities to all who wish to study, train or qualify in the law of England and Wales. In addition to the 12,000 Students registered with ILEX on its Professional Diploma in Law and Practice and Professional Higher Diploma in Law and Practice programmes, there are 3,500 students currently undertaking the Legal Studies Certificate qualifications. 6,500 customers are currently registered to take courses and receive training with ITC.
40. ILEX is committed to practical legal education and training. Its strict requirements for qualification and high academic standards contribute to the confidence of those employed within the legal profession and enable them to provide employers with well qualified assistance in delivering legal services and in serving the needs of their clients. Fellows of ILEX bring to employers a combination of practical knowledge and experience, coupled with specialist academic legal knowledge. They tend to develop expertise in specific areas of law and practice. The Professional Qualification scheme encourages this focus. The majority of those seeking to qualify with ILEX will study part-time, so that practical experience is combined with the acquisition of relevant legal and procedural knowledge.

41. ILEX plays a unique and important role within the legal profession. It believes that it is vital to the interests of clients and the public at large, that those who deliver legal services are qualified and competent to do so. It combines a professional and regulatory function for solicitors' staff who are neither barristers nor solicitors, but who are nevertheless properly qualified and competent to provide legal advice and services. ILEX Fellows make an important contribution to the delivery of effective legal services to solicitors' clients. ILEX believes that it is vital to the interests of clients and the public at large, that those who deliver legal services are qualified and competent to do so.
42. ILEX also has wide experience of working with and assessing course providers and will therefore be well placed to assist those applicants for the Certificate who are required by ILEX to attend practice management and/or an accounts course. For example, ILEX has developed course delivery and outcomes criteria to enable practitioners to choose a suitable practice management course.

Recognition of ILEX's Qualifications

43. The Level 3 Professional Diploma in Law and Practice provides a broad introduction to the main areas of law and legal practice encountered in law offices. It now also incorporates legal research and client care units, which develop key skills required by legal practitioners. The standard of assessment at Level 3 equates with GCE 'A' level or NVQ level 3 on the national qualifications framework. The Level 6 law papers are set and examined at honours degree standard. The Level 6 legal practice papers reflect the level of knowledge required on the Solicitors Legal Practice Course, although greater practical expertise is expected to be demonstrated. The Level 6 qualification also includes legal research and client care skills units, aimed at further developing the practical skills required by members in the workplace.
44. Level 6 Law papers are accepted by a number of Universities as credits towards their Law Degrees. ILEX qualifications are also recognised towards qualification as a licensed conveyancer and as a solicitor. Fellows and Graduate members of ILEX who wish to qualify as Solicitors may complete the academic stage of the solicitors training scheme by taking relevant Level 6 subjects. They are required to study for and pass the Legal Practice Course. The Legal Practice Course can be undertaken part time and, as a result, it is possible for ILEX Fellows to qualify as solicitors without any significant disruption in their employment. Fellows of ILEX may be granted exemption from the Law Society's usual requirement for a training contract to be completed. The SRA is piloting a work based learning scheme which may replace the training contract. ILEX is also exploring similar options and will need to discuss with the SRA whether Fellows' experience will count towards their work based learning requirements.
45. Research undertaken on behalf of ILEX indicates very high levels of support within the legal profession for its scheme of qualification and training. Responses from employers and members indicate that the qualification remains both accessible and relevant to the provision of legal services.

THE WORK OF ILEX MEMBERS

46. The extent of the impact of the work of ILEX on the provision of legal services in England and Wales is demonstrated by the work of its Fellows. This work is at the heart of the provision of legal services and extends to all areas of law and practice including the provision of probate services. Fellow's work is therefore enhanced by being governed by ILEX and the active participation of Legal Executives who not only have first hand experience of legal practice but also have a sound legal knowledge gained through ILEX's training and education scheme.
47. This is of particular importance to the regulation of probate services as in operating and managing the proposed certification scheme ILEX will be able to draw on its members' experience and to involve them directly in the certification process and in the regulatory aspects of the scheme.
48. ILEX's records show that 78% of Fellows are employed in solicitors' offices in private practice, 14% work in local government and public administration, 6% in commerce and industry and 2% are self-employed. Fellows, and other suitably experienced members of ILEX, are also eligible to join important specialist practitioner organisations such as the Society of Trust and Estate Practitioners, Resolution, the Association of Personal Injury Lawyers and the Forum of Insurance Lawyers. They are also eligible to join some of the specialist panels operated by the Law Society or its specialist groups, including the Personal Injury Panel and The Family Law Panel and many have done so.
49. Fellows are Commissioners for Oaths, by virtue of by-laws made by ILEX in pursuance of 'The Commissioners for Oaths (Prescribed Bodies) Regulations 1995'. Fellows are also given powers by statutory instrument to sign compromise agreements in employment disputes (Compromise Agreements (Description of Person) Order 2004).

LEGAL EXECUTIVES AND PROBATE BUSINESS

50. Although it will be open to all its members, including Probate Associate members, to seek authorisation to deliver probate services, ILEX anticipates that a substantial number of those doing so will be either Graduate members or Fellows of ILEX. This is because these members already play an important part in delivering these services in solicitors' offices, for institutions such as banks and on their own account.
51. The work undertaken by most experienced Legal Executives is indistinguishable from that undertaken by a solicitor. Consequently, in practice there are many Legal Executives who carry out the full range of probate business. Most people arrange for their wills to be prepared by solicitors' firms and many decide to name partners in those firms as executors. This means that the Legal Executives

in those firms are frequently called upon to obtain grants of probate both for private clients and for partners of their firm.

52. There are few other avenues open to members of the public when problems arise with a will other than to consult a firm of solicitors. As a result, Legal Executives practising in this field must be able to take instructions in circumstances where a deceased's will gives rise to problems in relation to the grant of probate and to advise clients on the way those problems should be dealt with. Dealing with those problems may involve opposing a grant of probate or asking the High Court to grant probate rather than the Probate Registry. These practitioners must also be able to deal effectively with the practical and legal aspects of the administration of both straightforward and complex estates.
53. Legal Executives must therefore not only be familiar with the laws of wills and succession but also must have an excellent working knowledge of the rules relating to contentious and non-contentious probate cases. The wide range of knowledge and experience required by Legal Executives who are probate practitioners extends to being familiar with the rules relating to inheritance tax and other taxation issues.
54. As a result of their experience of delivering probate services Legal Executives are well placed to use their expertise as independent probate practitioners and are most likely to be in the forefront of those seeking authorisation from ILEX and thus widening the market of providers.

CONTINUING PROFESSIONAL DEVELOPMENT (CPD)

55. All ILEX Fellows, except Retired Fellows, are required to undertake 16 hours CPD each calendar year. All Graduate members of ILEX are required to undertake 12 hours CPD each calendar year and Associate members are required to undertake 8 hours CPD each year. Half of the CPD must be relevant to the area of law in which the member practices and the other half may be gained in an area of law or practice relevant to their professional development or which may be outside of their specialism.
56. CPD is important to maintaining competence and to developing the ever-changing skills needed by legal practitioners. ILEX monitors compliance with CPD requirements. A failure to comply is classed as a disciplinary offence.
57. Qualifying members who are authorised under the proposed certification scheme to deliver probate services and who are not Fellows or Graduate members of ILEX will be required to carry out 16 hours CPD. This must include 8 hours relevant to probate services and the remaining 8 hours may be gained by professional development outside this area.

58. ILEX has put a strong emphasis on CPD and believes that it is important to maintaining competence and to adapting skills to changes in the legal environment. It expects that placing a requirement on probate services practitioners who are authorised under the certification scheme to undertake CPD will ensure that knowledge and skills relevant to that area of practice will be maintained and improved.
59. Compliance with the CPD requirements is and will be monitored by ILEX. It should be noted that since the CPD requirements were introduced in 1999, in excess of 97% of Fellows have complied.

ILEX AND THE REGULATION OF CONDUCT

60. ILEX has a long history of regulation both in relation to its own members and, more recently, in administering special regulatory regimes, such as those relating to immigration advisors who are members of ILEX (Immigration and Asylum Act 1999), in relation to those of its members who have been granted rights of audience and those who are claims assessors (Compensation Act 2006)). It also regulates Legal Executives in their role as Commissioners for Oaths and those providing advice on compromise agreements. ILEX has entered an agreement with the Crown Prosecution Service to regulate through membership, those designated as Associate Prosecutors by the Director of Public Prosecutions under the Prosecution of Offences Act 1985, as amended by the Criminal Justice and Immigration Act 2008.
61. ILEX has delegated to IPS responsibility for regulating the conduct of its members. IPS has put in place appropriate arrangements.
62. All ILEX members are required to abide by the Code of Conduct published by IPS and, where they are employed in solicitors' offices, to have regard to the requirements of the Solicitors Practice Rules. IPS has recently redeveloped the Code of Conduct. The Code of Conduct and the Investigation, Disciplinary and Appeals Rules are included at **Annexes 12 and 13** of this Application.
63. IPS has also recently redeveloped the Investigation, Disciplinary and Appeal Rules (IDAR). The IDAR establish procedures through which it considers complaints or misconduct allegations made about the conduct of ILEX members. The IDAR set up the Professional Conduct Panel and Disciplinary Tribunal to consider complaints and cases of alleged misconduct against ILEX members. They incorporate lay involvement in all stages of decision making and adjudication.
64. The disciplinary powers include the power to exclude persons from membership, seek undertakings or impose conditions upon members, to reprimand or fine them and, where appropriate, to award costs.

65. Between 1968 and 2009, 76 members of ILEX appeared before the Disciplinary Tribunal. ILEX members are subject to the jurisdiction of the Law Society, where they work in solicitors firms. Under section 43 of the Solicitors Act 1974 ILEX members, in common with other employees of solicitors, may be made subject to Orders restricting or controlling their employment within a solicitors firm. The jurisdiction of the Law Society and the Solicitors Disciplinary Tribunal is additional to the jurisdiction of ILEX. In practice, an order made by the Solicitors Disciplinary Tribunal or the Law Society against a member of ILEX is likely to result in a determination by ILEX's Disciplinary Tribunal.
66. Complaints alleging provision of an inadequate professional service to solicitors' clients will usually be dealt with initially through the solicitors' complaints procedures but, again, may result in disciplinary action by IPS. IPS has developed its own scheme for dealing with complaints of inadequate professional services made against independent practitioners authorised by ILEX. This role will pass to the Legal Ombudsman under the Legal Services Act 2007.
67. ILEX and IPS will develop memoranda of agreement with the Legal Ombudsman and Authorised Regulators to set out arrangements for dealing with complaints and regulatory conflict. ILEX already has in place a Memorandum of Understanding with the Office of the Immigration Services Commissioner (OISC). The Memorandum of Understanding with the OISC sets out the arrangements for dealing with complaints involving immigration matters concerning ILEX members. A similar Memorandum of Understanding is in place between ILEX and the Crown Prosecution Service concerning Associate Prosecutors registered as members of ILEX.
68. Although ILEX is not generally subject to the formal jurisdiction of the Legal Services Ombudsman, it has benefited from constructive engagement with her Office. The Ombudsman has formal jurisdiction over complaints handling by ILEX in respect of its Legal Executive Advocates. There has been no reference to the Ombudsman of any complaint made against an ILEX Advocate. Since ILEX became authorised to grant advocacy rights, the Ombudsman's Office has carried out two informal inspections of ILEX's case handling arrangements. Both reports commented favourably on the way in which it handles complaints against its members. Any action points identified in the reports were addressed.
69. IPS has introduced a mechanism to receive feedback from members and complainants about how it handled their case. The feedback mechanism has proved effective in assisting IPS to identify and implement changes to its complaints handling procedures.
70. Part of the remit of IPS is to consider applications from prospective Students, or members seeking enrolment into the membership or Fellowship grades, where the applicant has made a declaration of prior conduct, including any convictions. All members of ILEX are required to make declarations of 'prior conduct' at the time they renew their annual subscription. IPS determines what further action, if any, should be taken in relation to applications or declarations. Declarations of

previous convictions are for the most part subject to the provisions of the Rehabilitation of Offenders Act 1974. However, ILEX is an exempt body under the provisions of the Act so far as its Fellows are concerned and may therefore require Fellows, including Legal Executive Advocates, to declare spent convictions, and take action in regard to such declarations.

Regulation and probate services

71. Qualifying members who are Fellows or Graduate members of ILEX who apply to deliver probate services will continue to be bound by its Code of Conduct and to be subject to its disciplinary procedures. Those who become Probate Associate members will also be required to comply with the Code of Conduct insofar as it is relevant to this category of membership. They will be subject to ILEX's disciplinary procedures should they be in breach of the Code or any conditions imposed under the proposed certification scheme.

PROTECTION OF CLIENTS AND THE PUBLIC

72. In addition to the safeguards provided by ILEX's regulatory regime for its members, it has developed Practice Management and Accounts and Indemnity Insurance Rules that are intended to apply to those of its members who provide probate services on their own account. The Rules are set out in **Appendices 6 and 9** to the Certification Rules and will apply to all categories of member. ILEX has also developed a scheme for dealing with complaints of poor service and a number of practice management codes of practice.

Client Protection Scheme

73. ILEX has developed its own client protection scheme. This is a scheme whereby clients who suffer loss as a result of the dishonesty or failure to account by a certificate holder will be able to seek redress from a compensation fund to be set up by ILEX, which will be administered by IPS. ILEX takes the view that it is important to provide some redress for clients who have no other mechanisms available to them. The scheme rules appear at **Appendix 10** to the Certification Rules.

74. The client protection fund is a new fund that will be set up by ILEX. All certificate holders will be required to contribute to the fund. In addition ILEX will designate some of its reserves for the purposes of setting up the fund. ILEX takes the view that this is necessary to establish the fund in the first instance. The rules of the scheme contain provisions about how ILEX can develop the fund such as through investments and borrowing.

75. The fund will be a discretionary fund of last resort. ILEX will expect clients to have exhausted other forms of redress before making a claim on the compensation fund.

76. The Rules set out the procedure that will be followed where a claim is made to the ILEX compensation fund. The onus will rest with the client to provide information in support of his claim and to show the loss suffered. The client will subrogate to IPS his rights to make a claim against the certificate holder and will be required to assist IPS in making or supporting that claim. In assessing the level of payments to be made IPS will take into account various factors such as whether the client contributed to their loss, the client failed to act with integrity or failed to co-operate.
77. IPS will set the maximum level of payment it can make from the fund. The level of payment will be reviewed by IPS on a regular basis. In setting the level of maximum payment IPS will take into account market forces and the level of payments the fund can sustain. The inspection and monitoring processes proposed by ILEX will help to reduce the risk and act as a mechanism for assessing where potential risks may lie.
78. Where a client is suffering severe hardship ILEX has reserved the power to make an interim grant. This will be important for providing assistance to vulnerable clients.

Indemnity Insurance

79. ILEX has developed a scheme of indemnity insurance. All certificate holders will be required to obtain cover under the ILEX indemnity insurance scheme unless they are an employed certificate holder. Employed certificate holders will need to ensure that they are covered by a scheme of indemnity insurance held by their employer. If they are not they must obtain cover under the ILEX scheme. Details of the scheme are shown at **Appendix 9** to the Certification Rules.
80. ILEX has investigated whether to opt for an open market or master policy scheme. In developing its indemnity insurance rules ILEX sought advice from three individual brokers at different periods of time. The advice received from all of the brokers has been that subject to prevailing conditions, a master policy scheme will best serve the interests of certificate holders and their clients. They took the view that the scheme would provide a better level of premium for members.
81. However, recent advice, which was sought in April and May 2010, advised that ILEX members may have to seek insurance on the open market if there were an insufficient number of practitioners to make a master policy scheme viable at the outset. The broker discussed the ILEX scheme with a large insurance provider. The broker is assured by the training and regulatory structure proposed by ILEX and takes the view that it will assist in negotiations with insurance providers, particularly in terms of the level of risk posed by probate practitioners and the level of premium. The broker will assist ILEX in continuing discussions with insurance providers to enable it to identify when to move from an open market scheme to a master policy set up. Therefore practitioners will be able to obtain their own policy of insurance which meets minimum terms and conditions. Practitioners may then transfer to the Master Policy once it is in place.

82. Once it is able to do so ILEX will obtain a master policy of indemnity insurance under which certificate holders will be able to obtain cover. The collective purchase power may assist in obtaining an acceptable level of premium for practitioners.
83. ILEX believes that it is important for the protection of clients' interests to have a professional indemnity insurance scheme in place. ILEX will not issue a Certificate until it is satisfied that the member has obtained Indemnity Insurance cover. A certificate holder may not practice while they are uninsured.
84. Certificate holders will obtain insurance for a mandatory level to be set by ILEX from time to time. Certificate holders will be able to obtain cover for a higher level if they wish. The scheme will provide clients with a scheme of redress for any civil liability incurred in connection with the certificate holder's practice. The minimum level of cover will be proportionate to the risk posed by certificate holders' practices. It is recognised that certificate holders may pose a higher risk than other practitioners as they may hold large amounts of client money when administering an estate. The IPS Board will be responsible for assessing risk and setting minimum levels of cover. In assessing risk it might seek expert advice from insurance brokers, insurance providers and benchmark against levels set by other regulatory bodies.
85. Certificate holders will also be required to have run off cover for a period of 6 years. This will ensure that there is ongoing cover for a reasonable period of time after they cease to practice.

Poor Service Scheme

86. ILEX expects all practitioners who deliver probate services on their own account to establish an effective and speedy complaints procedure. Its Poor Service Scheme (see **Appendix 11**) enables clients to claim redress if they receive a service which falls below the standards that may be reasonably expected of an ILEX certificate holder. Under the Legal Services Act 2007 responsibility for complaints about the service received from a certificate holder will pass to the Legal Ombudsman. The Legal Ombudsman will become a single point of entry and will deal with service complaints. The ILEX poor service scheme is included for completeness, however, it is likely the Legal Ombudsman scheme will be operational before these probate rights rules come into effect. Certificate holders will be required to inform clients of the availability of the Legal Ombudsman service and how complaints may be made to it.

Practice management

87. ILEX will require those who deliver probate services on their own account to adopt procedures that comply with following codes and arrangements and to apply them when running their businesses. These are:
- Money laundering legislation and any relevant Codes of Practice

- ILEX's Equality and Diversity Code (see **Appendix 7** to the Certification Rules)
- ILEX's Publicity Code designed to control the design and dissemination of publicity material by certificate holders (see **Appendix 8** to the Certification Rules)
- practice and accounts procedures which comply with the rules of ILEX for the time being

Practice Management Rules

88. The Practice Management and Accounts Rules (**Appendix 6** Certification Rules) will ensure that certificate holders provide an acceptable standard of client care to all their clients. The Rules require that certificate holders act with integrity and that, subject to their duties to the Court, they ensure that the interests of the client are paramount.

89. In particular the rules relating to client care will ensure that clients are given clear written details of their instructions, the extent of the retainer, the likely costs the client will incur, the details about the fee earner handling the case and how to make a complaint about the service or conduct of the certificate holder and/or his practice. The practice management rules require that probate practitioners must have in place arrangements to deal with complaints in house at the first instance. They also require that probate practitioners communicate details of their complaints handling procedures to clients.

90. The Rules deal with issues of client confidentiality and conflict of interest and certificate holders will be required to act independently and in the interests of their clients.

91. Fee sharing and referral arrangements will be permitted provided open and honest disclosure of those arrangements is made to clients.

92. The Rules also seek to ensure that the certificate holder retains overall personal responsibility for his practice and that only suitably qualified practitioners are permitted to supervise a certificate holder's office.

Accounts Rules

93. These Rules (see **Appendix 6** to the Certification Rules) apply to certificate holders in independent practice.

94. Under these Rules client and office monies must be separated and there must be a clear audit trail of transactions for each client. Certificate holders must maintain proper accounting systems, a client ledger for each client, and clear and unequivocal financial records.

95. Certificate holders will also be required to maintain accurate records and up to date financial records and to regularly review the financial basis of each matter

on which they are instructed. The Rules also outline when a payment of interest on a client account should be made.

96. An annual accountant's report from a suitably qualified accountant approved by ILEX must be obtained by the certificate holder and presented in a format determined by ILEX. The accountant will be required to carry out various test procedures laid down in Rules and to report any concerns about the financial management by the practice to ILEX. A copy of the report must be presented to ILEX and ILEX may opt to monitor or inspect the practice should the report identify any shortcomings.
97. ILEX will develop guidance notes to assist practitioners in complying with these Rules.

Supporting Codes and Rules

98. The Practice Management and Accounts Rules are also supported by Equality and Diversity (**Appendix 7** to the Certification Rules) and Publicity Codes (**Appendix 8** to the Certification Rules).
99. The Equality and Diversity Code ensures that certificate holders do not engage in anti-discriminatory practices in their dealings with clients and other parties. Each practice must have an equality and diversity policy or adopt ILEX's policy. The policy is important for the protection of the public interest and will ensure that there is equality of treatment. ILEX will view a failure to comply with the code as a matter of misconduct.
100. The Publicity Code is designed to ensure that there is clarity in any material published by a certificate holder. The Code requires clients to be provided with clear information about the name and address of the certificate holder's practice, the status of the person dealing with their matter and an indication that ILEX is the regulatory body for the practice. The Code also requires that any advertising undertaken by the certificate holder is unambiguous and truthful.

Entity regulation

101. The rules outlined above are set as general principles that ILEX probate practitioners will need to meet. They focus upon individual regulation.
102. ILEX has not developed entity based rules at present. It is working on an application to become a licensing body. As part of that application it will convert its current rules into entity based rules. At that point it will make an application to the LSB to require probate practices to be subject to entity based rules.

Disciplinary proceedings

103. A breach of the Codes and Rules will be investigated in accordance with the Investigation, Disciplinary and Appeal Rules (IDAR). The requirement to comply with the Practice Management and Accounts Rules is in addition to the ILEX general Code of Conduct and Guide to Good Practice. Any complaint regarding the conduct of a certificate holder, either under the Code or the Rules, will be

dealt with through the normal disciplinary procedures. Those procedures are set out at **Annex 13**. Any decision against a certificate holder, made under the Investigation and Disciplinary Rules, other than a decision to exclude from membership, will result in consideration being given by ILEX as to whether the certificate holder remains a fit and proper person to hold Certificate.

104. A certificate holder who ceases to be a member of ILEX, whether for disciplinary reasons or otherwise, will automatically cease to be eligible to exercise probate rights.

REGULATORY CONFLICT

105. At this stage ILEX seeks to regulate practices of ILEX members only. It does not seek to regulate mixed practices of lawyers or of lawyers and non-lawyers. It will seek to regulate such practices as part of its licensing application.
106. IPS is participating in discussions with other approved regulators to develop a memorandum of understanding addressing regulatory conflict that will arise in respect of licensing.
107. IPS will commence discussions with approved regulators in respect of regulatory conflict that might arise in the regulation of ILEX probate practitioners. It has identified that such conflict may arise where a probate practitioner practices in a structure that is regulated by a regulator other than IPS. Discussions will take place while the application is under consideration by the LSB. At present IPS manages regulatory conflict that arises in respect of regulation of its members case by case. ILEX members holding a dual qualification (solicitor or licensed conveyancer) or working under the supervision of a solicitor are subject to regulation by the SRA and CLC as well as IPS. Case by case arrangements have worked well.

PART II – THE PROBATE SERVICE RIGHTS, REGULATORY OBJECTIVES AND BETTER REGULATION PRINCIPLES

PROBATE SERVICES RIGHTS

1. The authorisation being sought by ILEX is to be an approved body in respect of probate services under the Legal Services Act. This means that its qualifying members will be exempt from the prohibition in s14 Legal Services Act 2007 and will be entitled in accordance with s13 Legal Services Act 2007, to take instructions for reward to draw or to prepare papers on which to found or oppose a grant of probate or a grant of letters of administration,.
2. If it is granted approved body status ILEX will also be able to authorise qualifying members to undertake the administration of estates of deceased persons and therefore this will become a regulated activity.
3. ILEX, has assumed that the exemption will permit its qualifying members to do the following:
 - having taken instructions, to draw up or prepare papers on which to found the grant of probate in common or solemn form or in respect of the grant of letters of administration, for which a charge may be made;
 - having taken instructions, to draw up or prepare papers on which to oppose the grant of probate in either form or in respect of the grant of letters of administration, for which a charge may be made.

ILEX has assumed it will be able to authorise its members to take all the steps necessary to administer the estate of a deceased person from the grant of probate until the final distribution or its winding up, for reward.

Probate Services Certificate

4. This Certificate will, when granted by ILEX, firstly, exempt qualifying members from s14 Legal Services Act 2007 and enable them to take instructions for reward to draw or prepare any papers on which to found or oppose a grant of probate or a grant of letters of administration. Secondly, the Certificate will enable qualifying members to undertake the administration of the estate of a deceased person.
5. Qualifying probate practitioners will be issued with a single Certificate that will enable them to provide probate services.

LEGAL SERVICES ACT – REGULATORY OBJECTIVES AND PROFESSIONAL PRINCIPLES

6. This Application will support the regulatory objectives and professional principles as set out in s1 Legal Services Act 2007.

The Regulatory Objectives

7. The Legal Services Act 2007 sets out eight objectives to be pursued by those engaged in the regulation of legal services. ILEX is an approved regulator under the Legal Services Act 2007. ILEX submits that its application for probate rights supports the regulatory objectives set out under the Legal Services Act 2007.

8. The regulatory objectives are:

- Protecting and promoting the public interest;
- Supporting the constitutional principle of the rule of law;
- Improving access to justice;
- Protecting and promoting the interests of consumers;
- Promoting competition in the provision of services provided by authorised persons;
- Encouraging an independent, strong, diverse and effective legal profession;
- Increasing public understanding of the citizen's legal rights and duties;
- Promoting and maintaining adherence to the professional principles which are that:
 - authorised persons should act with independence and integrity;
 - authorised persons should maintain proper standards of work;
 - authorised persons should act in the best interests of their clients;
 - persons who exercise a right of audience or conduct litigation should comply with their duty to the court to act with independence in the interests of justice; and
 - that the affairs of clients should be kept confidential.

Protecting and promoting the public interest and the interests of consumers

9. The award of probate rights to ILEX members will help to protect and promote the interests of consumers and the public interest for a number of reasons.

10. ILEX believes that its proposals in this application will not only broaden the range of suppliers of probate services but will through the certification scheme establish an additional quality threshold for practitioners and therefore provide protection to the public and consumers that probate services are provided by suitably competent advisors. Most practitioners have few opportunities for the formal recognition of their skills and knowledge in their post-qualification career. The certification scheme proposed by ILEX presents both an opportunity for them to seek such recognition and for probate services to benefit from a new cadre of practitioners whose skills and knowledge have been assessed against a robust set of criteria by a reputable professional body.

11. Over time certification will be demanded not only where individuals are self-employed but also where they are working within institutions involved in probate business, such as banks or other similar organisations. In other words it is expected that certification will become an added assurance of competence over and above the individual's professional training and experience, thus providing a mechanism for the protection of consumer interests.
12. This assurance will be complemented by a comprehensive system of regulation administered by an organisation with a proven track record of improving and enforcing professional standards.
13. The monitoring and inspection arrangements that ILEX proposes to introduce through this application for independent practitioners authorised by ILEX will ensure that there are suitable controls and regulation governing the work of independent practitioners. That will provide ongoing protection for the interests of consumers.
14. The viability of any new business could be enhanced by the provision of will making services, which although unregulated, would be a natural extension of the provision of regulated probate services. The linking of these two services would have the added advantage of having at the heart of the business certified probate practitioners who are subject to regulation. As far as will writing is concerned these practitioners will be able use their experience and training to ensure that will drafting was of a good quality. Given the central role played by wills in probate process this will have a positive impact on all aspects of probate business.
15. Against this background ILEX wishes to establish a regime in which the individuals it authorises to carry out probate services share the same reputation as Legal Executives as being competent to handle the technical and legal aspects of probate business. In particular it wishes to ensure from the point of view of the public, in relation to the provision of probate services, that there is no discernible difference between the quality of service provided by any category of qualifying member holding the Certificate.
16. This means that ILEX expects those that it authorises to carry out probate services to be able to deal effectively with sensitive issues such as making a will or dealing with issues surrounding the administration of a relative's estate to the same high standard as its Legal Executive members. Whilst it believes that allowing non-Legal Executives to become members and to apply for a Certificate will be beneficial to the public in terms of choice, ILEX considers that the safeguards built into the certification scheme will enable these benefits to be realised without impinging on the proper and effective administration of justice. It also considers that the existence of a cadre of certified practitioners will provide a comprehensible and dedicated 'quality mark' for the public wishing to access probate services, for other practitioners in the field and for those administering the probate system.

Supporting the constitutional principle rule of law

17. The conduct rules applicable to ILEX members ensure that they will act to support the constitutional principle of the rule of law. Under the Code of Conduct all members of ILEX are required to act within the confines of the law.
18. ILEX probate practitioners will act in accordance with legal provisions in the probate work that they will undertake.

Improving access to justice

19. The scheme will create an opportunity for practitioners to establish new businesses and therefore increase the range of choice for the public and offer a more cost effective and affordable service to consumers compared with that provided by other advisors. The availability of these services will further the public interest in ensuring there is adequate access to probate services for those who require it. This is important in a context in which there is a shortage of probate practitioners with relatively few newly qualified solicitors choosing to study or specialise in probate services.
20. In other instances it will make available a service where there is no other service available geographically or which provides the full range of probate services and which is appropriately regulated.
21. As well as creating the opportunity for the creation of new freestanding businesses, ILEX's proposal also creates the opportunity for firms of solicitors engaged in probate business to consider new business models. For example, larger firms may consider consolidating their probate service provision within new business units dedicated to probate business under the supervision of a practitioner certified under ILEX's scheme. In addition, solicitors' firms may consider using the new style probate practices discussed above as agents or contractors to provide probate services.
22. The range of choice will also be enhanced by the prospect of non-legal institutions or companies being able to employ certified practitioners to head up probate business units within their organisations and to offer services to the organisation's clients as part of their employment. As an alternative such institutions or companies could contract out probate business to a firm run by a certified probate practitioner. This, in addition to other business models that may emerge from the changes to the regulatory arrangements for probate services, is likely to improve the accessibility by the public to good quality professional services.
23. It is also important to view this application in the context of the emergence of the business models under the Legal Services Act 2007. These business models enable the formation of new businesses by Legal Executives and authorised persons and business that can involve non-lawyers. Therefore there will be the development of a new type of probate practice that brings together probate practitioners from different backgrounds or disciplines. Any such consolidation that results from this will further enhance choice.

24. ILEX anticipates that its new arrangements for authorising the delivery of probate services will stimulate the creation of new, more specialised models of delivering probate services and considers that this may lessen the potential for the dilution of specialist capacity that can take place in general practices. Changing the way that probate services are delivered may concentrate expertise as well as encourage the development of more efficient practices both of which may impact positively on probate practice throughout the whole system.
25. ILEX believes many individuals involved in probate business will be attracted to the new certification scheme both as a means of accessing new business opportunities but also as a means of securing recognition for their knowledge and experience. This opens up the possibility of attracting more individuals wishing to specialise in probate services, a factor that will not only be to the benefit of the quality of legal services but also help to provide the scope for greater choice for the public.
26. This is particularly so as the application proposes that all qualifying members should be able to apply for the Certificate provided they have the necessary experience and knowledge. The fact that the Certificate is a passport to establishing a probate practice will not only increase the demand for the Certificate but will also create the potential for dealing with the current shortage of practitioners by encouraging more to specialise in probate work.
27. In addition to this, the scheme aims, through the development plan route, to be sufficiently flexible to encourage those currently involved in a discrete area of probate business to gain sufficient experience for a full certificate. To this extent the application seeks to build new capacity within the probate business sector and thereby ensure a healthy market of providers for the future.
28. Although Legal Executives working in solicitors' firms are at the heart of probate practice ILEX acknowledges that its certification scheme is likely to attract applicants working in other environments and possibly in other disciplines.

Promoting competition in the provision of services provided by authorised persons

29. The proposals in this Application constitute new or better ways of providing services to clients and will provide ILEX members with greater flexibility to do so. In organisations which employ ILEX probate practitioners to provide legal services to their clients, there will be greater choice in the range of persons able to be employed to provide will writing services and probate work.
30. The proposals will enable many organisations to provide probate services to clients for the first time. At present other legal professionals are not authorised to provide services to clients of their employer. The introduction of ILEX probate practitioners will thereby increase the range of services that organisations can provide. This will increase consumer choice and provide them with access to a

new service provider and enable organisations to compete with other practices providing legal services.

31. ILEX probate practitioners who set up in independence practice will be able to compete with other lawyers in providing probate services. This again will increase consumer choice and competition in the provision of services.
32. As choice is widened competition will be increased creating an environment in which the price of services may be moderated. It may also lead to greater flexibility in the way that probate services are provided and by whom. Importantly, however, under the regime proposed by ILEX, its certification procedures will help ensure that competition does not impact on the quality of provision. Consequently, any new business models that emerge from its proposals will be underpinned not only by the certification procedures but also by a comprehensive set of conduct, practice and accounts rules.

Encouraging an independent, strong, diverse and effective legal profession

33. ILEX probate practitioners will be subject to regulation by ILEX Professional Standards Ltd (IPS). As part of the regulatory scheme they will be required to comply with the ILEX Code of Conduct and the Practice Management and Accounts Rules. These Rules are also supported by various Codes, Rules and Schemes.
34. The above rules and codes will require ILEX probate practitioners to act independently and in the interests of their clients, thereby encouraging an independent, diverse, strong and effective legal profession.
35. IPS has a scheme in place to deal with complaints made against ILEX members. The scheme will ensure that misconduct and breaches of the conduct rules are adequately addressed.
36. The introduction of a new service provider will help to encourage a diverse range of legal professionals that will be suitably trained to exercise the new rights effectively.

Increasing public understanding of the citizen's legal rights and duties

37. The introduction of a new service provider will provide a new resource for citizens where they can seek advice about their legal rights and duties. ILEX probate practices will make available to citizens forums through which advice and assistance can be sought.

Promoting and maintaining adherence to the professional principles

38. ILEX probate practitioners are required to act in accordance with the ILEX Code of Conduct. They must also observe the ILEX Practice Management and Accounts Rules and supporting codes, rules and scheme. These rules require them to act with independence and integrity. ILEX probate practitioners must always act in the best interest of their client but they must recognise their overriding duty to the court to act with independence in the interests of justice.

39. Under the Code of Conduct and Practice Management Rules ILEX probate practitioners owe a duty to keep the affairs of their client confidential. The Code and Rules also require that they maintain proper standards of work and only act in cases within their competence.

BETTER REGULATION PRINCIPLES

40. ILEX submits that its proposed scheme meets the better regulation principles.

Proportionate

41. The application proposes a proportionate route to qualification as a probate practitioner. In developing its qualification structure IPS assessed what skills and knowledge a probate practitioner would require to practise. It also considered what knowledge and experience ILEX members already possess from completing the ILEX qualification. This enabled it to determine that practitioners possessed sufficient skills to qualify through a proportionate entry scheme which robustly assesses their existing skills and knowledge.

42. ILEX compared its proposals to qualification schemes available through other approved regulators. ILEX members possess a significant amount of practical experience which, for example, newly qualified solicitors would not. The practical experience is an invaluable mechanism through which they have built up the skills necessary to undertake probate work. The practical experience is complemented by knowledge gained of relevant subjects at honours degree standard, whereas additional knowledge gained by newly qualified solicitors, compared to ILEX Fellows, will be in subject areas not directly relevant to probate practice.

43. ILEX also compared its proposals to the probate qualification introduced by the Council for Licensed Conveyancers (CLC). The CLC qualification requires practitioners to study a foundation course in law of succession and a final course in probate practice and to have gained 2 years experience of undertaking probate work. It is unclear whether the CLC qualification is set at the same standard as Level 6, which is proposed by ILEX. Furthermore, although ILEX has not specified the number of years experience a candidate will have it is expected that they will have substantial experience to meet the knowledge and experience requirements.

44. ILEX has also developed a proportionate approach to practice management and accounts. The practice management and accounts rules represent the standards to be expected of ILEX practitioners. In developing the rules ILEX has balanced the risks to clients' interests against the development of a suitable regulatory scheme.

45. Furthermore the inspection and monitoring arrangements will enable ILEX to maintain suitable controls on the practices of ILEX probate practitioners without placing unnecessary burdens upon them. This represents a suitable approach by which ILEX may protect the interests of the public and consumers.
46. Again in developing its practice management and accounts rules ILEX compared its proposals against the rules laid down by the Solicitors Regulation Authority and Council for Licensed Conveyancers. The comparison activity provided an opportunity for ILEX to ensure that its rules covered essential matters. Any rule not included within the ILEX rules was deemed to be unnecessary for practice as an ILEX probate practitioner.

Accountable

47. The proposed scheme includes suitable accountability arrangements. ILEX will be accountable through its Admissions and Licensing Committee for the administration and application of the scheme rules. The Committee will be responsible for producing an annual report of its work to the IPS Board.
48. ILEX probate practitioners will also be accountable to ILEX through the annual accountants' reports and returns in respect of their practices. The annual returns will encompass application of the accounts rules. ILEX will also require probate practitioners to make annual returns in respect of practice management issues, which will include an outline of any complaints made to the practice.
49. The inspection and monitoring arrangements present another mechanism through which the accountability of ILEX probate practitioners and their application of the ILEX rules can be monitored.

Consistent

50. The approach to the qualification scheme is consistent with the ILEX qualifications. ILEX has determined that the ILEX qualifications provide sufficient knowledge to enable a practitioner to undertake probate work.
51. ILEX's proposals to assess knowledge and experience through a portfolio approach is consistent with the approach that it has implemented in respect of the rights of audience qualification scheme, for which ILEX is already an approved regulator. The approach has been effective and therefore ILEX proposes to follow the same method for probate practitioners.
52. ILEX has also adopted the same practice management and accounts rules for all of its proposed applications to become a regulator of reserved legal activities. That will ensure there is consistency between the standards that the public and consumers can expect of ILEX members regardless of the reserved legal activity that they undertake.

Transparent

53. ILEX has taken a transparent approach to developing the qualification and regulatory scheme. IPS has consulted key stakeholders on its proposed scheme.

The consultation was sent to approved regulators and their respective regulatory bodies, consumer groups and representative bodies in the probate practice field. Notifications were sent to ILEX members through the Legal Executive Journal and IPS websites.

54. ILEX received 7 responses to its consultation. ILEX analysed the consultation responses to determine whether any amendments were required to its proposals. Some amendments were made in response to feedback received from consultees. A copy of the consultation paper, responses and analysis appears at **annex 14**.

Targeted

55. ILEX has developed a qualification scheme which has been targeted at assessing and developing the skills and knowledge required by probate practitioners to undertake probate work on their own account. The scheme provides probate practitioners with the option of developing their practice management and accounts skills and knowledge if they wish to practise on their own account and provide probate services to clients of their employers. Those probate practitioners who wish to remain as employees of legal practices will not need those additional skills and will not be required to develop them.
56. Similarly the regulatory structure has been developed by targeting itself at the risks that can arise and which require to be addressed.

PART III – CERTIFICATION SCHEME

INTRODUCTION

1. The certification scheme is summarised below. The **Certification Rules** set out in detail the eligibility and knowledge and experience requirements.
2. Applicants for a Certificate will, at the date that the Certificate is granted, need to:
 - be a qualifying member
 - be in good standing
 - demonstrate that they have an acceptable level of experience of delivering probate services
 - show that they have sufficient knowledge of relevant law and practice
3. Applicants in independent practice will be required to meet the practice management criteria.

PROPOSED CERTIFICATION SCHEME

Application for the Probate Services Certificate

4. All applicants wishing to undertake probate business will need to apply to ILEX for a Certificate. Those applicants who are not qualifying members at the date of their application will also need to apply for qualifying membership in the manner prescribed by ILEX. A Certificate will only be granted to a person who has been accepted into qualifying membership by ILEX.
5. All applicants will need to meet the eligibility criteria and those applicants who are in independent practice or provide probate services to clients of their employer will also need to meet the practice management criteria. Those applicants who meet the criteria relevant to their application will be granted a Certificate.

Qualifying Members and those applying for qualifying membership

6. A person is a qualifying member for the purpose of this scheme if he is:
 - a Fellow or Graduate member of ILEX, or
 - a Probate Associate member of ILEX, or

- within any other category of membership, which ILEX may establish from time to time, and which ILEX has determined as being appropriate to those applying for a Certificate

7. A Probate Associate member is a person who has been accepted by ILEX as meeting the rules relating to this category of member.

Meeting the eligibility criteria – all applicants

8. All applicants will be required to meet the eligibility criteria, that is they must:

- be persons in good standing.
- have gained an acceptable level of experience in carrying out probate business, in accordance with the Knowledge and Experience Guidelines at **Appendix 1** of the Certification Rules.
- have sufficient knowledge of relevant law and legal practice to undertake probate business, in accordance with the Knowledge and Experience Guidelines at **Appendix 1** of the Certification Rules.

Criterion 1 – is the applicant in good standing?

9. All applicants will need to establish that that they are in good standing and will be required to make the following declarations, that they:

- have no criminal convictions and are not subject to criminal investigation, (driving offences not resulting in disqualification from driving are excepted)
- are not bankrupt or subject to any bankruptcy proceedings nor have they made any composition with their creditors
- have no court judgments recorded against them and are not at the date of application subject to any court proceedings
- are not nor have they been subject to any disciplinary proceedings by any professional body of which they are a member or were a member which resulted in their expulsion or any other penalty
- have not been made subject to an Order made under section 43 Solicitors Act 1974
- are (in appropriate cases) directors of a company which delivers probate services and,
 - there are no restrictions in law that would prevent them from continuing to act as a director of that company

- the applicant and the company have met the requirements of the Companies Acts
- the company is not subject to any proceedings which would result in its liquidation or in it being wound up
- the company has no criminal convictions recorded against it and is not subject to criminal investigations
- the company has no court judgments recorded against it and is not at the date of application subject to any court proceedings
- that no other director or senior member of the company is or has been subject to disciplinary proceedings by a professional institution of which they are a member in relation to the activities of that company.

10. Applicants who are unable to give a declaration in relation to any of the matters mentioned in paragraph 9, may instead provide information relating to that matter. In such cases, ILEX will then consider, in the light of this information, whether it is willing to consider the application further. If it is not, applicants will be informed accordingly together with the reasons for the decision and their application rejected. Applicants will be given a right to be reheard by the Admissions and Licensing Committee.

11. All applicants will be required to provide proof of their identity and residence in such form as ILEX may from time to time determine. In addition, where an applicant is self-employed or is a director of a company, bankers' references may be required in relation to the business or company. ILEX reserves the right to require an applicant to provide an employer's reference.

12. ILEX may in the case of applicants in independent practice, make checks on an applicant's standing from its own records, the Criminal Records Bureau and any professional body of which the applicant is or has been a member and reserves the right to do so in the case of employed applicants. In the case of applicants who are directors of a company ILEX will make the appropriate checks at Companies House. It also reserves the right to make such additional checks as it thinks fit.

Criterion 2 –Does the applicant meet the probate practice knowledge and experience guidelines?

13. As part of the certification process ILEX will undertake an assessment of a member's probate services knowledge and experience using the Knowledge and Experience Guidelines set out in **Appendix 1** of the Certification Rules.

14. Applicants will be required to submit details of their qualifications and a description of their typical workload including the type, range and complexity of the business that they have handled over the last two years. Where a member is

employed they will be asked to obtain verification of this from their employer. ILEX may appoint an assessor to evaluate an applicant's knowledge and experience.

15. As general guidance applicants will be expected to meet the following criteria:

- a. to have passed examinations which are of a similar standard and content to the probate and succession, probate practice and equity and trusts modules of the ILEX level 6 Higher Professional Diploma and to have knowledge and experience of probate services which meet the Knowledge and Experience Guidelines in **Appendix 1** of the Certification Rules, demonstrated by evidence in the form of a portfolio of five cases, or
- b. to have had experience of delivering probate services as a substantial part of their work prior to their application, and to have knowledge and experience of probate services which meet the Knowledge and Experience Guidelines in **Appendix 1** of the Certification Rules, demonstrated by evidence in the form of a portfolio of five cases

16. ILEX is mindful that there may be applicants who, though otherwise eligible for a Certificate, have yet to gain sufficient experience to meet the Knowledge and Experience Guidelines in **Appendix 1** of the Certification Rules. Consequently in applying the criteria in paragraph 15 ILEX will consider an applicant's potential for undertaking a broader range of probate services than they carry out at the date of their application.

17. If in its opinion these circumstances arise ILEX will consider whether a developmental route to full certification is appropriate and may invite the applicant concerned to submit a development plan that indicates the way that they intend to make good the identified shortcomings. If ILEX decides that a developmental route is appropriate it will indicate to the applicant in which respects they do not meet the Knowledge and Experience Guidelines.

18. The applicant concerned will then be invited to lodge a development plan with ILEX setting out the way that they intend to make good the identified shortcomings. The applicant's proposals may take the form of work experience or further training or educational courses or events.

19. If ILEX is satisfied that the completion of the applicant's development plan will enable them to comply with the Knowledge and Experience Guidelines, it may decide to issue a Certificate valid for one year and make that Certificate subject to conditions or restrictions. These conditions or restrictions may limit the range of probate services that the applicant may provide until he qualifies for a full Certificate. ILEX believes that such conditions and restrictions will protect the public in areas where a practitioner needs to develop, while allowing them to provide the aspects of probate service for which they have been assessed as competent.

20. Any applicants who are granted Certificates under paragraph 19 will be required to renew their Certificates on an annual basis and to submit a progress report on their development plan together with their application for renewal. Failure to make adequate progress could result in ILEX refusing to renew a Certificate. In any event a Certificate issued in these circumstances will only be renewed on three occasions. The annual renewal and progress reports will enable ILEX to monitor the progress of a practitioner towards addressing areas identified in their development plan. It will also allow ILEX to assess the restrictions and conditions in place against a practitioner.

Knowledge and Experience Guidelines

21. The Knowledge and Experience Guidelines are set out in **Appendix 1** of the Certification Rules. The guidelines are intended to assist applicants for the Certificate and will be taken into account by ILEX when considering applications.

22. Careful attention will be paid to the range and complexity of an applicant's experience of providing probate services and they will be expected to have experience within the last two years of the key elements of these services and to be able demonstrate a realistic expectation of handling those elements of probate business in the future.

23. Knowledge acquired through examinations other than those offered by ILEX or which is evidenced in other ways than by formal examination will be assessed carefully but will only be accepted where it is demonstrably of a similar standard and encompasses subject matter similar to that covered by the relevant ILEX Level 6 Examinations.

24. Where a candidate relies on knowledge that has not been gained through a formal examination, the candidate will be expected, in addition to other requirements, to complete a questionnaire designed to map their knowledge of relevant law and legal practice. Coverage of a comparable range of topics will be required and evidence of a comparable level of knowledge as would be required of a successful candidate at Level 6 of the ILEX Higher Professional Diploma.

25. ILEX will need to be satisfied that the applicant has the requisite knowledge and may require the applicant to undertake further study and obtain acceptable qualifications and if it does so may reject or defer their application.

26. All applicants will be required to provide with their application:

- a description of their past and present work using the Knowledge and Experience Guidelines
- a portfolio of 5 cases completed during the preceding 2 years that demonstrates legal and procedural knowledge of probate business

- where required to do so in the circumstances described in paragraph 24, a completed questionnaire relating to their knowledge of the law and practice relevant to probate services.
27. Guidelines for preparation of portfolios are set out in **Appendix 2** to the Certification Rules. If ILEX decides that the portfolio is unsatisfactory the applicant will be advised accordingly and given reasons. The applicant may then resubmit or withdraw the application or proceed with the application. If he proceeds with his application, he will be able to make representations to ILEX as to why it should accept the portfolio. ILEX's experience of the rights of audience scheme has shown that the portfolios are an extremely useful tool in assessing whether a member meets required levels of competence. Under that scheme where the portfolios identify that a member has not met the required standard they are provided with guidance as to areas which they need to address. The development route proposed for the probate scheme will allow practitioners to address areas of development.
28. Where an applicant is employed, ILEX may require the details of experience to be confirmed by the applicant's current employer. Two references may also be required. Referees will be asked to comment on the ability of the applicant in relation to the knowledge and experience guidelines. The nominated referees will normally be from those with experience of probate business who are able to comment on the applicant's legal knowledge and experience.
29. Where an applicant is in independent practice he may be required to provide at least two suitably qualified referees in good standing who have knowledge of the applicant's experience.

QUALIFYING MEMBERS IN INDEPENDENT PRACTICE

Practice structures

30. Qualifying members may practise through a variety of means under the Certification Rules. They may be:
- employed in a legal practice regulated by an approved regulator
 - a manager in a Legal Disciplinary Practice
 - an employed person providing probate services to clients of their employer
 - practise independently, including in partnership with ILEX practitioners, authorised persons and or non-authorised persons.
31. A qualifying member who provides services independently or services to clients of their employers will need to seek approval from IPS to do so.
32. Qualifying members may practice independently as sole practitioners, in partnership or through a corporate structure. The rules do not preclude practice in mixed practices, including partners or managers who are not authorised legal practitioners. However, such practices will soon need to be reformed into

licensed practices. Accordingly, under the Legal Services Act, it is unlikely that IPS would approve an ILEX qualifying member setting up or joining such a practice as an owner until it becomes a Licensing Authority. Until that time the body will need to be licensed by another licensing authority. IPS will continue to regulate the Qualifying member as a member of ILEX.

33. ILEX is not in a position to regulate Legal Disciplinary Practices because it has not developed its entity regulation rules at this stage. Therefore such entities may be formed by Qualifying members, other authorised persons and non-authorised persons, but the entities will be regulated by other approved regulators. The Qualifying member will continue to be individually regulated by ILEX through IPS, although the practice will comply with the requirements of the approved regulator rather than the ILEX rules. ILEX has built suitable arrangements into its Practice Management and Accounts Rules to grant waivers to Qualifying members from compliance with its rules in such instances.

The practice management criteria and the practice management undertaking

34. Qualifying members in independent practice and those who provide probate services to clients of their employer, who meet the eligibility criteria will, subject to the transitional arrangements described in paragraphs 35 and 36, also need to meet the practice management criteria. Qualifying members in independent practice and those who provide probate services to clients of their employer will therefore be required to include a statement in their application that they have:

- established a complaints procedure which complies with ILEX's requirements
- established office and client accounts which comply with the rules of ILEX for the time being
- professional indemnity insurance in place which complies with the requirements of ILEX for the time being
- an anti-discrimination policy in place which accords with the requirements of ILEX for the time being
- a money laundering policy in place which accords with the requirements of current legislation
- a publicity code in place which accords with the requirements of ILEX for the time being
- made a contribution to ILEX's Compensation fund for the year in which the application is made

Qualifying members in independent practice will also be required to provide evidence that these arrangements are in place. These arrangements are referred to as 'the practice management requirements'.

Members in independent practice at the commencement of the certification scheme

35. Where his first application is made within six months of the commencement of the certification scheme, an applicant in independent practice, who does not have the practice management requirements in place will be required to give the transitional practice management undertaking referred to in paragraph 36.

Transitional practice management undertaking

36. This undertaking will be that the practice management requirements referred to in paragraph 34 will be put in place within three months of the undertaking being given. Future renewal of the Certificate will depend on this undertaking having been honoured.

Practice Management and Accounts

37. ILEX may, at its discretion, in the case of a qualifying member in independent practice or in relation to a qualifying member who is seeking a replacement Certificate to enter independent practice or provide probate services to clients of their employer under paragraph 47 before it considers whether to issue a Certificate, also require an applicant to:

- establish that they are capable of making financial arrangements which comply with ILEX's Accounts Rules for the time being, and
- successfully complete a Practice Management course within 12 months of an application

and, in doing so, may require an applicant to submit a business and/or a financial plan.

38. Where it is the opinion of ILEX that a qualifying member has not demonstrated that they are capable of making financial arrangements that comply with ILEX's Accounts Rules for the time being, it may require an applicant to undertake an Accounts course accredited by ILEX. If the requirement is not met within 12 months of the qualifying member's application then ILEX will consider any representations made by the member to extend this period. If this period is not extended by ILEX then the application will lapse.

39. Where a qualifying member is required to undertake a Practice Management course in accordance with paragraph 37, their application, whether for a full or replacement Certificate, will be deferred until this requirement is met. If the requirement is not met within 12 months of the qualifying member's application then ILEX will consider any representations made by the member to extend this period. If this period is not extended by ILEX then the application will lapse.

40. If a qualifying member, who is required to do so, completes a Practice Management or an Accounts Course or both, on that member providing written proof that they did so successfully, ILEX will continue to consider their application.

41. Whilst, in the case of a Practice Management course it will be for the qualifying members concerned to identify a suitable course containing the elements referred to in paragraph 42, they will be required to consult with ILEX before registering on the course that they have chosen. ILEX will then indicate whether, in its view, completion of the chosen course will meet its requirements in relation to the member concerned. However, only courses that provide a certificate of completion will be approved.

42. Practice management courses must contain the following elements:

- managing a legal business
- managing finance
- managing client relationships
- managing others

and meet the requirements of **Appendix 3** of the Certification Rules, Practice Management Course Delivery and Outcomes.

43. An accounts course, which an applicant is required to take, must contain the following elements:

- the client account
- the office account
- costs
- interest
- accounting records
- accountant's reports
- business accounting

and meet the requirements of **Appendix 4** of the Certification Rules, Accounts Course Delivery and Outcomes.

44. In developing course outcomes ILEX has taken the approach of identifying the outcomes of practice management courses usually undertaken by solicitors within their first three years of qualification. ILEX developed its practice management

course outcomes from the material used on those courses. It took the view that it should adopt the same approach as trainee solicitors, which appears to work well for them. ILEX considered the approach taken by the Council for Licensed Conveyancers, where licensed conveyancers attend a short session on practice management. It discounted that approach in favour of a course that must meet specific outcomes.

45. The content of the accounts course was developed by identifying what aspects of the ILEX accounts rules should be taught to members. The outcomes are similar to those on the solicitors' accounts training on the LPC, except that they focus on the ILEX accounts rules, which are not in themselves much different to the Solicitors Accounts Rules.

Compensation fund

46. ILEX will not consider any application for a Certificate from an applicant who, being liable to do so, has not contributed to ILEX's Compensation Scheme for the year in which their application is made or has failed to contribute to the Scheme in previous years being liable to do so.

CERTIFICATION

47. A qualifying member who is in employment in a solicitor's firm or other organisation and who meets the eligibility criteria and who has met any other conditions imposed by ILEX will be granted a Certificate.

48. Qualifying members who, are in independent practice or provide probate services to clients of their employer, at the date of application meet the eligibility criteria will be granted a Certificate, if in addition they either:

- meet the practice management criteria, or
- have given the transitional practice management undertaking,

and, in either case have signed the right of inspection authority referred to paragraph 60.

Change of status –replacement certificates

49. An employed member who holds a Certificate may apply for a replacement Certificate on the basis that he wishes to practice on his own account or provide probate services to clients of their employer. The replacement Certificate will only be granted if:

- the member gives the practice management undertaking in paragraph 48,
- signs the right of inspection authority referred to in paragraph 60, and

- meets any other requirement imposed by ILEX including a requirement to undertake the courses referred to in paragraph 37.

50. The practice management undertaking in relation to a member applying for a replacement Certificate under paragraph 47 is not to commence business without first putting the practice management requirements in place.

Validity and renewal of Certificates

51. Certificates granted to employed members, other than those who are asked to submit a development plan in accordance with paragraphs 20 to 24, will not be subject to renewal provided they continue to be qualifying members in good standing and meet any other requirement of ILEX for the time being. ILEX may at its discretion impose a requirement for any employed members to reapply for a Certificate.

52. Applicants who have been asked to submit a development plan in accordance with paragraphs 20 and 24 will be required to renew their Certificates each year and to submit a progress report on their development together with their application for renewal. Certificates granted to applicants who have been asked to submit a development plan will only be renewed on three occasions. On receiving an application for renewal ILEX will consider the applicant's progress. If progress is satisfactory then the applicant's Certificate will be renewed subject to such restrictions and conditions as ILEX thinks fit.

53. When it is satisfied that the applicant has satisfactorily fulfilled his development plan ILEX will, in the case of an employed applicant, discharge them from the obligation to renew their Certificate annually.

54. Certificates granted to qualifying members in independent practice and those who provide probate services to clients of their employer will be subject to annual renewal on the anniversary of the Certificate or, on such date as may be indicated by ILEX, and annually thereafter.

55. Qualifying members in independent practice and those who provide probate services to clients of their employer will be required to submit their annual accounts certified by a qualified accountant, together with written proof that they have professional indemnity insurance in place for the coming year. ILEX may undertake a personal interview of the applicant and may undertake an inspection of the member's practice.

56. Once ILEX is satisfied that the accounts and indemnity insurance arrangements of a qualifying member in practice are in order and that they are in good standing it will renew their Certificate. Where a member in independent practice or who provides probate services to clients of their employer was required to give a practice management undertaking, ILEX will renew their Certificate where it is satisfied that the undertaking has been fulfilled and that the member is in good standing.

57. Where an employed member who has been granted a replacement certificate on the basis that they are going into independent practice or going to provide probate services to clients of their employer seeks to renew that certificate on its anniversary, that certificate will only be renewed if ILEX is satisfied that the member concerned has honoured that undertaking, the member remains in good standing, and their accounts and insurance arrangements are in order.
58. ILEX may impose conditions or restrictions on the renewal of any category of certificate and where it does so will give reasons in writing for such an imposition. ILEX reserves the right to undertake an inspection of a practice before renewing the Certificate of a certificate holder in independent practice or who provides probate services to clients of their employer.
59. Qualifying members in independent practice and those who provide probate services to clients of their employer who were required to give the transitional practice management undertaking will, be required to confirm in writing that the practice requirements were put in place before the expiry of three months from the date their certificate was granted. Where such confirmation has not been received by ILEX at the expiry of seven working days from the date of the three month period, then ILEX may suspend the certificate of the member concerned and take such other action as it thinks fit. In any event, the certificate of a member who has not given such confirmation will not be renewed.
60. In any case where a member is seeking renewal of their certificate, ILEX may refuse to grant a renewal if any contribution to ILEX's Compensation Fund is outstanding.

Right of inspection authority

61. ILEX will not issue a Certificate to an applicant in independent practice or renew a certificate held by such member unless the applicant first signs the right of inspection authority referred to in paragraph 60.
62. The right of inspection authority is an irrevocable written authority given by an applicant for the grant or renewal of a Certificate to provide ILEX, upon production of that authority, with:
- full and unimpeded access to all the Certificate holder's practice papers, accounts, records and files; and
 - full cooperation, both personally and by direction to the Certificate holder's staff, with the inspection; and
 - any information relating to the Certificate holder's practice requested by ILEX; and
 - reasonable office facilities for such period as ILEX may require; and

- copies of any documents which ILEX wishes to remove, and at no charge; and
- authority to the Certificate holder's present or previous accountant or any other person to provide information and/or documents to ILEX as they may require.

63. ILEX will exercise the authority referred to in paragraph 56 in accordance with its Practice Management and Accounts Rules relating to Certificate holders in independent practice then in force.

Suspension of Certificates

64. ILEX may suspend a Certificate where a Certificate holder becomes subject to an inspection, an investigation or disciplinary proceedings or under the powers available in its Practice Management and Accounts Rules relating to Certificate holders in independent practice and those who provide probate services to clients of their employer or for any other reasonable cause.

ADMINISTERING THE CERTIFICATION SCHEME

65. ILEX will be responsible for all aspects of the certification scheme, including making recommendations for changes and developments of the scheme or the Rules. This responsibility has been delegated to IPS, which is responsible for the certification process.

66. IPS shall set up a Committee, which will be called an Admissions and Licensing Committee, which will be responsible for the probate rights scheme. The Committee shall report to the IPS Board. Wherever possible the IPS Officer will consider and determine applications under delegated authority from the Committee.

67. External assessors may be appointed to assist with any aspect of the administration of the certification process.

Admissions and Licensing Committee and External Advisors

68. The Admissions and Licensing Committee shall:

- Apply and monitor the Probate Rights Certification Rules;
- Assess whether a member meets the requirements to be a probate right certificate in cases referred to it by the Officer;
- Assess whether a member meets the requirements to renew their probate rights certificate in cases referred to it by the Officer;
- Consider whether or not a member may continue to hold a probate rights Certificate;

- Consider applications made by probate practitioners to practice independently or provide probate services to clients of their employer referred to it by the Officer;
- submit an annual report to the IPS Board;
- Oversee the probate right scheme;
- Review the probate rights scheme and make recommendations to IPS for revisions to it;
- Consider appeals made against decisions made by the Officer in respect of applications;
- Consider and determine applications for a re-hearing of a decision made by the Committee.

69. The Committee will delegate to the Officer responsibility for making decisions on applications for certificates, renewal of certificates and authorisation to practice independently. Wherever the Officer is unable to make a decision or takes the view that the matter requires Committee consideration they may refer the matter to the Admissions and Licensing Committee.

70. A person affected by a decision made by the Officer may seek reconsideration of their matter by the Admissions and Licensing Committee. The decision of the Admissions and Licensing Committee upon reconsideration shall be final.

71. The membership of the Admissions and Licensing Committee will include:

- Two Fellows of ILEX who shall not be members of ILEX Council;
- Three independent members, at least 1 of whom shall have knowledge or experience of the provision of consumer issues;

of which at least one member will be a member of the IPS Board.

72. Appointments of committee members shall be made by the IPS Board for a period of five years each. They may be reappointed for one further term.

73. ILEX shall appoint external advisors who will be responsible for assessing candidate portfolios. In appointing external advisors it will ensure they have knowledge and experience of probate practice and assessment thereof. ILEX has experience of recruiting external advisors for its current rights of audience scheme. It produced terms of reference for external advisors, which included person specifications. Applicants were required to outline how they met those criteria. The same approach was adopted for the recruitment of committee members for that scheme. Adverts were placed in appropriate publications inviting applications. Applicants were short listed and interviewed against the criteria. IPS will adopt this same procedure for the recruitment of external advisors and committee members for the probate rights scheme. To be

appointed, External Advisors will need to have experience both as academics and as practitioners in the relevant discipline. ILEX has contact with many such professionals through its educational scheme.

CONTINUING PROFESSIONAL DEVELOPMENT

74. Certificate holders who are Probate Associate members will be required to complete 16 hours CPD of which at least 8 hours is concerned with probate services and the remaining 8 hours may be concerned with other professional development.

75. All certificate holders will be required to submit an annual return to ILEX showing their CPD activities for the year.

REVIEW OF THE SCHEME

76. ILEX will review the progress of this scheme at least every three years. As part of the review it will take into account feedback on the effectiveness of the scheme received from applicants, course providers, external advisors and IPS clients.

ANNEXES TO APPLICATION

**ANNEX 1 ILEX MEMORANDUM AND ARTICLES OF
ASSOCIATION**

**The Institute of Legal Executives
Memorandum & Articles of Association**

**Adopted at the Annual General Meeting
16 July 1999 as amended by Special
Resolutions passed on 20 July 2001, 23
July 2004, 15 July 2005, 2 June 2006, 16
September 2006, 17 July 2009 and 27
November 2009**

THE COMPANIES ACT 1985

**COMPANY LIMITED BY GUARANTEE AND NOT
HAVING A CAPITAL DIVIDED INTO SHARES**

MEMORANDUM OF ASSOCIATION

of

THE INSTITUTE OF LEGAL EXECUTIVES

- 1 The company's name is "THE INSTITUTE OF LEGAL EXECUTIVES" (hereinafter referred to as "ILEX").
- 2 ILEX is a company limited by guarantee not having a share capital and its registered office is to be situated in England.
- 3 ILEX's objects are
 - 3.1 To provide an organisation for persons who are either:
 - 3.1.1 Fellows of ILEX; or
 - 3.1.2 Registered with ILEX and provide or are employed in providing legal services of any kind or any services ancillary to legal services; or
 - 3.1.3 Registered with ILEX for the purpose of studying or becoming qualified in law or other subjects provided by ILEX; and who are resident in England and Wales or elsewhere.
 - 3.2 To advance and protect the status and interests of Fellows and those persons referred to by Clause 3.1.
 - 3.3 To promote professional unity, co-operation and mutual assistance amongst persons employed in the legal profession or engaged in legal work.
 - 3.4 To promote and secure professional standards of conduct amongst Fellows and those who are registered with ILEX, and regulate Fellows and Registered Person in the public interest to ensure compliance with those standards.
 - 3.5 To provide for the education and training of and developing the proficiency of Fellows and persons who wish to become proficient in the law, including those seeking to qualify as Fellows, in all subjects and skills, whether in the law or otherwise.
 - 3.6 To recognise and promote proficiency in the law and other subjects by the award of diplomas, certificates, prizes, scholarships, bursaries or other awards, and to award such special qualifications as ILEX may from time to time think fit, and to carry out such assessment and

- validation and regulation as may be necessary or expedient for such purposes.
- 3.7 To establish trust funds, bursaries and scholarships and to make payments out of the funds of ILEX to promote the educational and professional advancement of persons referred to in Clause 3.1.
 - 3.8 To prepare, publish, acquire, distribute or disseminate books, papers, periodicals or any information relating to law and legal practice or any other subject relative to the education and training provided by ILEX.
 - 3.9 To establish, maintain and control branches of ILEX and to determine and modify the constitution, rights, privileges, obligations and duties of branches and, when thought fit, to dissolve them.
 - 3.10 To provide financial assistance or relief to persons who are or have been Fellows of or registered with ILEX, or their dependants, who are in distressed circumstances and to establish and maintain a charitable fund for making such grants, provided ILEX shall not apply any monies under this clause except out of revenue and shall not apply more than 10% of the revenue of any year for such purposes.
 - 3.11 To carry out any other lawful trade or business whatsoever which can in the opinion of the Council or governing body be carried out advantageously to ILEX.
- 4 In furtherance of the said objects but not otherwise ILEX shall have the power:
- 4.1 To acquire any property, business or rights, which appear to be necessary or convenient for ILEX's purposes.
 - 4.2 To sell, mortgage, develop, lease, maintain, improve, and operate or use any property, business or rights which belong to ILEX or in which ILEX has an interest.
 - 4.3 To form or promote or be involved in forming or promoting any company whose objects directly or indirectly benefit ILEX (including but not limited to any company intended to provide a regulatory function), and to acquire and hold any shares, debentures or other securities in such companies as majority shareholder and to invest money in those companies and delegate rights and powers of ILEX to those companies subject to any limitation which the Council or governing body may from time-to-time determine.
 - 4.4 To share profits, enter into a joint venture or cooperate with any person or organisation who carries on, or proposes to carry on, any activity within ILEX's Objects, and to acquire and hold any securities of any such company.
 - 4.5 To accept grants of money and of land, donations, gifts, subscriptions and other assistance and to undertake and execute any trusts in furtherance of ILEX's objects.
- A To borrow or raise any money that may be required by ILEX, upon appropriate terms.
 - B To charge fees in respect of membership, examinations, practice certificates, regulation and any other matters as determined by the Council from time to time.
 - C To establish and manage compensation funds, professional indemnity schemes or any other financial schemes or arrangements in the

- interest of the public or of Fellows and Registered Persons in respect of the acts of the Fellows and Registered Persons.
- 4.6 To invest the monies of ILEX not immediately required for its purposes, in such investments, securities or property as it determines to be appropriate, and to take professional financial advice where necessary.
 - 4.7 To award pensions, allowances, gratuities and bonuses to past or present employees of ILEX or its subsidiary companies (including their dependants and people connected with them), and to set up and maintain or be involved in any other way with the setting up and maintaining of trusts, funds or schemes (whether contributory or non-contributory) intended to provide pensions or other benefits for any of them.
 - 4.8 To take out and renew insurances for or for the benefit of anyone who is or has been at any time a director, officer or employee of ILEX or of any of its subsidiary companies, including any person acting as a trustee of pension or charitable funds established by ILEX. Such insurance will include insurance against any liability incurred by such persons:
 - 4.8.1 As a result of anything they do or omit to do in carrying out or purporting to carry out their duties or using or purporting to use their powers in relation to ILEX or any of its subsidiary companies; or
 - 4.8.2 In any other way in connection with their duties, powers or posts in relation to ILEX or any of its subsidiary companies.
 - 4.9 To do all such other things as are incidental or conducive to the attainment of the said objects.
- 5 The said objects and powers are not to be interpreted narrowly and the widest interpretation shall be given to them that is possible consistently with the law of England and Wales.
- 6 [Intentionally blank to preserve numbering].
- 7 Save as herein otherwise provided, the income and property of ILEX shall be applied solely towards the promotion of the objects set out herein. No portion of income or property shall be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise by way of profit to members of ILEX and no member of its Council or governing body shall be appointed to any office of ILEX paid by salary or fees or receive any remuneration or benefit in money or money's worth from ILEX.
- 8 Notwithstanding Article 7, ILEX may make payment in good faith:
- 8.1 Of reasonable and proper remuneration to any member, officer or servant of ILEX (not being a member of its Council or governing body) for any services rendered to ILEX;
 - 8.2 Of interest on money lent by any member of ILEX or of its Council or governing body at a rate per annum not exceeding 2 per cent less than the minimum lending rate prescribed for the time being by the Bank of England or 3 per cent, whichever is the greater;
 - 8.3 Of reasonable and proper rent for premises let to ILEX by any member of ILEX or of its Council or governing body;
 - 8.4 Of fees, remuneration or other benefit in money or money's worth to a company of which a member of the Council or governing body is a member, provided he does not hold more than one one-hundredth part

- of the capital of that company;
- 8.5 Of out of pocket expenses to any member of its Council or governing body; and
- 8.6 Of a sum of money, the frequency and amount to be agreed by the Council or governing body, to the employer of a member of the Council or governing body, or, if the member is self-employed, the legal entity through which that member practises or the member himself as appropriate.
- 9 The liability of the members of ILEX is limited.
- 10 Every member of ILEX undertakes to contribute such amount as may be required (not exceeding £1) to ILEX's assets if it should be wound up while he is a member, or within one year after he ceases to be a member, for payment of ILEX's debts and liabilities contracted before he ceases to be a member and of the costs, charges and expenses of winding up ILEX, and for the adjustment of the rights of the contributories among themselves.
- 11 If on the winding up or dissolution of ILEX there remains after the satisfaction of its debts and liabilities any property whatsoever, the same shall not be paid to or distributed among the members of ILEX, but shall be given or transferred to some other association or institution having objects similar to the objects of ILEX and which shall prohibit the distribution of its income and property among its members to an extent at least as great as that as is imposed on ILEX by clauses 7 and 8 of this Memorandum. The association or institution to which such property is to be transferred shall be determined by the members of ILEX at or before the time of dissolution. If effect cannot be given to the provision of this clause, then the property shall be transferred to some charitable object.
- 12 ILEX shall keep true accounts of:
- 12.1 Sums of money received and expended by it;
- 12.2 The matters in respect of which receipts and expenditure take place;
- 12.3 The property, credits and liabilities of ILEX.
- Any such accounts shall be open to the inspection of the members, subject to any reasonable restrictions as to the time and manner of inspecting them that may be imposed by ILEX in accordance with its regulations. Once at least in every year the accounts of ILEX shall be examined and the correctness of the balance sheet ascertained by auditors.

THE COMPANIES ACT 1985

**COMPANY LIMITED BY GUARANTEE
AND NOT HAVING A SHARE CAPITAL**

ARTICLES OF ASSOCIATION

of

THE INSTITUTE OF LEGAL EXECUTIVES

**Adopted by Special Resolution passed on 16 July 1999 as amended by
Special Resolutions passed on 20 July 2001, 23 July 2004, 15 July 2005, 2
June 2006, 16 September 2006, 17 July 2009 and 27 November 2009**

PRELIMINARY

- 1 “In these articles (including the appendices), unless the context otherwise requires-
- “The Act” means the Companies Act 1985 and every statutory modification or re-enactment thereof for the time being in force;
 - “the Adoption Date” means the date on which these articles are adopted as the articles of association of ILEX;
 - “these articles” means these articles of association as originally framed or as altered from time to time by special resolution;
 - “the bye-laws” means the bye-laws of ILEX for the time being in force (whether made pursuant to these articles or any previous articles of association of ILEX);
 - “Company Secretary” means any person appointed by the Council to perform the duties of the Company Secretary;
 - “Constituency Member” means a Fellow elected to the Council under these articles to represent a constituency;
 - “Co-opted Member” means a Fellow appointed to Council under these articles to fulfil needs identified by Council;
 - “The Council” means the Council for the time being of ILEX which shall comprise the Board of Directors for the purposes of the Act;
 - “Disciplinary Bodies” means any committee, tribunal or other body established by ILEX or any subsidiary company of ILEX to deal with complaints, declarations of prior conduct and allegations of misconduct;

“Fees” means any fees payable by a Fellow or Registered Person to ILEX in accordance with Article 10 or to any subsidiary of ILEX by virtue of powers delegated to it under Article 19;
“Fellow” means a person admitted or enrolled for the time being as such in accordance with the provisions of these articles;
“ILEX” means the Institute of Legal Executives;
“the Journal” means the official journal of ILEX;
“Member of Council” means a Constituency Member or Co-opted Member;
“office” means the Registered Office of ILEX;
“Registered Person” means a person who is not a Fellow but is registered with ILEX in accordance with these articles;
and, subject as aforesaid, any word or expression to which a meaning is assigned by the Act has the meaning so assigned to it on the adoption date.

References to the male gender shall include the female gender.

MEMBERSHIP

- 2 A The Membership of ILEX shall comprise the following:
- (i) Fellows; and
 - (ii) Registered Persons with current authority granted by the Council of ILEX to be qualified persons for the purposes of section 84(2) of the Immigration and Asylum Act 1999 (as amended).
- B The Council of ILEX shall have the power to create additional grades into which persons may be registered according to criteria determined by the Council, and shall publish bye-laws setting out the conditions for registration into any grade.
- 3 A (i) A person shall be eligible to be admitted as a Fellow if he is able to satisfy the Council that he has the requisite qualifications and experience for admission as a Fellow and that he has satisfied any other requirements of the Council in respect of fitness for admission as a Fellow.
- A (ii) The Council shall publish bye-laws setting out the conditions for admission as a Fellow.
- B (i) A Registered Person shall be granted the authority to be a qualified person for the purposes of section 84(2) of the Immigration and Asylum Act 1999 (as amended) if he is able

to satisfy the Council that he has the requisite qualifications, skills and experience to provide immigration advice or services and provided that he has satisfied the Council regarding his fitness to be granted such authority.

B (ii) The Council shall publish bye-laws setting out the conditions for Registered Persons to be granted authority to be a qualified person under Article 2A(ii) above.

4 Every application to be admitted as a Fellow shall be made in a form prescribed by Council and will contain an agreement by the applicant to become a member of ILEX for the purposes of the Act.

The Council shall have power to call for evidence as to the qualifications and experience and fitness to be a Fellow of any person seeking to be admitted as a Fellow.

5 The Council will have power to decide the requirements for a person to be registered with ILEX as a Registered Person. Its decision whether or not to admit an applicant for admission as a Fellow or registration as a Registered Person shall be final and binding. The Council may in its discretion refuse to enrol or admit an applicant as a Fellow or to register any person although he is otherwise eligible for admission or registration; and permit a person to be admitted or registered although he is not otherwise eligible.

6 A Every Fellow shall be entitled to receive a Certificate showing that he is a Fellow; and to describe himself as a Fellow of the Institute of Legal Executives or as a Legal Executive and to add after his name the letters "F.Inst.L.Ex."

B The Council shall have the power to issue each year Practice Certificates to those persons it deems fit, subject to such rules and criteria as adopted by the Council from time to time.

7 The Council shall have the power to award designatory letters and status descriptions to Fellows, Registered Persons and others even though they are not members of ILEX for the purpose of the Act or these Articles.

8 Membership of ILEX shall not be transferable or transmissible.

QUALIFICATIONS

9 The Council has the power to make bye-laws to regulate the provision of tests of knowledge and assessments of competence for those seeking to obtain qualifications offered by ILEX or by any subsidiary or associated

company and for those seeking to be admitted as Fellows.

ENROLMENT FEES AND SUBSCRIPTIONS

- 10 The Council shall have the power to set and levy fees relating to membership or registration with ILEX, for examinations, assessments and exemptions and any other fees relating to qualification with or admission to ILEX, or to any registration grade, or in respect of professional regulation, or for any other purpose as determined by the Council from time to time.
- 11 Every Fellow and every Registered Person shall pay to ILEX in advance on 1 January in each year an annual subscription of the amount prescribed in accordance with the provisions of Article 12. The amount of a Fellow's or Registered Person's subscription for each year shall be determined by reference to his class of membership or registration grade at the beginning of that year.
- 12 Council shall prescribe each year the amount of subscription fee payable by Fellows and by Registered Persons.
- 13 The Council may decide whether subscription fees prescribed include value added tax or not and may prescribe an additional sum to be paid to meet any value added tax leviable on the subscriptions.
- 14 ILEX shall give notice before 1 November in each year of the Fees payable by Fellows and Registered Persons which will apply from the following 1 January.
- 15 The Council may, in its discretion, remit in whole or in part any Fee payable by a Fellow or Registered Person for any year or years.
- 16 A person who ceases to be a Fellow or to be a Registered Person during a year shall (subject to the provisions of Article 15) pay the whole of his Fees for that year without any rebate.
- 17
 - A Unless the Council decides otherwise, a Fellow whose Fees are wholly or partly in arrear, or who has not made arrangements to pay the whole of his Fees, shall not be entitled to receive notice of, or to attend or vote at, any general meeting, or to exercise or enjoy any other rights of membership or privileges accorded to them.
 - B The Council may determine that any Registered Person whose Fees are unpaid shall not exercise or enjoy any rights or privileges accorded to them.

CESSATION OF MEMBERSHIP

18 A Fellow or Registered Person shall immediately cease to be a Fellow or Registered Person if:

- (i) he resigns by giving notice in writing to ILEX;
- (ii) he dies;
- (iii) he fails to pay the whole or any part of any Fee or other sum payable by him for a period of 12 months from the date on which it became due for payment and the Council resolves that he ceases to be a Fellow or Registered Person;
- (iv) he is guilty of conduct which makes him unfit to be a Fellow or Registered Person, or commits a breach of these Articles or of the bye-laws and an Order is made by the Disciplinary Body excluding him from membership or cancelling his registration;

save that no resignation under paragraph (i) or resolution by Council under paragraph (iii) shall be valid if a complaint has been received about that Fellow or Registered Person, or any proceedings against such Fellow or Person have been begun by any Disciplinary Body, until the final determination of the matter by the relevant Disciplinary Bodies (and the expiration of any time allowed for appeals therefrom).

19 The Council may delegate to any subsidiary company of ILEX any or all of its powers relating to its functions and responsibilities as an approved regulator designated as such by the Legal Services Act 2007 including (but not limited to) the oversight of education standards and standards relating to the conduct and fitness to practise of Fellows and Registered Persons and the right to charge fees in respect of those functions and responsibilities delegated to it.

20 A A person who ceases to be a Fellow or to be a Registered Person shall remain liable for any Fees under these Articles or the bye-laws or for any sums which become payable by him under the Memorandum of Association, but neither he nor his representatives shall have any interest in or claim against the funds or property of ILEX.

B A person who ceases to be a Fellow or Registered Person shall forthwith cease to use any designatory letters or status description relating to ILEX.

BRANCHES

- 21 A The Council may make bye-laws to establish and constitute branches of ILEX. Every branch shall be established and constituted by deed and subject to any requirements or qualifications or restrictions set out in such deed.
- B Council may agree such changes in the regulations of individual branches as it thinks fit, but the regulations of branches must be consistent with the provisions of these Articles and of the deed by which the branch is established.
- C The Council shall have power to make payments to branches to support and assist them in carrying out their role and functions.
- 22 Every branch existing on the Adoption Date shall be deemed to have been properly established under these Articles.

GENERAL MEETINGS

- 23 All general meetings other than annual general meetings shall be called extraordinary general meetings.
- 24 The Council may convene a general meeting and, on a requisition of Fellows made in accordance with the Act, shall convene an extraordinary general meeting for a date not later than eight weeks after ILEX has received the requisition.

NOTICE OF GENERAL MEETINGS

- 25 An annual general meeting and an extraordinary general meeting for the passing of a special resolution shall be called by at least 21 clear days notice and all other extraordinary general meetings shall be called by at least 14 clear days notice. Every notice shall specify the time and place of the meeting and the general nature of the business to be transacted. Subject to the provisions of these Articles, the notice shall be given to all the Fellows and to the auditors of ILEX.
- 26 The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at the meeting. Any Fellow present at a meeting, whether in person or by proxy, shall be deemed to have received notice of the meeting.

PROCEEDINGS AT GENERAL MEETINGS

- 27 No business shall be transacted at any general meeting unless a quorum is present. Except as otherwise provided in these articles, 10 Fellows present in person and entitled to vote at the meeting shall be a quorum.
- 28 If a quorum is not present within 15 minutes from the time appointed for the meeting (or such longer period as the chairman of the meeting may allow), the meeting, if convened on the requisition of Fellows, shall be dissolved and, in any other case, shall stand adjourned to the same day in the next week at the same time and place, or to such time and place as the Council may determine.
- 29 The president or, in his absence, the vice-president shall preside as chairman at every general meeting; but if neither of them is present within 15 minutes after the time appointed for the meeting and is willing to preside, the members of the Council present shall elect one of their number to be chairman or, if there is only one of them present who is willing to preside, he shall be chairman. If no member of the Council who is willing to preside is present within 15 minutes after the time appointed for the meeting, the Fellows present in person and entitled to vote shall elect one of them to be chairman.
- 30 The chairman of the meeting may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time or indefinitely and from place to place. No business shall be transacted at an adjourned meeting except business which might properly have been transacted at the meeting from which the adjournment took place.
- 31 If a meeting is adjourned for 14 days or more or indefinitely, at least 7 clear days notice specifying the time and place of the adjourned meeting and the general nature of the business to be transacted shall be given. Otherwise notice of an adjourned meeting need not be given.
- 32 A Registered Person who is not a Fellow may (subject as otherwise provided by these articles) attend and speak at any general meeting.
- 33 If an amendment proposed to a resolution shall be allowed or ruled out of order by the chairman of the meeting in good faith, any error in the ruling shall not invalidate the proceedings on the substantive resolution. An amendment to a special resolution or an extraordinary resolution (except an amendment to correct a patent clerical error) shall not be allowed.

- 34 A resolution put to the vote of a general meeting shall be decided on a show of hands unless, before or on the declaration of the result of the show of hands, a poll is demanded by:
- (i) The chairman of the meeting; or
 - (ii) At least 5 Fellows having the right to vote at the meeting; or
 - (iii) A Fellow or Fellows representing not less than one-tenth of the total voting rights of all the Fellows having the right to vote at the meeting.
- 35 Unless a poll is duly demanded and not withdrawn a declaration by the chairman of the meeting that a resolution has been carried, carried unanimously or by a particular majority or lost or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- 36 A poll demanded on the election of a chairman of the meeting or on the question of an adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either immediately or at such time (being not more than 30 days after the poll was demanded) and place as the chairman of the meeting directs. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than that on which the poll has been demanded.
- 37 A poll shall be taken in such manner as may be directed by the chairman of the meeting, who may appoint scrutineers (who need not be Fellows) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 38 The demand for a poll may be withdrawn before the poll is taken only with the consent of the chairman of the meeting. If the demand is so withdrawn, the meeting shall continue as if it had not been made and its withdrawal shall not invalidate the result of a show of hands declared before the demand was made.
- 39 If a poll is not taken immediately and if the time and place at which it is to be taken are not announced at the meeting at which it was demanded, 7 clear days notice of the time and place shall be given. Otherwise notice of a poll need not be given.
- 40 In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting shall be entitled to a casting vote in addition to any other vote he may have.

VOTES AT GENERAL MEETINGS

- 41 Every Fellow entitled to vote shall have one vote on a show of hands if he is present in person and, where a poll is taken, one vote on a poll. Only Fellows shall be entitled to vote at a general meeting either in person or on a poll.
- 42 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote in dispute is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the chairman of the meeting, whose decision shall be final and conclusive.
- 43 A Fellow entitled to vote at a general meeting may appoint any other Fellow entitled to vote at the meeting as his proxy to vote for him on a poll.
- 44 The instrument appointing a proxy shall be in writing in any usual form or in any other form approved by the Council, and shall be signed by the Fellow appointing the proxy or by his agent who is duly authorised in writing. Instruments of proxy need not be witnessed.
- 45 To be valid, the instrument appointing a proxy and the authority (if any) under which it is signed, or a copy of the authority certified notarially or in another way approved by the Council, must be deposited at the Office or at such other place in the United Kingdom as is specified in, or in any document accompanying, the notice convening the meeting not less than 48 hours before the time appointed for the meeting or adjourned meeting or (in the case of a poll taken more than 48 hours after it was demanded) the time appointed for taking the poll at which it is to be used. Unless the contrary is stated in the instrument, it shall be valid also for any adjournment of the meeting to which it relates.
- 46 A vote cast or a poll demanded by a proxy shall not be invalidated by the previous termination of his authority unless notice of the termination has been received by ILEX at the Office or at the place specified for the deposit of instruments of proxy for use at the meeting not less than 3 hours before the time appointed for the meeting or adjourned meeting at which the vote is cast or the poll demanded or (in the case of a vote cast on a poll not taken on the day it was demanded) the time appointed for taking the poll.

THE COUNCIL

- 47 A The Council shall consist of not more than 27 Fellows elected as Constituency Members and 6 Fellows appointed as Co-opted

Members.

- B England and Wales shall be divided into 12 constituencies, the boundaries of which to be determined from time to time by Council. Each constituency shall be represented by 1 or more Constituency Members, the number of Constituency Members per constituency to be determined from time to time by Council.
 - C The Council shall make arrangements for the co-option of Fellows to serve on the Council and shall have the power to determine the criteria on which Fellows are to be co-opted.
 - D Subject to these Articles, Co-opted Members will have the same status, rights and privileges as Constituency Members.
- 48 A A Fellow shall be eligible for appointment or re-appointment as a Constituency Member to represent a constituency only if he:
- (i) Is engaged in legal work; and
 - (ii) Is either so engaged in that constituency or resident there.
- B No Fellow may represent more than one Constituency at one time.
- 49 Members of the Council in office before these Articles come into force shall continue as members of Council after these Articles come into force. The term of office of a member of the Council shall expire at the same time as it would have expired under the Articles in force immediately before these Articles come into force, regardless of any change in the constituency he represents.

APPOINTMENT AND RETIREMENT OF MEMBERS OF THE COUNCIL

- 50 A Subject as otherwise provided by these articles, every member of the Council shall retire at the annual general meeting held in the third calendar year next following that in which he was appointed or last re-appointed to office.
- B Notwithstanding any other provisions of these Articles, save for Article 50C, any member of Council who has held such office at any time in each of twelve contiguous calendar years shall retire at the AGM held in such twelfth calendar year and shall not be eligible for re-appointment at such AGM or at any time before the AGM in the following calendar year.

- C Article 50B shall not apply to those members of Council who are in office at the date of the passing of the resolution to adopt Article 50B. Instead the following shall apply:
- (i) Any member of Council who has held such office at any time in each of 12 or more contiguous calendar years at the date of the passing of the resolution to adopt Article 50B shall be entitled to hold office for a further three years from the date at which his current term of office expires;
 - (ii) Any other member of Council at the date of the passing of the resolution to adopt Article 50B shall be entitled, after holding office at any time in each of 12 contiguous calendar years, to hold office for a further 3 years.
- 51 A member of the Council who has been the president shall retire at the third annual general meeting next following the date on which he ceased, or last ceased, to be the president, instead of any earlier annual general meeting at which he would otherwise have retired under article 50.
- 52 A A Constituency Member who retires at an annual general meeting shall vacate his office at the conclusion of the meeting and shall be eligible for re-appointment.
- B A Co-opted Member who retires at an annual general meeting shall vacate his office at the conclusion of the meeting and shall be eligible for re-appointment at Council's discretion. The Council may decide not to re-appoint a particular Co-opted Member and may decide to appoint someone else. The maximum number of terms a Co-opted Member may serve consecutively is 2. Once 2 terms have been served consecutively, a Co-opted Member shall not be eligible for re-appointment at any time before a full calendar year has passed.
- C A Co-opted Member may stand during the period of co-option for a Council constituency seat. If he is unsuccessful in that election, he may continue to serve the remainder of his term as a Co-opted Member.
- 53 The office of a member of the Council shall be vacated if:
- (i) He resigns his office by notice signed by him and deposited at the Office;
 - (ii) He ceases to be a Fellow of ILEX;

- (iii) He is prohibited by law from being a member of the Council;
- (iv) He is absent from two consecutive meetings of the Council and the Council resolves that his office be vacated;
- (v) He is excluded from membership or is fined or reprimanded by any Disciplinary Body established by any subsidiary company of ILEX to which powers are delegated under Article 19;
- (vi) He is a Constituency Member and either ceases to be engaged in legal work in the constituency which he represents and is not resident there, or he ceases to live in the constituency which he represents and is not engaged in legal work there, but the vacating of his office shall not take effect until the event specified by Article 54.
- (vii) The Council has determined that he has engaged in conduct capable of bringing ILEX into disrepute and has resolved that he be removed as a member of the Council before the expiration of his period of office provided:
 - (a) Such resolution of the Council is passed by two thirds of those members of the Council present whether or not voting at a meeting for which not less than twenty-eight days notice specifying the intention to propose the resolution has been given;
 - (b) There are (in addition to the quorum requirements of Article 71) present at the meeting at least two thirds of the members of the Council;
 - (c) The member of Council concerned has been given, in addition to notice of the meeting, reasonable particulars of the conduct giving rise to the proposing of the resolution;
 - (d) ILEX shall have sent a copy to all members of the Council of any representations (not exceeding a reasonable length and provided the same are not defamatory) made by the member of Council concerned which are received by ILEX at least seven days before the meeting; and
 - (e) The member of Council concerned has been given the opportunity of being heard before Council and has been permitted to be represented or assisted by a Fellow, authorised practitioner or some other person.

Any member of Council removed from office pursuant to this Article 53 (vii) shall not be eligible for re-appointment until the Annual General Meeting held in the third calendar year following his removal.

- 54 Fellow who ceases to be eligible to be a Constituency Member under Article 53(vi) shall continue in office for the remainder of his current term of office.
- 55 The provisions of section 293 of the Act (age limit for directors) shall not apply to ILEX Council members unless ILEX shall otherwise determine by ordinary resolution either generally or in any particular case.
- 56 Only those Fellows who are engaged in legal work within the constituency represented by a member of the Council who has vacated, or is about to vacate, his office shall be qualified to nominate a candidate, or to vote on the election of a candidate, to fill the vacancy.
- 57 A The Council shall give notice of every vacancy arising or about to arise in a Council constituency to all those Fellows eligible to nominate a candidate to fill the vacancy:
- (i) In the case of a vacancy due to arise at an Annual General Meeting, before 1 April immediately preceding the meeting; and
 - (ii) In any other case, within 56 days after the vacancy has arisen.
- B 30 days will be allowed from the date of publication of a notice of a vacancy for nominations to be made to ILEX of Fellows to fill the vacancy.
- C
- (i) Fellows may be nominated at any time to fill an existing vacancy.
 - (ii) An existing vacancy is a vacancy which remains unfilled after an annual general meeting.
 - (iii) Where a nomination is received in respect of an existing vacancy, Council shall, within 56 days, give notice of the nomination to Fellows in the constituency in which the vacancy exists. 30 days will be allowed from the date of publication of the notice for other nominations to be made in respect of the vacancy.

- (iv) If an existing vacancy remains unfilled, it becomes a vacancy arising at an annual general meeting when notice is given of the vacancy prior to the next annual general meeting.
- 58 A Nominations for appointment of Fellows to the Council to represent a constituency must:
- (i) Be made in writing;
 - (ii) Be supported by at least 8 Fellows qualified to vote in the constituency in which the vacancy arises, or is about to arise, and who are not employed by the Fellow nominated; and
 - (iii) Be delivered to the Office.
- B The Fellow nominated must provide confirmation in writing to the office that:
- (i) He is eligible to serve as a Council member for the constituency in which the vacancy exists, or will arise; and
 - (ii) He wishes to be appointed to the Council.
- 59 A Constituency Member who is due to retire at an Annual General Meeting shall be deemed to have been duly nominated in accordance with the provisions of Article 58 for re-appointment to the Council to fill the vacancy if he has delivered to the office within 30 days of the notice published under Article 57A (i) notice signed by him that he wishes to be re-appointed.
- 60 A Where one or more vacancies arises or arise in a constituency, if the number of nominations is the same or less than the number of vacancies, the Fellow or Fellows nominated will be appointed to the Council.
- B If the number of nominations received for a vacancy or vacancies exceeds the number of vacancies for that constituency, a ballot will be held in accordance with bye-laws published by the Council.
- C The candidate who receives the highest number of votes on a ballot will be elected to Council if there is only one vacancy within a constituency. If there is more than one vacancy, the candidates will be elected to Council according to which of them receives the

highest number of votes, in descending order, until all the vacancies in that constituency are filled.

- D In the event of an equality of votes between 2 or more candidates, the election as between those candidates shall be decided by drawing lots.
- 61 The accidental omission to give notice of a vacancy on the Council or of a ballot to fill the vacancy to, or the non receipt of the notice by, any Fellow shall not invalidate the appointment or re-appointment of a person to the Council.
- 62 The appointment or re-appointment of a person to fill a constituency vacancy on the Council shall be effective:
- (i) In the case of a vacancy arising at an annual general meeting, as from the conclusion of the meeting;
 - (ii) On the expiry of a period of 30 days after notice has been given of a vacancy under Article 57A (ii) or a nomination under Article 57C (iii); or
 - (iii) If a ballot is held under the provisions of Article 60, as soon as the result of the ballot has been ascertained or, in the case of a vacancy arising at an annual general meeting, from the conclusion of the meeting.
- 63 A Council shall give notice of every vacancy amongst Co-opted Members arising or about to arise to all those Fellows eligible to fill the vacancy:
- (i) In the case of a vacancy due to arise at an Annual General Meeting, before 1 April immediately preceding the meeting; and
 - (ii) In any other case, within 56 days after the vacancy has arisen.
- B At least 30 days will be allowed from the date of publication of a notice of a vacancy for applications to be made to Council by Fellows who wish to be appointed as a Co-opted Member.
- C Following such notice Council may select the Co-opted Member or Members to be appointed to Council in its absolute discretion. Council need not appoint any candidates.

- D Council will publish the names of Co-opted members after they have been co-opted.

PRESIDENT AND VICE-PRESIDENT

- 64 At the first meeting of the Council held after each annual general meeting the Council shall appoint one of its members to hold office as the President of ILEX, and others to hold office as the Vice-President and Vice-President Elect save that Co-opted Members shall not be eligible for such appointments. If a casual vacancy shall occur in any of those offices the Council may appoint any of its eligible members to fill the vacancy. A person holding office as the President, the Vice-President or the Vice-President Elect shall vacate the office upon the earlier of:
- (i) His vacation of office as a member of the Council; and
 - (ii) The appointment of his successor to the office.

A person vacating office under paragraph (ii) of this Article shall be eligible for re-appointment to the office.

- 65 The members of the Council holding the offices of president, vice-president and vice-president elect on the Adoption Date shall be deemed to have been duly appointed pursuant to these Articles.

POWERS OF THE COUNCIL

- 66 Subject to the provisions of the Act, the Memorandum of Association and these Articles, the business of ILEX shall be managed by the Council, which shall constitute the Board of Directors of ILEX and may exercise all the powers of ILEX. The powers given by this Article shall not be limited by any special power given to the Council by any other Article.
- 67 The Council may make bye-laws (being not inconsistent with the provisions of these Articles) to enable it to manage ILEX and may alter or rescind any bye-laws so made.
- 68 The Council may (subject as otherwise provided by these articles) delegate any of its powers, except the power to make, alter or rescind bye-laws:
- (i) To the Chief Executive; or
 - (ii) To any committee consisting of two or more members of the Council.

Any such delegation may be made subject to any conditions which the Council may impose, and either collaterally with or to the exclusion of its own powers, and may be revoked or altered. Subject to any such conditions, the proceedings of every committee shall be governed by the provisions of these Articles regulating the proceedings of the Council so far as they are capable of applying. The president and the vice-president shall be entitled to attend and vote as members of every committee.

PROCEEDINGS OF THE COUNCIL

- 69 The Council may regulate its proceedings as it thinks fit. Save as otherwise provided by these Articles, questions arising at any meeting shall be decided by a majority of votes on a show of hands. In the case of an equality of votes the chairman of the meeting shall have a second or casting vote.
- 70 The president may, and on the request of at least 7 members of the Council the Company Secretary shall, convene a meeting of the Council. At least 7 clear days notice of every meeting shall be given to the members of the Council. The notice shall specify the time and place of the meeting and, in the case of a meeting convened at the request of Council Members, the general nature of the business to be transacted, and only the business so notified shall be transacted at the meeting.
- 71 Unless the Council determines otherwise, the quorum for the transaction of the business of the Council shall be 10 of its members. If at any meeting a quorum is not present within 15 minutes from the time appointed for the meeting (or such longer period as the chairman of the meeting may allow) the meeting shall be adjourned to the same time on the third business day next following and to the same place, or to such later time and to such other place as the members present may determine, and at the adjourned meeting 2 members of the Council shall be a quorum. Notice of an adjourned meeting need not be given. For the purpose of this Article a business day is a day which is not a Saturday or Sunday or a bank holiday in England and Wales.
- 72 The Council can continue to act even though there is one or more vacancies in its membership; but if the number of members falls below 10 the continuing members may act for the purpose only of convening a general meeting.
- 73 The president or, in his absence, the vice-president shall preside at all meetings of the Council; but if neither of them is present within 5 minutes after the time appointed for the meeting, the members of the Council present may choose one of their number to be chairman.
- 74 All acts done by a meeting of the Council or of a committee of the Council

or by a person acting as a member of the Council shall, even though it is afterwards discovered that there was a defect in the appointment of any of the members of the Council or that any of them was disqualified or had vacated office or was not entitled to vote, be as valid as if every such person had been duly appointed, was qualified, had continued to be a member of the Council and had been entitled to vote.

- 75 Save as otherwise provided by the articles, a member of the Council shall not vote at a meeting of Council or of a committee of Council on any resolution concerning a matter in which he has, directly or indirectly, an interest or duty which is material and which conflicts or may conflict with the interests of ILEX. For the purposes of this article, an interest of a person who is, for any purpose of the Act (excluding any statutory modification thereof not in force when this article becomes binding on the company), connected with a Council Member shall be treated as an interest of the Council Member.
- 76 A Council Member shall not be counted in the quorum present at a meeting in relation to a resolution on which he is not entitled to vote.
- 77 The company may by ordinary resolution suspend or relax to any extent, either generally or in respect of any particular matter, any provision of the articles prohibiting a member of the Council from voting at a meeting of the Council or of a committee of the Council.
- 78 Where proposals are under consideration concerning the appointment of two or more Council Members to offices or employments with the company or any body corporate in which the company is interested the proposals may be divided and considered in relation to each Council Member separately and (provided he is not for another reason precluded from voting) each of the Council Members concerned shall be entitled to vote and be counted in the quorum in respect of each resolution except that concerning his own appointment.
- 79 If a question arises at a meeting of Council Members or of a committee of Council as to the right of a Council Member to vote, the question may, before the conclusion of the meeting, be referred to the chairman of the meeting and his ruling in relation to any Council Member other than himself shall be final and conclusive.

MINUTES

- 80 The Council Members shall cause minutes to be made in books kept for the purpose:
- (i) Of all appointments of officers made by the Council; and

- (ii) Of all proceedings at meetings of the company and of the Council, including the names of the Council Members present at each such meeting.

CHIEF EXECUTIVE

- 81 The Council may appoint any person (not being a member of the Council) to be the Chief Executive (formerly the Secretary General) of ILEX on such terms and for such period as the Council thinks fit. The Chief Executive shall be entitled to attend and speak at all meetings of the Council, unless the Council resolves otherwise. The Chief Executive shall not be counted in the quorum or vote at any Council or committee meeting.

COMPANY SECRETARY

- 82 The Council shall, subject to the provisions of the Act, appoint the Chief Executive, or another person, to be Company Secretary, on such terms as it thinks fit. The Council may also appoint any other person, either generally or specially, to perform all or any of the duties of the Company Secretary.

SEAL

- 83 The seal shall be used only with the authority of the Council or a committee of the Council authorised by the Council. Every instrument to which the seal is affixed shall be signed by one member of the Council and either the Chief Executive or, if so determined by the Council, the Company Secretary, or by two members of the Council.

NOTICES

- 84 Any notice to be given by or to ILEX pursuant to these Articles shall be in writing. A notice to be given by ILEX generally to the Fellows or to a group of the Fellows may be given by publishing it in the Journal.
- 85 A notice and an edition of the Journal containing a notice shall be given by ILEX to a Fellow either personally or by delivering it or posting it in a prepaid envelope addressed to him at the communication address held on ILEX's records.
- 86 A Fellow who does not have a communication address in the United Kingdom shall not be entitled to receive any notice from ILEX.
- 87 A notice sent by post or published in the Journal shall be deemed to have been given on the expiry of 48 hours after the envelope containing the notice, or the edition of the Journal in which it is published, was posted. Proof that the envelope was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given.

INDEMNITY

- 88 Subject to the provisions of the Act, ILEX will indemnify out of its assets every member of the Council and other officers, (including an auditor) and employees against any costs, charges, expenses, loss or liability incurred by him in carrying out his duties or trying to do so.

DISSOLUTION

- 89 Clause 11 of the Memorandum of Association relating to the winding up and dissolution of the Institute shall have effect as if its provisions were repeated in these Articles.

ANNEX 2 LIST OF ILEX COUNCIL MEMBERS

PRESIDENT - David McGrady, F.Inst.L.Ex.
VICE-PRESIDENT - Susan Silver (Miss), F.Inst.L.Ex.
DEPUTY VICE-PRESIDENT - Nicholas Hanning, F.Inst.L.Ex.

Keith M. Barrett, F.Inst.L.Ex.
Gillian Birchnall (Miss), F.Inst.L.Ex.
Mark Bishop F.Inst.L.Ex.
Martin N. Callan, F.Inst.L.Ex.
David Edwards F.Inst.L.Ex.
Frances Edwards (Mrs) F.Inst.L.Ex.
Mary French (Mrs) F.Inst.L.Ex.
Judith Gordon-Nichols (Miss), F.Inst.L.Ex.
Stephen Gowland F.Inst.L.Ex.
Lesley Graham (Mrs) F.Inst.L.Ex.
Julie Hughes (Mrs) F.Inst.L.Ex.
Kevin McCarthy, F.Inst.L.Ex
Rachael N. Palmer (Ms) F.Inst.L.Ex.
Roger Ralph F.Inst.L.Ex.
Mark Anthony Reeves F.Inst.L.Ex.
Laurence J. Shaw F.Inst.L.Ex.
Dawn Slow (Mrs) F.Inst.L.Ex.

ANNEX 3 ILEX BUSINESS PLAN

Executive Summary

The Institute of Legal Executives (ILEX) is the professional association which represents 22,000 trainee and practising Legal Executives. Our role is to enhance the role and standing of Legal Executives in the legal profession.

For almost fifty years, we have been offering unparalleled access to a flexible career in law. We work closely with Government and the Ministry of Justice and are recognised in England and Wales as one of the three core regulators of the legal profession alongside barristers and solicitors.

ILEX has branches throughout England and Wales and many members overseas.

2.0 Financial Considerations

The period under review is one of considerable challenge and change. The Institute's strategic policy of balancing costs with income will be relaxed necessarily during this period to absorb the additional cost of supporting the Legal Services Board (LSB) and Office for Legal Complaints (OLC) operations. Income levels must be progressively increased over the period to provide the additional £500,000 per annum required by 2012 to fund the ILEX share of LSB and OLC running costs, this cost being shared by those in all membership grades.

The ILEX share of the LSB set-up costs £250,000, together with the estimated shortfall of income over this three-year period £120,000, will be met from reserves accrued for such contingency in previous years. Please see ILEX's three year budget at Appendix 1.

3.0 Objectives

- 3.1 To provide an organisation for those who are registered or studying with ILEX who provide legal services and who are a resident in England and Wales or elsewhere
- 3.2 To provide for the education, training and development of knowledge and skills for Fellows, paralegals, legal assistants and other support staff who wish to become experts in the law
- 3.3 To advance and protect the status and interests of Fellows and those who wish to become experts in the law
- 3.4 To promote professional unity, co-operation and mutual assistance amongst those who are employed in the legal profession or engaged in legal work
- 3.5 To promote and secure professional standards of conduct amongst Fellows and those who are registered with ILEX, by publishing codes of conduct, guides to good practice and the protocol between ILEX and its regulatory body, ILEX Professional Standards (IPS), and regulating the membership through that body to ensure compliance with those standards
- 3.6 To award diplomas, certificates, prizes, scholarships, bursaries or other awards to those who demonstrate knowledge and skills in the law
- 3.7 To promote public interest and fair access to justice and the professions.

4.0 The ILEX Vision for 2012

ILEX is regarded by the legal profession, the legal media, Government and relevant institutions and the public, as a modern, well governed membership association, catering for the needs of a range of legal staff, nationally and internationally, and celebrating the career and status of the Legal Executive lawyer.

ILEX is recognised and applauded by the Legal Services Board as a benchmark for proportionate, efficient and good value regulation of individual lawyers and legal services businesses. ILEX is regulating Legal Executive businesses and businesses in which Legal Executive Lawyers are partners and directors.

ILEX is recognised by the Office of the Qualifications and Examinations Regulator (Ofqual) for its awarding organisation function and by the Department of Children Schools and Families and relevant institutions as a benchmark amongst professional membership associations. ILEX will have robust and transparent processes for the development of syllabi, the preparation and marking of assessments and the awarding of legal qualifications, and will do so for an increasing range of qualifications. ILEX will have effective and proportionate arrangements for accrediting prior learning and experience, and for accrediting training and development offered in-house by employers in the legal sector.

ILEX is financially sound. It continues to raise income to support and enhance its activities from membership subscriptions. Significant income is from providing the types of services to members and non-members that such groups are prepared to pay for because of their relevance and good value.

ILEX is firmly established as a provider of legal and legal services related training and development. It will continue to be the leading provider of flexible learning through e-learning developments. ILEX is recognised as the trusted and respected voice championing credible supported distance learning in all its forms. ILEX will also be creating a favourable reputation as a provider of training and development through more traditional methods.

5.0 **Organisational Summary**

5.1 **Governance**

ILEX is a company limited by guarantee and is governed by elected Council representatives. Council members are drawn from and represent the 12 constituencies in England and Wales. Additional members may be appointed to the Council as Specialist or Co-opted Members to represent particular areas of legal practice or special knowledge.

Council members are responsible for ensuring that the affairs of the Institute are conducted diligently, legally and honestly.

Council makes all the strategic and policy decisions of ILEX as a professional association, which are implemented at an operational level by the Chief Executive and her team of officers and staff (102 in total). See Appendix 2.

The Articles of Association of the Institute regulate in general terms the powers and obligations of the Council, including membership criteria and its number.

5.2 **Management Summary**

ILEX's strategy and policy decisions are implemented and managed by the Chief Executive, supported by a Group Management Team (GMT), managers and staff. The Chief Executive holds fortnightly meetings with individual GMT members. GMT hold monthly meetings to discuss the Business Plan, managers meet formally each fortnight to discuss operational matters which are then relayed to each team. Staff meetings are held on a regular basis.

There are clear lines of communication and responsibility across the Group. Each GMT has a schedule of activities and objectives which relate directly to the Business Plan. These are built in to the Appraisal and Review processes, and cascade down to the appropriate teams and individuals. GMT report formally on progress to the ILEX Council 6 times per year, and through the various Working Parties and Committees that are in place.

5.3 Equality & Diversity

Equality & Diversity is about the recognition and valuing of difference in its broadest sense. It is about creating a working culture and practices that recognise, respect, value and harness difference for the benefit of the organisation and the individual.

It is also about creating a fairer society where everyone can participate and has the opportunity to fulfill their potential. It is backed by legislation designed to address unfair discrimination based on membership of a particular group.

ILEX is focused and committed to equality and diversity in relation to the members it represents, the staff it employs and its stakeholders. ILEX published an Equality and Diversity Policy and a Group Single Equality and Diversity Scheme and Action Plan, which sets out our objectives and action plans for the next three years. See Appendix 3.

Summary of Equality & Diversity objectives:

- At all times treats its customers with dignity and respect.
- As an Awarding Body, ILEX will ensure that its qualifications, its standards for accrediting providers of those qualifications, its examinations and other methods of assessment, are designed to make study with ILEX accessible to all, regardless of gender, marital status, family status, sexual orientation, disability, race, ethnicity religion, belief or age.
- ILEX will ensure that it meets its commitment to equality of opportunity by monitoring and evaluating its performance against equality and diversity policy objectives, which will be set annually by the Council.

6.0 Services

ILEX offers a range of services, which are accessible to all. We have recently extended our membership grades to offer further flexibility and wider access to those wishing to join us. The ILEX route is the ideal way to obtain a law qualification for school leavers, graduates, legal support staff, paralegals, mature students, career changers and those with family commitments.

Our highly cost-effective qualifications courses offer an accessible route to becoming a lawyer without having to complete a law degree (although graduates of law or non-law subjects can still choose to become a lawyer using the ILEX route). Entry is accessible to those holding a variety of qualifications at various levels.

Typically those studying through ILEX receive on-the-job training in law firms or in-house legal departments, whilst also attending classes in law and practice at one of our 86 ILEX accredited centres. Our wholly owned subsidiary, ILEX Tutorial College, delivers the ILEX qualifications through world-class supported distance learning.

As a professional association, we actively lobby for change and improvements to the legal system on behalf of our members. Most recently we have secured access to prescribed judicial appointments for our Fellows. We are represented by many Legal Executive Advocates and Legal Executive Partners.

Regulation was listed by our members as one of the key services that ILEX offers. Our newly established regulatory company, IPS, provides such independent regulation for our Legal Executive lawyers, and monitors our Code of Conduct and Fitness to Practice activities. It is governed by an independent Board, Chief Executive and team of staff. See Appendix 4.

ILEX is committed to becoming a regulator for the full range of reserved legal activities and a licensing authority for Alternative Business Structures (ABS).

Members of ILEX receive access to a wide range of benefits, including the award winning monthly Legal Executive Journal magazine. Members have personalised access to the MYILEX website, enabling online CPD recording, subscription renewals and much more.

7.0 **The ILEX Qualifications**

ILEX offers a full range of qualifications in law and legal practice at all levels for both those already working in the legal profession, and those who wish to start their career in law. We also offer qualifications for those members wishing to become advocates.

ILEX offers a range of qualifications which can enable a student to become a fully qualified lawyer and a member of the Institute.

7.1 Training for non-lawyers

In conjunction with City and Guilds which is the awarding organisation, ILEX offers an extensive range of qualifications at Levels 2 and 3 for paralegals, legal secretaries and those in other legal support roles where knowledge of the law is needed. These qualifications are available for study at 114 approved City & Guilds centres nationwide. They offer a flexible route with no entry requirements (although a Grade C or above in English Language GCSE is desirable) and are assessed by task based assignments.

7.2 Training to become a Legal Executive lawyer – Level 3

The ILEX Level 3 Professional Diploma in Law and Practice is the first stage of the academic training needed to become a Legal Executive lawyer. It is aimed at anyone wishing to qualify as a legal executive lawyer who holds no prior legal qualifications. It is ideal for career changers interested in entering the legal profession, law clerks, senior legal secretaries, unqualified paralegals seeking to gain a recognised legal qualification. It is set and assessed at Level 3 equivalent to A' level standard (each unit is worth seven Level 3 credits on the Qualifications and Credit Framework). Individual or groups of units are useful for a wide range of individuals who don't wish to become a lawyer.

7.3 Training to become a Legal Executive lawyer – Level 6

The ILEX Level 6 Professional Higher Diploma in Law and Practice is the second stage of the academic training needed to become a Legal Executive lawyer. The Professional Higher Diploma in Law and Practice comprises six units chosen from 23 in law, practice and professional skills. It is set and assessed at Level 6 equivalent to Honours degree level.

7.4 Fast- Track Diploma – Law Graduates

The ILEX Graduate 'Fast-Track' Diploma is aimed at those who already hold a qualifying law degree awarded within the last seven years. Exemptions are given and students are required to pass two Level 6 Practice units and one Professional Skills unit.

7.5 Careers and training for qualified staff & fee earners

ILEX offers qualifications for those wishing to pursue further ambitions, such as becoming a Partner in a firm, or training to become a Legal Executive Advocate or a Solicitor.

Additionally ILEX can also offer specialist in-depth training in the form of the ILEX Level 6 Single Subject Certificate. The certificates are ideal for qualified or unqualified personnel (working in a legal or quasi-legal environment) who wish to increase their specialist in-depth knowledge of a particular legal subject or professional skills, for example:

- solicitors or legal executives entering a new area of practice
- unqualified fee earners in specialist law firms
- managers outside the legal profession.

7.6 The ILEX Qualifications Strategy 2010 – 2012:

- Successful satisfaction of a variety of critical regulatory requirements;
- Continued communication and support for students, centres and employers in relation to the opportunities provided by the new qualifications;
- Continued improvement to the systems and processes necessary to deliver the qualifications effectively;
- Positioning of ILEX and its provision to take advantage of a fast-evolving funding and vocational qualification context;
- Formalisation, expansion and delivery of related projects, i.e. work-based learning and Customised Awards.
- Consolidating the ILEX qualifications.

8.0 **Membership of our Professional Association**

ILEX offers accessibility and flexibility to all, through a wide variety of membership grades and accompanying benefits. There are clear progression routes for those members wishing to qualify as Legal Executive lawyers, and additional choices for those wishing to extend their legal knowledge and skills.

Accompanying the monthly Journal publication, members can take advantage of a range of affinity products and services, offering exclusive discounts and savings from leading suppliers. ILEX also has a Benevolent Fund, which is available to those members who find themselves in sudden financial hard-ship.

8.1 **The ILEX Membership Strategy 2010 – 2012:**

- New membership grades to make access wider and transparent
- Continue to use technology to drive down costs through efficiency gains

- Increase knowledge of the business by continuing to promote relevant qualifications both in the administrative (includes customer service) and legal field to staff
- To tip the activities of the department from reactive to proactive in dealing with our members
- To support the careers aspirations of all our members
- To provide support to other Group functions that require changes to the Membership Database
- To provide pastoral support for the branch network
- Provide appropriate regional points of contact through the Regional Liaison Officers
- Provide a Continuing Professional Development information and data collection portal through the ILEX website
- Provide relevant timely and accurate information to Careers Services and other agencies on the route to becoming an ILEX lawyer
- Provide advice and encouragement to members to progress through the ILEX membership grades to achieve their optimum potential
- To develop products that enhance the value of membership

9.0 Overseas development

For the period of this Business Plan, the international strategy will be to build upon the progress made throughout the Caribbean and other Commonwealth jurisdictions relating to the promotion of the ILEX suite of programmes. In particular, the Legal Studies Level 2 and the Legal Secretary programmes have been designed in such a way that provides access to an ILEX qualification in those countries whose jurisdictions differ from England and Wales. The Legal Secretarial programmes based on the National Occupational Standards (NOS) in Administration are increasingly considered as the international benchmark for secretaries and administrators working in the legal environment.

Profile raising will continue throughout the commonwealth, through our membership of the Commonwealth Lawyers Association (CLA) and other activities which promote ILEX as a rigorous awarding organisation.

10. Regulation by ILEX as an Approved Regulator

ILEX established IPS as an independent company during 2008. Whilst ILEX is an approved regulator under the Legal Services Act 2007, it has delegated its regulatory functions to IPS. The companies manage their working relationships through a set of Protocols and a Service Level Agreement, which allow IPS to fulfill its obligations independently. See Appendix 5.

IPS manages the ILEX advocacy qualification programme. It is supporting ILEX in preparing the applications which ILEX needs to make to the LSB to become an approved

regulator in respect of the full range of reserved legal activities and to become a Licensing Authority under the Legal Services Act.

10.1 Overriding principles of IPS

- underpin the rule of law and the administration of justice
- maintain clear independence of sectoral interests
- develop our understanding of the needs of those for whom legal executive lawyers provide services
- work in close partnership with ILEX to support effective professional development and the provision of consistently good professional practice
- act proportionately, targeting risk
- demonstrate proper governance and good value for money
- act in accordance with the regulatory principles set down in legislation.

10.2 Key aims of IPS

The work of IPS has been split into six areas of responsibility, namely:

- Education and standards
- Registration and accreditation
- Fitness to practise
- Governance and process
- Performance and risk
- Visibility and image

11. **The ILEX Marketing and Communications Strategy 2010 - 2012**

The next three years will be our most challenging yet. We will continue to build upon our success by extending further our PR activity, making the ILEX route as accessible as possible to everyone. The following projects will be delivered:

- Issue external ILEX press releases (on average 40 annually, both nationally and regionally)
- Raise the profile of the ILEX route to becoming a regulated and qualified lawyer amongst the general public
- Raise the profile of the ILEX route to becoming a regulated and qualified lawyer, or a career in law, amongst those deciding their career options, their parents, as well as careers advisors and the educational community in general through web activity (www.ilexcareers.org.uk), careers brochures and flyers, editorial/advertorial, press work and other campaign methods

- Raise awareness of ILEX and an understanding of the skills and expertise of Legal Executives as qualified lawyers amongst professionals through web activity, careers brochures, editorial/advertorial, press work and other campaign methods
- Raise the profile of the ILEX President within the legal and public sector through gala lunches and receptions
- Provide a monthly press cuttings monitoring service to inform internal ILEX personnel on key trends of an educational, political, social and technological nature which affect ILEX and the sector
- Encourage high standards amongst ILEX members by designing and delivering medals and awards ceremonies, both confined to the membership and amongst other groups of lawyers or professionals
- Deliver workshops and conferences of interest to ILEX members to encourage CPD and refresh/enhance learning
- Support the Employers Project team, and other emerging focus groups
- Support and advise the regulatory company, IPS
- Undertake research amongst members, stakeholders and the public to inform and guide ILEX Group strategy
- Produce corporate communications materials, such as Annual Reports

12. **Employers**

ILEX recognises the importance of developing its relationships with employers, many of whom support our members through their ILEX qualifications. An Employer Project Group was established for 2009, the strategic objectives for which are set on an annual basis. For 2010, the key objectives are as follows:

- CRM: review communications to ensure marketing and sales opportunities are maximised, and co-ordinated.
- Create a combined ILEX Group marketing pack aimed at a range of employers
- Research: Host three employer focus groups in the second quarter of 2010

13. **The ILEX Qualification**

Over the past 3 years the ILEX professional qualification has been reviewed and is accredited as a unitised qualification at Level 3 and Level 6 on the Qualifications and Credit Framework (QCF).

There are fairly low barriers to entry within our sector. The Awards team, to meet competition from new entrants, and indeed from what has proven to be a slow movement by law firms to develop in-house training, is able to accredit third party training. ILEX is also able to offer progression onto the ILEX unitised qualification through exemptions. The new unitised flexible qualification structure now enables ILEX as an Awarding organisation to meet a much more diverse range of needs. The inclusion of two professional skills units in legal research and client care skills at both Levels 3 and 6 potentially makes combinations of units much more attractive to those who do not

necessarily wish to qualify as Legal Executives but who wish to have demonstrable skills based qualification.

The Awards team is also developing opportunities to enable the Level 3 qualification to be an additional learning part of the recently launched Business, Administration Diploma which will be primarily delivered in schools.

ILEX will continue to monitor and proactively respond to any activity within the sector, which may have an impact on our qualifications and/or membership.

14. **ILEX – Three Year Strategy and Implementation Summary**

The above sections have provided more detailed discussion of our strategic intentions for the three years ending December 2012, they can be summarised as follows:

- To ensure that ILEX's professional qualification remains relevant to the needs of law firms, legal departments, employers and clients and that it is delivered to national standards
- To develop our role as the natural home for all those seeking education, training or qualification relevant to their role in the legal environment
- To make ourselves more relevant to our members through the services we provide and by seeking new professional opportunities for members
- To develop our role in the public interest as an efficient and respected professional association and regulator of legal services
- To extend our international reach through the delivery of our qualification to other jurisdictions, increasing access to the legal profession
- To strengthen our relationships with a range of employers in the legal services market, aligning our products and services to the requirements of the market
- To raise awareness of ILEX, the ILEX route and the skills of our members amongst the professions and more widely to the public
- To increase accessibility and diversity amongst the legal profession
- To enhance our focus on customer service

We will deliver this three year strategy using five key focus areas, namely:

- Engagement with Employers
- Having a commercial focus
- Internationalisation
- Increasing the profile of the membership and of ILEX
- Membership engagement and customer service

Each of these five key focus areas are supported by supplementary commercial plans to include, objectives, activities and milestones for 2010 – 2012.

Appendix 1 – ILEX 3 year budgets

	Budget 2010				Budget 2011				Budget 2012			
	Reg	PP*	Other	Total	Reg	PP	Other	Total	Reg	PP	Other	Total
	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000
Income:												
Practising Fees - Fellows	1540	0	0	1540	1694	0	0	1694	1762	0	0	1762
Membership Fees	0	0	1293	1293	0	0	1422	1422	0	0	1479	1479
Assessment Income	0	670	0	670	0	890	0	890	0	917	0	917
Awarding Body Income	0	93	232	325	0	96	239	335	0	99	246	345
Training	18	0	2430	2448	19	0	2623	2641	19	0	2822	2841
	1558	763	3955	6276	1713	986	4284	6983	1781	1015	4547	7343
Expenses 1 - By Type												
LSB Fees	145	0	0	145	325	0	0	325	335	0	0	335
OLC Fees	0	0	0	0	125	0	0	125	250	0	0	250
Operating Expenses	529	633	1147	2309	578	719	1201	2498	595	741	1257	2593
Salaries	737	982	1567	3286	759	1011	1614	3385	782	1042	1663	3486
Administrations Expenses	199	302	544	1045	205	311	561	1076	211	320	578	1109
Sub total	1610	1917	3258	6785	1992	2041	3376	7409	2173	2103	3497	7773
less Departmental Income	20	40	262	322	21	41	270	332	21	43	278	342
	1589	1877	2997	6463	1971	2000	3106	7078	2152	2060	3220	7431
Expenses 2 - By Department												
ILEX Professional Standards	506	0	0	506	521	0	0	521	537	0	0	537
ILEX Membership Department	187	374	83	643	192	385	85	662	198	396	88	682
ILEX Awards & International Department	345	691	205	1241	389	778	211	1378	401	801	217	1420
ILEX Journal	28	56	251	334	29	57	258	344	30	59	266	354

* Permitted Purposes

ILEX Corp. Affairs Department	67	133	15	215	69	137	15	221	71	142	16	228
ILEX Communications & Marketing Department	99	199	34	332	102	205	35	342	106	211	36	352
ILEX Central Resources	357	425	166	948	669	437	171	1277	810	451	176	1437
ILEX Tutorial College	0	0	2244	2244	0	0	2331	2331	0	0	2421	2421
	1589	1877	2997	6463	1971	2000	3106	7078	2152	2060	3220	7431
Net Group Expenses	1589	1877	2997	6463	1971	2000	3106	7078	2152	2060	3220	7431
Group Income	1558	763	3955	6276	1713	986	4284	6983	1781	1015	4547	7343
Net Surplus/(Deficit)	-31	-1114	958	-187	-259	-1014	1178	-95	-371	-1044	1327	-88

ANNEX 4 ILEX ANNUAL REPORT

The annual report appears as a separate PDF document

ANNEX 5 IPS MEMORANDUM AND ARTICLES OF ASSOCIATION

THE COMPANIES ACTS 1985 TO 2006

COMPANY LIMITED BY SHARES

MEMORANDUM OF ASSOCIATION

-of-

ILEX PROFESSIONAL STANDARDS LIMITED

1. The name of the Company is "**ILEX Professional Standards Limited**"
2. The registered office of the Company will be situate in England.
3. The objects of the Company will be:
 - 3.1.1 to carry out on behalf of the Institute of Legal Executives ("**ILEX**") the functions and responsibilities of ILEX as an approved regulator designated as such by The Legal Services Act 2007 (as amended, modified or re-enacted from time to time); and
 - 3.1.2 to carry out on behalf of ILEX such functions and responsibilities of ILEX as a regulator of its membership generally as ILEX may from time to time delegate to the Company;
- 3.2 to carry on business as a general commercial company (the generality of which object shall not be prejudiced by the terms of object 3.1).
4. Without prejudice to the generality of object 3.2 and the powers of the Company derived from Section 3A of the Companies Act 1985 the Company has power to do all or any of the following things:
 - 4.1 To carry on any other business which, in the opinion of the Company, may be capable of being conveniently or profitably carried on in conjunction with or subsidiary to any other business of the Company and is calculated to enhance the value of the Company's property;
 - 4.2 To guarantee or give security for the payment or performance of any contracts, debts, obligations of any person, company or firm, for any purpose whatsoever, and to act as agents for the collection, receipt or payment of money and generally to act as agents for and render services to customers and others and generally to give any guarantee, security or indemnity;
 - 4.3 To take on lease, purchase or in exchange, hire or otherwise acquire and hold for any interest or estate any buildings, lands, easements, privileges, rights, concessions, patent rights, patents, secret processes, licences, machinery, plant, stock-in-trade, and any real or

personal property of any kind convenient or necessary for the purposes of or in connection with the Company's business or any department or branch thereof;

- 4.4 To apply for, purchase or otherwise acquire and hold any patents, licences, concessions, brevets d'invention, copyrights and the like, conferring any right to use or publish any secret or other information and to use, develop, exercise, or grant licences in respect of the property, rights and information so acquired;
- 4.5 To erect, build, construct, or reconstruct, lay down, alter, enlarge and maintain any factories, buildings, works, shops, stores, plant and machinery necessary or convenient for the Company's business and to contribute to or subsidise the construction, erection and maintenance of any of the aforesaid;
- 4.6 To subscribe for, take, purchase or otherwise acquire and hold, sell, deal with or dispose of any shares, stocks, debentures, debenture stocks, bonds, obligations and securities, guaranteed by any company constituted or carrying on business in any part of the world and debentures, debenture stocks, bonds, obligations and securities guaranteed by any Government or Authority, Municipal, Parochial, Local or otherwise, within and without the United Kingdom and to subscribe for the same either conditionally or otherwise and to guarantee the subscription thereof and to enforce and exercise all rights and powers conferred by the ownership thereof;
- 4.7 To promote by way of advertising the products and services of the Company in any manner and to reward customers or potential customers and to promote and take part in any scheme likely to benefit the Company;
- 4.8 To borrow or raise money and secure or discharge any debt or obligation of or binding on the Company in such manner as may be thought fit and in particular by mortgages of or charges upon the undertaking and all or any of the real or heritable and personal or moveable property (present and future) and the uncalled capital for the time being of the Company or by the creation and issue of debenture stock, debentures or other obligations or securities of any description;
- 4.9 To support, guarantee and/or secure either with or without consideration the payment of any debenture stock, debentures, mortgages, charges, obligations, bonds, interest, securities, dividends, shares or moneys or the performance of engagements or contracts of any other company or person and in particular (but without prejudice to the generality of the foregoing) of any company which is, for the time being, the Company's holding company as defined by Section 736 of the Companies Act 1985 or another subsidiary, as defined by the said section, of the Company's holding company or otherwise associated with the Company in business and to give indemnities and guarantees of all kinds and by way of security as aforesaid either with or without consideration to mortgage and charge the undertaking and all or any of the real and personal property and assets present or future, to issue debentures and debenture stock and collaterally or further to secure any securities of the Company by a Trust Deed or other assurance and to enter into partnership or any joint purse arrangement with any person, persons, firm or company;
- 4.10 To make advances to customers and others with or without security, and upon such terms as the Company may approve, and to guarantee the dividends, interest and capital of the stocks, shares or securities of any company of or in which the Company is a member or is otherwise interested;

- 4.11 To take part in the management, formation, control or supervision of the business or operation of any company or undertaking and for that purpose to appoint and remunerate any directors, experts or agents;
- 4.12 To employ experts to examine and investigate into the character, prospects, value, condition and circumstances of any undertakings and business concerns and generally of any property, assets or rights;
- 4.13 To draw, make, accept, endorse, negotiate, discount and execute promissory notes, bills of exchange and other negotiable instruments; to receive money on deposit or loan upon such terms as the Company may approve, and generally to act as bankers for customers and others;
- 4.14 To promote or establish or concur in promoting or establishing any other company whose objects shall include the taking over of or the acquisition of all or any of the assets or liabilities of this Company or the promotion of which shall be in any manner calculated to advance directly or indirectly the objects or interests of this Company and to hold, acquire, dispose of stocks, shares or securities issued by or any other obligations of any such company;
- 4.15 To deal with and invest the moneys of the Company not immediately required for the purposes of the business of the Company in or upon such investments and in such manner as the Company may approve;
- 4.16 To accept payment for any rights or property sold or otherwise disposed of or dealt with by the Company, either in cash, by instalments or otherwise, or in partly or fully paid-up shares or stock of any corporation or company, with or without deferred or preferred or special rights or restrictions in respect of repayment of capital, dividend, voting or otherwise, or in mortgages or debentures or other securities of any corporation or company or partly in one mode and partly in another, and generally on such terms as the Company may determine and to hold, dispose of or otherwise deal with any stock, shares or securities so acquired;
- 4.17 To enter into any partnership or amalgamate with or enter into any arrangement for sharing profits, interests, or co-operate or enter into co-operation with any company, person or firm carrying on or proposing to carry on any business within the objects of this Company or which is capable of being carried on so as to benefit this Company, whether directly or indirectly and to acquire and hold, deal with, sell or dispose of any stock, shares or securities of or other interests in any such company, and to guarantee the contracts or liabilities of, otherwise assist or subsidise, any such company;
- 4.18 To pay for any right or property acquired by the Company either in cash or partly or fully paid-up shares with or without deferred or preferred or special rights or restrictions in respect of repayment of capital, dividend, voting or otherwise, or by any securities which the Company has power to issue, and generally on such terms and conditions as the Company may determine;
- 4.19 To develop, improve, manage, sell, turn to account, let on rent, royalty, exchange, share of profits or otherwise, grant easements, licences and other rights in or over, and in any other manner dispose of or deal with the undertaking and all or any of the assets and property for the time being of the Company for such consideration as the Company may think fit;
- 4.20 To acquire, purchase, take over and undertake part or all of the business, property, assets, liabilities and engagements of any firm, person or company carrying on any business the

carrying on of which is calculated to benefit this Company or to advance its interests generally;

- 4.21 To aid in the support and establishment of any educational, scientific, religious or charitable institutions or trade associations or societies, whether such associations, societies or institutions be solely connected with the business carried on by the Company or its predecessors in business or not, and to maintain and institute any club, society or other organisation;
- 4.22 To grant pensions, gratuities, allowances and bonuses to employees or ex-employees, officers or ex-officers of the Company or its predecessors in business or the dependents of such persons and to maintain and establish or concur in maintaining funds, trusts or schemes, (whether contributory or non-contributory) with a view to providing pensions or other funds for any such persons or their dependents as aforesaid;
- 4.23 To distribute in specie any of the shares, debentures or securities of the Company or any proceeds of sale or disposal of any property of the Company between the members of the Company in accordance with the rights, but so that no distribution amounting to a reduction of capital be made except with the sanction (if any) for the time being required by law;
- 4.24 Subject to and in accordance with due compliance with the provisions of Section 155 to 158 (inclusive) of the Companies Act 1985 (if and so far as such provisions shall be applicable) to give whether directly or indirectly any kind of financial assistance (as defined in Section 152(1)(a) of the said Act) for any such purpose as is specified in Section 151(1) and/or Section 151(2) of the said Act;
- 4.25 To do all such other things as may be deemed incidental or conducive to the attainment of the above objects or any of them;

The objects set forth in each sub-clause of this Clause shall not be restrictively construed but the widest interpretation shall be given thereto, and they shall not, except where the context expressly so requires, be in any way limited or restricted by reference to or inference from any other object or objects set forth in such sub-clause or from the terms of any other sub-clause or from the name of the Company. None of such sub-clauses or the object or objects therein specified or the powers thereby conferred shall be deemed subsidiary or ancillary to the objects or powers mentioned in any other sub-clause, but the Company shall have as full a power to exercise all or any of the objects conferred by and provided in each of the said sub-clauses as if each sub-clause contained the objects of a separate company. The word "company" in this clause, except where used in reference to the Company, shall be deemed to include any partnership or other body of persons, whether incorporated or unincorporated and whether domiciled in the United Kingdom or elsewhere.

5. The liability of the members is limited.
6. The Share Capital of the Company is £1 divided into 1 Share of £1, with power to increase or to divide the shares in the capital for the time being into different classes having such rights, privileges and advantages as to voting and otherwise as the Articles of Association may from time to time prescribe.

I, the person whose name and address is subscribed, wish to be formed into a company, in pursuance of this Memorandum of Association, and I agree to take the number of Shares in the capital of the Company set opposite my name.

**Name, Address and Description
of Subscriber**

**Number of Shares taken
by Subscriber**

One

.....
for and on behalf of
**THE INSTITUTE OF LEGAL
EXECUTIVES**

Dated: 2008

Witness to above signature:

Witness' name:

Witness' occupation:

Witness' address:

THE COMPANIES ACTS 1985 to 2006

COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

-of-

ILEX PROFESSIONAL STANDARDS LIMITED

1. TABLE A

6.1.1.1.1 The Company is a private company and, subject as hereinafter provided and except where the same are varied or excluded by or are inconsistent with these Articles, the regulations contained in Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 (SI 1985 No. 805) as amended by the Companies (Tables A to F) (Amendment) Regulations 1985 (SI 1985 No. 1052), the Companies Act 1985 (Electronic Communications) Order 2000 (SI 2000 No. 3373), the Companies (Tables A to F) (Amendment) Regulations 2007 (SI 2007 No. 2541) and the Companies (Tables A to F) (Amendment) (No2) Regulations 2007 (SI 2007 No. 2826) so far as it relates to private companies limited by shares (such Table being hereinafter called "**Table A**") shall apply to the Company and shall be deemed to form part of these Articles. References herein to Regulations are to regulations in Table A unless otherwise stated.

2. INTERPRETATION

a. In these Articles unless the context otherwise requires:

" the 1985 Act "	means the Companies Act 1985 but so that any reference in these Articles to any provision of the Act shall be deemed to include a reference to any statutory modification or re-enactment of that provision for the time being in force;
" the 2006 Act "	means the Companies Act 2006 but so that any reference in these Articles to any provision of the Act shall be deemed to include a reference to any statutory modification or re-enactment of that provision for the time being in force;
" these Articles "	means these Articles of Association in their present form or as from time to time altered;
" Director "	means a director of the Company;
" the Board " or " the Directors "	means the board of directors of the Company or a duly authorised committee thereof or the directors present at a meeting of the board of directors of the Company or a duly authorised committee thereof, in each case at which a quorum is present;

"Member" means a member of the Company;

"paid up" means paid up or credited as paid up;

- b. References in Table A and in these Articles to writing include references to any method of representing or reproducing words in a legible and non-transitory form.
- c. Save as expressly provided in these Articles, words and expressions which bear particular meanings in Table A shall bear the same respective meanings in these Articles.

3. SHARE CAPITAL

- a. Pursuant to Section 91 of the 1985 Act, sub-section (1) of Section 89 and sub-sections (1) to (6) inclusive of Section 90 of the 1985 Act shall be excluded from applying to the Company.
- b. Unless otherwise determined by the Company by Special Resolution, any shares for the time being unissued shall, before they are issued, be offered to the existing holders of shares in proportion, as nearly as may be practicable, to the number of existing shares held by them respectively. Such offer shall be made by notice in writing to each such holder specifying the number of shares offered to him and the subscription price therefor and inviting him to state in writing within such period as the Board may prescribe (being not less than fourteen days after the date of the notice) whether he wishes to accept any, and if so what number, of shares offered to him and whether he wishes to subscribe for shares in excess of his entitlement and, if so, what maximum number. If within such period, such holders have expressed their willingness to accept all or any of the Shares offered to them, such shares shall be so issued to them accordingly. Any Shares so offered to any such holder and not taken up within such period shall be issued to those holders who have taken up their full entitlement of shares and who have indicated a willingness to subscribe. Any shares not taken up pursuant to such offer as aforesaid and any shares released from the provisions of this Article by any such Special Resolution shall be under the control of the Board who may allot, grant options over or otherwise dispose of the same to such persons on such terms and in such manner as it thinks fit provided that in the case of any shares not disposed of pursuant to such offer as aforesaid, such shares shall not be disposed of on terms more favourable to the subscribers therefor than the terms on which they were offered to the Company's existing Members. The foregoing provisions of this paragraph shall have effect subject to Section 80 of the 1985 Act and also the preceding provisions of this Article.

4. CALLS ON SHARES AND FORFEITURE

The liability of any Member in default of payment of a call shall, if the Board so directs, also include any costs and expenses suffered or incurred by the Company in respect of such non-payment and the powers conferred on the Board by Regulation 18 and the provisions of Regulation 21 shall be extended accordingly.

5. TRANSFER AND TRANSMISSION OF SHARES

- a. The Directors shall have absolute discretion to refuse to register the transfer of any share.

- b. No share shall be transferred to any infant, bankrupt or person of unsound mind.

6. PROCEEDINGS AT GENERAL MEETINGS

- a. Regulation 40 shall apply to the Company but with the addition of the words "at the time when the meeting proceeds to business" at the end of the first sentence thereof.
- b. If within half an hour from the time appointed for a general meeting, a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved; in any other case, it shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the Board may determine. If a quorum is not present at any such adjourned meeting within half an hour from the time appointed for that meeting, the meeting shall be dissolved. Regulation 41 shall not apply to the Company.
- c. A poll may be demanded at any general meeting by the Chairman or by any Member present in person or by proxy and entitled to vote. Regulation 46 shall be modified accordingly.
- d. In the case of a corporation, the signature of a director or the secretary thereof and in the case of joint holders of a share the signature of any one of such joint holders shall be sufficient for the purposes of passing resolutions in writing pursuant to sections 288-300 of the 2006 Act.

7. VOTES OF MEMBERS

Subject to any special rights or restrictions as to voting attached to any shares by or in accordance with these Articles, on a show of hands every Member who (being an individual) is present in person or (being a corporation) is present by a representative, shall have one vote, and on a poll every Member who is present in person or by proxy or (being a corporation) is present by a representative or by proxy shall have one vote for every share in the capital of the Company of which he is the holder. Regulation 54 shall not apply to the Company.

8. NUMBER OF DIRECTORS

The minimum number of Directors is two and, unless otherwise determined by ordinary resolution, the maximum number of Directors shall be seven.

9. APPOINTMENT OF DIRECTORS AND ALTERNATE DIRECTORS

- a. No Director or Council Member of the Institute of Legal Executives (Company Number: 00235139) ("**ILEX**") may be appointed as a Director of the Company.
- b. No Director may appoint any other Director, or any other person to be an alternate Director and Regulations 65-69 inclusive shall not apply.

10. DISQUALIFICATION AND REMOVAL OF DIRECTORS

The office of a Director shall be vacated:

- a. if he ceases to be a Director by virtue of any provision of the 1985 Act or of these Articles or of any resolution passed pursuant to any such provision;

- b. if he becomes bankrupt or enters into any arrangement or composition with his creditors generally;
- c. if he becomes prohibited by law from being a Director;
- d. if he resigns his office by notice in writing to the Company delivered to the Company at its registered office or tendered at a meeting of the directors;
- e. if he shall have been absent without permission of the directors from meetings of the Directors held during a period of six successive months and the Directors resolve that his office be vacated;
- f. if in the opinion of all the other Directors he either becomes incapable by reason of mental disorder of carrying out his duties as a Director or engages in activities inconsistent with those duties;

and Regulation 81 shall not apply to the Company.

11. DIRECTORS' REMUNERATION AND EXPENSES

- a. The Directors shall be entitled to such remuneration (if any) by way of fee as shall from time to time be determined by the Company in general meeting. Unless and until so determined, remuneration shall be at such rate as the Board shall from time to time determine. Such remuneration shall be deemed to accrue from day to day. The Directors shall also be entitled to be paid their reasonable travelling, hotel and other expenses of attending and returning from meetings of the Company or otherwise incurred while engaged on the business of the Company or in the discharge of their duties. The end of the first sentence of Regulation 66 shall be modified accordingly and Regulations 82 and 83 shall not apply to the Company.

12. DIRECTORS' INTERESTS

- a. Subject to written consent from the Members, a Director:
 - i. may not be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is in any way interested;
 - ii. may not be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is in any way interested;
 - iii. may not, or any firm or company of which he is a member or director may not, act in a professional capacity for the Company or any body corporate in which the Company is in any way interested;
 - iv. shall, by reason of his office, be accountable to the Company for any benefit which he derives from such office, service or employment or from any such transaction or arrangement or from any interest in any such body corporate and any such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit; and
- b. For the purposes of these Articles:

- i. an interest of which a Director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his; and
- ii. an interest of a person who is, for any purpose of the 1985 Act (excluding any statutory modification not in force when this Article becomes binding on the Company), connected with a Director shall be treated as an interest of the Director. Regulations 85 and 86 shall not apply to the Company.

13. PROCEEDINGS OF DIRECTORS

- a. The quorum for the transaction of the business of the Directors is two except when there is only one Director. When there is only one Director, he may exercise all the powers conferred on Directors by these Articles. Regulation 89 shall not apply.
- b. A Director may participate in a meeting of the Directors or of a committee of which he is a member by conference telephone or similar communications equipment by means of which all the persons participating in the meeting can hear each other at the same time. Participation in a meeting in this manner is treated as presence in person at the meeting.
- c. The President for the time being of ILEX shall be entitled to receive notice of, attend and address any meeting of the Directors, but shall have no vote.
- d. Regulation 88 is amended:
 - i. by replacing “It shall not be necessary to give notice of a meeting to a Director who is absent from the United Kingdom.” with:

“A Director who is or is intending to be absent from the United Kingdom may request the secretary to give him notice of meetings at an address provided by him for that purpose. Notices of meetings of the Directors shall be sent to him at that address but, if he does not provide an address, it shall not be necessary to give notice of meetings to him while he is absent from the United Kingdom. The notice calling a meeting of the directors need not be in writing.”; and
 - ii. by deleting the last sentence.

14. THE SEAL

- a. If the Company has a seal it shall only be used with the authority of the Directors or of a committee of Directors. The Directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a Director and by the Secretary or second Director. The obligation under Regulation 6 relating to the sealing of share certificates shall apply only if the Company has a seal. Regulation 101 shall not apply to the Company.
- b. The Company may exercise the powers conferred by Section 39 of the 1985 Act with regard to having an official seal for use abroad, and such powers shall be vested in the Directors.

15. INDEMNITY

- a. Subject to the provisions of the 1985 Act but without prejudice to any indemnity to which a Director may otherwise be entitled, every Director or other officer or

auditor of the Company shall be indemnified out of the assets of the Company against all costs, charges, losses, expenses and liabilities incurred by him in the execution of his duties or in relation thereto including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company. Regulation 118 shall not apply to the Company.

- b. The Directors shall have power to purchase and maintain for any Director, officer or Auditor of the Company insurance against any such liability as is referred to in Section 310(1) of the 1985 Act.

**Name, Address and Description
of Subscriber**

**Number of Shares taken
by Subscriber**

One

.....
for and on behalf of
**THE INSTITUTE OF LEGAL
EXECUTIVES**

Dated: 2008

Witness to above signatures:

Witness' name:

Witness' occupation:

Witness' address:

ANNEX 6 IPS BOARD MEMBERS LIST

Chair – Mr Alan Kershaw
Mrs Sandra Barton
Mrs Thelma Brown
Ms. Hilary Daniels
Mr Faizal Essat
Mr Andrew Middleton
Dr Nicholas Smedley

ANNEX 7 ILEX AND IPS PROTOCOLS AND SERVICE LEVEL AGREEMENT



Protocols setting out the working relationships between The Institute of Legal Executives and ILEX Professional Standards Ltd

Introduction

1. This document provides a framework to enable the Institute of Legal Executives (ILEX) and ILEX Professional Standards Ltd (IPS) (jointly 'the Companies') to fulfil their representative and regulatory functions as defined in the Legal Services Act 2007 (the LSA) and in accordance with the Objects of the companies set out in their respective Memoranda of Association.
2. The aim of the Protocols is to facilitate the companies working together to promote and secure high standards of practise by Legal Executives and other members of ILEX in the public interest and to enhance the recognition and standing of Legal Executives and other ILEX members.
3. ILEX is the governing body for Legal Executives and trainee Legal Executives in England and Wales. It is a company limited by guarantee. Its powers and duties derive from the Memorandum and Articles of Association of the Company. ILEX is an authorised body in relation to rights of audience under the Courts and Legal Services Act 1990, an approved regulator under the Legal Services Act 2007 and a designated professional body under the Immigration and Asylum Act 1999.
4. The Objects of ILEX which are relevant to these protocols are set out in Annex 1.
5. IPS has been established by ILEX to regulate the professional conduct of ILEX members, including disciplinary matters. Its Objects contained in its Memorandum of Association are set out in Annex 2 to these protocols. IPS is a wholly owned subsidiary company of ILEX.

The Legal Services Act (LSA)

6. The LSA requires ILEX as an approved regulator to separate its regulatory and representational functions. ILEX through its Articles has delegated the power to regulate the professional conduct and standards of ILEX members to IPS. The LSA also requires ILEX, and in consequence IPS, to act in a way which is compatible with the regulatory objectives set out in the LSA and to have regard to the

principles of good regulation. The regulatory objectives and professional principles contained in the LSA are set out in Annex 3 to these protocols.

7. Under the LSA, as an approved regulator ILEX must ensure: that its regulatory functions are carried out independently, without being prejudiced by its representative functions; that its regulatory body is free to communicate with the Legal Services Board and other legal services stakeholders; and that resources are made available which are reasonably required to enable regulatory functions to be carried out.

The Protocol Principles

8. The Companies will work together to enhance public respect for and confidence in ILEX members and the work they carry out. Together they will ensure continuing compliance with the requirements of the LSA.
9. Relations and communications between the companies will be based upon mutual respect and openness so far as is consistent with their obligations under the LSA, the general law and the public interest.
10. IPS aspires to regulate effectively and efficiently in accordance with the principles of good regulation, which are proportionality, accountability, consistency, transparency and targeting. ILEX will support and assist IPS in becoming an effective and independent regulator of ILEX Fellows and other ILEX members.
11. Each of the Companies will contribute to and support the attainment of objectives set out from time to time in the other's strategy and business plans consistent with the requirements of the LSA. IPS will give due weight to the aspirations of ILEX and its members as expressed through ILEX Council.

Finance – *ILEX will make available such resources as are reasonably required and appropriate to enable IPS to carry out its regulatory functions*

12. Each year IPS will prepare a budget for its expenditure in the following year for ILEX to consider in conjunction with its own budget. IPS budget will be based upon the activities and expenditure necessary to carry out its regulatory functions.
13. The Companies will work together to agree a budget which fairly reflects the activities and expenditure which are necessary for IPS to carry out its regulatory functions. Where ILEX cannot agree an IPS budget it will set out its reasons in writing for any variation it proposes. If a revised budget proposed by ILEX is not agreed by IPS, paragraph 31 of these protocols will come into effect
14. ILEX will have regard to a budget agreed with IPS when setting practice, membership and other fees for the following year.
15. IPS will provide information to the ILEX Group Finance Director to enable proper accounts to be maintained. IPS Board of Directors will receive regular reports on its financial performance. ILEX Council will receive a report on IPS finances at each Council meeting.

Communications – *Communications between the companies will be based on mutual respect and openness*

16. The Companies will provide information to each other regularly regarding their representational and regulatory work. Each will provide copies of the minutes of their Council or Board meetings to the other. So far as it is practical to do so and is necessary to meet the obligations imposed by the LSA, they will each respond to a reasonable request by the other for information relating to their roles and will do so within 15 working days of a request being received.
17. ILEX will provide support necessary to enable IPS, in carrying out its functions, to communicate with ILEX members, the legal services regulators, consumer groups, legal services employers, relevant parts of the government and civil service and the public. IPS may communicate separately with ILEX members and these stakeholder groups.
18. The Companies will consult with each other whenever either body wishes to review or propose changes to any rules or policies which impact on the leadership, representational or regulatory roles or obligations of the other. Where appropriate they will consult external bodies jointly and will respond jointly to the consultations of external bodies on matters which affect their roles or obligations.
19. Where either of the Companies decides to issue a separate or independent communication on matters likely to affect the other they will inform the other of their intention and reasons for doing so; copy the communication to them; and give a reasonable time for them to comment on the communication.
20. The Companies will share information regarding members including membership records and correspondence where it is necessary to do so to fulfil their respective obligations but only so far as the sharing of information does not contravene any principle or law safeguarding the rights of members or others in relation to data protection or personal privacy.
21. Subject to paragraph 20, the Companies will treat as confidential information each holds about members or others which is not also held by the other, except where it is in the public interest to disclose the information to the other or, in the case of IPS, it is necessary to do so in order to fulfil its obligations under the LSA, its Memorandum and Articles of Association and these protocols, or to meet its general obligations under the law. The public interest will normally be engaged where the information reveals a serious breach of the law or professional ethics or would assist the investigation of crime or fraud.
22. The ILEX 'Whistle blower' policy applies to the staff of both Companies, ILEX Council members and IPS Board members.

Accountability – *ILEX must ensure its regulatory functions are carried out independently*

23. The Chief Executive of ILEX is accountable to the ILEX Council. ILEX employees whose work relates to the leadership and representative functions of ILEX are accountable to the Chief Executive of ILEX. The Chief Executive of IPS is an employee of ILEX but is accountable to the IPS Board of Directors. ILEX employees

whose work relates to the regulatory functions of ILEX are accountable to the Chief Executive of IPS. The Chairman of IPS is accountable to ILEX Council for the performance of IPS.

24. The arrangements for appointing or re-appointing a Chairman or members of the IPS Board are set out at Annexe 4 to these Protocols. They take into account the objectives of the LSA regarding the effective and independent regulation of legal services and the requirements of the Internal Governance Rules made by the Legal Services Board, pursuant to the LSA. Remuneration of the Chair and members of the IPS Board will be dealt with in accordance with Annexe 5 to these Protocols.
25. The performance of the IPS Board members and Chief Executive, during their terms of office will be assessed each year by the IPS Board, in accordance with arrangements which the Board will determine. The performance of IPS employees will be assessed in accordance with arrangements which apply to other ILEX employees. The Companies will agree arrangements for the appointment of a new Chief Executive of IPS.

Education Standards and Fitness to Practise – *The companies will work together to promote and secure high standards of practise.*

26. IPS is responsible for checking that arrangements adopted by ILEX and the standards set relating to: qualifications and experience; study and training for ILEX qualifications; assessment of candidates; and continuing professional development are fit for purpose and are capable of securing the minimum standards of competence expected of Fellows, Associates, Graduate Members, Associate Prosecutor Members and other ILEX members.
27. IPS is responsible for setting the standards relating to the personal and professional conduct and continuing fitness to practise of Fellows and other ILEX members. IPS will be responsible for ensuring ILEX members comply with those standards and ILEX will support IPS in doing so.
28. ILEX will not seek to challenge decisions properly made by any of the disciplinary or regulatory bodies subject to oversight by IPS in respect of the conduct, competence or fitness to practise of individual ILEX members.
29. The Companies will work together to develop arrangements for the regulation of legal disciplinary practices and alternative business structures permitted to provide legal services under the LSA and persons owning or managing them. IPS will be responsible for setting standards of conduct and ensuring owners, managers and employees comply with them.

Services – *ILEX will make resources available to enable regulatory functions to be carried out.*

30. The Companies will agree a service level agreement in respect of the provision to IPS of the finance, membership records, information technology, communications, post and telephony and human resources services which are reasonably required to enable IPS to carry out its regulatory functions.

Resolving differences

31. Disputes which arise between the Companies, whether in relation to these protocols or otherwise will be resolved by discussions involving the Chief Executives of ILEX and IPS, the President for the time being of ILEX and the Chairman of the IPS Board. Nothing in these protocols prevents either company from referring a dispute which cannot be settled between them to the Legal Services Board or if appropriate to an independent mediator to be resolved. At least 5 working days notice will be given to the other company if either company intends to refer a dispute to the Legal Services Board.

Review

32. These protocols may be reviewed at any time at the request of either ILEX or IPS; and will, in any event, be reviewed formally after one year and, thereafter, at intervals to be agreed between the two companies.

Mark Bishop
ILEX President
25 February 2009

Alan Kershaw
IPS Chair
25 February 2009

Protocols v.2 Amended 23/01/10

PROTOCOLS

ANNEXE 1

OBJECTS OF ILEX

The Objects of ILEX set out in its Memorandum of Association are, amongst other things:

1. To provide an organisation for persons who are Fellows of ILEX, are registered with ILEX, provide or are employed in providing legal services of any kind or any services ancillary to legal services or are registered with ILEX for the purpose of studying or becoming qualified in law or other subjects provided by ILEX;
2. To advance and protect the status and interest of Fellows and other members registered with ILEX;
3. To promote professional unity, co-operation and mutual assistance amongst those who are employed in the legal profession or are engaged in legal work;

4. To promote and secure professional standards of conduct amongst Fellows and those who are registered with ILEX and to regulate Fellows and registered persons in the public interest to ensure compliance with those standards;
5. To provide for the education and training of Fellows and persons who wish to become proficient in the law, including those who wish to qualify as Fellows, in all subjects and skills whether in the law or otherwise; and
6. To recognise and promote proficiency in the law and other subjects by awarding diplomas, certificates, prizes, scholarships, bursaries or other awards and to award such qualification as ILEX may from time to time think fit and to carry out assessment and validation and regulation as may be necessary for such purposes.

IPS protocols ann 1

PROTOCOLS

ANNEXE 2

OBJECTS OF IPS

The Objects of ILEX Professional Standards set out in its Memorandum of Association include the following:

1. To carry out on behalf of ILEX the functions and responsibilities of ILEX as an approved regulator designated as such by the Legal Services Act 2007; and
2. To carry out on behalf of ILEX such functions and responsibilities of ILEX as a regulator of its membership generally as ILEX may from time to time delegate to the Company.

IPS protocols ann 2

PROTOCOLS

ANNEXE 3

1. The Statutory Objectives set out in the Legal Services Act are as follows:
 1. protecting and promoting the public interest;
 2. supporting the constitutional principle of the rule of law;
 3. improving access to justice;
 4. protecting and promoting the interests of consumers;
 5. promoting competition in the provision of services provided by authorised persons;
 6. encouraging an independent, strong, diverse and effective legal profession;
 7. increasing public understanding of citizen's legal rights and duties; and
 8. promoting and obtaining adherence to the professional principles.

2. The professional principles referred to above are:
 1. authorised persons should act with independence and integrity;
 2. authorised persons should maintain proper standards of work;
 3. authorised persons should act in the best interests of their clients;
 4. persons who exercise before any court a right of audience or conduct litigation in relation to proceedings in any court by virtue of being authorised persons comply with their duty to the court to act with independence in the interest of justice; and
 5. the affairs of clients should be kept confidential.

IPS protocols ann3

PROTOCOLS

Annexe 4

Appointment of Chairman and Board Members

1. The IPS Board will create an Appointments Committee. Membership will be agreed for each appointment, so it is not a standing Committee.
2. The Appointments Committee will have delegated authority for the whole process from agreeing an updated information pack including a revised job and person specification, to running the appointment process, including interviewing. Administrative support will be required from the ILEX HR team.
3. For the Chairman's appointment, this Committee will include an ILEX Council representative and two IPS Board members, one independent and one legal, supported by the IPS CEO, although (s)he would not be a formal member of the Committee.
4. For Board member appointments the Committee will include the Chairman and one member of the IPS Board, plus the IPS CEO.
5. For all appointments, a member independent of IPS and ILEX would be included within the Committee membership, to give legitimacy and to validate the process. The process for identifying this individual would be agreed for each appointment.
6. The ad hoc nature of the appointment committees gives a useful degree of flexibility, whilst being sufficiently structured to ensure appointments are treated fairly and consistently.

Reappointment of Chairman and Board Members

7. It will be for the Chairman and CEO to agree the reappointment of Board members. The annual appraisals will be the basis for reappointments. The following factors will need to be satisfied for reappointment of Board members:
 - Willingness to be reappointed

- Satisfactory annual appraisals
- Acceptable attendance record
- Continues to meet the person specification for role
- Has complied with the Code of Conduct for Board members

8. For discussions regarding the reappointment of the Chairman, an Appointments Committee will be created, constituted as set up in the Chairman's appointments process above, to review a similar list of factors and agree the way forward.

*Agreed by IPS Board June 2009
IPS protocols Ann 4*

PROTOCOLS

ANNEXE 5

REMUNERATION OF THE BOARD

The President and CEO of ILEX and the Chair and CEO of IPS will meet each year in May or June, as appropriate, to determine the remuneration of the Chair and members of the IPS Board for the following year. The meeting will take place as part of the budget setting processes of the companies. The Chair of IPS will not take part in any discussion or decision regarding his/her remuneration. Factors which are taken into account in setting the remuneration of the Board members will be taken into account in determining the Chair's remuneration.

Disputes regarding the remuneration of the Chair or Board members of IPS will be determined in accordance with paragraph 31 of the Protocols.

*Agreed by ILEX/IPS march 2010
IPS protocols ann 5*

ANNEXE 6

ILEX/IPS PROTOCOLS: Education

General

1. This Appendix to the ILEX/IPS Protocols sets out the methods by which ILEX and IPS will meet the requirements of paragraph 26 of the Protocols relating to education matters. IPS's role, set out in Paragraph 26, is to ensure that the arrangements adopted by ILEX in respect of qualifications and experience are capable of securing the minimum standards of competence expected of Fellows and other ILEX members. The role of ILEX is to decide the qualification standards and to manage the delivery of the qualifications and assessment of experience and the quality assurance arrangements for them.

Reporting arrangements for qualifications

2. To enable IPS to carry out its role, ILEX will provide sufficient information to demonstrate that the qualification arrangements establish and maintain the stated standards. Each year, ILEX will supply to IPS a range of information that enables it to review ILEX's work and performance both strategically and operationally.

The following documents will be supplied at the following specified times:

a) Assessment session information

Qualification performance data – after each assessment session (ie, after Jan and June sessions), ILEX will produce a report which it will share with IPS in relation to key assessment session metrics.

This report will be delivered by a senior member of the Awards team to the IPS board at a mutually agreed time.

The report will consist of the following data:

- Candidate entries
- Candidates sitting examinations or submitting assessments
- Grade boundaries for examined units
- Candidate performance including pass rates for each unit and feedback from assessors
- Statistics for qualification completion
- Centre performance including centre pass rates
- Data on results enquiries and appeals
- Data on applications for and approvals of reasonable adjustments and special considerations
- Stakeholder feedback and complaints
- Summary of any malpractice allegations (student and centre)
- Awards department performance against key performance indicators and targets.

Minutes of the Awards Performance and Strategy Committee (APSC) – ILEX will share these minutes with IPS after each APSC meeting, and at the same time as the performance data.

b) Annual information

Executive Summary for the ILEX Self-Assessment Report, feedback from Ofqual re ILEX's self-assessment return, annual self-assessment action plan, annual development plan, summary of Awards Malpractice Committee and Awards Appeal Committee outcomes and (from 2011) a report on centre risk management – at a mutually agreed time, in the first quarter of each year, ILEX will share the above documents with IPS as a part of an annual round of reporting. These reports will be delivered by a senior member of the Awards team.

3. The Education Portfolio Holder has been appointed as a member of the Awards Performance and Strategy Committee (APSC). The Education Portfolio Holder will take responsibility for the main reporting between APSC and IPS outside of the above mentioned formal reporting, and will report to IPS on those specific issues covered by APSC which have an interest for IPS.

Qualification development

4. Where ILEX develops new qualifications it wishes to award, whether in relation to rights to undertake regulated legal activities or otherwise, it will be required to consult and seek IPS approval in relation to whether the arrangements for qualification are capable of securing the minimum standards of competence expected of ILEX members holding that qualification.
5. IPS will be responsible for developing qualification arrangements supporting applications by ILEX to become an Approved Regulator in relation to activities regulated under the Legal Services Act. IPS will consult with ILEX in relation to the development of any such arrangements. ILEX and IPS will agree which of them should be responsible for managing the qualification arrangements.

Experience

6. IPS and ILEX will work together to determine what experience ILEX members should have to be admitted as Fellows of ILEX or to be enrolled in any other membership grade for which evidence of experience is required.
7. IPS will be responsible for determining what experience is required by ILEX members to become authorised practitioners. ILEX will support the development of experience requirements and be responsible for the arrangements by which ILEX members are able to demonstrate whether they meet the experience criteria set by IPS.

Ed protocol v3b

SERVICE LEVEL AGREEMENT

THIS AGREEMENT is made on

2010

BETWEEN:

ILEX PROFESSIONAL STANDARDS (IPS)

and

INSTITUTE OF LEGAL EXECUTIVES (ILEX)

This Service Level Agreement forms the basis of a relationship between ILEX and IPS regarding the provision of services.

The purpose of the Agreement is to lay out the respective roles and responsibilities of each party in the provision of services.

The Agreement facilitates the parties carrying out its respective regulatory and representative functions independently and to ensure that resources are made available which are reasonably required to enable regulatory functions to be carried out.

ILEX has agreed to provide the services to IPS set out in Schedule 1 to 9.

NOW IT IS HEREBY AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1. In the Agreement the following expressions shall have the following meanings unless the context requires otherwise:

“Agreement”	means this agreement concluded between ILEX and IPS including the: (a) the clauses contained herein; (b) the schedules attached hereto; (c) any other documents which are relevant to the Agreement and expressly incorporated herein as appendices to, and part of, the relevant schedules; and (d) such variations in writing as shall be agreed by ILEX and IPS according to the provisions of Clause 4.
“Effective Date”	means the date of this Agreement;
“IPS Manager”	means IPS Chief Executive or Professional Standards Manager
“Lead Officer”	means any of the following: ILEX Chief Executive, IPS Chief Executive or Head of Corporate Affairs; who oversees the creation, variation, development and management of the Agreement;
“Service”	means the service provided by ILEX to IPS which enables regulatory functions to be carried out;

“Service Levels”	means the standards of Service which ILEX is required to meet in the performance of Services details of which are contained in Clause 7 and Schedules 1 to 9;
“SLA Manager”	means the individual who oversees and/or provides the Service;
“Working Day”	means a day, not being a Saturday, Sunday or Public Holiday

2. TERM

- 2.1. This Agreement shall continue in effect from the Effective Date until the end of the ILEX financial year (the “Expiry Date”).

3. RENEWAL AND TERMINATION

- 3.1. This Agreement shall be renewed at the end of the current term and each succeeding year unless either party gives written notice of its intention not to renew, to the other, to be served no later than 6 months prior to expiration of the current term.
- 3.2. Termination of the Agreement will be subject to the requirements of the internal governance rules made by the Legal Services Board.
- 3.3. In the event that a dispute is not resolved in accordance with Clause 10 either party shall have the right to terminate the Agreement without further notice.

4. TERMS OF AGREEMENT

- 4.1. Throughout the life of the Agreement, variations to the agreement can be proposed, negotiated and implemented as circumstances warrant.
- 4.2. Substantive variations to the Agreement must be approved by the ILEX President and IPS Board Chair before taking effect.
- 4.3. Minor variations to the Agreement will be agreed by the Chief Executives of ILEX and IPS before taking effect.
- 4.4. Variations to the Agreement will be implemented by a Lead Officer.
- 4.5. Conditions that warrant variations to the Agreement include, not wholly and exclusively, changes in business or Service needs, significant variations from agreed Service Levels, unanticipated events or an adjustment in the division of responsibility between the parties.
- 4.6. In the event that variations to the Agreement cannot be agreed, both parties will follow the dispute resolution mechanism in accordance with Clause 10.

5. SUB-CONTRACTING

- 5.1. ILEX shall have the right to subcontract its obligations under the Agreement provided that any such subcontracting shall not increase the burden on ILEX of the obligations accepted by ILEX under this Agreement.

- 5.2. Notwithstanding any sub-contracting permitted hereunder, ILEX shall remain responsible for the acts and omissions of its sub-contractors as though they were its own.

6. CHARGES

- 6.1. Charges will be reviewed on an annual basis when both parties work together to agree a budget which fairly reflects the activities and expenditure which are necessary for IPS to carry out its regulatory functions.
- 6.2. Charges are recoverable on an annual basis in accordance with Clause 6.1 as a result of any variations according to Clause 4.1.

7. SERVICE STANDARDS BY ILEX

- 7.1. ILEX shall provide the Services specified in Schedules 1 to 9.
- 7.2. ILEX's performance of the Services shall be measured in accordance with the methods and procedures set out in Schedules 1 to 9.
- 7.3. ILEX's performance of the Services shall also be measured in accordance with the obligations and responsibilities of IPS described within Clauses, 8.1, 8.3 and 8.4.
- 7.4. ILEX's performance of the Services shall be required to meet any reasonable Service Level and timeframe specified in Schedules 1 to 9 or as otherwise agreed, from the commencement of the Services.
- 7.5. Urgent matters are to be commenced within specifically agreed timeframes from receipt of instructions; such instructions to be approved by an IPS Manager and communicated to the relevant SLA Manager.
- 7.6. If ILEX fails to achieve any Service Level and timeframe as determined under the provisions of Clause 7.2 to 7.4, ILEX shall carry out corrective action agreed at the time between the parties, such agreement not to be delayed or withheld unreasonably.
- 7.7. If, notwithstanding any corrective actions taken in accordance with Clause 7.6, ILEX persistently fails in any material respect, to achieve any Service Level; such failure shall be considered to be a dispute and shall entitle IPS to follow the dispute resolution process in accordance with the provisions of Clause 10.

8. OBLIGATIONS AND RESPONSIBILITIES OF IPS

- 8.1. IPS shall receive the Service specified in Schedules 1 to 9.
- 8.2. IPS's obligations and responsibilities shall be measured in accordance with the methods and procedures set out in Schedules 1 to 9.
- 8.3. IPS shall be obliged to meet any reasonable timeframes specified within the methods and procedures set out in Schedules 1 to 9.

- 8.4. IPS shall provide ILEX with any relevant requests/permission, information/ documents and/or equipment within a reasonable timeframe or as otherwise agreed, prior to commencement and during the provision of the Services as required which are necessary to enable the Services to be provided.

9. MONITORING, REVIEW AND QUALITY ASSURANCE

- 9.1. The above performance standards will be monitored by the Head of Corporate Affairs who will conduct a quarterly review.
- 9.2. A comprehensive review of performance standards will be conducted at review meetings of this Agreement which will be held annually.
- 9.3. The review meetings will also deal with any quality assurance matters that may require addressing.
- 9.4. ILEX Chief Executive, IPS Chief Executive, and the relevant IPS Manager(s) and SLA Manager(s) shall attend these meetings as required.

10. DISPUTE RESOLUTION

- 10.1. If any dispute arises, in relation to the Agreement, the dispute in the first instance will be considered in discussions involving the IPS Manager and the SLA Manager overseeing or providing the Service which is the subject of dispute.
- 10.2. In the event that the parties are unable to settle the dispute in accordance with Clause 10.1 any outstanding issues will be considered in discussions involving the Chief Executives of ILEX and IPS and, if necessary the President of ILEX and the Chair of the IPS Board.
- 10.3. If the parties are unable to settle the dispute in accordance with Clause 10.2, the parties will attempt to settle it by independent mediation or by referral to the Legal Services Board.
- 10.4. To initiate a referral to the Legal Services Board, a party by one of its Lead Officers must give at least 5 days written notice to the other party, before referring the dispute to the Legal Services Board in accordance with Clause 10.3.
- 10.5. On commencement of independent mediation, no party may commence referral to the Legal Services Board until independent mediation has terminated.
- 10.6. Either party may refer a dispute to the Legal Services Board before referral to independent mediation.

11. THIRD PARTIES

- 11.1. Nothing in this Agreement confers or purports to confer on any third party any benefit or any right to enforce any term in this Agreement.

12. SERVICE LEVEL AGREEMENT SIGNED BY

..... *ILEX President*

..... IPS Board Chair

SCHEDULE 1

HUMAN RESOURCES Service Specification

Service:	Service Level/Timeframe:
<ol style="list-style-type: none"> 1. Sickness Absence Recording 2. Sickness Absence Reports – Bradford Score 3. Advice on handling sickness absence 4. Information to Payroll 5. Recruitment of Staff 6. Assisting with recruitment of IPS Board Members 7. Staff Induction 8. Advice on performance management 9. Advice on handling disciplinary/grievance 10. Arranging training 11. Training Needs Analysis 12. Calculation of holiday entitlement 13. Holiday cards 	<ol style="list-style-type: none"> 1. Monthly * 2. Monthly * 3. Ad hoc * 4. Monthly # 5. Ad hoc # 6. Ad hoc # 7. Ad hoc # 8. Ad hoc # 9. Ad hoc # 10. Ad hoc # 11. Annual + 12. Annual + 13. Annual +
<p>Methods and Procedures:</p> <ul style="list-style-type: none"> • HR department to liaise with IPS in order to provide the services above. <p>* In order to provide the above services ILEX will need to receive from IPS sickness absence records on monthly basis.</p> <p># In order to provide the above services ILEX will need to receive from IPS details of staff salary, appointments and training, staff performance information and disciplinary/grievance requirements, on an ad hoc basis.</p> <p>+ In order to provide the above services ILEX will need to receive from IPS training requirements, holiday cards and holiday entitlement calculations on annual basis.</p>	
<p>Policy Application (Policies that apply to both ILEX and IPS):</p> <ul style="list-style-type: none"> • Equality & Diversity Policy • Grievance Policy • Disciplinary and Dismissal Policy • General Dismissal Policy • Capability Policy • Sickness Absence Policy • Learning & Development Policy • Personal Harassment & Bullying • Whistleblowers Policy • Staff Members Expenses Policy • Code of Conduct • Electronic and Telephonic Communications Policy • Health & Safety Policy 	

- Car Drivers Policy

Charge:

- As per 2010 Financial Budget

SLA Manager:

- HR Manager for ILEX Group

SCHEDULE 2

FINANCE

Service Specification

<p>Service:</p> <ol style="list-style-type: none"> 1. Staff payroll administration 2. Staff expense claims and Board invoices administration 3. Credit card administration 4. Vehicle administration 5. Preparation of Management Accounts 6. Preparation of Budget statements 7. Audit and Preparation of Statutory Accounts 8. Processing of Customer invoices 9. Processing and payment of Supplier invoices 10. Completion of Group VAT returns 11. Bank statement reconciliation 12. Sales Ledger reconciliation 13. Cash management routines 14. Petty Cash reconciliation 15. Direct Debit Collections 16. Debt Chasing 17. Management of fixed assets 18. Year end payroll administration 19. Group VAT annual adjustment calculation 20. Liaison with auditors 21. Management of Group insurance covers 22. Administration of AA cover for company vehicles 23. Preparation of Annual Report 24. Corporation tax reconciliation and payment 	<p>Service Level/Timeframe:</p> <ol style="list-style-type: none"> 1. Monthly * 2. Weekly * 3. Weekly * 4. As required * 5. Monthly # 6. Annually # 7. Annually # 8. Weekly # 9. Weekly # 10. Quarterly # 11. Weekly + 12. Weekly + 13. Weekly + 14. Monthly + 15. Monthly + 16. Monthly + 17. Monthly + 18. Annual + 19. Annual + 20. Annual + 21. Annual + 22. Annual + 23. Annual + 24. Annual +
<p>Methods and Procedures:</p> <ul style="list-style-type: none"> • Finance department to liaise with IPS when necessary in order to provide the above services * Provided directly to IPS staff in conjunction with services provided to all staff # Provided directly to IPS in conjunction with services provided to all departments + Shared provision of general Finance activities 	
<p>Policy Application (Policies that apply both to ILEX and IPS):</p> <ul style="list-style-type: none"> • Staff expenses policy 	
<p>Charge:</p> <ul style="list-style-type: none"> • To be assessed on figures per 2010 Financial Budget 	

SLA Manager:

- Director of Finance and Resources

SCHEDULE 3

INFORMATION TECHNOLOGY

Service Specification

Service:

1. Hardware equipment - desktop PC's, printers, laptops equipment and related consumables.
2. Network facilities including – storage/email/security, local and wide area (wireless and Internet) infrastructure and connectivity.
3. Management Information System (MIS) software– Concept CRM, includes system (applications and services supported by IRIS), Data and admin support via IT.
4. Other Client Software – Security/Anti-virus, MS-Office, Acrobat, Browsers, CMS editors.
5. IT Management/development support including MIS/Web/IT development advisory, project and programme management & implementation.

Service Level/Timeframe:

- Hardware equipment provided on standard replacement 4 year depreciation.
- Provide '1st line' support for all the above.
- Contracts for core systems including MIS (Concept), Web services and SAGE are in place.
- Access to an IT helpdesk on a daily basis during office hours and out of office as required.
- MIS Software developments in accordance with what is decided by the MIS Strategy Group.
- Provide related consumables upon request.

Methods and Procedures:

- ILEX and IPS to attend MIS Strategy Group meetings; the mechanism by which IT work/projects are timetabled and prioritised.
- IT department to respond to requests for hardware equipment and IT queries.

Policy Application (Policies that apply to both ILEX and IPS):

- Electronic and Telephonic Communications Policy

Charge:

- As per 2010 Financial Budget

SLA Manager:

- Head of Group IT

SCHEDULE 4

PROCUREMENT Service Specification

<p>Service:</p> <ol style="list-style-type: none">1. In-house and out of house facilities for print procurement.2. Support contracts with Xerox and Oce for the maintenance of the printing machines.3. Access to suppliers, manufacturers and service providers with whom ILEX and subsidiary companies have long standing arrangements.
<p>Service Level/Timeframe:</p> <ul style="list-style-type: none">• Provide '1st line' technical and professional support.• Provide '1st line' helpdesk support.• Provide customer account management and changing arrangements.• Provide varied and diverse range of products and services including printed matter, confidential print in-house, motor vehicles and stationery.
<p>Methods and Procedures:</p> <ul style="list-style-type: none">• In-house facilities for print procurement provided by ILEX staff.• IPS to give in-house printing department reasonable notice in relation to printing requirements.• Procurement department to liaise with IPS in relation to products and services.• Printed matter and stationery to be provided/ordered on request by IPS.
<p>Charge:</p> <ul style="list-style-type: none">• As per 2010 Financial Budget
<p>SLA Manager:</p> <ul style="list-style-type: none">• Director of Group Purchasing

SCHEDULE 5

FACILITIES

Service Specification

Service: <ol style="list-style-type: none">1. Accommodation2. Post room and DX mail services3. Telecoms4. Reception5. Utilities6. Cleaning7. Gardening8. Car Parking	Service Level/Timeframe: <ol style="list-style-type: none">1. 4 managed and fully furnished offices on a daily basis, use of meeting rooms as required.2. Daily collection and delivery service to include postage costs allocated to IPS code.3. 5 Siemens Dect cordless telephones, 1 fax machine, 2 mobile phones, 1 photocopier. Telecoms support available via Facilities and IT department.4. Daily service for staff, visitors, IPS Board members, to include call diverting from switchboard, message handling.5. Electricity, gas, water, daily use of kitchen facilities, fire safety equipment, first aid6. Cleaning – daily service provided by third party.7. Gardening – ad hoc services provided by third party to ILEX Group.8. Cars/Car Parking – One company vehicle, daily parking for IPS Staff, ad hoc parking for IPS visitors.
Methods and Procedures: <ul style="list-style-type: none">• The above services are made available to IPS and supported by ILEX Facilities.• IPS to give reasonable notice of meeting requirements.• Post, DX mail and reception services provided by ILEX staff and managed by the Office Manager.• Utilities, cleaning and gardening services provided by third parties.• Mobile phone contracts to be managed by IPS.• Photocopier provided as a shared facility for unlimited use.• Maintenance of car park provided by ILEX staff.	
Charge: <ul style="list-style-type: none">• As per 2010 Financial Budget	
SLA Manager(s): <ul style="list-style-type: none">• Director of Group Purchasing• Office Manager	

SCHEDULE 6

MARKETING AND COMMUNICATIONS

Service Specification

Service: <ol style="list-style-type: none">1. IPS Website2. Content Management System and hosting3. Code of Conduct brochure and IPS Banner4. Administration of Oaths leaflet5. IPS Launch Event and PR coverage6. Annual Report7. IPS Brochure8. Publicity and public relations	Service Level/Timeframe: <ol style="list-style-type: none">1. Support on an ad hoc basis2. On ad hoc basis with training for relevant IPS staff, supported by Marketing & Communications and IT Departments3. Design, print and distribute by Spring 2010, supported by Marketing & Communications and Journal Departments4. As required5. Scheduled for March 2010, supported by Marketing & Communications Department and external PR Agency6. Annual7. Annual8. Advise and action as required
Methods and Procedures: <ul style="list-style-type: none">• Timing and resource input by Marketing and Communications department to be decided when required.• Marketing and Communications department to support the IPS website in liaison with IPS.• IPS to manage content in liaison with Marketing and Communications department.• IPS to give Marketing and Communications department reasonable notice in relation to publicity and press releases.• ILEX to advise IPS on how to deal with press and stakeholders.	
Charge: <ul style="list-style-type: none">• As per 2010 Financial Budget	
SLA Manager: <ul style="list-style-type: none">• Head of Communications and Marketing	

SCHEDULE 7

LEGAL EXECUTIVE JOURNAL

Service Specification

<p>Service:</p> <ol style="list-style-type: none">1. Use of Legal Executive Journal publication2. Editorial support3. Direct mailings to members and other stakeholders	<p>Service Level/Timeframe:</p> <ol style="list-style-type: none">1. 1½ - 2 pages per monthly issue, additional advertising space as required to, include notices, inserts, recruitment and advertisements.2. Ad hoc, supported by Journal department3. Supported by the Marketing & Communications and Journal departments.
<p>Methods and Procedures:</p> <ul style="list-style-type: none">• The above services are made available to IPS and supported by Journal department.• Journal department to liaise with IPS in order to provide the services above.• IPS to meet publication deadlines and to produce material for publication.• IPS to keep the Legal Executive Journal Editor informed.	
<p>Charge:</p> <ul style="list-style-type: none">• As per 2010 Financial Budget	
<p>SLA Manager:</p> <ul style="list-style-type: none">• Journal Business Manager	

SCHEDULE 8

MEMBERSHIP

Service Specification

Service:	Service Level/Timeframe:
1. Collect and record information regarding declarations of Prior Conduct and or contacts concerning complaints and allegations.	1. Within 1 working day of receipt
2. Refer applications where declarations are made or information where allegations are made to IPS.	2. Within 2 working days of receipt
3. Record on the database when any matter is declared or disclosed and the date when referred to IPS.	3. Within 1 working day of receipt
4. Check disciplinary records of applicants for Fellowship.	4. Every application when received
5. Maintain accurate membership records.	5. Ongoing
6. Provide information to IPS about members or other contacts and make checks to database and paper records.	6. Within 5 working days
7. Provide statistics for membership, including equality and diversity information.	7. Monthly
8. Maintain records of qualifying employment waiver applications, decisions and reasons.	8. Ongoing
9. Maintain records of CPD on membership database.	9. Ongoing
10. Provide the number and grades of members who have not complied with the requirement to record relevant CPD.	10. Annual, by end of February
11. Provide resources (people/admin) to secure CPD compliance by members.	11. By end of May
12. Provide details to IPS of members who have not complied or have not made arrangements to comply with CPD requirements.	12. By mid-June

Methods and Procedures:

- The above services are provided to IPS and supported by Membership department.
- Membership department to liaise with IPS in order to provide the services above.
- IPS and ILEX will share information regarding members including membership records and correspondence where it is necessary to do so to fulfil their respective obligations, or so far as the sharing of information does not contravene any principle or law safeguarding the rights of members or others in relation to data protection or personal privacy.
- The parties will treat as confidential information each holds about members or others which is not also held by the other, except where it is in the public interest to disclose the information to the other or, in the case of IPS, it is necessary to do so in order to fulfil its obligations under the Legal Services Act 2007, its Memorandum and Articles of Association and the protocols, or to meet its general obligations under the law.
- IPS to give Membership department 5 working days notice of requests for database and paper record checks on members and requests for monthly statistics for membership.

Policy Application (Policies that apply to both ILEX and IPS):

- Protocols between ILEX and IPS (annex 1)
- CPD Regulations
- ILEX/CPS Memorandum of Understanding

Charge:

- As per 2010 Financial Budget

SLA Manager:

- Head of Membership

SCHEDULE 9

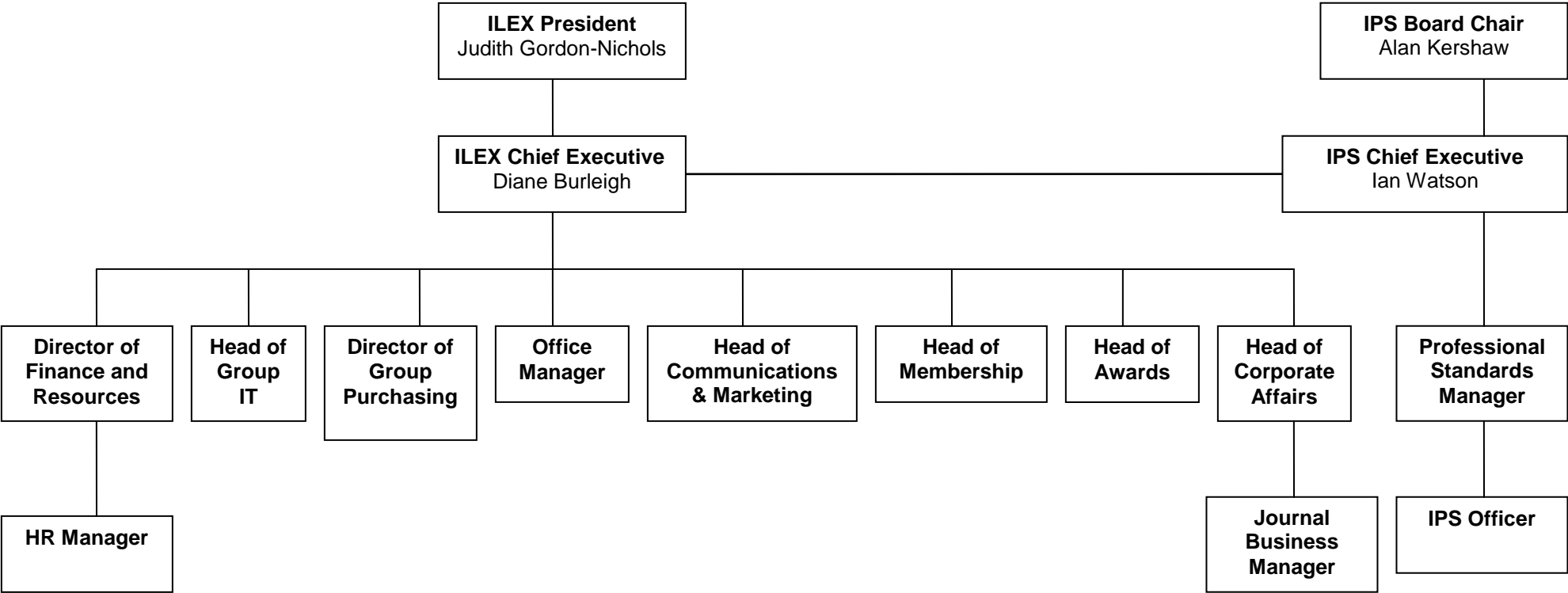
AWARDS

Service Specification

Service:	Service Level/Timeframe:
<ol style="list-style-type: none"> 1. Support the work of IPS to ensure that existing and newly developed standards, qualifications, assessments and delivery are fit for purpose and are capable of securing the minimum standards of competence expected of ILEX members. 2. Ensure that there is an ongoing level and breadth of reporting to IPS that is appropriate to ensure a rigorous and yet proportionate scrutiny of annual activities: <ul style="list-style-type: none"> - Qualification performance data; - APSC minutes - Executive summary of the Awards self-assessment report; - Ofqual self-assessment return feedback; - Self-assessment action plan; - Development plan; - Malpractice/Appeals reporting; - Centre risk management reporting 3. Ensure that the appropriate staff deliver the above reporting regime at the appropriate IPS forum. 4. Ensure that the IPS Education post-holder is a member of APSC (Awards Performance and Strategy Committee). 5. Ensure that the appropriate staff attend and contribute appropriately to IPS-led working groups in connection with projects and initiatives. 6. Respond appropriately to all additional IPS queries and requests for information, and for appearances before the IPS Board. 7. Provide details of candidates found to be guilty of malpractice in assessments, including details of findings and evidence. 8. Share with IPS any report or feedback from Ofqual relating to the ongoing accreditation of ILEX as an awarding organisation. 	<ol style="list-style-type: none"> 1. Ongoing 2. See timeframe below: July and November (annually) In the first quarter of the calendar year 3. Ongoing 4. Ongoing 5. As appropriate 6. As appropriate 7. Within 5 working days of expiry of appeal against malpractice decision 8. Within 10 working days
<p>Methods and Procedures:</p> <ul style="list-style-type: none"> • The above services are provided to IPS by the Awards Team. • The Awards Department will liaise with IPS in order to provide the services above. • Where appropriate, both sides will give each other a minimum of 3 weeks' notice in respect of work deadlines, meeting attendances etc. 	
<p>Policy Application (ILEX policies that apply to both ILEX and IPS):</p> <ul style="list-style-type: none"> • Protocols between ILEX and IPS • Examination regulations • Professional Skills regulations 	

<ul style="list-style-type: none">• Student malpractice policy and procedures• Centre malpractice policy and procedures• Instructions to examination centres and invigilators
Charge: <ul style="list-style-type: none">• As per 2010 Financial Budget
SLA Manager: <ul style="list-style-type: none">• Head of Awards

**ILEX
SLA ORGANISATION CHART**



ANNEX 8 IPS BOARD MEMBERS CODE OF CONDUCT, RESERVED MATTERS & STANDING ORDERS

Code of Conduct for Board members

As a Board Member for IPS, I promise to abide by the fundamental values that underpin all the activity of this organisation. These are:

Accountability

Everything IPS does will be able to stand the test of scrutiny by the public, the media, regulators, ILEX Council, ILEX members, other stakeholders, and the courts.

Integrity and honesty

These will be the hallmarks of all conduct when dealing with colleagues within IPS and ILEX and equally when dealing with individuals and institutions outside it.

Transparency

IPS strives to maintain an atmosphere of openness throughout the organisation to promote confidence of the public, stakeholders, staff, regulators and Parliament.

Additionally, I agree to the following points:

Law, mission, policies

- I will endeavour not to break the law or go against Company regulations in any aspect of my role as a Board member.
- I will support any mission developed by the Board and consider myself its guardian.
- I will abide by organisational policies.

Handling Conflicts of interest

- I will always strive to act in good faith and in the best interests of the organisation.
- I will complete an annual return for the organisation's register of interests and ensure that it is kept up to date if there are any changes in year.
- I will declare any conflict of interest, or any circumstance that might be viewed by others as a conflict of interest, as soon as it arises.
- I will follow the guidance on conflicts of interest contained within the Conduct and Administration of Meetings.
- I will submit to the judgement of the Chair and the Board on whether I take part in the discussion and determination of matters where I have a direct pecuniary interest, either particular to me, or where a member of my family may have a direct pecuniary interest. Where I have a non-pecuniary interest, I will consider whether participation in the discussion and determination of a matter would suggest a real danger of bias.

Person to person

- I will endeavour not to break the law, go against Company regulations or act in disregard of organisational policies in my relationships with fellow Board members, staff, stakeholders, members, service recipients, contractors or anyone I come into contact with in my role.
- I will strive to ensure that my conduct in my professional and private life does not impact adversely on my role as a Board member.
- I will strive to establish respectful, collegial and courteous relationships with all I come into contact with in my role.

Protecting the organisation's reputation

- When speaking as a private citizen I will strive to uphold the reputation of the organisation and those who work in it.
- I will not speak as a Board member of this organisation to the media or in a public forum without the prior knowledge and approval of the Chair or Chief Executive.
- When I am speaking as a Board member of this organisation, my comments will reflect current organisational policy even when these do not agree with my personal views.
- I will respect organisational, board and individual confidentiality.
- I will take an active interest in the organisation's public image, noting news articles, books, television programmes and the like about the organisation, about similar organisations or about important issues for the organisation.

Personal gain

- I will not personally gain materially or financially from my role, nor will I permit others to do so as a result of my actions or negligence.
- I will document expenses and seek reimbursement according to procedure.
- I will not accept substantial gifts or hospitality without prior consent of the Chair (see guidance in standing orders).
- I will use organisational resources responsibly, when authorised, in accordance with procedure.

In the Boardroom

- I will strive to embody the principles of leadership in all my actions and live up to the trust placed in me by IPS.
- I will abide by board governance procedures and practices.
- I will strive to attend all board meetings, giving apologies ahead of time to the Chair, if unable to attend.
- I agree to attend a minimum of 75% of Board meetings each year and accept that failure to reach this level may mean that I am asked to leave the Board.
- I will study the agenda and other information sent to me in good time prior to the meeting and be prepared to debate and vote on agenda items during the meeting.

- I will honour the authority of the Chair and respect his or her role as meeting leader.
- I will engage in debate and voting in meetings according to procedure, maintaining a respectful attitude toward the opinions of others while making my voice heard.
- I will accept a majority board vote on an issue as decisive and final.
- I will maintain confidentiality about what goes on in the boardroom unless authorised by the Chair or Board to speak of it.
- I accept collective responsibility for Board decisions, including representing these decisions in contact with stakeholders and other bodies, even where I do not personally agree with them. If I am unable to support Board decisions in this way, then I will resign from the Board.

Enhancing governance

- I will participate in induction, appraisal, training and development activities.
- I will continually seek ways to improve Board governance practice.
- I will support the Chair in his/her efforts to improve his/her leadership skills.
- I will support the CEO in his/her executive role and, with my fellow board members, be involved in appraisal and appointment processes including seeking development opportunities for him/her.

Leaving the board

- I understand that substantial breach of any part of this code may result in my removal from the Board.
- Should I resign from the Board, I will inform the Chair in advance in writing, giving 3 months notice and stating my reasons for resigning. Additionally, I will participate in an exit interview.
- The Chair, subject to following agreed procedures, may terminate a Board member's appointment on the grounds of failure to attend meetings, of insolvency, of physical or mental incapacity, of criminal conviction or of conduct that, in the Chair's opinion, makes it inappropriate that he/she remains a Board member.
- Once I have left the Board, I will ensure that I maintain the confidentiality of matters discussed within the Board by not speaking or disclosing anything about, and the workings of IPS, ILEX, Board members and staff.

Approved by the Board 15 April 2009

ILEX Professional Standards Ltd

Matters to be reserved to the Board

1. Strategy and Finance	
1.1	Responsible for the overall management of IPS, ensuring compliance with the objects of the Company
1.2	Approval of IPS's long term objectives and strategies. Any decisions relating to their implementation
1.3	Approve or amend budgets, including decisions on allocation of budget between individual programmes, operating costs and any central contingency in the light of guidance from the Chief Executive as to available resources.
1.4	Approve Protocols and methods of working with ILEX and other Stakeholders
1.5	Any decision, which alters a policy formally agreed by the Board
1.6	Decisions relating to legal proceedings against or on behalf of IPS
1.7	Decisions on the adoption of risk management policies.
1.8	Receiving reports on and reviewing the effectiveness of the risk management processes.
1.9	Decisions on the allocation of unforeseen income to a particular budget.
1.10	Review of performance in the light of the agreed strategy, objectives, business plans and budgets and ensuring that any corrective action is taken
2. Regulations and control, etc	
2.1	Responsible for ensuring the registration of the Company and the provision of information to Companies House, as requested
2.2	Making recommendations to ILEX to change/amend the Company's objects, M&As etc
2.3	Approval of standing orders and the schedule of matters reserved for the Board.
2.4	Change or amend Standing Orders or reserved matters
2.5	Approve arrangements for dealing with complaints
2.6	Decisions on the creation, maintenance, terms of reference, leadership and membership of board committees.
2.7	Receive reports from board committees and ratify/reject any recommendations
2.8	Decisions to grant, or vary, power, role, responsibilities and authority levels to the Chief Executive; and in doing so specify by implication the ones that the Board reserves to itself.
2.9	Establish, review, amend approve key organisational policies
2.10	Approve protocols and MoUs between IPS and other

	organisations, review these where appropriate and approve revisions.
3. Appointments	
3.1	Decisions to appoint or remove senior staff following proper procedures agreed by the Board Members. Decisions on the timing of the appointment or removal of Directors.
3.2	Agree procedures for the effective evaluation of the Board and of individual Board Members
3.3	Approval and appointment of professional advisors and consultants and determine their remuneration
3.4	Decisions to appoint or remove the external auditors and to determine their remuneration
4. Contracts and Transactions	
4.1	Decisions to enter into any contracts of a gross value of more than £50,000, subject to the Chief Executive's advice.
4.2	Significant decisions relating to any transaction in which a Board member or a member of staff has a direct or indirect material interest.
4.3	Any matter where a Board Member or member of staff's personal interest might conflict with his, or her, duty to the IPS, e.g. procurement issues.
5. Regulatory Matters	
5.1	Referral of matters or issues to the LSB
5.2	Decisions on what matters should be reserved to the Board
6. Disclosure	
6.1	The approval of the Annual Report and Accounts.
6.2	Decisions on when and how to make key information public
6.3	PR Policy and decisions around image

Approved: by the Board on 12 February 2009

ILEX Professional Standards Ltd

Conduct and Administration of Meetings (Standing Orders)

Board Meetings

1. Board meetings are held at regular intervals with the time and place determined by the Board, and confirmed at each preceding meeting of the Board.
2. A calendar of Board and Committee meetings will be drafted before each calendar year for the following year's business for approval during autumn.
3. Additional meetings may be held at such time and place as may be determined by the Board.
4. At each meeting of the Board the minutes of the last meeting shall, if available, be taken as an agenda item and, if agreed to be accurate, signed as a true record by the Chair of the meeting. Minutes of the previous meeting will always be taken as an agenda item at scheduled meetings of the Board.
5. The agenda and papers for each meeting will normally be despatched to Board Members no later than six days before the meeting. Late papers shall be sent only in exceptional circumstances, and shall be considered only with the consent of the Chair.
6. At a meeting, the Chair shall preside. If the Chair is absent, the Committee members in attendance shall choose one of their number to preside for that meeting.

Power to call Meetings

7. Any quorate group of Board Members can declare itself a Board meeting. However, other than in exceptional circumstances, Board Members will request additional meetings of the Board at any time through the Chair. The Chair and Secretariat will use best endeavours to arrange, within ten working days of such a request, a quorate meeting that the maximum possible number of Board members can attend.

Notice of Meeting

8. Once a meeting has been scheduled, a notice of the meeting, specifying the business proposed to be transacted, shall be delivered to every Board Member, or sent by post to the usual place of residence of each Member or to such other address as may be specified by the Member. This notice will be available to Board Members at least six clear days before the meeting; or if the meeting is called at short notice, then as early as possible before the meeting which, except in

exceptional circumstances, should be at least 48 hours of notice must be given of a meeting.

9. An accidental omission to serve such notice on any Member shall not affect the validity of the meeting.

Quorum for meetings

10. The memorandum and articles of association of IPS Ltd identify that a quorum is 2 Board Members. Other than in exceptional circumstances to be agreed by the Chair, the Chief Executive should ensure that a minimum of 3 Board Members are present at each meeting, with at least one of these being an Independent Member and one a Professional Member.
11. There is the presumption that members will make best efforts to be physically present at meetings, but the Chair may agree to a particular meeting being conducted by video or telephone conferencing if a Board Member requests it in advance. For the avoidance of doubt, the presence of a Board Member by telephone or video conference constitutes attendance at the meeting, and, therefore, counts towards the quorum.
12. The rules on the quorum apply throughout the meeting, for example when the numbers present change as a result of members arriving late, leaving early or declaring an interest. The Secretary shall keep a note of attendance, including any changes, which take place during the meeting. If a meeting is at risk of becoming inquorate, the Secretary shall immediately inform the Chair.
13. Whilst it is possible for an inquorate meeting to continue in respect of items purely for discussion, it does not constitute a meeting of the Board and no business decisions can be taken by an inquorate meeting. Specifically, Board Members cannot, when inquorate, exercise statutory discretion. Nor do the opinions expressed or conclusions reached, by an inquorate meeting, constitute those of the Board.

Resolutions

14. Decisions of the Board shall be taken and recorded in the Minutes of that meeting.
15. The Board will normally reach decisions by consensus. However, if any resolution or other question is put to the vote at a meeting, it shall be determined by a majority of the votes of the Members present and voting on the question, and shall be decided on a show of hands.
16. In the case of equality of votes, there is no casting vote.

17. Any member may require their vote, or the fact of their abstention, to be recorded in the minutes of a meeting. However, a declaration by the person presiding at the meeting that a resolution has been carried or not, and an entry to that effect made in the minutes of a meeting, shall be conclusive evidence of the fact, without proof of the number of votes recorded in favour of, or against, the resolution.
18. A resolution (i.e. any formal decision by the Board) may be rescinded or varied at any subsequent meeting of the Board. However, where possible this will not be done unless its reconsideration appears on the agenda for that meeting. A resolution should not normally be overturned or varied, for instance, simply as part of discussions of matters arising from previous minutes. The subject matter must appear as a substantive item on the agenda, including the fact that there is a proposal to vary or rescind a previous decision and the reasons for that proposal.

Register of Attendance

19. The names of the person presiding and other Members present at a meeting shall be recorded. Members attending by video or telephone link will be identified as such.

Minutes

20. The minutes of the proceedings of each meeting shall be drawn up and submitted for agreement at the next ensuing meeting of the Board where, if affirmed as a correct record, they will be signed off by the person presiding at the meeting. If, exceptionally, no staff member is available to take a note of the meeting, one of the Board Members present shall be nominated to take a minute of the meeting and it will be supplied to the Secretary of the Board to be held as part of the record.

Briefing papers between meetings

21. The Executive will send update briefings to Board Members, in the format of Agenda Papers and with the appropriate Item Number, as necessary between meetings. Wherever possible, no more than one briefing by correspondence will occur between any two meeting dates.

Agreement by correspondence

22. It may be necessary for the Board, between meetings, to agree items by correspondence. This procedure will be adopted only in exceptional circumstances when necessary and with the prior approval of the Chair on behalf of the Board. The procedure will be as follows:
 - If there is an issue requiring the Board's support/agreement, Board Members will be asked to sign and date a declaration, **if** they are in agreement with the recommendation.

- If there is more than one option/recommendation, the Board shall be asked to choose the preferred option and sign and date a declaration confirming this.
23. Exceptional circumstances will be matters that are judged by the Chair and Chief Executive as too urgent to await the next Board Meeting.
 24. The Secretary to the Board will keep a full record of any items agreed by correspondence and these will be confirmed and minuted in the next meeting of the Board.

Handling conflicts of interest

25. The Chair, and other Board Members, should declare any personal or business interests that may conflict, or give the appearance that they may conflict, with their responsibilities as Board Members. The guidance that follows is intended to ensure that such conflicts are identified at any early stage so that appropriate action can be taken to resolve them. It is also intended to ensure that Board Members do not profit personally from the position of Board Member, including using for personal gain information or opportunities obtained as a result of being a Board Member. Board Members are required to keep a Register of Interests and to register any gifts and hospitality. Guidance on gifts and hospitality forms part of the Code of Practice.
26. For the avoidance of doubt, the inclusion of an Interest on the Register does not remove the requirement for it to be declared at a meeting.

Declarations of interest

27. Board Members should not participate in the discussion or determination of matters in which they have a direct pecuniary interest, which is particular to them, ie, Professional Members may take part in debates and decisions relating to general ILEX matters, such as subscription rates, without declaring an interest or leaving the Board meeting.
28. When an interest is not of a direct pecuniary kind, Board Members should decide whether consideration in the discussion or determination of a matter would suggest a real danger of bias. This should be interpreted in the sense that Board Members might unwittingly or otherwise unfairly regard with favour, or disfavour, the case of a party to the matter under consideration.
29. In considering whether a real danger of bias exists in relation to a particular decision, Board Members should take into account:
 - whether they, a close family member, or person living in the same household, or a firm, business or other organisation with which the

Board Member is connected, are likely to be affected by more than the generality of those affected by the decision in question.

- whether they, a close family member, or person living in the same household, or a firm, business or other organisation with which the Board Member is connected, has an involvement with the decision in another capacity which might prejudice, or be perceived to prejudice, the decision making.
30. When a Board Member personally benefits, in a similar capacity to any other member of the public, from something that is being discussed, there will not normally be a need to declare an interest. However, there may be occasional circumstances where a Board Member feels that there is a danger of perceived bias in their decision-making and, therefore, may choose to declare an interest.
 31. On receipt of an agenda and papers for a meeting, Board Members should alert the Chair to any items where they are considering declaring an interest, in order to resolve any uncertainties in advance. This enables staff to establish if the scheduled meeting is likely to become inquorate during its course.
 32. At the start of each Board and Committee meeting, Board Members will be asked to declare any interests. This will be a regular, standing item on the agenda for each meeting.
 33. In the meeting, Board Members should declare any interests as soon as possible after the meeting begins. Where Board Members do not participate in the discussion or determination of a matter, they should normally withdraw from the Board meeting at all points in the meeting where that matter is discussed. This is because the continued presence of someone who has declared an interest might be thought likely to influence the judgement of the other Board Members present.
 34. Where Board Members sit on a committee, the same procedures apply where the committee is being asked for advice prior to a decision being taken by the Board. If a Board Member would expect to declare an interest when an item is presented to the Board for decision, they should declare that same interest when the same item comes to committee for advice.

Conduct of Committee Meetings

35. The Board may establish any committee or working party for any such purpose as it considers appropriate and determine the powers, terms of reference and timescale of any such committee or working party.
36. Committees must include at least one member or employee of the Board, but may also include persons who are neither members nor employees. The conduct of committee meetings will be regulated in the same manner as Board Meetings.

Minuting Policy

37. In the interests of transparency, IPS formally present its approved minutes to the ILEX Council, will publish the approved minutes on the website and will make copies available to enquirers.

Register of Decision items/Board and Committee Meeting follow up

38. IPS keeps a Register of Decision Items for each Board and Committee meeting. The Register is updated after each meeting and it is a useful reference document to accompany the full minutes of Board and Committee meetings. If any Board/Committee member wishes to have a copy of the most up to date register, they can obtain this from the Secretary to the Board.
39. Each set of minutes has an action sheet appended. The action sheet reflects agreed actions from that meeting and the required follow up.

Public access to IPS information

40. IPS does not operate within the auspices of the Freedom of Information Act.

Claiming of Expenses

41. Members of the Board are entitled to claim expenses incurred in respect of carrying out Board business. Expenses that are incurred should be appropriate and value for money and detailed guidance is provided in the ILEX's Financial and Administrative Procedures. All claims should be submitted on a claim form and supported by receipts. In the exceptional circumstances where a receipt is not available, full details in respect of the expense should be provided. Claims should normally be submitted on a monthly basis and a claim will not be paid if it is submitted more than three months after it has been incurred. Claims will be settled by cheque until ILEX has the facilities to pay by BACs transfer into the Board Member's bank account.

Gifts and Hospitality Register

42. The upper limit on the value of gifts, which may be accepted by staff or members of the Board, is set at £25. Board Members should normally refuse to accept any gift offered to them personally unless it is of negligible value or is a promotional item of a value under the £25 ceiling. Presentational items may be accepted by the Chief Executive who will keep a register of such gifts and ensure that they are displayed or used appropriately by IPS/ILEX.
43. Board Members should accept offers of hospitality only if there is a genuine benefit to the IPS, through the opportunity to impart or receive information or to represent the IPS in the community, or where a meal is in the nature of a working lunch or representational dinner. All hospitality received should be notified to the Chief Executive, who will enter it in a register.

44. If a Board member has any doubt about the propriety of accepting a gift or an invitation, they should consult the Chair.
45. The Register of Gifts and Hospitality is open to public inspection.

Approved by the Board: 12 February 2009

ANNEX 9 IPS BUSINESS PLAN

STRATEGY FOR THE FIRST THREE YEARS

Statement of intent

We will define, promote and secure, in the public interest, proper standards of professional conduct and behaviour among ILEX members.

Overriding principles

We will aim in all our work to:

- underpin the rule of law and the administration of justice
- maintain clear independence of sectoral interests
- develop our understanding of the needs of those for whom legal executive lawyers provide services
- work in close partnership with ILEX to support effective professional development and the provision of consistently good professional practice
- act proportionately, targeting risk
- demonstrate proper governance and good value for money
- act in accordance with the regulatory principles set down in legislation.

Key aims

The work of IPS has been split into six areas of responsibility. Each area has key aims. The six areas are:

- Education and standards
- Registration and accreditation
- Fitness to practise
- Governance and process
- Performance and risk
- Visibility and image

EDUCATION AND STANDARDS

- the quality of all educational programmes which lead to entitlement to ILEX membership is assured
- all ILEX members are fit on entry to exercise the privileges and responsibilities which belong to their category of membership
- the arrangements for progression to ILEX fellowship are robust, consistent and defensible
- any organisation regulated by IPS is delivering services to the standard the public are entitled to expect
- the standards of professional conduct and competence expected of ILEX members and fellows are clear, explicit and readily understood by practitioners and the public

Key Target 1: the quality of all educational programmes which lead to entitlement to ILEX membership is assured

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
AM to serve on Awards Performance Strategy Committee (ASPC) and identify quality assurance issues for IPS to consider	Ongoing	AM	AM attending APSC meetings regularly
IPS Board to receive minutes of meetings of Awards Performance Strategy Committee to enable it to assure quality of education issues	Ongoing	AH	Minutes of APSC meetings are received by the Board.
IPS Board to receive and consider annual report of work of Awards department	Ongoing	AH	First report due early 2010 for year ending 2009
IPS Board to receive and monitor ILEX's self-assessment submission to Ofqual	Ongoing	AH	First self assessment reviewed by AM

Key Target 2: all ILEX members are fit on entry to exercise the privileges and responsibilities which belong to their category of membership

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
Quality assure the ILEX education scheme through ongoing monitoring processes	Ongoing	AM IW	IPS Board has agreed process of review through receiving copies of relevant documentation
Quality assurance of advocates to feed into ILEX advocacy scheme, as appropriate	Ongoing	IW AK	IPS participating in JAG (approved regulators) work on development of qualify standards in advocacy

Key Target 3: the arrangements for progression to ILEX fellowship are robust, consistent and defensible

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
Quality assure the ILEX education scheme through ongoing monitoring processes.	Ongoing	AM IW	IPS Board has agreed process of review through receiving copies of relevant documentation
Review and develop work based learning outcomes and assessment methodology for qualifying employment	Ongoing	TB, AM, AK, JW, MR IW/BB/Awar ds dept	Working party set up to progress this work. Work based learning outcomes have been developed. WP considering recording methodology (log books)
Ensure compliance with CPD scheme	Ongoing	BB	Annual monitoring (membership dept working with 2008 non-compliers, will result in referral to IPS)

Key Target 4: any organisation regulated by IPS is delivering services to the standard the public are entitled to expect

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
IPS to position itself to regulate alternative business structures	July 2012	BB / GB IW	Working party agreed that application should be made. Decision to be agreed by IPS Board and ILEX Council. Scoping work on practice structures, PII and fitness commenced.
Monitor and respond to LSB consultations on development of regulatory structure for ABS	Ongoing	IW / GB / BB	Responses were submitted to latest LSB consultations on ABS regulation, LSB rules issued
Liaise with other approved regulators on ABS matters	Ongoing	IW / GB BB	IW & GB attending regular meetings with other regulators to liaise on developments arising from the Legal Services Act and through the Legal Services Board Responses submitted to SRA consultations on ABS
IPS to position itself to regulate special bodies	July 2012	IW/BB/AK/IL EX	Participate in LSB discussion with special bodies to develop regulatory scheme to license them
Seek new practice rights for ILEX members before IPS can be in a position to regulate entities Rights being sought in litigation and probate Submit applications to LSB	May 2010	BB IW	Applications to be submitted to LSA. Consultation responses being analysed and amendments being made.
Seek conveyancing rights for ILEX members	Sept 2011	BB/ IW	Application to be made- includes scoping of rights, qualification structure, regulatory scheme, consultation, draft of application for submission to LSB by Dec 2010, approval by June 2010 and then move to implementation
Seek advocacy and litigation rights for Associate Prosecutors employed by CPS	May 2010	BB IW	Application to be resubmitted to LSA. Consultation responses being analysed and amendments being made to application.
Implement new practice rights in litigation and probate	April 2011	BB IW/LN	Implementation to begin once new rights granted (Dec 2010 and conclude by April 2011)
Develop compensation fund arrangements for ILEX independent practitioners	April 2011	BB IW	Scheme rules developed, to be implemented once we have new rights (Dec 2010 to Apr 2011)
Develop indemnity insurance arrangements for ILEX independent practitioners	April 2011	BB IW	Scheme rules developed, to be implemented once we have new rights (Dec 2010 to Apr 2011)
Identify and seek new practise rights	Dec 2010	BB / IW	Applications being prepared for conveyancing and criminal litigation rights. Decision made not to seek independent advocacy rights.

Key Target 5: the standards of professional conduct and competence expected of ILEX members and fellows are clear, explicit and readily understood by practitioners and the public

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
Develop and promote new Code of Conduct	May 2010	BB FTP WP DMD	New Code submitted to LSB for approval. Once approved it can be promoted.
Launch new Code	May 2010	BB / AK	Provisional launch at ILEX conference (March 2010) followed by formal launch after approval
Embed code of conduct training into ILEX qualifications through communication of relevant issues to Awards Department	Ongoing	BB	Sharing relevant fitness to practise issues with Awards Department as they arise
Educate ILEX members on conduct issues through regular articles in Legal Executive Journal	Ongoing	BB	Regular journal articles being written
Ethics advice to be available to ILEX members.	Ongoing	BB IW ILEX	IPS to agree standards and provide information, ILEX to deliver one to one advice. System being developed.

REGISTRATION AND ACCREDITATION

- membership and fellowship of ILEX are recognised in the UK and abroad as the definitive touchstone of continuing competence among legal executives
- information published about ILEX members and fellows is accurate, validated and up to date, and indicates clearly to enquirers their current registration status, accreditations, specific rights and relevant fitness to practise history
- ILEX members and fellows are able to demonstrate that they have maintained competence and stayed up to date throughout their professional careers
- the regulation of new categories of ILEX membership is designed to ensure consistency between categories and compatibility with IPS's regulatory aims

Key Target 1: membership and fellowship of ILEX are recognised in the UK and abroad as the definitive touchstone of continuing competence among legal executives

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
Conduct a detailed review of the ILEX qualifying employment arrangements, develop work based learning outcomes, assessment methodology and assessment arrangements (including committee structure).	Sept 2010	TB, AM, AK IW, BB Awards dept	Working party set up. Developed work based learning outcomes and Committee structure. Recording methodology being developed.
Consult on qualifying employment proposals	Sept 2010	BB/ Awards dept	Consultation to be produced after proposals agreed
Submit application to approve qualifying employment proposals to LSB	Oct 2010	BB	Application to be made after above work concluded

Key Target 2: information published about ILEX members and fellows is accurate, validated and up to date, and indicates clearly to enquirers their current registration status, accreditations, specific rights and relevant fitness to practise history

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
Website to be updated to reflect membership information accurately and clarify specialism information	December 2010	BB IW	Specialisms clarified on published directory
Website to include specialist rights awarded to members	December 2010	BB LN	Advocates rights identified. Immigration advisors register developed. Further work being undertaken on web functionality.

Key Target 3: ILEX members and fellows are able to demonstrate that they have maintained competence and stayed up to date throughout their professional careers

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
Conduct comprehensive review of CPD scheme for implementation on 1 January 2011	July 2010	BB	Board to review position
Consider ongoing appraisal mechanisms for ILEX members to ensure continued competence	July 2010	BB	Board to review position

Key Target 4: the regulation of new categories of ILEX membership is designed to ensure consistency between categories and compatibility with IPS's regulatory aims

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
Keep under review criteria for entry into any new membership categories created by ILEX in future and what each category means	Ongoing	TB	

FITNESS TO PRACTISE

- robust procedures are in place for dealing with ILEX members or fellows whose professional conduct, competence or state of health may call in question their continued registration
- those procedures are conducted in a fair, thorough, impartial and timely fashion, with proper regard to the rights and reasonable expectations of the respondent practitioner and the complainant
- the handling of cases is focused primarily on remediation and professional improvement, while recognising the need for sanctions wherever these are necessary
- the procedures operate independently of the IPS Board and ILEX Council, members of neither playing any part in the handling of fitness to practise casework
- cases are disposed of in a timely and consistent way, with the reasons for decisions at each stage explained in sufficient detail for interested parties to understand.

Key Target 1: robust procedures are in place for dealing with ILEX members or fellows whose professional conduct, competence or state of health may call in question their continued registration

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
Recruit three additional lay members to disciplinary panel	August 2010	BB	Recruitment process to be commenced.
Suitable accreditation procedures are in place to regulate immigration advisors	December 2010	BB	Need to develop regulatory regime for immigration advisors

Key Target 2: those procedures are conducted in a fair, thorough, impartial and timely fashion, with proper regard to the rights and reasonable expectations of the respondent practitioner and the complainant

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
Investigations to be completed in a timely fashion	Ongoing	BB EP/LN/GB	New rules expedite procedure wherever possible. Case completion times to be monitored

Key Target 3: the handling of cases is focused primarily on remediation and professional improvement, while recognising the need for sanctions wherever these are necessary

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
Sanctions guidelines developed	May 2010	BB	On Board agenda for approval
Publish findings in Legal Executive Journal to educate members and help them to identify areas for their improvement	Ongoing	BB	Regular items published

Key Target 4: the procedures operate independently of the IPS Board and ILEX Council, members of neither playing any part in the handling of fitness to practise casework

Key Target 5: cases are disposed of in a timely and consistent way, with the reasons for decisions at each stage explained in sufficient detail for interested parties to understand.

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
Performance against key performance indicators to be regularly monitored	Ongoing	BB LN	Quarterly monitoring mechanism introduced
Clear reasoning is given by adjudicatory committees and communicated to the parties	Ongoing	BB EP/GB/LN	Clear reasoning is given by all committees involved in complaints and disciplinary cases. Developing reasoned determinations
Cases will be reviewed on a quarterly basis to identify learning outcomes and monitor performance	Ongoing	BB LN	Reviewing system to be introduced
Standardised format of reasoned determinations to be introduced for use by all disciplinary and complaints committees	October 2009	BB EP	Format to be developed

GOVERNANCE AND PROCESS

- IPS conducts itself, at Board and Executive level, in accordance with best practice in organisational governance
- relations with the ILEX Council and other key stakeholders are governed by unambiguous protocols and statements of understanding and partnership, making clear where boundaries lie and how responsibilities, accountabilities and powers are shared between organisations
- members of the Board and Executive conduct themselves with integrity and probity, demonstrating compliance with established principles of public life and putting the public interest first at all times
- best use is made of the knowledge, skills and experience of each member of the Board and Executive, and all such individuals are effectively resourced, supported, appraised and rewarded in the exercise of their duties
- Board and committee members are selected in a transparent way, using an open appointment process, with independent input, in which applicants are assessed against published criteria.

Key Target 1: IPS conducts itself, at Board and Executive level, in accordance with best practice in organisational governance

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
Monitor compliance with Code of Conduct for Board members	Ongoing	HD	Monitoring on regular basis
Agree reserved matters on Education and Standards for the APSC	May 2010	AH, IW AM	Second draft being considered

Key Target 2: relations with the ILEX Council and other key stakeholders are governed by unambiguous protocols and statements of understanding and partnership, making clear where boundaries lie and how responsibilities, accountabilities and powers are shared between organisations

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
Develop service level agreements to protocols	March 2010	IW GB	SLA developed and final copy on agenda
Review ILEX and IPS protocol after one year of operation	December 2010	HD IW	First review completed. Next review due December 2010.
Develop protocols with other regulatory bodies and with LSB and OLC	June 2010	IW GB	Work commenced to develop protocols and initial drafts produced
Review ILEX protocol with OISC once remit passes to LSB	June 2010	IW BB	Protocol to be substantially revised as OISC will not be overarching regulator

Key Target 3: members of the Board and Executive conduct themselves with integrity and probity, demonstrating compliance with established principles of public life and putting the public interest first at all times

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
Review performance of Board Members against Code of Conduct for Board members.	October 2010	AK	Review as part of Board Member appraisal. Attendance at Board meetings recorded and monitored
Board to review its performance	December 2010	All	Review process completed. Next review due December 2010

Key Target 4: best use is made of the knowledge, skills and experience of each member of the Board and Executive, and all such individuals are effectively resourced, supported, appraised and rewarded in the exercise of their duties

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
Board Members are set annual objectives	December 2009	AK Board members	2009 objectives were agreed. 2010 objectives to be set
Appraisals undertaken of chair and Board members. Appraisal system used to identify any training needs.	December 2010	AK HD Board members	Appraisals completed for 2009. Next due October 2010. skills audit also completed

Key Target 5: Board and committee members are selected in a transparent way, using an open appointment process, with independent input, in which applicants are assessed against published criteria.

PERFORMANCE AND RISK

- future opportunities and challenges are identified through a continuous process of horizon scanning and intelligence gathering
- key risks facing IPS are monitored, assessing the likelihood and impact of each of these and putting in place measures for their effective mitigation
- budgets are set at the level required to deliver regulation to an appropriate standard, recognising the need to demonstrate that spending is reasonable in the eyes of those who pay the bills
- spending is closely monitored against budgets, securing effective use of resources and good value for money
- IPS's performance is continuously monitored against key indicators reflecting the priorities set by the Board
- data are readily available to enable the Board to measure performance, give account where required and answer criticism whether founded or unfounded
- IPS complies at all times with the established principles of good regulation.

Key Target 1: key risks facing IPS are monitored, assessing the likelihood and impact of each of these and putting in place measures for their effective mitigation

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
Risk register developed to monitor risks faced by IPS	February 2010	FE IW / BB	Risk register developed. Reviewed and agreed by Board
Risk register updated regularly and risks kept under review	Ongoing	BB	Regular monitoring taking place. Risk levels updated as necessary

Key Target 2: budgets are set at the level required to deliver regulation to an appropriate standard, recognising the need to demonstrate that spending is reasonable in the eyes of those who pay the bills

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
Budgets to be agreed by IPS Board and ILEX for 2011	October 2010	IW	2010 budgets were agreed. Work will next commence on 2011 budgets
Business planning to take place to identify budgetary needs	October 2010	IW BB	Business planning to commence
Comply with LSB on independent regulation and transparent fee setting	April 2010	IW/DB/TC	Matter on IPS Board agenda
ILEX members are provided with clear information about subscription fees for regulation, representative services and LSB/OLC levy	October 2010	IW ILEX	Budgetary work to be undertaken to split fees into three categories for subscriptions due January 2011

Key Target 3: spending is closely monitored against budgets, securing effective use of resources and good value for money

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
Regular monitoring of spending takes place against budget	Ongoing	IW	Reports of budget to Board at each meeting

Key Target 4 IPS' performance is continuously monitored against key indicators reflecting the priorities set by the Board

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
Monitor performance against KPI	Ongoing	BB LN	Regular performance reports to Board

Key Target 5: data are readily available to enable the Board to measure performance, give account where required and answer criticism whether founded or unfounded

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
Good use made of 'profile concept' to record complaints work so that data can be extracted	Ongoing	BB/EP/GB/L N/SF	Database used for all complaints cases
Annual report of complaints work accounts for performance	March 2010	BB EP	Report written
Annual report of IPS Board	March 2010	GB IW	Report being written

Key Target 6 IPS complies at all times with the established principles of good regulation.

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
IPS to ensure it works to PACTT better regulation principles	Ongoing	AK / IW	Embed PACTT principles in IPS work
IPS ensures it regulates in accordance with regulatory objectives and professional principles under Legal Services Act 2007	Ongoing	AK / IW	Embed regulatory objectives and professional principles in IPS work

COMMUNICATIONS AND PARTNERSHIP

- the visual identity and public face of IPS closely reflect its values and aspirations
- those values and aspirations run throughout the organisation and are shared and exemplified by all members of the Board and Executive
- IPS listens to and communicates regularly with all who have an interest in its work, explaining its decisions and actions clearly, succinctly and at the appropriate times, and making effective use of all available means of communication
- the needs of different stakeholders and audiences are clearly understood, ensuring effective communication with each by using the media most appropriate for them
- IPS takes active steps to give account of itself, promoting positively the benefits of its work and of professional regulation in general.

Key Target 1: the visual identity and public face of IPS closely reflect its values and aspirations. Those values and aspirations run throughout the organisation and are shared and exemplified by all members of the Board and Executive

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
IPS corporate image is embedded into all of its documentation	Ongoing	IW / BB All	Corporate logo has been developed and used in all documents including corporate brochures and banner stands. Developing corporate images.

Key Target 2: IPS listens to and communicates regularly with all who have an interest in its work, explaining its decisions and actions clearly, succinctly and at the appropriate times, and making effective use of all available means of communication

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
IPS to report regularly to ILEX council and ILEX at Board and Executive level	Ongoing	IW	Regular reporting of IPS minutes to council Regular meetings between IW and DB Regular meetings between AK and ILEX President & vice-President
IPS liaises with and consults LSB and OLC	Ongoing	IW GB/BB	IPS attend LSB meetings
IPS consults widely on its proposals	Ongoing	IW All	Consultations sent to wide audience, posted on website
IPS consults and liaises with consumer bodies	Ongoing	IW All	Consultations take place with consumer organisations
IPS consults and liaises with other regulatory bodies	Ongoing	IW All	Attend regular meetings with approved regulators and regulatory bodies
Method developed for Board members to provide input into consultations to which IPS responds	Ongoing	All	Email input arrangements were introduced
Information to be communicated through website	Ongoing	LN/BB/IW	Web pages produced for IPS consultation documents

Key Target 3: the needs of different stakeholders and audiences are clearly understood, ensuring effective communication with each by using the media most appropriate for them

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
Use to be made of website, correspondence and other mediums to communicate with stakeholders	Ongoing	All	Identify and use appropriate mediums on a needs basis
Develop programme of stakeholder engagement	June 2010	All	

Key Target 4 IPS takes active steps to give account of itself, promoting positively the benefits of its work and of professional regulation in general.

ACTION	DATE	LEAD/ RESOURCE	UPDATED PROGRESS
Annual report of IPS to be produced	March 2010	IW GB	Report to be written
IPS writes regular articles in Legal Executive Journal updating members on its work	Ongoing	AK / IW	Several articles written
IPS writes articles in other journals promoting its work and ILEX	Ongoing	AK / IW	Article written in magistrates publication
IPS communicates with consumer bodies on its work	Ongoing	AK / IW	

ANNEX 10 PROBATE RIGHTS BUSINESS IMPLEMENTATION PLAN

IMPLEMENTATION BUSINESS PLAN

This document sets out ILEX's proposals for implementing the probate rights scheme. The plan also covers implementation of the practice management arrangements. Staff at ILEX Professional Standards Ltd will be responsible for implementing the business plan.

The implementation work has been split up into a number of categories. However, much of the work can be undertaken concurrently.

1. Establishment of Admissions and Licensing Committee

The Admissions and Licensing Committee will be established to consider candidate applications referred to it by an IPS Officer.

The Committee will comprise two Fellows of ILEX and three independent members. One member will be a member of the IPS Board. The Board member will be the portfolio holder for registration and accreditation matters. The present portfolio holder is a Fellow of ILEX. The committee appointments will be part-time appointments on a self-employed basis.

The committee will perform other roles in addition to those assigned to it under this scheme. Therefore the Committee is likely to have been recruited prior to the commencement of this scheme.

- Recruitment of committee members
 - Development of advertisement (Fellows and independent) 1 week
 - Placing advert in appropriate publications 1 week
 - Application timescale 3 weeks
 - Application short listing 2 weeks
 - Invite for interview and interviews 3 weeks
 - Make appointments 1 week
 -
 - Total 11 weeks

- Induction and training
 - Develop training programme 2 weeks
 - Set training dates 2 weeks
 - Hold training session 2 weeks
 -
 - Total 6 weeks

2. Recruitment of external advisors

Under the scheme IPS will need to recruit at least three external advisors covering probate, practice management and accounts. IPS will replicate processes used for recruitment of external advisors for the rights of audience scheme. It is intended that the external advisors will be able to attend the same training sessions as the committee members.

IPS has considered what contingency action to take should the probate scheme be highly successful to the point that the three proposed external advisors could not cope with the number of applications.

At the first stage IPS requires external advisors to mark probate case portfolios. IPS may be able to appoint externals from the pool of applicants it would have received when it made the initial appointments.

IPS would have some lead in time to appoint additional externals for accounts and practice management, while probate portfolios are being assessed. IPS would re-run the recruitment process or appoint additional external advisors from the pool of original applicants.

The timetable below scopes out how long the recruitment process will take. A separate training session (which will be of one day) will be run for any additional externals that may be appointed.

• Recruitment	
Development of advertisement	1 week
Placing advert in appropriate publications	1 week
Application timescale	3 weeks
Application short listing	1 week
Invite for interview and interviews	2 weeks
Make appointments	1 week

Total	9 weeks

3. Candidate applications

IPS will need to develop a variety of application forms. They include applications for certificates, first renewals of certificates, subsequent renewals of certificates and applications to practice independently. It should be noted that much of this development work has already been completed by IPS in respect of its current rights of audience scheme. That work can be adapted for this scheme.

- Certificates

Application forms and portfolio forms	1 week
Candidate guidance notes	1 week

Total	2 weeks

(adapting existing forms and guidance notes)

- First renewals of certificates

Application forms	1 week
Candidate guidance notes	1 week

Total	2 weeks

(adapting existing forms and guidance notes– can be developed after commencement)

- Subsequent renewals of certificates

Application form	1 week

Total	1 week

(adapting existing forms – can be developed after commencement)

4. Practice management

Probate practitioners who wish to practice independently or provide services to clients of their employer will need to seek authorisation to do so. They will make an application which complies with the independent practice criteria.

The external advisors will undertake inspection and monitoring visits of practices. The cost of such visits will be met by the application fee. Should IPS receive a large number of applications from members seeking to undertake independent practice IPS will recruit additional external advisors.

- Application

Develop application forms	2 weeks
Develop guidance notes	3 weeks

Total	5 weeks

(adapting existing forms and handbook)

- Process applications

Receive and undertake initial assessment in office	1 week
External advisor assessment	3 weeks
Copy advisor comments to applicant	1 week
Applicant response	2 weeks
Refer to committee (if required)	2 weeks
Committee decision (if required)	2 weeks

Total	----- 7/11 weeks
(depending on whether committee referral needed)	

- Post application

Inspection forms and procedures	4 weeks
Monitoring forms and procedures	4 weeks
Accountants report form, test procedures	6 weeks

Total	14 weeks

5. Professional Indemnity Insurance

Probate practitioners who practise independently will need to ensure that they are covered by a scheme of professional indemnity insurance. There may be instances where practitioners employed by organisations and providing probate services to clients of their employer may need cover, if they are not provided cover by their employer.

IPS has commenced negotiation with insurance brokers and is raising awareness of its proposals. It is intended that this will help to ensure smooth introduction of an insurance scheme. The discussions have led to a broker sharing the IPS indemnity scheme rules with a large insurance provider. The provider has confirmed that the rules are workable. (IPS has spoken to three brokers over a number of years, who all agreed with the approach in the rules).

Negotiation with brokers	6 weeks
Set up of scheme	6 weeks
Liaison with insurers re scheme procedures etc	6 weeks

Total	18 weeks

6. Compensation fund

IPS will need to set up a compensation fund to protect the clients of Practitioners who practise independently or provide services to clients of their employer. The work may involve setting up an account, putting ILEX funds designated for a compensation fund into the account, assessing levels of contributions and subsequent administration of the scheme. It will also involve appointing a Board of Trustees.

Set up account	3 weeks
----------------	---------

Designate and transfer ILEX contribution into fund	3 weeks
Scoping out level of member contributions	4 weeks
Setting up administrative arrangements	12 weeks

Total	22 weeks

7. Marketing of scheme

IPS recognises the importance of marketing the scheme to ILEX members and to non-ILEX members to attract them to qualify. It is envisaged that ILEX and IPS will need to provide guidance to members and potential applicants on various matters relating to the scheme, such as qualification structure, setting up a practice etc. Marketing material will also need to target potential course providers.

Develop marketing literature (leaflets, info packs)	4 weeks
Place adverts (ILEX Journal, website)	2 weeks
Develop guidance (FAQ, case studies, model applications)	4 weeks

Total	10 weeks

RESOURCES AND CAPABILITY

This document sets out ILEX's proposals by which it will resource the probate rights scheme. It is assumed that the scheme will be implemented and administered by staff at ILEX Professional Standards Ltd.

1. Admissions and Licensing Committee and external advisors

- Recruitment – professional standards manager and HR manager
- Interviews – IPS Board members and one IPS staff member
- Induction – IPS Board and Professional Standards Manager
- Administrative assistance by IPS Administrator and Professional Standards Assistant

The professional standards manager led on the recruitment of the Advocacy Rights Committee members and External advisors under the rights of audience scheme. The IPS Administrator and HR manager provided support.

Recruitment and realignment of responsibilities has commenced at IPS to ensure that the professional standards manager and professional standards assistant will be able to work on implementation of the probate scheme. ILEX has also agreed that IPS will recruit an additional staff member to meet any shortfalls in capacity.

2. Candidate applications

- Development work – professional standards manager and professional standards assistant.
- Processing of applications – professional standards assistant and one new employee (professional standards officer)
- External advisors provide technical support and have experience to vet portfolios.

The professional standards manager and professional standards assistant have experience of developing and updating forms used for the rights of audience scheme. The professional standards assistant presently processes applications for rights of audience.

3. Practice management

- Development of application forms and guidance notes – new employee and professional standards manager
- External advisor to provide technical support

- Inspection and monitoring of practices, including enforcement powers – professional standards manager and external experts will begin the process. Employee to be recruited in future depending upon business need.

The professional standards manager has been involved in developing rules for practice management and has experience of inspecting and monitoring immigration practices. IPS has also made use of an external advisor on an ad hoc basis to inspect immigration practices on its behalf. This work has produced inspection forms and procedures which can be adapted and developed further.

The external advisor used for inspection of immigration practices continues to provide services to IPS, as required. They would be able to assist with the implementation work and may become an external advisor for the scheme. Other service providers, who have experience of undertaking inspection and monitoring work for other organisations have also expressed an interest in this scheme. IPS will be working on the skills and criteria required for the external advisor for practice management and accounts.

4. Professional Indemnity Insurance

- Negotiate with brokers – professional standards manager and new employee.

The professional standards manager has been involved in current negotiations with brokers. The brokers will provide the expertise to negotiate with insurance providers. As mentioned earlier the brokers have spoken to an insurance provider, who has agreed that the proposed rules are workable.

5. Compensation fund

- Set up fund – group accountant.
- Designate resources – group accountant.
- Determine level of contributions – group accountant with support from IPS staff.
- Administration of scheme – new employee

6. Marketing of scheme

- Development of materials – professional standards assistant and communications department (both have existing experience)
- Publication of materials – communications department

FINANCIAL RESOURCES

Compensation fund – ILEX reserves
Member contributions

Costs

External advisors - £500 annual retainer
£60 marking portfolios
£45 marking renewal portfolios

Admissions & Licensing Committee - £500 retainer
£350 per meeting
£175 – telephone meetings

Independent practice -	external advisor input-	£100
	Office time	£50
	Inspection/monitoring	£350
	Follow up work	£200

Income

Applications –	Probate certificate	£250
	Independent practice	£1500
	First renewal of certificates	£250
	Subsequent renewals	£100 (if employed) £1000 (if independent)

COSTS

	10 applicati ons	20 applicati ons	30 applicati ons	50 applicati ons	100 applicati ons
External advisors					
Retainers (3 advisors) £500 (6 advisors for 50 & 100 applications)	1500	1500	1500	3000	3000
marking portfolios - £60	600	1200	1800	3000	6000
total	2100	2700	3300	6000	9000
Admissions & Licensing Committee (2 meetings, 3 meetings for 50 & 100 applications)					
Retainers (5 members) £500	2500	2500	2500	2500	2500
Meeting- £350 (board member not paid)	1400	1400	1400	1400	1400
telephone meetings- £175	700	700	700	1400	1400
Total	4600	4600	4600	5300	5300
Independent practice					
external advisor input- £100	1000	2000	3000	5000	10000
Office time - £50	500	1000	1500	2500	5000
Inspection/monitoring -£350	3500	7000	10500	17500	35000
Follow up work -£200	2000	4000	6000	10000	20000
Total	7000	14000	21000	35000	70000
Appointments (year one only)					
Recruitment for Committee & advisors – adverts	2000	2000	2000	2000	2000
Interviewing	500	500	500	500	500
Training	4000	4000	4000	4000	4000
Staff member costs	2500	5000	7500	12500	25000
total	9000	11500	14000	18750	31500
Total costs	22700	32800	42900	65050	115800

INCOME

	10 applicati ons	20 applicati ons	30 applicati ons	50 applicati ons	100 applicati ons
Applications					
probate certificate- £250	2500	5000	7500	12500	25000
Independent application - £1500	15000	30000	45000	75000	150000
First renewal of certificates- £250	Yr 2	Yr 2	Yr 2	Yr2	Yr2
Subsequent renewals- £100 (if employed) or £1000 (if independent)	Yr 2	Yr 2	Yr2	Yr 2	Yr 2
Total	17500	35000	52500	87500	175000
OVERALL INCOME / LOSS AT END OF YEAR ONE	Loss 5,200	2,200	9,600	22,450	59,200

Note – The loss mainly arises from year one appointments costs, which will be recouped over a period of time. The Committee will also be responsible for the other rights schemes (advocacy and qualifying employment). Therefore committee costs will be shared between all those schemes. They are all attributed to the probate scheme in the above illustration.

PROBATE RIGHTS PROJECT IMPLEMENTATION CHART

Activity	Week number																				
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
Committee																					
Advert develop	X																				
Place advert		X																			
Applications			X	X	X																
Short listing						X	X														
interviews								X	X	X											
appointment											X										
Develop training											X	X									
Agree dates														X	X						
Training session																X	X				
Ext advisors																					
Advert develop	X																				
Place advert		X																			
Applications			X	X	X																
Short listing						X															
interviews							X	X	X												
appointment										X											
Develop training											X	X									
Agree dates														X	X						
Training session																X	X				
Application frms development																					

cert form	X																				
Guidance notes		X																			
First renewal form			X																		
First renew guide				X																	
Next renew form					X																
Indep pract form						X															
Indep pract guide							X	X													
Practice mgmt development																					
Inspection proc.	X	X	X	X																	
Monitoring forms					X	X	X	X													
Accountant forms									X	X	X	X	X	X							
PII																					
Negotiate brokers	X	X	X	X	X	X															
Set up scheme							X	X	X	X	X	X									
Insurers liaison													X	X	X	X	X	X			
Comp. fund																					
Set up account	X	X	X																		
Designate funds				X	X	X															
Scoping contrib.							X	X	X	X											
Admin set up											X	X	X	X	X	X	X	X	X	X	X
marketing																					
Literature develop	X	X	X	X																	
advertise					X	X															

More development							X	X	X	X	Marketing activities will be ongoing												

ANNEX 11 SUMMARY OF ILEX EDUCATION SCHEME

ILEX Professional Qualification in Law

The ILEX Professional Qualification in Law is split into two parts, Level 3 Professional Diploma in Law (PDL) and Level 6 Professional Higher Diploma in Law (PHDL).

ILEX LEVEL 3 QUALIFICATION

Introduction

The Level 3 Certificate in Law and Practice and the Level 3 Professional Diploma in Law and Practice replace ILEX's existing Level 3 qualification: ILEX Level 3 Professional Diploma in Law (Exam Route and Mixed Assessment Route). They represent ILEX's new flexible, unitised pathways into the study of the Law and Legal Practice. Each qualification is accredited by the Qualifications and Curriculum Authority (QCA) to the Qualifications and Credit Framework (QCF).

The ILEX Level 3 Professional Diploma in Law and Practice (2008) is ILEX's new Level 3 Professional qualification. Students wishing to proceed to Fellowship of ILEX must achieve the ILEX Level 3 Professional Diploma in Law and Practice (2008) before moving to the Professional Higher qualification at Level 6.

ILEX Level 3 Certificate in Law and Practice

The ILEX Level 3 Certificate in Law and Practice (2008) comprises a flexible introduction to a specific area of Law and Legal Practice. It also requires that students understand the kinds of professional legal skills necessary to begin to research the Law and work with clients.

The ILEX Level 3 Certificate in Law and Practice (2008) is the first step on the road to Fellowship of ILEX. Students who clearly know that they want to be a Legal Executive, and have their sights set on the ILEX Level 3 Professional Diploma in Law and Practice (2008), can complete the Level 3 Certificate en route to completing the Level 3 Diploma.

The achievements gained towards the Level 3 Certificate can be used towards the achievement of the ILEX Level 3 Professional Diploma in Law and Practice (2008). The ILEX Level 3 Certificate in Law and Practice (2008) is a way of rewarding ongoing achievement on the road to the larger, broader qualification.

ILEX Level 3 Professional Diploma in Law and Practice

The ILEX Level 3 Professional Diploma in Law and Practice (2008) is ILEX's first stage of Professional training. It is designed for students who want to progress to Level 6 Professional Higher qualifications and who want to ultimately become Legal Executives and, hence, Fellows of ILEX.

The qualification offers students a broad-based and yet flexible introduction to the Law and Legal Practice, and helps to develop a range of professional skills necessary for effective working in the practical legal environment. The qualification prepares students for further development in knowledge, understanding and skills at Level 6.

Qualification Structure

The following table shows the new Level 3 suite of qualification units:

Unit	Title	Type of unit
Unit 1	Introduction to Law and Practice	Foundation Law unit: mandatory to all qualifications
Unit 2	Contract Law	Law
Unit 3	Criminal Law	Law
Unit 4	Land Law	Law
Unit 5	Law of Tort	Law
Unit 6	Employment Law	Law
Unit 7	Family Law	Law
Unit 8	Law of Wills and Succession	Law
Unit 9	Civil Litigation	Practice
Unit 10	Conveyancing	Practice
Unit 11	Criminal Litigation	Practice
Unit 12	The Practice of Family Law	Practice
Unit 13	The Practice of Employment Law	Practice
Unit 14	Probate Practice	Practice
Unit 15	The Practice of Law for the Elderly Client	Practice
Unit 16	Client Care Skills	Professional Skills: mandatory to all qualifications
Unit 17	Legal Research Skills	Professional Skills: mandatory to all qualifications

The structure of the ILEX Level 3 Certificate in Law and Practice (2008)

The units are the building blocks towards the qualification. To achieve the ILEX Level 3 Certificate in Law and Practice (2008), students must achieve the following combination of five units:

Unit 1 (Introduction to Law & Practice)	Unit 16 (Client Care Skills)	Unit 17 (Legal Research Skills)	1 Law Unit	1 Practice Unit (must be linked to Law unit)
---------------------------------------------------	----------------------------------------	-------------------------------------------	-------------------	--------------------------------------------------------

No Practice unit can be counted as achievement towards a qualification without the linked Law unit being taken also.*

* Where a student simply wants to take a single unit not as a part of an overall qualification, then this is permitted. ILEX will certificate students for each unit they achieve.

Therefore, students taking the following Practice units towards a qualification must also take the Law units identified in Table 1:

Table 1

You must do the following Law unit if you intend to do this Practice unit ...
Unit 2 Contract Law OR Unit 5 Law of Tort	Unit 9 Civil Litigation
Unit 4 Land Law	Unit 10 Conveyancing
Unit 3 Criminal Law	Unit 11 Criminal Litigation

Unit 7 Family Law	Unit 12 The Practice of Family Law
Unit 6 Employment Law	Unit 13 The Practice of Employment Law
Unit 8 Law of Wills and Succession	Unit 14 Probate Practice
Unit 8 Law of Wills and Succession	Unit 15 The Practice of Law for the Elderly Client

To show the legal area in which the Certificate was achieved, ILEX has also decided to endorse each ILEX Level 3 Certificate in Law and Practice (2008) in the following way:

Table 2

Endorsed qualification title	Required combination of Law and Practice units
ILEX Level 3 Certificate in Law and Practice (Conveyancing)	Unit 4 Land Law + Unit 10 Conveyancing
ILEX Level 3 Certificate in Law and Practice (Civil Litigation)	Unit 2 Contract Law + Unit 9 Civil Litigation OR Unit 5 Law of Tort + Unit 9 Civil Litigation
ILEX Level 3 Certificate in Law and Practice (Criminal Litigation)	Unit 3 Criminal Law + Unit 11 Criminal Litigation
ILEX Level 3 Certificate in Law and Practice (Family Practice)	Unit 7 Family Law + Unit 12 The Practice of Family Law
ILEX Level 3 Certificate in Law and Practice (Employment Practice)	Unit 6 Employment Law + 13 The Practice of Employment Law
ILEX Level 3 Certificate in Law and Practice (Probate Practice)	Unit 8 Law of Wills and Succession + Unit 14 Probate Practice
ILEX Level 3 Certificate in Law and Practice (Elderly Client Practice)	Unit 8 Law of Wills and Succession + Unit 15 The Practice of Law for the Elderly Client

The structure of the ILEX Level 3 Professional Diploma in Law and Practice (2008)

Students must take a total of 10 units to complete the ILEX Level 3 Professional Diploma in Law and Practice (2008). However, many students will have completed the ILEX Level 3 Certificate in Law and Practice (2008) en route to the Diploma and, therefore, will have already taken 5 units, so will only have a further 5 units to take.

To achieve the ILEX Level 3 Professional Diploma in Law and Practice (2008) students must ensure that their choice of units follows the qualification rules.

ILEX Level 3 Professional Diploma in Law and Practice (2008) - Qualification Rules

- Students must take the 7 mandatory units marked in the table below.
- Students must then take 3 other units of which 2 units at least must be Practice units
- The third unit can be either an additional Law unit or another Practice unit
- Again, no Practice unit can be counted as achievement towards a qualification without the underpinning Law unit being taken also.* See Table 1 above for details of which Practice units are linked to which Law units.
- Students who have completed the Certificate should refer to the key points in the table below for further clarification of these rules.

* Where a student simply wants to take a single unit not as a part of an overall qualification, then this is permitted. ILEX will certificate students for each unit they achieve.

Unit	Title	Qualification Rules	Key Points for students who have completed the Level 3 Certificate
Unit 1	Introduction to Law and Practice	Mandatory unit	Students who have completed the Certificate will have already taken Unit 1 and so will not have to take it again.
Unit 2	Contract Law	Mandatory unit	Students may have taken 1 of these units on the Certificate. If so, they can use this towards the Diploma and will not have to retake it on the Diploma.
Unit 3	Criminal Law	Mandatory unit	
Unit 4	Land Law	Mandatory unit	
Unit 5	Law of Tort	Mandatory unit	
Unit 6	Employment Law	Additional Law units	Students may have taken one of these units on the Certificate. The unit achieved on the Certificate may be counted as the additional Law unit towards the Diploma.
Unit 7	Family Law		
Unit 8	Law of Wills and Succession		
Unit 9	Civil Litigation	A minimum of 2 practice units must be taken. Students must take only those Practice units for which they have already taken Law units.	Students who have completed the Certificate will have already taken one of these units. The unit achieved on the Certificate can be used towards the Diploma.
Unit 10	Conveyancing		
Unit 11	Criminal Litigation		
Unit 12	The Practice of Family Law		
Unit 13	The Practice of Employment Law		
Unit 14	Probate Practice		
Unit 15	The Practice of Law for the Elderly Client	Mandatory unit	Students who have completed the Certificate will have already taken Unit 16 and so will not have to take it again.
Unit 16	Client Care Skills		
Unit 17	Legal Research Skills	Mandatory unit	Students who have completed the Certificate will have already taken Unit 17 and so will not have to take it again.

UNIT CONTENT AND ASSESSMENT

Unit 1 Introduction to Law and Practice is a broad introduction to the English legal context. Covering generic topics such as the sources of and structure of the English legal system, it is an important underpinning foundation to the study of all specific areas of Law that make up the qualification. For this reason, Unit 1 is mandatory and is assessed through a 1 hour multiple choice test. Results for this unit are graded Pass, Merit and Distinction.

The mandatory Law units (units 2, 3, 4 and 5) are core introductions to the main legal subjects. They are the linchpin of the Level 3 Professional Diploma and vital to ensuring that all potential ILEX Fellows have a sound basis in the essentials of Law. These units are assessed by a 1 ½ hour examination. Results for these units are graded Pass, Merit and Distinction.

The additional Law units (units 6, 7 and 8) are popular and accessible Level 3 areas of Law in which ILEX Level 3 students often require a solid introduction. Whilst not core to the Level 3 Professional Diploma, these units offer students the ability to build their knowledge and

understanding in what are mainstream areas from an early stage. These units are assessed by a 1 ½ hour examination. Results for these units are graded Pass, Merit and Distinction.

The Practice units (units 9, 10, 11, 12, 13, 14 and 15) build on the foundations of the Law units and address the key aspects of successful Legal Practice in each of the designated areas. To ensure greater realism, each of the Practice units is assessed by a 1 ½ hour examination based on a case study which is released to students approximately 6 weeks in advance of the examination. Results for these units are graded Pass, Merit and Distinction.

The Professional Skills units (units 16 and 17) offer students the opportunity to demonstrate proficiency and understanding in key transferable skills within a legal context. Employers constantly prioritise the development of skills among legal employees, and ILEX has responded to this by developing these two mandatory skills-based units in the following key areas of Legal Practice: the ability to research the Law reliably and accurately, and the ability to development relationships with clients seeking legal assistance. Because these units are skills-based, they are assessed by ILEX-written, college-delivered materials, marked by tutors and quality assured by ILEX. Results for these units are graded Pass, Fail only.

Candidates receive full qualification certificates for both the ILEX Level 3 Certificate in Law and Practice (2008) and the ILEX Level 3 Professional Diploma in Law and Practice (2008) once they have achieved the required combination of units. The overall qualifications are not graded.

ILEX LEVEL 6 QUALIFICATION

Introduction

The ILEX Level 6 Diploma in Legal Practice and ILEX Level 6 Professional Higher Diploma in Law and Legal Practice, accredited by the Qualifications and Curriculum Authority (available from September 2009), replace ILEX's existing Level 6 qualifications: ILEX Level 6 Single Subject Diploma in Law and ILEX Level 6 Professional Higher Diploma in Law. They represent ILEX's new flexible, unitised pathways towards achievement of ILEX membership. Each qualification is accredited by the Qualifications and Curriculum Authority (QCA) to the Qualifications and Credit Framework (QCF).

The ILEX Level 6 Professional Higher Diploma in Law and Practice is ILEX's new Level 6 Membership qualification. Students wishing to work towards Fellowship of ILEX must achieve the ILEX Level 6 Professional Higher Diploma in Law and Practice.

ILEX Level 6 Single Subject Certificate

The ILEX Level 6 Single Subject Certificate enables students to achieve recognition for the study of a discrete area of Law, Legal Practice or Legal Skill. A valuable achievement in its own right, the Level 6 Single Subject Certificate can be used to build achievement towards the ILEX Level 6 Professional Higher Diploma in Law and Practice.

ILEX Level 6 Professional Higher Diploma in Law and Practice

The ILEX Level 6 Professional Higher Diploma in Law and Practice is ILEX's second stage of Professional training (after ILEX Level 3 Professional Diploma in Law and Practice). It is designed for students who want to progress to ILEX Membership and who want to ultimately become Fellows of ILEX.

The qualification offers students an opportunity to specialise in a Legal Practice area, whilst at the same time demonstrating knowledge and understanding of an underpinning series of Law subjects and Legal Skills. The qualification aims to create the complete Legal Executive, both academically competent in respect of their chosen legal area, and also suitably professional to be easily employable in a fast-evolving legal workplace. The qualification prepares students for further professional development above and beyond Level 6.

ILEX Level 6 Diploma in Legal Practice

The ILEX Level 6 Diploma in Legal Practice is a new qualification and is designed solely to accredit legal practice knowledge and understanding. It is aimed at those individuals (such as law graduates) with significant and broad experience of the law who need a qualification specifically in relation to Legal Practice.

For law graduates (with a qualifying law degree) wishing to claim exemptions against ILEX Law units, achievement of the Level 6 Diploma in Legal Practice will offer candidates a route into full membership of the Institute of Legal Executives (ILEX).

QUALIFICATION STRUCTURE

The following table shows the new Level 6 suite of qualification units:

Unit	Title	Type of unit
Unit 1	Company and Partnership Law	Law
Unit 2	Contract Law	Law
Unit 3	Criminal Law	Law
Unit 4	Employment Law	Law
Unit 5	Equity and Trusts	Law
Unit 6	European Union Law	Law
Unit 7	Family Law	Law
Unit 8	Immigration Law	Law
Unit 9	Land Law	Law
Unit 10	Landlord and Tenant Law	Law
Unit 11	Planning Law	Law
Unit 12	Public Law	Law
Unit 13	Law of Tort	Law
Unit 14	Law of Wills and Succession	Law
Unit 15	Civil Litigation	Practice
Unit 16	The Practice of Company and Partnership Law	Practice
Unit 17	Conveyancing	Practice
Unit 18	Criminal Litigation	Practice
Unit 19	The Practice of Employment Law	Practice
Unit 20	The Practice of Family Law	Practice
Unit 21	Probate Practice	Practice
Unit 22	Client Care Skills	Professional Skills
Unit 23	Legal Research Skills	Professional Skills

The Structure of the ILEX Level 6 Single Subject Certificate

To achieve a Level 6 Single Subject Certificate in a specific area of Law or Legal Practice, students must achieve 1 unit from units 1 – 21 above. A student achieving a **single** Law or Legal Practice unit will achieve an ILEX Level 6 Single Subject Certificate for that area of Law or Legal Practice.

For students looking to receive recognition specifically for Legal Skills development, they can achieve the ILEX Level 6 Legal Skills Certificate by taking **both** units 22 and 23.

The Structure of the ILEX Level 6 Professional Higher Diploma in Law and Practice

To achieve the ILEX Level 6 Professional Higher Diploma in Law and Practice, students must achieve 1 Level 6 Legal Practice unit, 3 Level 6 Law units and both Professional Skills units.

1 Law unit must be in an area of Law which underpins the Practice area taken. The following table identifies the relevant areas of Law which “link” with each relevant Practice unit.

You must do the following Law unit if you intend to do this Practice unit ...
Unit 1 Company and Partnership Law	Unit 16 The Practice of Company and Partnership Law
Unit 2 Contract Law or Unit 13 Law of Tort	Unit 15 Civil Litigation
Unit 3 Criminal Law	Unit 18 Criminal Litigation

Unit 4 Employment Law	Unit 19 The Practice of Employment Law
Unit 7 Family Law	Unit 20 The Practice of Family Law
Unit 9 Land Law	Unit 17 Conveyancing
Unit 14 Law of Wills and Succession	Unit 21 Probate Practice

Students achieving the required combination of units will be awarded the ILEX Level 6 Professional Higher Diploma in Law and Practice.

The Structure of the ILEX Level 6 Diploma in Legal Practice

To achieve the ILEX Level 6 Diploma in Legal Practice, students must achieve 2 Level 6 Practice units plus the Level 6 Client Care Skills unit.

For law graduates (with a qualifying law degree) seeking to use their Level 6 Diploma in Legal Practice to gain access to membership of ILEX, it is a requirement that at least one of the Practice units attempted is in an area of law that the candidate can demonstrate was a constituent part of their Law degree.

UNIT CONTENT AND ASSESSMENT

Units 1 – 14 (the Level 6 Law units)

Each of the units covers a mainstream area of Law at honours degree level. Each unit covers all the main theoretical issues and topics relevant to the study of Law at this level and requires that students apply their understanding to a practical set of circumstances. Each unit is designed to both move the student on from study undertaken at Level 3 and be also a stand alone unit containing all the necessary pre-requisite knowledge and understanding for those just beginning study at Level 6. Assessment is by a conventional 3 hour examination taken in either January or June of each year. Results are graded: Fail, Pass, Merit and Distinction.

Units 15 – 21 (the Level 6 Legal Practice units)

Each of the units covers a mainstream area of Legal Practice at honours degree level. Each unit requires that students understand the way in which the Law is applied in the real world and the practical issues that are associated with this. The emphasis here is on requiring the student to demonstrate their ability to advise the client. Again, each unit is designed to both move the student on from study undertaken at Level 3 and be also a stand alone unit containing all the necessary pre-requisite knowledge and understanding for those just beginning study at Level 6.

Assessment is by a 3 hour examination taken in either January or June in response to a realistic case study scenario dispatched to candidates approximately 6 weeks in advance of the assessment. Results are graded: Fail, Pass, Merit and Distinction.

Units 22 and 23 (the Professional Skills units)

These two units cover the main legal skills required by Legal Executives to become employable, adaptable legal professionals. The main skills covered across the units are: legal writing, interviewing and negotiation skills, legal ethics and practical legal research. The emphasis is on placing the student in realistic situations where they are expected to demonstrate their knowledge and skill in a way that most appropriately addresses the requirements of a situation.

Assessment is by ILEX-set tasks, administered and assessed by the centre, and quality-assured by ILEX. Results are graded Pass, Fail only.

Candidates receive full qualification certificates for the ILEX Level 6 Single Subject Certificate, the ILEX Level 6 Professional Higher Diploma in Law and Practice, and the ILEX Level 6 Diploma in Legal Practice once they have achieved the required combination of units. The overall qualifications are not graded.

ANNEX 12 ILEX CODE OF CONDUCT

About this document

Membership of ILEX carries both privileges and responsibilities. It requires you to:

- develop and use your professional knowledge and skills for the benefit of those who use your professional services
- maintain good professional relationships with others
- act in a way that promotes confidence and trust in the legal professions.

This Code of Conduct has been drawn up by IPS, the regulatory body for ILEX members. It sets out the principles you must follow as an ILEX member. It is our core guidance on the conduct, practice and professional performance expected of you.

The following nine principles are intended to guide and support you in the work you do and the decisions you make. They also inform the general public of the standards of behaviour that can be expected of ILEX members: the public interest must be at the forefront.

You must at all times ensure public confidence in you and your profession. You must also ensure that you avoid engaging in action unbecoming to ILEX or likely to bring disrepute upon you or ILEX.

These are the nine principles. You must:

1. Uphold the rule of law and the impartial administration of justice
2. Maintain high standards of professional and personal conduct
3. Behave with honesty and integrity
4. Comply with the ILEX and IPS rules and bye-laws
5. Act in the best interests of your client
6. Treat everyone equally and fairly
7. Ensure your independence is not compromised
8. Respect confidentiality and trust
9. Act within your competence

These principles, and the supporting explanations below, encapsulate what it means to be a member of ILEX. Making this part of your professional life will help you maintain your professionalism and will underpin public confidence in you and your profession.

Status of the Code of Conduct

You must comply with this Code wherever it applies to you. Your professional and personal conduct will be judged against it, and a breach may lead to action under the Investigation, Disciplinary and Appeal Rules. Compliance with the Code will be taken into account in considering information which raises a question about a member. The supporting explanations are not however exhaustive and are not limited solely to the matters mentioned in the Code.

You must:

1. Uphold the rule of law and the impartial administration of justice

You must uphold the constitutional principle of the rule of law. You must act lawfully and must not knowingly breach the law. You must be familiar with and comply with the law as it applies to you.

You have a duty to uphold the impartial administration of justice. You also have a duty to act in the best interests of your client. However, your primary and overriding duty is to the courts. You must not knowingly allow the court to be misled. You must obey court orders and do nothing which would place you in contempt of court.

2. Maintain high standards of professional and personal conduct

High standards are expected of you in both your professional and personal life. You must not engage in any conduct that could affect or undermine the confidence placed in you and your profession by your client, other members of the legal profession and the public.

Personal conduct that may affect or undermine the confidence placed in you includes criminal convictions, breaches of the law, financial misconduct, dishonesty and any other behaviour deemed by IPS to bring disrepute upon yourself or ILEX.

3. Behave with honesty and integrity

You must be honest in all your dealings. You must maintain your integrity and uphold the respect and confidence placed in you and your profession by your client, the courts, the public, colleagues, employers and others. You must not wilfully mislead your client or anyone else you deal with.

You must deal honestly in financial matters, particularly with regard to transactions affecting office and client accounts and money which belongs to others.

4. Comply with the ILEX and IPS rules and bye-laws

You must comply with all the ILEX and IPS rules and bye-laws which apply to you. These include the Memorandum and Articles of Association, membership and examination bye-laws, rules and regulations, codes of conduct and the complaints handling rules. You must ensure that you are familiar with the rules and bye-laws relevant to you and keep your knowledge of them up to date. You must also co-operate with ILEX and IPS.

You must not 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 the criteria for that grade of membership.

5. Act in the best interests of your client

Except where they conflict with your duty to the court, your client's interests are paramount and you must act in their best interests. The work you undertake for your client must always be to a proper standard.

You must provide clear advice to your client and act on their instructions except when to do so would involve a breach of the law.

You must have in place good client care and communication procedures. You must provide clear and accurate information and advice. You must ensure your client understands your professional status, advise them openly and honestly and keep them up to date with the information they need about their case or transaction. You must inform them fully and honestly about details of costs and complaints procedures.

You must keep contemporaneous records of matters such as communications with clients, professional colleagues and others.

You must maintain proper standards of work and keep accurate records.

6. Treat everyone equally and fairly

You must treat everyone equally and fairly regardless of their age, gender, disability, race, colour, ethnic or national origin, sexual orientation, marital or family status, religion, belief or perceived social status. You owe this duty to clients, colleagues, employers, third parties including the other party in a transaction, and anyone else with whom you may have dealings.

7. Ensure your independence is not compromised

You must ensure that your independence is not compromised and that you remain impartial in all your dealings. Independence may be compromised in a variety of ways, including conflicts with a client, external pressure and financial interest in a client's matter. Members working in a business structure that includes a range of professions need to be particularly aware of the conflicts that could arise.

You must not act where there is a conflict of interest or a significant risk that a conflict may arise. This can include conflicts between:

- you and a client
- two or more clients for whom you act
- a client and your employer or colleagues
- a client and the commercial, financial or political interests of your employer.

There are some instances where you may act in a situation where a conflict would otherwise arise - for example, where two or more clients agree in writing to your acting for each of them and you can separate the duties you owe to each.

You should act for a client only where you are satisfied that there is no risk that they are providing instructions under duress or undue influence. You must also confirm with your client instructions given by a third party to ensure they are your client's own instructions.

You must ensure that no financial arrangements you have in place can affect the independence of your advice or your ability to act impartially. This includes any introduction and referral arrangements you have in place.

8. Respect confidentiality and trust

You must respect the trust placed in you and your profession by your client, the public, employers and colleagues. You must act with probity, honesty and trustworthiness and must not engage in any conduct that may undermine that confidence or trust.

You must keep the affairs of your client confidential. You may disclose information only to those entitled to receive it or to whom you have been authorised to disclose it. You must use information only for the purpose it was intended.

In certain rare circumstances the law or other provisions may require or authorise you to make disclosures, such as to prevent the commission of a serious criminal offence.

You have a duty to ensure the safety and security of electronic and paper documents in your possession. They must be stored safely and disclosed only to those entitled to receive them.

9. Act within your competence

You must act only on matters that are within your competence. These are cases or transactions where you have the knowledge, skills and experience to undertake the work. If you are not competent to act you must decline to do so.

It is your personal responsibility to keep your professional skills and knowledge up to date by undertaking relevant training and complying with our Continuing Professional Development regulations.

You must not act for a client in an area of law where you have insufficient knowledge or experience. Neither may you act in a matter where you do not have the right to act, for example, where you are not authorised to provide legal services. This does not prevent you from working in a structured environment on aspects of the law where you are developing your knowledge and skills.

You must not hold yourself out as having a qualification that you do not. This includes holding yourself out as a Legal Executive when you have not qualified as a Fellow of ILEX.

You must ensure you properly supervise tasks that you have delegated to others, recognising that you remain accountable for work which you have delegated to someone else.

Other Codes

If you are also regulated by or a member of another professional organisation, as well as IPS, you must also comply with Codes of Conduct, rules and regulations, however described, which apply to you.

Further help and guidance

If you are unsure about how this Code applies to you contact IPS on 01234 845770 or info@ilexstandards.org.uk

ANNEX 13 INVESTIGATION, DISCIPLINARY AND APPEAL RULES

ILEX PROFESSIONAL STANDARDS LTD

INVESTIGATION, DISCIPLINARY AND APPEALS RULES

PART I GENERAL

Application of Rules, establishment of Panels and Tribunal

1. (1) Any complaint about the conduct of a member shall be dealt with in accordance with these Rules.
- (2) The Professional Conduct Panel is hereby established for the purposes set out in Part II of these Rules.
- (3) There shall continue to be a body known as the Disciplinary Tribunal established for the purposes set out in Part III of these Rules.
- (4) The Appeals Panel is hereby established for the purposes set out in Part IV of these Rules.

Appointment of panellists and chairmen

2. (1) IPS shall appoint and maintain in accordance with paragraphs (2) – (4):
 - (a) a list of lay and professional members to act as panellists on the Professional Conduct Panel; and
 - (b) a list of lay and professional members to act as panellists on the Disciplinary Tribunal and Appeals Panel.
- (2) IPS shall remove from the lists of panellists the name of any person:
 - (a) whose term of appointment has come to an end, unless his appointment to the relevant list has been renewed;
 - (b) who resigns from the relevant list by giving 3 months notice in writing to that effect to IPS (save that IPS may where it deems appropriate to do so accept shorter notice); or
 - (c) who in the opinion of IPS has ceased to be an appropriate person.
- (3) The term of appointment of a panellist shall be 5 years and no panellist shall serve for more than two terms.
- (4) A person shall not at any one time be included in both the lists maintained by IPS under paragraph (1) above.

Glossary

3. In these Rules, unless otherwise provided, the following words and phrases have the meanings assigned to them in this clause:
“**Appeals Panel**” means the Panel established under Rule 1(4) of these Rules and as constituted from time to time;

“applicant” means a person applying to register with the Institute;
“appropriate person” means a person of good character who is fit to act as a panellist in accordance with Rule 2;
“approved regulator” has the same meaning as in s.20 of the Legal Services Act 2007;
“authorised person” has the same meaning as in s.18 of the Legal Services Act 2007;
“Council” means the Council of the Institute of Legal Executives;
“Council member” means a duly elected member of the Council;
“day” means a business day which is not a Saturday, a Sunday or a public holiday or bank holiday in England and Wales;
“Disciplinary Tribunal” means the Disciplinary Tribunal established by Rule 1(3) of these Rules and as constituted from time to time;
“the Institute” means the Institute of Legal Executives (ILEX);
“IPS” means ILEX Professional Standards Ltd, a wholly owned subsidiary company of the Institute established to regulate the professional conduct of members;
“lay member” means a person who is not and who has never been an authorised person or a person registered with the Institute in any grade;
“legal services body” has the same meaning as in s.9A of the Administration of Justice Act 1985;
“licensed body” has the same meaning as in s.71 of the Legal Services Act 2007;
“member” means a person registered with the Institute in any grade;
“notice” means a notice given in accordance with Rules 17, 22(1)(c), 25(1), 31(2), 38(1), 38(3) (save that it shall not be necessary for the applicant to comply with Rule 5 in respect of any notice lodged with the Officer), 46(4) and 51(8);
“Professional Conduct Panel” means the Panel established under Rule 1(2) of these Rules and as constituted from time to time;
“professional member” means a Fellow of ILEX who is not a Council member or Board member of IPS and who is otherwise eligible to be appointed by IPS to either of the lists of panellists under clause 2 of these Rules.

Delegation and extension of time

4. (1) Where these Rules permit the Professional Conduct Panel to delegate a function, power or duty to a person, that power to delegate shall be interpreted in accordance with this clause.
- (2) Where a delegate has performed or exercised a duly delegated function, power or duty, that performance or exercise shall, for the purposes of these Rules, be deemed to have been performed or exercised by the Professional Conduct Panel that delegated the function, power or duty.
- (3) Where the Professional Conduct Panel has delegated a function, power or duty, it may still continue to perform or exercise that function, power or duty.
- (4) The Professional Conduct Panel may at any time revoke or amend a delegation.

- (5) Where these Rules prescribe that a person may or must do anything within a certain time or provide that a person may not do something after a certain time, the Professional Conduct Panel, the Disciplinary Tribunal or the Appeals Panel (as the case may be) may, upon application setting out good grounds for the extension of time, extend time as necessary.

Service of documents

5. (1) Any notice required to be given under these Rules may be given personally to the member or his or her representative or by sending it by guaranteed post to his or her last known address or by such other method as the Professional Conduct Panel, the Disciplinary Tribunal or the Appeals Panel (as the case may be) may direct.
- (2) A notice which is served in accordance with paragraph (1) shall be deemed to be served at the time of personal service or delivery or on the second working day after it was posted.
- (3) The service of any notice or document under these Rules may be proved by:
- (a) a confirmation of posting issued by or on behalf of the Post Office or other postal operator or delivery service; or
 - (b) a signed statement from any person serving the notice or document by hand.
- (4) Where it is satisfied on reasonable grounds that it is in the public interest to do so, the Professional Conduct Panel, the Disciplinary Tribunal or the Appeals Panel (as the case may be) may:
- (a) deem service to be effective even though the requirements of paragraph (1) have not been complied with; or
 - (b) dispense with the requirement of service altogether.

Forms

6. Where within these Rules a person is required to complete a form, in order to comply with that rule that person must duly complete a form substantially in the same format as the relevant template form appended to these Rules or prescribed from time to time by IPS.

PART II INVESTIGATION OF COMPLAINTS AND THE PROFESSIONAL CONDUCT PANEL

SECTION A: GENERAL

Interpretation

7. In this Part, unless the context otherwise requires, the following words and phrases have the meanings assigned to them in this clause:
- “**complainant**” means a person making a complaint to IPS against a member;

“**complaint**” means any document, communication or record of conversation setting out matters of complaint against a member;

“**determination by consent**” means an agreement authorised by one lay and one professional member of the Professional Conduct Panel between IPS and a member that any complaint or investigation under Rules 21 or 22 below about that member be disposed of by the member accepting that he or she has committed professional misconduct and an appropriate sanction;

“**independent practitioner**” means a self –employed member;

“**investigating practitioner**” means an authorised person appointed by IPS to investigate a complaint against a member;

“**Officer**” means an officer of IPS serving the Professional Conduct Panel;

“**professional misconduct**” means professional misconduct, a breach of the Institute’s Articles of Association, Bye-laws, Regulations or Code of Conduct, or any personal conduct likely to call into question a member’s registration with the Institute or to bring the Institute or its members into disrepute.

Purpose of the Professional Conduct Panel

8. The Professional Conduct Panel is charged with considering:
- (a) complaints against members;
 - (b) declarations of prior conduct made by members or persons applying to be members;
 - (c) whether a member has committed professional misconduct whether or not a complaint has been made against the member by a third party; and
 - (d) what, if any, action should be taken or penalty should be imposed as a result of (a), (b) or (c) above.

SECTION B: COMPOSITION OF THE PROFESSIONAL CONDUCT PANEL

Composition of the Panel

9. (1) At the start of any meeting, panellists shall elect one person from among their number to chair the meeting.
- (2) The quorum for meetings shall be 3, provided that there shall always be a majority of lay members.
- (3) Save as provided for in section F, decisions of the Professional Conduct Panel will be made at a meeting by those members attending that meeting.
- (4) Decisions of the Professional Conduct Panel shall be made by a majority, and no panellist may abstain from voting.

SECTION C: PRIOR CONDUCT

Duty to declare prior conduct

10. (1) Every applicant and every member must declare in writing to IPS or the Institute:
 - (a) any prior caution or conviction recorded against him or her in the UK or elsewhere (subject to the provisions of the *Rehabilitation of Offenders Act 1974*);
 - (b) any declaration of bankruptcy made against him or her and any arrangement made by him or her with creditors;
 - (c) any County Court Judgments against him or her;
 - (d) any proceedings taken against him or her under the *Solicitors Act 1974*;
 - (e) any order made against him or her by the Office of Legal Complaints; and
 - (f) any decision (whether under appeal or not) excluding or expelling him or her from any professional body.
- (2) Each of the matters referred to in paragraph (1) is referred to in these Rules as “**prior conduct**”.

Time of declaration

11. (1) Every applicant must disclose full details of prior conduct at the earliest opportunity and, unless the conduct occurs later:
 - (a) on application for enrolment as a member of ILEX; and
 - (b) on application for reinstatement.
- (2) Every member must disclose full details of prior conduct at the earliest opportunity and in any event (if not previously disclosed to IPS or the Institute):
 - (a) on any application to upgrade membership;
 - (b) on any application for higher rights of audience; and
 - (b) on the annual subscription form.

Effect of failure to disclose

12. Non-compliance with any part of this Section may be considered as professional misconduct for the purposes of these Rules.

Further details

13. Where requested by IPS, an applicant or member must provide further details of any declared prior conduct.

Procedure

14. (1) Save for where there has been a delegation under Rule 18 where a declaration of prior conduct has been made the Officer shall put before the Professional Conduct Panel the declaration, application or subscription form and all known details of the prior conduct.
- (2) The Professional Conduct Panel shall decide in accordance with Rule 16 what action is appropriate as a result of the prior conduct.

Preliminary view in relation to potential members

15. (1) A person who is not a member but is considering becoming a member and who has prior conduct may request a preliminary decision from the Professional Conduct Panel before he completes an application.
- (2) Where a request is made under paragraph (1), the Professional Conduct Panel shall consider the request, including all relevant facts and matters, and shall:
 - (a) declare that the conduct is likely to be a bar to registration as a member; or
 - (b) declare that the conduct is not likely to be a bar to registration as a member.
- (3) Where a request is made under paragraph (1), the Professional Conduct Panel may:
 - (a) impose requirements consistent with these Rules and any other Rules of the Institute in order for the application to be successful; and
 - (b) make suggestions in relation to the application.
- (4) The Professional Conduct Panel shall give reasons for any declaration under paragraph (2)(a) and any requirement under paragraph (3)(a).

Powers of the Professional Conduct Panel

16. (1) In making its decision, the Professional Conduct Panel has the power:
 - (a) to request a member or applicant to provide references as to his or her conduct and suitability to be a member of the Institute;
 - (b) to accept an applicant for enrolment;
 - (c) to accept an application for upgrading of membership;
 - (d) to refuse an applicant for enrolment;
 - (e) to refuse an application for upgrading of membership;
 - (f) to seek advice from or refer the matter to any officer or other committee of the Institute as IPS may prescribe in guidance from time to time;

- (g) to impose any conditions on a member or an applicant in respect of his or her conduct or in regard to his or her employment that it may think appropriate;
 - (h) to request a member or applicant to give an undertaking as to his or her future conduct;
 - (i) to warn or reprimand a member;
 - (j) to decide to take no further action; and
 - (k) to refer a case to the Disciplinary Tribunal.
- (2) Before it reaches a decision, the Professional Conduct Panel has the power to request a member or an applicant who has declared an issue of prior conduct to appear before the Panel.
 - (3) Failure by a member to comply with a request under paragraph (2) may constitute professional misconduct.
 - (4) The Professional Conduct Panel shall give reasons for any decision under this Rule.

Notification of decision

- 17. The Officer shall notify the member or applicant of the decision within 5 days of the meeting of the Professional Conduct Panel.

Delegation of decisions about prior conduct

- 18. (1) The Officer may determine that no action will be taken in relation to a declaration of prior conduct where:
 - (a) the applicant or member has declared an outstanding judgment, unless there is evidence of
 - (i) persistent or deliberate failure to meet financial obligations, or
 - (ii) a related criminal offence, or
 - (iii) no arrangements being made to pay off the debts;
 - (b) the applicant or member has declared a spent conviction, (provided he/she is not a Fellow or is not applying for Fellowship);
 - (c) the applicant or member has declared a driving offence unless
 - (i) there is a persistent pattern of offending,
 - (ii) a custodial sentence is applied, or
 - (iii) a period of disqualification has been imposed of 18 months or more;
 - (d) the applicant or member is or has been subject to a bankruptcy Order or has entered into an arrangement with his creditors; or

- (e) the applicant or member is applying for Fellowship and has declared prior conduct to the Institute or IPS that the Professional Conduct Panel has previously determined should not result in further action in a previous decision.
- (2) The Professional Conduct Panel may also delegate to the Officer its power to determine that no action should be taken in relation to other matters of declared prior conduct.

Duties of the Officer in the exercise of his delegate powers

- 19. (1) Notwithstanding the powers delegated to him or her under Rule 18, the Officer may refer a declaration of prior conduct to the Professional Conduct Panel for decision..
- (2) The Officer shall notify the applicant or member within 5 days of his or her decision including a decision to refer the declaration of prior conduct to the Professional Conduct Panel.
- (3) The Officer shall provide details to the Professional Conduct Panel at its next meeting of all applications where he/she has determined that no action should be taken since its previous meeting.

SECTION D: INVESTIGATING COMPLAINTS AND POTENTIAL MISCONDUCT

Complaints and potential misconduct

- 20. (1) Subject to Rule 23 below, IPS shall receive and investigate every complaint that a member has committed professional misconduct in accordance with Rule 21 and the other rules of this section.
- (2) Where IPS receives information that a member may have committed professional misconduct, IPS may investigate in accordance with Rule 22 and the other rules of this section, whether or not there has been a complaint by a third party.

Initial procedure on a complaint

- 21. The following initial procedure for dealing with a complaint under this Section shall be followed:
 - (a) The Officer shall receive from the complainant all information about the complaint that the complainant wishes to give.
 - (b) The Officer shall obtain the consent of the complainant to copy the complaint and any information provided under paragraph (a) to the member against whom the complaint is made. If the complainant does not consent to a copy of the complaint being placed before the member, the complaint will not be investigated any further.

- (c) The Officer shall notify the member that a complaint or allegation has been made against him which will be investigated by an investigating practitioner or the Officer in accordance with these Rules. A copy of the Rules shall be supplied to the member.
- (d) Where the Officer is of the opinion that the potential seriousness or potential complexity of the complaint merits it, he may refer the complaint or allegation to an investigating practitioner.
- (e) The investigating practitioner or Officer (as the case may be) may request such further information as he may require from the complainant.
- (f) Save to the extent previously provided, the investigating practitioner or Officer (as the case may be) shall provide to the member against whom the complaint or allegation has been made, a copy of the complaint and any information received, and the member shall be given an opportunity to respond to the issues raised against him.
- (g) A member is obliged to comply with and respond to reasonable enquiries made by the investigating practitioner or Officer (as the case may be). Failure to do so may constitute professional misconduct for the purposes of instigating disciplinary proceedings against the member.
- (h) The member shall have the opportunity to provide details of any matters he wishes the Professional Conduct Panel to take into account when considering the complaint.
 - (i) The investigating practitioner or the Officer (as the case may be) shall supply to the complainant a copy of any response of the member to the complaint or allegation made against him and shall allow not less than 10 days for the complainant to comment in writing on the member's response.
 - (j) The investigating practitioner or the Officer (as the case may be) may seek information or advice from a third party about any issue raised.
 - (k) The investigating practitioner or the Officer (as the case may be) shall prepare a written summary of the evidence or information and an analysis of the issues for consideration by the Professional Conduct Panel.
 - (l) The investigating practitioner or the Officer (as the case may be) shall forward the summary to the complainant and the member, and shall invite both of them to comment in writing on the summary of the evidence or information and the analysis within not less than 10 days.
 - (m) Upon receipt of comments from both the complainant and the member or the expiry of the time allowed for comments (whichever is the sooner), the investigating practitioner or the Officer (as the

case may be) shall pass the matter (including all the papers and his or her summary) to the Professional Conduct Panel.

Initial procedure on potential misconduct

22. (1) Where IPS receives information which suggests a member has committed professional misconduct, the Officer shall investigate the matter as follows:
- (a) The Officer shall gather information about and investigate the issues involved.
 - (b) Where the Officer is of the opinion that the potential seriousness or potential complexity of the matter merits it, he/she may refer the matter to an investigating practitioner.
 - (c) The Officer shall notify the member if he/she believes that there is an issue of professional misconduct against the member to be investigated in accordance with these Rules and shall supply him or her with a copy of these Rules.
 - (d) The Officer may seek information or advice from third parties.
- (2) Upon completing his investigation, the Officer shall prepare a written summary of the evidence or information and an analysis of the issues for consideration by the Professional Conduct Panel and shall forward the same to the member, and shall invite him or her to comment in writing on the summary within not less than 10 days.
- (3) Upon receipt of comments from the member or the expiry of the time allowed for comments (whichever is the sooner), the Officer shall pass the matter including all the papers and his or her summary) to the Professional Conduct Panel.

Delegation of decisions about certain cases

23. (1) Where, following receipt of a complaint or information under Rule 20(1) or (2) and before passing the matter to the Professional Conduct Panel under Rule 21(m) or 22(3), the Officer is of the opinion that:
- (a) there is no evidence available to substantiate the complaint, allegation or issue of professional misconduct;
 - (b) the complaint, allegation or issue of professional misconduct does not disclose any misconduct on the part of the member;
 - (c) IPS has no jurisdiction to consider the complaint, allegation or issue of professional misconduct; or
 - (d) the events giving rise to the complaint or information (or the date the complainant became aware of the grounds for his or her complaint, if later) occurred more than 1 year prior to the date the complaint was made to or information was received by IPS;

he may, with the agreement of a lay and a professional member, reject the complaint or information without further reference to the Professional Conduct Panel.

- (2) Where, following receipt of a complaint or information under Rule 20(1) or (2) and before passing the matter to the Professional Conduct Panel under Rule 21(m) or 22(3), the Officer is of the opinion that:
 - (a) the evidence available demonstrates a prima facie case that the member has committed professional misconduct; and either
 - (b) the conduct involved is of a serious nature; or
 - (c) the member has previously been subject to an adverse finding by the Professional Conduct Panel or Disciplinary Tribunal and the conduct involved in the current case is of a similar nature to that in the previous case;

he or she may, with the agreement of a lay and a professional member, refer the complaint or information directly to the Disciplinary Tribunal without further reference to the Professional Conduct Panel.

- (3) The Officer and panellists shall provide reasons for rejecting or referring to the Disciplinary Tribunal any complaint or information under this Rule.
- (4) The Officer shall report to the Professional Conduct Panel all decisions made under this Rule.

Time-scales

24. (1) IPS, the Officer, the Professional Conduct Panel and the investigating practitioner shall aim to abide by the schedule of time scales set out in Appendix 1 of these rules when considering a complaint against or investigating information received about a member.
- (2) Failure to abide by the schedule of time scales set out in Appendix 1 of these rules will not invalidate the complaint, investigation or proceedings (as the case may be).

Notification

25. (1) IPS shall notify the member or applicant and the complainant of the date scheduled for the Professional Conduct Panel meeting when a complaint or an issue of potential misconduct will be considered.
- (2) Notification will be sent at least 10 days before the date of the meeting unless it is impractical to do so, in which case notification shall be sent as soon as possible, and in any event at least 5 days before the date of the meeting.

Powers of the Professional Conduct Panel

26. The Professional Conduct Panel shall have the power to:
- (a) accept the member's response to a complaint, allegation or issue of professional misconduct and decide to take no further action in relation to it;
 - (b) decide that the complaint, allegation or issue of professional misconduct concerns matters beyond the jurisdiction of IPS;
 - (c) call for further information or evidence;
 - (d) request the member to provide references from employers or others as to his character and professional conduct;
 - (e) defer a decision so that legal advice may be taken;
 - (f) request a member to give undertakings as to his or her future conduct;
 - (g) impose conditions on a member in respect of his or her conduct or in regard to his or her employment that it may think appropriate;
 - (h) reject a complaint, allegation or issue of potential misconduct;
 - (i) reprimand a member or warn him or her about his or her future conduct;
 - (j) refer the matter to the Disciplinary Tribunal.

Reprimands and warnings

27. The Panel may decide to reprimand a member or warn him or her about his or her future conduct only if it finds that the conduct complained of has been proved on the balance of probabilities, on the basis of the evidence and information before it.

Powers pending proceedings

28. A member shall not be able to resign from membership of the Institute whilst an investigation is taking place or disciplinary proceedings are being taken against him or her.

Further powers of the Professional Conduct Panel

29. (1) Before it reaches a decision, the Professional Conduct Panel has the power to request a member against whom a complaint has been made under Rule 21 or who is being investigated pursuant to Rule 22 to appear before it.
- (2) Failure to comply with a request to attend may constitute professional misconduct.

SECTION E: MEETINGS OF THE PROFESSIONAL CONDUCT PANEL

Conduct of meetings

30. (1) Meetings of the Professional Conduct Panel shall be held in private.
- (2) Save in the case of a hearing under Rule 31 below, where a member is entitled as of right to appear, where a member or applicant so requests within 3 days of receiving the notice of the date scheduled for the meeting, he or she has the right to appear before and be heard by the Professional Conduct Panel regardless of whether the Panel requested his or her attendance.
- (3) A member or applicant who appears before the Professional Conduct Panel shall have the opportunity of being heard before it and to be represented or assisted by a Fellow, an authorised person or, with the leave of the Professional Conduct Panel, some other person.
- (4) Where the Professional Conduct Panel decides it is appropriate, or where the member or applicant requests it within 3 days of receiving the notice of the date scheduled for the meeting, the Officer will arrange for an interpreter, reader or signer to be appointed to attend the meeting.
- (5) All meetings shall be held at The Institute of Legal Executives offices at Kempston Manor unless the Panel decides otherwise. Nothing in these Rules shall be read as requiring a meeting to be held outside the United Kingdom where a member is resident outside the United Kingdom.
- (6) Minutes shall be taken of the meetings and a record made of the decisions of the Professional Conduct Panel against the entry for the member concerned for such periods as IPS shall indicate in guidance from time to time.
- (7) The Professional Conduct Panel shall make an annual report to IPS Board and to Council of its work during the previous year.
- (8) In considering a matter, the Professional Conduct Panel:
 - (a) is not bound by the findings, views or analysis of an investigating practitioner or the Officer;
 - (b) may require or invite and receive further representations from the member;
 - (c) shall take into account any further representations and material adduced by the member.
- (9) A member is obliged to comply with and respond to reasonable enquiries made by the Professional Conduct Panel and failure to do so may be considered professional misconduct for the purposes of disciplinary proceedings against the member.

Interim orders for suspension

31. (1) The Professional Conduct Panel may at any time either on the application

of the Officer or of its own motion, consider whether it is necessary for the protection of the public or in the public interest or in the member's own interests, to suspend his or her membership of ILEX pending a hearing before the Disciplinary Tribunal.

- (2) The Officer or the Professional Conduct Panel as the case may be shall give the member no less than 7 days notice of a hearing to consider the imposition or review of an interim order for suspension, unless the Professional Conduct Panel consider that due to the seriousness or urgency of the case a shorter period of notice is appropriate.
- (3) The notice under paragraph (2) shall inform the member of the time, date and place of the hearing, brief details of the matters giving rise to the application for an interim order for suspension and of his or her right to appear before and be heard by the Professional Conduct Panel.
- (4) IPS may, but need not, be represented at the hearing by a Fellow (who may not be a member of the Council, the Professional Conduct Panel, Appeals Panel or Disciplinary Tribunal), or by an authorised person.
- (5) In considering whether to make an interim order for suspension, the Professional Conduct Panel shall determine its own procedure in accordance with these Rules, the guidance published from time to time by IPS and the overriding requirement of fairness.
- (6) The Professional Conduct Panel may order that the member be suspended from membership of the Institute for a maximum period of 18 months which order must be reviewed by the Professional Conduct Panel every 3 months.
- (7) Where the Professional Conduct Panel makes an interim suspension order against an independent practitioner it may also direct IPS to make such arrangements for the orderly transfer of the independent practitioner's client files and monies as are appropriate in the circumstances.

Procedure

32. (1) All decisions of the Panel made at a meeting shall be made by a majority of the panellists present, with no panellist being permitted to abstain from voting.
- (2) The Panel shall give reasons for its decisions and shall advise of the right of an appeal.
- (3) IPS shall within 5 days notify the member and the complainant of the decision of the Professional Conduct Panel.

- (4) All decisions of the Professional Conduct Panel shall take effect after the period for lodging an appeal against its decision has expired, save for a decision to make an interim suspension order under Rule 31 which shall take effect immediately.
- (5) Where the Panel has ordered the Officer to do so, he or she shall cause the findings and orders of a Panel to be published in The Legal Executive Journal and the IPS website as soon as practicable, provided that no appeal has been brought during that time.

SECTION F: PAPER APPLICATIONS

Power to decide certain matters without a meeting

33. (1) Where:
- (a) the Officer, a lay member and a professional member agree that it is appropriate to do so, or
 - (b) a request has been made for a preliminary view under Section C, or
 - (c) a declaration of prior conduct has been made, or
 - (d) in relation to complaints and allegations of professional misconduct, the investigating practitioner or the Officer (as the case may be) has indicated to the Professional Conduct Panel that it is appropriate to decide the matter without a meeting, or
 - (e) the Professional Conduct Panel is required to review an interim suspension order under Rule 31(6) and the member agrees:
- the Professional Conduct Panel may decide a matter without a meeting.
- (2) Where in relation to complaints and allegations of professional misconduct, the Professional Conduct Panel has decided that it is appropriate to decide the matter without a meeting, the only powers the Panel may exercise under Rule 26 are those in paragraphs (a) to (h) inclusive.
 - (3) Where in relation to a declaration of prior conduct, the Professional Conduct Panel has decided that it is appropriate to decide the matter without a meeting, the only powers the Panel may exercise under Rule 16(1) are those in sub-paragraphs (a), (b), (c), (f), (j) or (i).
 - (4) Where in relation to a review of an interim suspension order under Rule 31(6), the Professional Conduct Panel has decided that it is appropriate to decide the matter without a meeting, the Panel may determine either that the order continue or revoke it as appropriate.
 - (5) Where:
 - (a) the Officer is of the opinion that the evidence available demonstrates a prima facie case that the member has committed professional misconduct; and
 - (b) the member agrees that he or she has committed professional

misconduct;

they may agree a determination by consent.

- (6) The Officer and the member may agree any sanction or combination of sanctions available to the Professional Conduct Panel under Rule 26 or the Disciplinary Tribunal under Rule 46(6), save that the Officer shall not seek costs as part of any determination by consent.
- (7) Failure to comply with the terms of a determination by consent shall constitute professional misconduct.
- (8) It shall be a term of any determination by consent that IPS may at its absolute discretion notify any person or publish the terms of the determination by consent.

Procedure

- 34 (1) Save in the case of a determination by consent under Rule 33(5), where the Professional Conduct Panel resolves to decide a matter without a meeting, it shall instruct the Officer to send all the necessary papers, including a response form, to a quorum of Professional Conduct Panel panellists.
- (2) Within 5 days of receipt of the papers, the Professional Conduct Panel panellists shall inform IPS in writing of their decisions.
- (3) If a majority decision is reached about a case, based on the responses received, the Officer shall make a record of that decision and notify it to the member or applicant within 5 days of receiving the decisions of the Professional Conduct Panel members.
- (4) If no majority decision is reached the matter shall be put to the Professional Conduct Panel again when it next meets.

SECTION G: APPEALS

Appeals

- 35 (1) A member or applicant may appeal against any decision or order of the Professional Conduct Panel other than a decision to refer the matter to the Disciplinary Tribunal
- (2) Where the Officer has exercised his or her power under Rule 23(1) to reject a complaint, or allegation of professional misconduct; the complainant may appeal against that decision.
- (3) An appeal must be made within 15 days of notification of the decision of the Professional Conduct Panel and in accordance with Part IV.

PART III THE DISCIPLINARY TRIBUNAL

SECTION A: GENERAL

Interpretation

36. (1) In this Part, unless the context otherwise requires, the following words and phrases have the meanings assigned to them in this clause:

“**applicant**” means the person acting on behalf of IPS in respect of a matter referred to the Disciplinary Tribunal;

“**Chair**” means the Chair of a Tribunal Panel, being a panellist chosen from amongst those whose names appear on the list maintained by IPS under Rule 2(1)(b);

“**Chief Executive**” means the Chief Executive of ILEX;

“**complainant**” means a person who made a complaint to IPS against a member of the Institute;

“**finalised hearing date**” means either the first hearing date or where the first hearing date is varied by the Panel not more than 14 days before the hearing is due to commence, that varied hearing date;

“**first hearing date**” means the hearing date set under Rule 38(2) or such later date as may be fixed by the Officer;

“**the Officer**” means the officer of IPS serving the Disciplinary Tribunal;

“**the Panel**” means the members of the Disciplinary Tribunal appointed to hear a particular matter;

“**party**” means the applicant and the respondent;

“**penalty and costs hearing**” means a hearing for the purpose of deciding the matters referred to in Rule 46(5)-(7) below;

“**respondent**” means the member against whom a complaint or allegation of professional misconduct is made.

(2) In this Part any reference to the Professional Conduct Panel having referred a matter to the Disciplinary Tribunal is deemed to include a decision by an Appeals Panel under Part IV to refer a matter to the Disciplinary Tribunal.

Constitution and jurisdiction of the Disciplinary Tribunal

37. (1) The Disciplinary Tribunal has jurisdiction to hear matters referred to it under Part II by the Professional Conduct Panel or by an Appeals Panel under Part IV.

(2) The Disciplinary Tribunal shall determine its own procedure in accordance with these Rules, the guidance published from time to time by IPS and the overriding requirement of fairness.

SECTION B: PROCEDURE

Commencement

38. (1) Where the Professional Conduct Panel has referred a matter to the Disciplinary Tribunal, the Officer shall, as soon as reasonably practicable:
- (a) notify the complainant (if any) and the respondent that the Professional Conduct Panel has referred the matter to the Disciplinary Tribunal; and
 - (b) make all necessary arrangements for a hearing by the Disciplinary Tribunal.
- (2) The Officer shall, not later than 3 months after the date upon which the referral is received by the Disciplinary Tribunal from the Professional Conduct Panel or the Appeals Panel fix a date, time and venue for the hearing of the matter by the Disciplinary Tribunal.
- (3) Where the Professional Conduct Panel has referred a matter to the Disciplinary Tribunal, the applicant shall, not less than 30 days before the first hearing date, lodge with the Officer a *Notice of Application to the Disciplinary Tribunal* setting out:
- (a) the allegations made against the member that are to be heard by the Disciplinary Tribunal,
 - (b) the nature of the evidence that the applicant will present to the Disciplinary Tribunal to prove the allegations, and
 - (c) any other information relevant to the allegations that is in the possession of the applicant,
- and shall, within the same time, serve a copy on the Respondent.

Selection of Disciplinary Tribunal members to hear a matter

39. (1) Where a matter has been referred to the Disciplinary Tribunal, that matter will be heard by 3 members of the Disciplinary Tribunal, of whom 2 shall be lay members and 1 shall be a professional member.
- (2) Upon a matter being referred to the Disciplinary Tribunal, the Officer shall select the members to hear the matter from the list maintained by IPS under Rule 2(1)(b).
- (3) The members of the Disciplinary Tribunal selected to hear a matter shall constitute the Panel.
- (4) IPS may appoint an independent authorised person or an officer to advise the Panel in the discharge of its functions.
- (5) The members of the Panel shall choose one of their number to act as Chair for the purposes of that hearing.

- (6) Where, during the course of any hearing, a member of the Panel is unable to continue to attend the hearing, the remaining members may with the consent of the parties continue with the hearing.
- (7) Where, pursuant to paragraph (6), a matter is heard wholly or in part by the remaining two members and they are unable to arrive at a determination, the Application shall be re-heard by a new Panel comprising members of the Disciplinary Tribunal who were not members of the original Panel.

Preliminary meetings of the Panel

40. (1) The Panel may at any time determine any preliminary issues raised by any of the parties including (without limitation):
 - (a) the calling of witnesses;
 - (b) the adjournment of the hearing;
 - (c) directions as to the parties for a hearing;
 - (d) the admission of new evidence;
 - (e) the variation of time limits;
 - (f) the variation or postponing of the first hearing date;
 - (g) evidential and procedural issues;
 - (h) the withdrawal of the referral to the Disciplinary Tribunal.
- (2) The Panel may determine issues under paragraph (1) without a meeting of the Panel but by two or more of the Panel advising the Officer of their decision.
- (3) Where all parties consent, a single Panel member may determine an issue under paragraph (1).

Additional charges

41. (1) Where the Panel is satisfied that it would not occasion unfairness to the respondent and subject to paragraph (2), the Panel may allow an applicant to add allegations to the matter referred to the Disciplinary Tribunal, and those additional allegations shall be treated as if they were included in the original matter referred by the Professional Conduct Panel.
- (2) The Panel shall not allow an applicant to add to the complaints referred to the Disciplinary Tribunal less than 10 days before the commencement of the finalised hearing date.

Service of documents and witness statements

42. (1) Not less than 20 days before the first hearing date, each party will serve on the other copies of any documentary evidence in their possession or power relating to the allegations and any witness statements upon which they intend to rely.
- (2) A party shall be deemed to admit the authenticity of any document disclosed under paragraph (1) above unless he/she serves notice that he/she wishes the document to be proved at the hearing within 5 days of disclosure of the document.
- (3) The general rule is that any fact which needs to be proved at a hearing by the evidence of witnesses is to be proved by evidence given in a witness statement.
- (4) Any party who requires a witness to attend the hearing for the purpose of cross-examination upon the content of a witness statement served in accordance with paragraph (1) above must serve notice to that effect upon the opposing party within 5 days of disclosure of the statement.

Evidence

43. (1) The Panel may control the evidence by giving directions as to:
- (a) the issues on which it requires evidence;
 - (b) the nature of the evidence which it requires to decide those issues; and
 - (c) the way in which the evidence is to be placed before the Panel.
- (2) Subject to the requirements of a fair hearing, the Panel may:
- (a) admit evidence whether or not it would be admissible in a Court of Law; and
 - (b) exclude evidence that would otherwise be admissible to ensure fairness between the parties.
- (3) The Panel may limit cross-examination.
- (4) Subject to any other provisions of these rules, the Civil Evidence Act 1968 and the Civil Evidence Act 1995 shall apply in relation to the hearing of a matter as they apply in relation to civil proceedings.
- (5) (a) Production of a certificate purporting to be under the hand of a competent officer of a Court in the United Kingdom or overseas that a respondent has been convicted of a criminal offence shall be conclusive evidence of the offence committed.
- (b) Production of a copy of the determination of any Tribunal in or outside England and Wales exercising a professional disciplinary jurisdiction

shall be conclusive evidence of the facts found proved in relation to that determination.

- (c) Production of a copy of the judgment of any Civil Court shall be conclusive evidence of the facts found proved in relation to that judgment.

SECTION C: THE HEARING

Documentation

- 44. (1) The parties shall use all reasonable endeavours to agree an indexed and paginated hearing bundle comprising:
 - (a) the allegations;
 - (b) the documents relied upon by the parties;
 - (c) the witness statements; and
 - (d) any relevant notices.
- (2) Not less than 5 days before the finalised hearing date, each party shall prepare and provide the Officer with one copy of an indexed and paginated hearing bundle comprising:
 - (a) the allegations;
 - (b) the documents relied upon by the parties;
 - (c) the witness statements; and
 - (d) any relevant notices.

Conduct of hearings and representation

- 45. (1) All hearings shall be open to the public, save where the Panel considers that the particular circumstances of the case outweigh the public interest in holding the hearing in public.
- (2) The Panel shall give the applicant and the respondent and, at its discretion, any other person, the opportunity of being heard.
- (3) The Panel shall permit the respondent to be represented by a Fellow or authorised person or, with the leave of the Panel, to be represented or assisted by some other person.
- (4) IPS may, but need not, be represented by a Fellow (who may not be a member of the Council, Professional Conduct Panel, Appeals Panel or Disciplinary Tribunal), or by an authorised person.

The decision

46. (1) The burden of proof to prove the facts and misconduct alleged against the respondent shall rest upon the applicant.
- (2) The standard of proof shall be the balance of probabilities.
- (3) A decision as to an allegation may be by a majority of the Panel and no panellist may abstain from voting.
- (4) The Panel may:
- (a) announce its decision at the conclusion of the parties' cases and announce its findings then,
 - (b) announce its decision at the conclusion of the parties' cases and give its findings on a later date, or
 - (c) reserve its decision and findings to a later date,
- but in any case where the decision or findings are not announced at the conclusion of the parties' cases, the Panel shall notify the parties of the decision and of the findings within 10 days of the conclusion of the parties' cases and, where necessary, the notice shall specify a date, not more than 15 days after the date of the notice, for a penalty and costs hearing.
- (5) Where the Panel's decision is that one or more of the allegations against the respondent has been proved:
- (a) the Officer shall inform the Panel of any previous disciplinary proceedings in which any allegation has been proved against the respondent; and
 - (b) the respondent may then make submissions in mitigation and, where appropriate, in respect of costs.
- (6) Where the Panel finds that one or more of the allegations against the respondent has been proved:
- (a) the Panel may:
 - (i) order that the respondent be excluded from being a member of the Institute for such period as it shall decide (which period may be a fixed or an indefinite period) and the Panel may make recommendations or observations with regard to the future reinstatement of the respondent as a member, or
 - (ii) impose conditions on a member in respect of his conduct or in regard to his or her employment that it may think appropriate, or

- (iii) reprimand a member or warn him or her about his or her future conduct, or
 - (iv) take no further action; and
- (b) may order the respondent:
 - (i) (save where the Panel have ordered that the respondent be excluded from being a member of the Institute) to pay a fine not exceeding an amount determined by IPS from time to time, and
 - (ii) to pay costs to IPS in respect of the proceedings it has brought against him.
- (7) Where the Panel finds that one or more of the allegations against the respondent has not been proved, it may order IPS to pay compensation to him or her.
- (8) Within 15 days of the conclusion of the penalty and costs hearing, the Panel shall notify the parties of its Order and reasons.
- (9) An Order of the Panel shall take effect 15 days after notification under paragraph (4) (or, where a penalty and costs hearing has been convened, after notification under paragraph (8)) unless, before then, written notice of appeal has been given to the Officer.
- (10) Where the Panel makes an Order under paragraph 6(a)(i) or (ii) against a respondent, it may, if it considers it necessary for the protection of the public or in the public interest or in the member's own interests, order that his membership be suspended immediately or made subject to immediate conditions pending the taking effect of the Order under paragraph (9).
- (11) Where the Panel makes an Order under paragraph (6)(a)(i), any membership card and every certificate of designation as a Fellow or other grade and any Practising Certificate then held by the respondent shall cease to be of effect and shall be delivered by him to the Chief Executive to be endorsed as having been cancelled after the appeal period has ended.

Maintenance of documents and publication

- 47. (1) Any books, papers or exhibits produced or used at a hearing and any recording or transcript of the proceedings shall be kept by IPS for a period of at least one year after the making of the Order to which they relate.
- (2) The Officer shall cause all findings and orders of the Disciplinary Tribunal to be recorded against the entry in the register of members for the member

concerned for such periods as IPS shall indicate in guidance from time to time.

- (3) The Officer shall give notice of all findings and orders of a Panel to approved regulators and any other regulatory body that the Panel shall deem appropriate.
- (4) Where the Panel has ordered the Officer to do so, he/she shall on the expiry of the appeal period cause the findings and orders of a Panel to be published in The Legal Executive Journal and the IPS website as soon as practicable, provided that no appeal has been brought during that time.
- (5) The Panel shall consider whether any other person or organisation should be given notice of findings or an order made in respect of a member.
- (6) Where a member against whom an order is made is employed, or is a partner, director, manager or otherwise holds a financial interest in a legal services body or licensed body, the Officer shall notify the member's employer or legal services body or licensed body as appropriate unless the Panel has ordered otherwise.
- (7) Unless the Panel directs that there exist special circumstances which justify its omission from publication, the publication of the findings and order shall include the name of the member concerned.
- (8) The Disciplinary Tribunal shall make an annual report to the IPS Board and to Council of its work during the previous year.

Right of appeal

48. (1) Where the Panel has found that one or more of the allegations against the respondent has been proved, the respondent may appeal to the Appeals Panel against that finding or against the penalty imposed (or both) in accordance with this Rule.
- (2) The respondent must lodge the appeal in the form approved by IPS for that purpose:
 - (a) where he attended or was represented at the hearing at which the Panel announced the penalty, within 15 days of the date of that announcement; or
 - (b) otherwise, subject to Rule 48(4), within 15 days of his being served with the Panel's order.
- (3) The appeal notice must be lodged with IPS at its offices at Kempston Manor, Kempston, Bedford.
- (4) The appeal shall be heard and determined in accordance with Part IV.

PART IV THE APPEALS PANEL

SECTION A: GENERAL

Interpretation

49. In this Part, unless the context otherwise requires, the following words and phrases have the meanings assigned to them in this clause:

“**appellant**” means the person in whose name an appeal is lodged with the Appeals Panel;

“**the Disciplinary Tribunal**” includes a Panel of the Disciplinary Tribunal that has heard a case under Part III;

“**the Officer**” has the meaning given to it in Part III;

“**the Panel**” means the Professional Conduct Panel or the Panel of the Disciplinary Tribunal that dealt with a matter previously as the context requires.

Grounds for appeal

50. (1) The only grounds for an appeal against a decision of a Panel are one or more of the following:

- (a) the decision of the Professional Conduct Panel or Disciplinary Tribunal was wrong in that the Professional Conduct Panel or Disciplinary Tribunal gave insufficient weight to or drew incorrect conclusions from any material before it, which was or should have been material to its determination;
- (b) the decision was flawed because of a serious procedural or other irregularity in the proceedings before the Professional Conduct Panel or Disciplinary Tribunal;
- (c) the appellant has acquired new evidence that could not have been submitted to the Professional Conduct Panel or Disciplinary Tribunal and if the evidence had been available, would have been likely to influence its decision;
- (d) the penalty imposed by the Disciplinary Tribunal under Rule 46(6) was excessive in light of the Disciplinary Tribunal’s decision on the facts or the appellant’s circumstances.

(2) Unless the appellant is appealing under paragraph (1)(c), the appeal shall not be by way of a rehearing.

Appeals Panel

51. (1) The Appeals Panel shall comprise 2 lay members and 1 professional member from the list maintained by IPS under Rule 2(1)(b) who did not sit on the Panel which previously dealt with the matter.
- (2) An Appeals Panel shall consider and determine any appeal made in accordance with Rules 35 or 48.
- (3) In determining the appeal, the Appeals Panel may admit any evidence it considers fair and relevant to the case before it, whether or not such evidence would be admissible in a Court of Law.
- (4) The Appeals Panel shall determine its own procedure in accordance with these Rules and the overriding requirement of fairness.
- (5) The members of the Appeals Panel shall choose one of their number to act as Chair for the purposes of the appeal.
- (6) The Appeals Panel shall have power to affirm or vary the findings and order of the Panel or Tribunal and to make such ancillary orders, including orders for costs, as seem just and appropriate to it.
- (7) Decisions of the Appeals Panel shall be made by a majority.
- (8) Notice of the findings and decision of the Appeals Panel shall be given within 15 days in writing to the member concerned and shall take effect 20 days after the date on which the findings and order were made.
- (9) Appeals under Rule 35 shall normally be heard in private unless the appellant requests otherwise.
- (10) Appeals under Rule 48 shall normally be heard in public, unless the Appeals Panel consider that the interest of justice require part or all of the appeal to be heard in private.

Representation

52. (1) The Appeals Panel shall give the appellant and the respondent to the appeal and, at its discretion, any other person who appeared before the Panel, the opportunity of being heard.
- (2) The Appeals Panel shall allow the appellant to be represented by a Fellow or authorised person or, with the leave of the Appeals Panel, to be represented or assisted by some other person.
- (3) IPS may, but need not, be represented by a Fellow (who may not be a member of Council, Professional Conduct Panel, Disciplinary Tribunal or Appeals Panel), or by an authorised person.

Maintenance of documents and publication

53. (1) Any books, papers or exhibits produced or used at a hearing and any recording or transcript of the proceedings shall be kept by IPS for a period of at least one year after the making of the order to which they relate.
- (2) The Officer shall give notice of the decision of an Appeals Panel to approved regulators and any other person or organisation that the Appeals Panel shall deem appropriate.
- (3) Where the appeal is not entirely successful and where the Appeals Panel has ordered that he/she do so, the Officer shall cause the decision of an Appeals Panel to be published in The Legal Executive Journal and the IPS website as soon as practicable.
- (4) Where the appellant is employed or is a partner, director, manager or otherwise holds a financial interest in a legal services body or licensed body and the appeal is not entirely successful, the Officer shall notify the member's employer or legal services body or licensed body as appropriate of the decision and of the Panel's findings and order under Part III, unless an Appeals Panel has ordered otherwise.
- (5) Unless an Appeals Panel directs otherwise, the publication of the decision shall include the name of the member concerned.

PART V OTHER MATTERS

Transitional Provisions

54. (1) These Rules shall come into force on 4 January 2010 (“**the Commencement Date**”).
- (2) Any complaint, or allegation of professional misconduct received by IPS or the Institute prior to the Commencement Date which has not as of that date been referred to the Disciplinary Tribunal, Appeals Committee or Appeals Tribunal in accordance with the Investigation, Disciplinary and Appeals Rules dated June 2002 (“**the old Rules**”) shall be dealt with under these Rules
- (3) Any complaint, or allegation of professional misconduct received by IPS or the Institute prior to the Commencement Date which has as of that date been referred to the Disciplinary Tribunal, Appeals Committee or Appeals Tribunal under the old Rules shall continue to be dealt with in accordance with the provisions of the old Rules, save that:
- (a) any reference to the Investigating Committee under the old Rules shall be read as a reference to the Professional Conduct Panel;
 - (b) any reference to the Appeals Committee or the Appeals Tribunal under the old Rules shall be read as a reference to the Appeals Panel;
 - (c) any reference to the Disciplinary Tribunal under the old Rules shall be read as a reference to the same body constituted under these Rules;
 - (d) any reference to the Institute under the old Rules shall be read as a reference to IPS; and
 - (e) any complaint, allegation or issue of professional misconduct dealt with under the provisions of this paragraph which has not been concluded by 4 January 2011 shall thereafter be dealt with in accordance with these Rules.
- (4) Any complaint, or allegation of professional misconduct received by IPS after the date that these Rules come into force shall be dealt with in accordance with them.

APPENDIX 1

TIME SCALES AND TIME LIMITS

IPS will aim to abide by this schedule of time-scales when considering complaints. Failure to abide by the schedule will not invalidate the complaint, investigation or proceedings. All references to days are to ‘working days’. Rule numbers are indicated, where they apply.

GENERAL

Action post	Within 7 days of receipt.
Record file notes.	Immediately after each action is taken.
Produce agendas for Panels.	At least 5 days before date of meeting.
Time allowed to member and complainant for responding to requests for information.	10 days after request.
Follow non-receipt of responses.	12 days after request.
Identify and refer service complaints to OLC.	Within 10 days of receipt

PROFESSIONAL CONDUCT PANEL

RULE NO.	CRITERIA	TIME SCALE
	Acknowledge receipt of correspondence if there will be a delay in replying.	Within 2 days of receipt.
	Respond to initial letter from complainant. Either: (a) request further information / complete complaints form (b) request consent to copy complaint to member (c) inform complainant complaint is being put to member. In each case complainant should be given copy of complaints handling procedure and be informed what powers IPS has available in resolving the issue.	Within 7 days of receipt. Complainant to reply within 10 days of request.
	Respond to additional information received from complainant. Acknowledge receipt of additional information, inform complainant of the next steps and when they are likely to	Within 7 days of receipt.

	hear from the IPS or request further information.	
R. 21	Close case if no further responses received from complainant provided that at least 2 reminders for information have been sent to complainant.	20 days after latest request for information.
R. 21	Copy complaint to member and ask for their response once all the relevant information has been received from complainant.	Within 7 days of receipt of all information. Member to respond within 10 days.
R. 21	Ask member for additional information where necessary, once they have sent in their initial response.	Within 7 days of receipt of response. Member to respond within 10 days.
R. 21	Put matter to Professional Conduct Panel if member does not respond to request for information.	Next meeting or at least 12 days after latest reminder whichever is the later.
R.21	A summary of the case for the Professional Conduct Panel will be prepared and will be sent to the complainant and member for comment.	Member and complainant to provide comments within 10 days.
R.21	Put matter to Professional Conduct Panel.	Next meeting.
R.25	Inform member and complainant of date of meeting Professional Conduct Panel.	10 days before meeting (can be reduced to 5 days before meeting).
R.30(2)	Member or applicant may give written notice that they will attend the hearing of the Professional Conduct Panel.	Within 3 days of receiving notice of the date of the meeting.
R.30(4)	Member or applicant may request an interpreter, reader or signer to attend hearing.	Within 3 days of receiving notice of the date of the meeting.
R.32(3)	Decision of Professional Conduct Panel. Inform complainant and member of outcome.	Within 5 days of decision.
R.34(2)	Panel to respond on Paper Applications.	Within 5 days of receipt of papers
R.34(3)	Decision on Paper Application to be notified member/applicant	Within 5 days of decision.

DISCIPLINARY TRIBUNAL & APPEALS PANEL

Rule No	Action	Time limit in relation to hearing
38(2)	Office to arrange time, date and venue for hearing.	No later than 3 months after referral.
38 (3)	Applicant to lodge Notice of Application with Officer and copy to respondent.	Not less than 30 days before the first hearing date.
41 (2)	Applicant can add to complaints referred to Tribunal.	Up to 10 days before finalised hearing date.
42 (1)	Each party serves on other party copies of documents and any witness statements that they intend to rely upon.	Not less than 20 days before first hearing date.
42 (2)	Notice to other party to prove documents	Within 5 days of disclosure of document.
42 (4)	Notice to other party requiring their witness to attend hearing.	Within 5 days of being served with witness statement.
44 (2)	Each party to provide Officer with copy of their documents for the hearing.	Not less than 5 days before finalised hearing date.
46 (4)	Panel to announce its decision and findings.	At conclusion of hearing or within 10 days of the conclusion.
46 (4)	Penalty and costs hearing.	Not more than 15 days after notice of the findings and decision is given.
46 (8)	Panel to notify the parties of the Order.	Within 15 days of the conclusion of the penalty and costs hearing.
46 (9)	Order takes effect.	15 days after notification unless a notice of appeal is received.
48 (2)	Appeal	Within 15 days of Announcement of decision if the member attended or within 15 days of being served with Order.
51 (8)	Notice of Findings of Appeals Tribunal given to member.	Within 15 days.
51 (8)	Findings and Order of Appeals Tribunal takes effect.	20 days after it was made.

ANNEX 14 PROBATE RIGHTS CONSULTATION RESPONSES AND ANALYSIS

ANALYSIS OF RESPONSES TO CONSULTATION ON PROPOSAL TO SEEK PROBATE RIGHTS

INTRODUCTION

ILEX Professional Standards Ltd (IPS) issued a consultation on its proposal to seek Probate Rights.

The consultation was issued on 16 February 2010 and the consultation period closed on 3 April 2010. However, where consultees asked for an extension it was granted to them.

The consultation paper was posted on the IPS web site and a notice was placed in the Legal Executive Journal, which is sent to all members of ILEX, advising members of the proposed consultation.

The consultation form was also posted directly to interested stakeholders. These included approved regulators and their associated regulatory bodies, consumer interest groups, voluntary membership groups and the Office of the Legal Services Ombudsman.

RESPONSES

Responses were received from three bodies who indicated that they would not be in a position to make a response. Substantive responses were received from 3 respondents and a short response was received from the fourth respondent.

A list of the consultees to whom the consultation paper was sent and who responded appears at the end of this document.

The application for probate rights had originally been submitted to the Ministry of Justice under the Courts and Legal Services Act 1990. The MOJ staff analysed the application and raised some queries. Those queries have been addressed in the context of replies the comments of respondents to this consultation.

ANALYSIS OF CONSULTATION RESPONSES

The following contains an analysis of the responses to the consultation.

1. THE LAW SOCIETY

The Law Society sent a letter and also completed the consultation response form. The letter dealt with all 3 consultations that IPS had issued. This analysis focuses on the probate rights response set out in the letter, and then the responses on the consultation response form.

Transitional Arrangements for Probate Practitioners.

The Law Society expressed its concern about IPS' proposal that it would assess a practitioner's competence and knowledge solely from an application form process. It recommended that a practitioner should complete relevant ILEX modules or an equivalent course. IPS has developed experience of assessing an applicant's knowledge and experience through using portfolios and supporting application forms. These have been used on the existing Rights of Audience qualification scheme and that approach was approved under the Courts and Legal Services Act 1990. Experience has shown that the portfolio approach works well and has been sufficient to identify whether a candidate possesses sufficient knowledge and experience.

The approach of IPS in developing transitional arrangements recognises that most wills and probate work is unregulated currently. The aim is to encourage those providing these services to come into regulation and, where necessary. To ensure they have the knowledge and skills they need to undertake the work they may already do. IPS believes it will be in the interest of clients and the public for practitioners to be brought within the full regulatory regime provided by ILEX through IPS.

IPS recognises the concern of the Law Society about this process being sufficient to assess knowledge and experience in respect of people who have no formal training in law. IPS submits that the process would be used to assess whether a candidate, despite not having a legal qualification, has gained sufficient experience to show that they are competent to undertake the work. The portfolio form, used under the Rights of Audience scheme, asks questions designed to test the knowledge and experience of candidates. Under that scheme IPS has also developed exemption forms which are designed to assess whether a candidate has enough knowledge gained through experience to exempt them from taking an examination. Again that approach was previously approved under the Courts and Legal Services Act 1990.

The Law Society submitted that where a person does not meet the knowledge and experience guidelines they should not be issued with a certificate until they can demonstrate that they meet required standards. IPS recognises the importance of protecting consumers from receiving poor quality work from a person who may not be competent to provide that work. It will be noted that under the proposals a person who does not meet the required standards will have to submit a development plan for assessment by IPS. As part of the development plan the person will be required to scope out how they will develop themselves to meet the knowledge and experience guidelines. In such instances it will be possible to issue a certificate to practitioners subject to conditions or restrictions which limit the range of probate services that the applicant may provide until he qualifies for a full certificate. It is submitted that this approach is proportionate and will enable IPS to impose appropriate conditions and restrictions in proportion to the knowledge and experience that a candidate has. Where a development plan is inappropriate or a person's experience is inadequate IPS will have the power to reject the application or alternatively to defer its consideration.

Independent practice

The Law Society commented that all practitioners wishing to practice independently should undertake the practice management and accounts courses. Under the rules it has been proposed that IPS may require a member to undertake the practice management or accounts course or both where they have not previously completed a relevant practice management or accounts course, where their practice arrangements do not comply with ILEX's Practice Management and Accounts Rules or in any other circumstances where IPS takes the view it would be beneficial for the applicant to complete such a course. This approach would enable IPS to recognise where a person has taken an alternative qualification in practice management or accounts but allow IPS the flexibility to require them to complete an appropriate qualification where necessary. It is likely that the judgement would be made in conjunction with an application to practice independently which will require an applicant to show that they have suitable practice management and accounts arrangements in place. That will provide IPS with the opportunity to judge whether arrangements are satisfactory or not. Again this enables a flexible and proportionate approach to be taken ensuring that IPS acts in the interest of consumers and the public in assessing whether applicants possess competence or whether they require competence in practice management or accounts to be developed. Under the IPS proposals where a person is required to undertake a practice management or accounts course their application will be deferred until they complete that course.

The Law Society also raised its concern that a business which did not meet the requirements was able to practice under transitional arrangements suggested by IPS. These transitional arrangements are intended to apply only to an applicant who is already in independent practice and who seeks probate rights within the first 6 months of ILEX commencing its probate rights scheme. It was intended to only cover practices already practising independently. ILEX submits that the transitional arrangements would protect and further the public interest by bringing in a scheme of formal regulation and requiring practices to develop themselves to meet IPS regulatory requirements within 3 months of their application. It should be noted that a practice falling within that scope would be practising at present without meeting the required standards. Therefore this approach would encourage those practices to meet the ILEX standards.

Regulation of Independent Practitioners

The Law Society expressed concern about the different challenges that IPS would face in regulating Fellows who are able to practise independently. It made the comment that IPS had no experience of regulating independent practitioners and provided no information on how it proposed to gain the necessary expertise.

IPS recognises the challenges that it will face in regulating independent practitioners. It has a small number of independent practitioners that it authorises to provide immigration advice and services, in accordance with the Immigration and Asylum Act 1999. Some of those immigration advisers practise on their own account. ILEX also has a small number of members who practice on their own account undertaking work that does not fall within a reserved legal activity. IPS has developed procedures that it has used when inspecting the practices of such independent practitioners. It would propose to build upon that development work in respect of independent probate practices. It will develop its resources to do so and ILEX, as the approved regulator, is aware of the issues and is committed to making such resources available to IPS.

Supervision and enforcement

The Law Society made the comment that the consultation provided minimal information on proposed systems for supervision of independent practitioners and on enforcement policies. IPS proposes in its application that a member seeking authorisation to practice independently will be required to provide information that meets the independent practice criteria, as set out in its application. IPS will receive and consider that information, ensuring wherever possible that it meets the criteria set out in its Practice Management and Accounts Rules and supporting document. This is similar to the approach that IPS has developed in respect of immigration practitioners whereby in conjunction with inspections it assesses documents produced by firms, such as client

care letters, to ensure that they meet required standards. In terms of enforcement it is proposed that an applicant who fails to meet required standards to practise independently will not be issued with a probate certificate authorising them to practice independently. Where an enforcement issue arises in relation to an existing practitioner appropriate action will be taken through the Investigation, Disciplinary and Appeal Rules (IDAR). The IDAR include the power to suspend a person from practice in serious cases. Where a member is suspended from practice or permanently excluded from membership of ILEX IPS will monitor to ensure appropriate arrangements are put in place for the management and transfer of client cases and client money. IPS has experience of undertaking such activity in relation to immigration advisors. The LSA makes it a criminal offence to practise while not authorised to do so.

Multi-disciplinary practices

The consultation response of the Law Society raises concerns about whether ILEX practitioners could form partnerships with non-lawyers or companies which are owned by non-lawyers. The Law Society indicated further proposals were needed on how IPS will assess the fitness of the non-lawyers to own or manage a firm providing legal services. The Practice Management Rules, as set out in the application, include that an ILEX practitioner may form a partnership or work in a corporate structure with non-lawyers. However, those structures must be approved in accordance with the Legal Services Act 2007. At this stage IPS is not a licensing authority or a regulator of Legal Disciplinary Partnerships. Therefore in practice an ILEX probate practitioner could form a partnership or work within a company which includes other lawyers and non-lawyers. However, that organisation will need to be regulated by another approved regulator. IPS has built in appropriate waiver provisions in its Practice Management Rules to provide for the waiver of ILEX probate practitioners from compliance with the ILEX Practice Management Rules where they conflict with Rules of a body licensed by another approved regulator. The Rules would enable ILEX probate practitioners to practise independently or jointly with other ILEX probate practitioners, Fellows or Litigators.

The Law Society raised concern about the provision of services by ILEX probate practitioners to clients or customers of non-lawyer employers. IPS believes that the conflict and confidentiality rules set out in its Practice Management Rules are sufficient to protect the position of clients of such employers. Employers providing legal services in this way will need to be licensed bodies.

Consultation Response Form

The Law Society responded to each question in the consultation questionnaire. The following provides a response to each comment made by the Law Society.

- Q1 – The Law Society submitted that ILEX members should demonstrate that they meet the same high standards as solicitors. ILEX submits that the scheme proposed in its application allows for a proportionate qualification scheme to be developed whereby an applicant who meets the knowledge and experience requirements to provide probate services is authorised to do so. ILEX has set out detailed knowledge and experience criteria that all applicants will be expected to meet.
- Q2 – The Law Society raised the concern about admission of Probate Associate Members into the probate qualification scheme. ILEX has decided to create a grade of membership for a person who is not an existing member of ILEX to register with it and become a Probate Associate Member authorised to provide probate services. Although this is a new grade of membership it should be recognised that Probate Associate Members will become members of ILEX and be required to comply with the same rules and bye laws of ILEX including the ILEX Code of Conduct. To practice as a Probate Associate Member they will also need to show that they meet the knowledge and experience guidelines before being authorised to undertake such work.

ILEX recognises that if it creates any new grade of membership in the future for probate members it will need to seek prior approval of the Legal Services Board.

- Q3 – The Law Society recommended that CRB checks be undertaken. ILEX has proposed that CRB checks will be undertaken where necessary. ILEX already requires members to make a number of disclosures, including convictions and criminal cautions. That declaration is made on an annual basis and on each application for membership or upgrade of membership. That approach will continue in respect of probate practitioners as well as other members of ILEX.
- Q4 – The Law Society took the view that applicants should be required to show at least 60% knowledge in each of the 4 core subject areas, including taxation and financial aspects of estate administration. ILEX had carefully considered the volume of knowledge that applicants would be required to show in their portfolios. After consideration it had determined that 40% in taxation would be sufficient to undertake probate practice work. It should be recognised that under the ILEX Code of Conduct a practitioner would only be able to undertake work that they are competent to do. Therefore if the administration of an estate or writing a will involved areas of law or taxation which did not fall within their competency practitioners should not act for the client.

The Law Society also suggested that the portfolio should require candidates to demonstrate experience and knowledge of all the core areas of probate work and not just focus on experience in one core area. ILEX will require candidates to provide information about the range and depth of their work both through the portfolio and the application form. ILEX will be aware that a candidate whose portfolios focus on one area alone may not be competent to undertake the full range of probate work. It should be noted that in those instances it is possible for ILEX to find that the candidates' knowledge should follow the developmental route to certification.

- Q5 – The Law Society commented that the portfolio requirements may need to be increased to reflect more than 5 cases in instances where a person does not have the required academic qualifications. ILEX's experience of assessing portfolios on its rights of audience scheme has shown that less than the 8 portfolios required under that scheme would be sufficient to show whether a candidate was competent or not. Again it should be noted that where there are concerns about competence ILEX will be able to seek further information from candidates or place them on the development route.
- Q6 – ILEX recognises the substance of the comments made by the Law Society about the public perception of a practitioner holding a limited certificate while on the developmental route. ILEX will publish any conditions or restrictions on a practitioners certificate. In such instances the practitioner will therefore have to inform clients where a restriction prevents them from acting for that client.
- Q13 – The issues raised here have been considered in relation to the letter sent by the Law Society. A practitioner falling within the transitional undertaking arrangements would need to meet the practice management requirements within 3 months of providing the undertaking. ILEX would monitor practitioners falling within the arrangement to ensure that they complied with the undertaking. Where they do not it is envisaged that they would lose their certificate and have to re-apply.
- Q14 – These issues have been addressed in response to the Law Society letter.
- Q15 – The practice management criteria have been reviewed to ensure that they apply to probate practitioners.

- Q16 – The issues raised in relation to the accounts course have been addressed in response to the Law Society letter.
- Q17 – The accounts course criteria have been updated to ensure they refer to probate practitioners.
- Q18 – ILEX requires all members to provide an annual declaration of prior conduct. This would meet the Law Society requirement set out in its consultation response as a 'good standing' return. All members will also be required to make annual CPD returns, regardless of how often probate certificates need to be renewed. The CPD returns are separate from renewals.
- Q19 - The Law Society had raised the issue about ILEX members forming partnership with non-lawyers or with other lawyers. Although it will be possible for ILEX members to form partnerships or corporate structures with non-lawyers and other lawyers it will only be in instances where the entity is regulated by an approved regulator under the Legal Services Act. ILEX recognises it is not in a position to regulate entities at this stage. Therefore it would envisage that such entities will be regulated by other approved regulators, with ILEX retaining regulation of the individual practitioner. ILEX would obviously regulate entities formed of ILEX members alone or ILEX probate practitioners alone.

ILEX recognises the potential conflict and confidentiality issues that will arise in respect of members who provide services to customers of their employers. The Practice Management Rules cover that members should not reveal confidential information or act in a conflict of interest. Those outcomes based rules should be sufficient to cover this instance. ILEX will then issue supporting guidance, as necessary, in respect of practitioners providing services to clients of their employer.

- Q20 – The position of Probate Associate Members has been addressed earlier in this response.

ILEX recognises the comments made by the Law Society in relation to referral fees. It submits that its proposals under its Practice Management Rules allow for referral fees to take place only where there are clear and transparent procedures. The most recent independent research suggests that referral fees should be permissible on this basis.

The Law Society made a number of suggestions to the Practice Management Rules. These are addressed below.

IPS has decided not to include within Rule 3.1 that the practitioner should inform the client of their responsibilities and of their own responsibilities. IPS has taken the view that such information can be included in supporting guidance.

The Law Society recommended that 3.2 should include information about liability for costs. This has actually been covered at Rule 3.5.

IPS envisages supporting guidance to provide more detail about contingency fee arrangements.

The Law Society states that the section on confidentiality is unclear but has not indicated in the manner in which it is unclear.

IPS would envisage providing more guidance on supervision arrangements in guidance notes rather than within the ambit of its outcomes focussed rules.

- Q22 - The Practice Management Rules generally require practitioners to agree client instructions. Detailed guidance can be issued outside of the formal rule relating to checking instructions given by more than one client.
- Q24 – ILEX thanks the Law Society for drawing attention to an the error, which has been amended in the Publicity Code.
- Q25 - ILEX has carefully considered the Law Society recommendation that the accounts rules should state that practitioners should ensure that client account money is placed in an account that pays a fair interest rate. ILEX considers that the introduction of the additional words into its accounts rules are unnecessary. Probate practitioners are required to pay interest on client money under the accounts rules. The introduction of the requirement as to fair interest rates is likely to lead to unnecessary dispute about whether a fair rate was obtained or not. ILEX does not believe there is any detriment to clients in not adding this requirement.
- Q30 - The Law Society queried whether clients likely to suffer a loss should be able to apply to the client protection scheme. ILEX takes the view that a client should not be able to apply to the compensation fund unless they have actually suffered a loss.

Although there are no provisions on undertakings within the client protection scheme IPS would take action against a member who failed to comply with an undertaking through its disciplinary procedures.

IPS recognises the importance of managing the client protection fund and put in place a mechanism that provides transparency and full accountability. IPS will develop its capacity to do so and has produced an implementation plan addressing those matters. IPS will publish an annual report which will address the accounts functions relating to the client protection scheme.

- Q32 – The ILEX Practice Management Rules include a requirement that a probate practitioner sign posts clients to where they may raise service complaints.
- Q34 – IPS recognises that it will need to develop competence to investigate complaints made against practices. IPS has already gained experience of investigating complaints made against immigration practitioners which can include allegations about the practice management procedures adopted by those firms. IPS would develop upon those procedures in respect of probate practitioners.

ILEX recognises the additional development work that will need to be undertaken in respect of inspecting and intervening into practices. It will build upon its existing experience. The Law Society commented upon intervening into mixed practices. Where a practice is regulated by another approved regulator IPS would not have the authority to intervene into that practice. In such instances appropriate action would be taken against the individual practitioner regulated by it and intervention powers will lie with the entity regulator. The Practice Management and Accounts Rules have been developed to require that practitioners inform clients of their right to make a complaint to the OLC.

- Q37 – IPS will be able to suspend certificates whether or not a person is an independent practitioner.
- Q38 – All probate practitioners will be required to make an annual declaration that they have met CPD requirements.

2. SOLICITORS REGULATION AUTHORITY (SRA)

The following response is made to comments made by the SRA.

- The SRA took the view that the Eligibility Criteria were broad enough to ensure that applicants seeking to become probate practitioners had sufficient competence and knowledge within that area of practice.
- Q7 – ILEX has set clear criteria to ensure that applicants demonstrating experience rather than formal qualifications are not treated any differently to those holding the relevant qualifications, except that they will need to map their experience against knowledge that a person holding the qualifications would have.
- Q6 – ILEX recognises the SRA comments that the development route must be carefully managed. It would expect to carefully monitor progress of applicants against development plans.
- The SRA agreed that members should show competence and experience of practice management.
- Q9 – IPS recognises the importance of ensuring that members under the transitional practice management undertaking meet the requirements.
- Q16 - ILEX has noted the comments made by the SRA about requiring ILEX practitioners to report the conduct of solicitors to the SRA. It has made an appropriate amendment to its Practice Management Rules requiring reports to be made to appropriate approved regulators. ILEX also thanks the SRA for noticing the inconsistency within the Practice Management Rules to practitioners being referred to as "him" "them". The Rules have been checked to ensure that there is now a consistent approach.
- Q19 - ILEX notes the comment made by the SRA in relation to a reference to firms in its Equality and Diversity Code. Having checked the matter it notes that the opening paragraph to the code clarifies that the firm refers to ILEX practitioners and their staff.

ILEX has also considered the comment made in relation to paragraph 7 of the code. At present ILEX would need to take action against the individual and

therefore it takes the view that the paragraph will have to remain in its current form until it develops entity based regulation.

ILEX will develop guidance to members on equality issues outside of its main Equality and Diversity Code.

- Q20 – ILEX thanks the SRA for noting the error in its Publicity Code and has made the amendment.
- Q24 – ILEX recognises that it will need to develop its resources to assess the significance of information received by reporting requirements. It has scoped out a business plan for developing itself in this area. It has already gained some experience of assessing financial arrangements and information provided by immigration practitioners.
- Q26 – ILEX recognises the importance of managing the client protection fund. It has scoped out the resources it will need to set up and manage the fund.
- Q27 - ILEX recognises its role in ensuring that clients are not faced with additional hurdles when making claims against its compensation fund. ILEX will ensure that it complies with its obligations to protect the interests of public and consumers and will develop a proportionate approach to application procedures.
- Q32 – It will be possible under the complaints handling rules applicable to ILEX members for a person to be required to undertake CPD focussing upon a particular matter, for example, probate services.

3. ILEX MEMBER (JANINE MOORE)

One response was received from an ILEX member. The response has been analysed below.

- Q2 – The member recognised the importance of a strict regime for qualification as probate practitioner status and that practical experience should be defined. ILEX submits that the experience requirements have been clearly defined in its knowledge and experience guidelines.
- Q3 – ILEX has proposed that CRB checks will be undertaken where necessary. ILEX already requires members to make a number of disclosures, including

convictions and criminal cautions. That declaration is made on an annual basis and on each application for membership or upgrade of membership. That approach will continue in respect of probate practitioners as well as other members of ILEX.

- Q13 – The member took the view that the transitional practice management undertaking was not best practice. It should be recognised that the transitional practice management undertaking is only intended to apply to practitioners who are already providing probate services, at the time ILEX's probate scheme comes into operation. In those instances the transitional undertaking will only be available for a period of 6 months, which ILEX submits is a reasonable period to allow existing practitioners to meet ILEX criteria. The absence of the transitional arrangement may discourage practitioners from seeking to fall within ILEX's regulatory arrangement and therefore allowing existing poor practice to continue, particularly where the person at present is not a member of ILEX.
- Q20 – ILEX recognises the comments made about referral fees. ILEX submits that its proposals will allow referral fees to be provided only where transparent arrangements are in place.
- Q24 – ILEX will develop guidance for members on publicity outside of its formal rules.
- Q29 – ILEX carefully considered and sought expert advice before deciding whether to opt for a master policy scheme or allow members to seek insurance on the open market. The latest advice has been that although a Master Policy scheme represents the best approach, it might not be possible to set up at the outset if the number of practitioners is low. Therefore ILEX has amended the indemnity insurance rules to allow practitioners to seek their own insurance. They may then transfer to the Mater Policy scheme once it is in place. That decision was made based on advice and research undertaken by insurers.

Discussions with insurers will take place to determine how premiums will be calculated.

- Q30 – ILEX will undertake work to determine the level of contributions to be made by members into its client protection scheme. As part of that work it will consider whether different levels of payment could be made according to the level of risk posed by members.

ILEX recognises the importance of consulting and seeking LSB approval before it makes any changes to its client protection scheme.

- Q36 – ILEX recognises the importance associated with removal of client documents from a practice. It will only do so where it is necessary to protect clients' interests. In such circumstances it recognises the importance of contacting clients immediately and distributing the papers in accordance with client instructions.
- Q37 – ILEX has separate arrangements which deal with suspension of practice rights where a person is unable to practice through illness. That procedure is separate to the suspension of certificates on other grounds.
- Q38 – Although ILEX has not made it compulsory for members to undertake CPD in practice management and accounts on a regular basis it will require members to ensure that they are competent to run a business. If a member has issues relating to competence they will be expected to undertake appropriate training. The annual renewal of independent practitioner certificates will provide ILEX with an opportunity to assess whether a candidate is competent in that area because they are required to provide management information.

4. LEGAL SERVICES OMBUDSMAN (LSO)

The LSO had no specific comments to make other than stating that the consultation appeared to be comprehensive.

5. BAR STANDARDS BOARD (BSB)

The BSB stated its views about referral arrangements. It recognised that where a ban was unacceptable then transparent arrangements were appropriate. The BSB agreed with the ILEX arrangements on the basis that they were transparent.

6. IPREG

The Intellectual Property Regulation Board responded that it did not have any views in relation to ILEX's consultation.

7. BAR COUNCIL

The Bar Council responded that it would not be making a response to the consultation.

BB/Consultation

List of Respondents

Bar Council
Bar Standards Board
ILEX Member
IPREG
Legal Services Ombudsman
Solicitors Regulation Authority
The Law Society

List of Bodies who received the Consultation but made no response

Association of Law Costs Draftsmen
Chartered Institute of Patent Agents
Council for Licensed Conveyancers
Institute of Chartered Accountants for England and Wales
Institute of Chartered Accountants for Scotland
Institute of Trade Mark Attorneys
Master of Faculties
National Association of Citizens Advice Bureaus
Society of Trust and Estate Practitioners
Which?

Consultation also placed on IPS web site and referred to in Legal Executive Journal.

RESPONSE OF THE LAW SOCIETY

Mrs B Basra
ILEX Professional Standards Ltd
Kempston Manor
Kempston
Bedford
MK42 7AB

21 April 2010

Dear Mrs Basra

Re: consultations on gaining probate, litigation and rights of audience for ILEX members and rights of audience for associate prosecutors

The Law Society welcomes the opportunity to comment on ILEX Professional Standard's (IPS) proposal to seek rights to carry out probate activities, conduct litigation and rights of audience for ILEX members. IPS has put forward a set of proposals on the training, qualification and regulation of members who wish to gain these new rights. I am grateful to you for agreeing to extend the deadline for response.

The Legal Services Act 2007 enables existing approved regulators to apply to the Legal Services Board to extend the range of reserved activities which they may authorise persons to carry out. The Legal Services Board will consult with prescribed bodies on an application before scrutinising it and making a recommendation to the Lord Chancellor, who will decide the fate of the application. The Legal Services Board must consider the application against various criteria laid out in the Act.

The Law Society believes that protecting the public interest should be paramount when considering any regulatory change. We consider that ILEX members should only be granted the rights to carry out the proposed activities if they are able to demonstrate that they meet the same high standards as solicitors. Solicitors' training means that they gain a broad knowledge of law and are able to apply this knowledge in a multitude of different areas. We would be concerned if other legal professionals seeking to compete with solicitors did not acquire this same broad knowledge. The professionalism and integrity of the solicitors' profession is of the utmost importance to clients and we would hope to see any competitors match these standards. We would also expect those entering the market to be subject to a similarly robust and credible system of regulation as solicitors.

Transitional arrangements for probate practitioners

IPS proposes to accept applications to carry out probate activities from those who have no formal training in law, provided they complete a form which shows evidence of knowledge of the law and practice relating to probate business. The Law Society does not see how IPS can assess a practitioner's competence and knowledge solely from a form and believe such a system would be open to abuse. In order to ensure that a practitioner has the relevant knowledge and skills they should complete the relevant ILEX modules or an equivalent course.

Where a candidate does not meet the knowledge and experience requirements, we do not believe that they should be issued with a certificate until they can demonstrate that they meet the required standards. To certify practitioners who are not deemed fully qualified to practise will put clients at risk of receiving poor quality work and may serve to undermine the reputation of ILEX practitioners as a whole.

We believe that all those wishing to become regulated independent practitioners should undertake the practice management and accounts courses. While we accept that some practitioners will have experience of running an unregulated business providing Will writing and estate administration services we do not believe this provides all the necessary experience to provide regulated services. It is essential to ensure that practitioners are aware of their obligations and duties in relation to client funds and assets. We consider that undertaking these courses is critical to ensuring that independent practitioners understand and comply with the regulatory requirements.

We are also concerned about the transitional arrangements suggested by IPS. Where a business does not meet the requirements set out by IPS we do not believe it should be permitted to offer services until it does so. To regulate a business that does not meet the requirements will give clients false comfort about the quality of that business. A more sensible approach may be for IPS to reconsider their decision when the business is able to submit further evidence of their compliance with the requirements, not grant a certificate within 3 months.

Rights of audience for associate prosecutors

The Criminal Justice and Immigration Act 2008 originally proposed that Associate Prosecutors would be unregulated and simply subject to the employee/employer relationship within the CPS. Following negotiations and lobbying by TLS, the legislation provides that Associate Prosecutors must be regulated by an external regulator, and the CPS were given until 2011 for Associate Prosecutors to become members of ILEX. The Law Society was accordingly pleased that this group of paralegals will be subject to regulation by an external (to the CPS) regulator.

The consultation paper proposes there will be two levels of Associate Prosecutor qualification. Level 1 will be such that Associate Prosecutor will perform the level of work which they perform now, which includes prosecution of all cases in the magistrates' court, including trials of non-

imprisonable offences. Level 2 will enable them to prosecute every case except trials of 'either way' offences - more serious cases that can be tried in the Magistrates' Court or the Crown Court. The consultation paper also allows that Level 2 Associate Prosecutors could conduct Youth Court advocacy.

The consultation paper outlines the regulatory system, including the Code of Conduct which is based on, and is therefore essentially the same as that for solicitors, as well as the CPD requirements. The Law Society is generally content with these arrangements.

We note that the Post Qualification Competence requirements include monitoring by the supervising Crown Prosecutor, and the provision of instructions and general supervisory functions by the supervising Crown Prosecutor. In view of the way that criminal cases can produce unanticipated issues in the course of a hearing, the fast-paced nature of magistrates' courts lists, and the often very serious nature of the decisions being made - for both the alleged victim and the defendant - it is submitted that the reference to supervision should specifically refer to the need for the supervising Crown Prosecutor to be available to be contacted at all times in the course of the court session. The practice of a supervising Crown Prosecutor prosecuting in his or her own court whilst supervising the work of Associate Prosecutors elsewhere in the courthouse is unsatisfactory and causes disruption to the court list.

In addition, the Law Society has concerns about the entry qualifications. In relation to Level 2, the entry qualification does not require the candidate to have any academic or legal qualification whatsoever, and nor do they have to be an existing member of the CPS workforce. Apparently someone without any academic or legal qualification at all could qualify as a Level 2 Associate Prosecutor. The Law Society submits that in order to become a level 2 Associate Prosecutor, the minimum requirement must be that they have completed the 'ILEX part 2 criminal law and practice' paper, or the Legal Professional Course or equivalent Bar qualification, or have a law degree. We consider that this is particularly important because many of these offences are serious and legal issues are likely to arise where it will be essential that the Associate Prosecutor should be able to recognise them as such and seek appropriate advice. We believe that a basic knowledge of the law is crucial for this.

Regulation of independent practitioners

IPS proposes to allow ILEX members to practise independently rather than as employed members. This will change the role of IPS and of ILEX members significantly. While IPS has put forward a framework for assessing an ILEX Fellow's ability to practise independently we believe that regulating independent practice will present very different challenges from regulating employed, supervised individuals. We therefore have some concerns about the regulation of independent practitioners.

IPS has no experience of regulating independent practitioners. Given this lack of experience, we are concerned that the consultation provides no information on how IPS proposes to gain the necessary expertise to regulate independent practices credibly and competently in the public interest. We would hope that IPS will provide further information on this issue.

The consultation document provides minimal information on the proposed systems for supervision of independent practitioners and on enforcement polices. No information has been provided on how IPS will assess the information provided by those wishing to practise independently, the processes for supervising independent practitioners or the mechanisms of enforcement where there are breaches in compliance. We believe that further consideration will need to be given to these issues before IPS can begin to regulate independent practice.

Practice models

IPS has put forward proposals for several different models of practice for independent practitioners. We believe that these models require further clarification. In particular, we are unclear as to whether independent practitioners could form partnerships with non-lawyers or companies which are owned by non-lawyers. If this is the case, then further proposals are needed on how IPS will assess the fitness of these non-lawyers to own or manage a firm providing legal services. Furthermore, the proposed regulatory system is based on individual regulation rather than entity based, which will mean that non-lawyers working within the business will be completely unregulated. We believe that this will have serious implications for client protection.

IPS also proposes that employed practitioners may be authorised to provide services to third parties and be regulated in a similar manner to independent practitioners. This seems to be a most unusual arrangement and we are unclear as to how this will be regulated. We believe that this needs greater clarification in the rules as to the circumstances in which this authorisation will be granted. Otherwise there is a significant danger of conflicts arising.

Given IPS's lack of experience in this area we believe that, subject to our concerns over regulation being satisfied, the business structures which independent practitioners can practise in should initially be limited to those involving other approved persons. If this is not the case then IPS should put forward proposals on the systems it intends to put in place for:-

- assessing the fitness of non-lawyers to own or manage a firm providing legal services,
- regulating businesses in which such persons have an interest and
- protecting clients.

We have provided some other comments on the annexes to the consultations on gaining probate, litigation and rights of audience for ILEX members in the response forms which are attached.

Yours sincerely

Mark Stobbs
Director of Policy



ILEX PROFESSIONAL STANDARDS LTD

CONSULTATION RESPONSE FORM - APPLICATION FOR PROBATE RIGHTS

ABOUT YOU

Please provide the following information about you. Where you are responding on behalf of an organisation please provide a contact name and telephone number.

Your name: Hazel Uppington

Name of organisation: The Law Society

Address: 113 Chancery Lane London

Post code: WC2A 1PL

Telephone no.: 020 7320 5827

Email: hazel.uppington@lawsociety.org.uk

If you are responding on behalf of an organisation outline the type of organisation for which you provide a response (eg representative body, regulatory body etc)

The Law Society is the representative body for over 100,000 solicitors in England and Wales. It negotiates on behalf of the solicitors' profession, lobbies regulators, Government and others. It also works closely with stakeholders to improve access to justice for consumers.

Do you consent to IPS publishing your response: Yes

CONSULTATION QUESTIONS

- Q1.** ILEX seeks the power to authorise suitably qualified members to carry out probate activities which are reserved legal activities. Do you have any comments on the scope of the activities covered by the application?

Provide comments below

The Law Society acknowledges that many ILEX members already provide Will writing services and administer the estates of clients for whom they have drafted Wills.

The Law Society however notes that the preparation of probate papers is a reserved legal activity and should only be undertaken by a professional who is capable of carrying out this work in the best interests of the client. Given the complex nature of this work any person undertaking this work should be adequately qualified and have comprehensive knowledge of preparing probate papers. Practitioners will be handling client funds and assets and it is essential to ensure that all practitioners are aware of their obligations and duties regarding money from clients. Adequate protections must be put in place to protect members of the public from any harmful actions being undertaken by any person certified to carry out probate activities.

We consider that before ILEX members are granted the rights to carry out probate activities they should be able to demonstrate that they meet the same high standards as solicitors.

- Q2.** Do you have any comments on who may enrol to become an ILEX Probate Practitioner? If so, please set them out.

Provide comments below

The Law Society is concerned with the inclusion of Probate Associate Members of ILEX within the qualification scheme. Appendix 1 at 3.4 describes a Probate Associate Member as:

‘a person who has been accepted by the institute as meeting the rules relating to this category of member’.

However, we could not find the rules relating to this category of member within the appendices. The consultation paper describes a Probate Associate member as meeting ‘the minimum knowledge and experience requirements to become a Probate Practitioner, although they may not be an ILEX member or have commenced the ILEX qualification scheme at the time of the application’.

The Law Society believes that the qualification scheme should be limited to Fellows and Graduate Members of ILEX who meet the requirements to become a Probate Practitioner. There is no justification set out in the consultation paper for introducing the category of Probate Associate Member. As a non-member of ILEX there may be a question as to whether the practitioner is bound by the rules of conduct of the Institute. The Law Society does not support the inclusion of non-members of ILEX within the proposed qualification scheme.

Also in appendix 1 at 3.3 it provides when referring to the qualifying member categories:

‘within any other category of membership, which the institute may establish from time to time and which the institute has determined as being appropriate for those applying for a Certificate’.

The Law Society believes that any additional categories established by the institute should be subject to approval by the Legal Services Board.

- Q3.** Do you have any comments on the eligibility criteria? If so, please set them out.

Provide comments below

The Law Society believes that as part of the criteria for ‘good standing’ applicants should be subject to a Criminal Records Bureau (CRB) check.

Also the Law Society believes that applicants should be required to make a declaration annually regarding their ‘good standing’ whether or not their Probate Certificate is required to be renewed each year.

- Q4.** IPS has set out minimum entry requirements that applicants must meet to provide probate services. Do you have any comments on the minimum requirements, as set out in the knowledge and experience guidelines? If so, please set them out.

Provide comments below

In relation to experience, Appendix 2 at 7.5, there is no justification for any of the core areas to have different experience requirements. Arguably in preparing papers for a grant of probate or letters of administration a greater understanding and experience of inheritance tax is needed than of preparing a Will in the first place, yet the experience requirement is 60% in Wills and only 40% in tax and trusts. Applicants should be required to show that they have substantial experience by meeting the 60% requirement for each of the four core areas.

The Law Society also believes that it should be a requirement that the 5 portfolios demonstrate experience and knowledge in all the core areas of probate work and not just focus on experience in one core area.

- Q5.** IPS has set out knowledge requirements in the form of academic qualifications. Alternatively an applicant may provide evidence of experience where they do not hold relevant qualifications. Do you have any comments on this proposal? If so, please set them out.

Provide comments below

This provision would allow practitioners who have been practising for a number of years to be certified without the required academic qualifications. The Law Society notes that this seems acceptable subject to suitable assessment of the 'evidence' of experience produced by the applicant. In order to prove the relevant experience consideration should be given to increasing the required portfolios to reflect more than 5 cases. This will provide the external assessors with additional material on which to assess the applicant.

- Q6.** IPS proposes that applicants who are not able to fully meet the entry requirements will be able to embark upon a developmental route to qualification. Set out any comments you have upon this proposal.

Provide comments below

The Law Society believes there are significant risks in issuing a Probate Certificate (albeit in a restricted format) to a candidate who has been identified as not meeting the knowledge and experience requirements. There appears to be no adequate justification for this route, either an applicant meets the required standard, or they do not.

A lot can happen in a year, even under restricted conditions, and if an inexperienced Legal Executive ends up in the unfortunate situation of having a claim brought against him or her, it will make it more difficult for him or her to obtain professional indemnity insurance if full qualification is subsequently achieved.

Further, in the eyes of the public a person who has a Probate Certificate is held out as a person with sufficient understanding, experience and skill to carry out a reserved activity. Since the certificate holder plainly does not have that understanding, experience or skill, it would not be appropriate hold them out in the same position as if they did.

The focus on the developmental route should be to assist such candidates to

make good his or her shortcomings through a developmental plan first before being issued with a Certificate. There are different ways ILEX can assist in developing these candidates, for example by creating a trainee scheme where the candidate would be able to shadow a certified Probate Practitioner etc. While the Law Society supports the establishment of a developmental programme, it does not agree that a Probate Certificate, even if subject to restrictions/conditions, should be granted until a candidate has met the relevant entry requirements.

Q7. Set out any other comments you have on the entry requirements.

Provide comments below

No comment.

Q8. IPS has set out minimum entry requirements that applicants must meet to provide probate services. Do you have any comments on the minimum requirements, as set out in the knowledge and experience guidelines? If so, please set them out.

Provide comments below

This question is the same as question 4.

Q9. IPS has set out knowledge requirements in the form of academic qualifications. Alternatively an applicant may provide evidence of experience where they do not hold relevant qualifications. Do you have any comments on this proposal? If so, please set them out.

Provide comments below

This question is the same as question 5.

Q10. IPS proposes that applicants who are not able to fully meet the entry requirements will be able to embark upon a developmental route to qualification. Set out any comments you have upon this proposal.

Provide comments below

This question is the same as question 6.

Q11. Set out any other comments you have on the entry requirements.

Provide comments below

This question is the same as question 7.

Q12. Do you have any comments on the proposals by which members will be authorised to provide probate services in independent practice? If so, set them out.

Provide comments below

Please see our answers to questions 13- 17.

Q13. Do you have any comments on the proposed transitional practice management undertaking? If so, please set them out.

Provide comments below

The Law Society believes that the required practice management arrangements should be in place prior to receipt of a Probate Certificate.

It is not clear from the consultation what happens if the transitional undertaking has not been complied with in the 3-month time frame. If the undertaking is complied with outside the time limit it is unclear what position the certificate holder is in. Would the only option be to re-apply afresh? Or is the certificate holder forever prevented from applying? This should be clarified, and sanctions for non-compliance clearly stated if this proposal is to proceed.

However, the Law Society does not support the proposed transitional practice management undertaking and believes that for the protection of members of the public a Certificate should not be granted until the required practice management arrangements have been put in place.

Q14. Do you have any comments on IPS proposals that members may be required to undertake the practice management course? If so, please set them out.

Provide comments below

The Law Society supports the proposal that members who are required to

undertake the practice management course successfully do so before they are granted a Probate Certificate. Further, we believe that all those wishing to practise independently should be required to undertake a practice management course even where they have already been managing a business. It is important that independent practitioners understand the regulatory context within which they act and the expectations of the IPS regarding the management of an independent practice.

The Law Society also believes that it should be a requirement that the course is completed within 12 months of an application being made, subject to exceptional circumstances. Even if this requirement is completed within the 12 month period sufficient time may have passed which may require certain details of the original application to be updated.

Q15. Do you have any comments on the practice management criteria? If so, please set them out.

Provide comments below

The Law Society feels that the criteria are designed primarily for Litigators and would suggest that the criteria should be suitably adapted for Probate Practitioners.

Q16. Do you have any comments on the requirement that applicants may be required to undertake a qualification in accounts? If so, please set them out.

Provide comments below

As with question 14, the Law Society supports the proposal that members who are required to undertake the accounting course should complete it successfully before they are granted a Probate Certificate. Further, we believe that all those wishing to practise independently should be required to undertake the accounting course even where they have already been managing a business. It is essential that independent practitioners understand the IPS rules on accounts. While we note some of those wishing to become independent practitioners may have run unregulated businesses, these businesses will not have been subject to any rules. Thus, it will be as important for those who have experience running a business as those who have not to undertake this course.

The Law Society believes that it is imperative that applicants are not able to provide probate services independently unless they have shown competency in accounting. Accounting is a fundamental and central part of a Probate Practitioner's work.

The Law Society also believes that it should be a requirement that the course is completed within 12 months of an application being made, subject to exceptional circumstances. Even if this requirement is completed within the 12 month period sufficient time may have passed which may require certain details of the original application to be updated.

Q17. Do you have any comments on the proposed content of the accounts course and assessment criteria? If so, please set them out.

Provide comments below

The Law Society believes that the criteria are designed primarily for Litigators and would suggest that the criteria should be suitably adapted for Probate Practitioners.

The Law Society also suggests that specific reference should be made to the different treatment of Capital and Income in trusts and during the administration of an estate.

Q18. Do you have any comments on the proposals for renewing certificates? If so, please set them out.

Provide comments below

As discussed in above responses, the Law Society does not support the granting of a Probate Certificate to applicants who fall within the developmental route or are required to make a transitional practice management undertaking.

The Law Society also believes that consideration should be given to including a requirement that all Probate Practitioners annually affirm their compliance with the continuous professional development requirements and to also declare that they remain of 'good standing'.

Further, it is not clear where annual certification is required whether there will be one set annual date or whether the date will be based on when the certificate is issued.

Q19. Do you have any comments on the practice structures through which probate practitioners may practice? If so, set them out.

Provide comments below

As we noted in our introduction, we are concerned that ILEX practitioners would be allowed to set up businesses with individuals who are neither approved practitioners nor ILEX practitioners. There appears to be no provision made within the regulatory system for ensuring that partners who are not approved practitioners are suitable persons to have an interest in a firm. Similarly, there seems to be no restriction on who might own the limited company through which an ILEX practitioner practises. We do not believe that these types of structures should be available to ILEX practitioners until appropriate safeguards have been put in place to ensure owners and managers who are not approved practitioners are suitable to be involved in a firm providing legal services and that these firms can be regulated appropriately. Given that IPS is wholly inexperienced in regulating independent practitioners we believe that, in the initial stages at least, managers of practices should be ILEX practitioners or other approved persons.

We also believe that there needs to be further consideration as to the rules governing the situations when an employed ILEX probate practitioner may provide services to third parties. While it is clear that there are circumstances where employed lawyers can act for third parties without detriment to the public interest, we believe that the rules should set out more clearly what those circumstances are and the criteria that IPS will use when authorising individuals to do so.

Q20. Do you have any comments on the Practice Management Rules?

Provide comments below

As highlighted in question 2 there is some concern over the status of Probate Associate Members. If Probate Associate Members are to remain a category within the qualification scheme it should be made clear that they will be subject to ILEX's Code of Conduct and any other relevant rules.

Further, as noted in question 19 we have concerns about the types of business structures ILEX members would be able to practice in.

It is the Law Society's position that the payment of referral fees to non-lawyers impinges on a lawyer's independence and therefore disadvantages any client. We therefore take the view that referral fees should not be allowed by the practice management rules.

We also have a few minor suggestions –

- a. In 3.1 you may wish to include informing the client of their responsibilities and those of the ILEX practitioner
- b. Required information in 3.2 should include information about liability for costs.
- c. The rules provide limited information about which contingency fee arrangements are permitted and what information should be given to clients.

- d. The section on confidentiality is unclear and should be clarified.
- e. There is limited information on the responsibilities of ILEX practitioners for supervising staff. The IPS may wish to expand this section or produce further guidance.

Q21. Are there any items included within the Practice Management Rules which you think should not be included? If so, state what they are and the reasons why they should not be included.

Provide comments below

Please see our answer to question 20.

Q22. Are there any matters that should be included in the Practice Management Rules which are not there at present? If so, state what they are and why they should be included in the Rules.

Provide comments below

The Law Society believes that there should be a provision in the Code that requires a practitioner to check that instructions given on behalf of a client, or by only one client on behalf of others in a joint matter, reflect the will of all clients before proceeding.

The Law Society suggests that under section 19 of the Practice Management Rules, 'Retention of Records', file retention in relation to the preparation of Wills should be specifically dealt with, as should papers relating to the nil rate band of the first deceased spouse.

Q23. Do you have any comments on the ILEX Equality and Diversity Code? If so, please state what they are.

Provide comments below

No comment.

Q24. Do you have any comments on the ILEX Publicity Code? If so, please state what they are.

Provide comments below

Paragraph 13 of the Code reads that “*Advertising material should state that an ILEX Practitioner acts for a particular client without that client’s express prior consent.*” However, we are unclear as to whether this part of the Code should instead read that “*Advertising material should NOT state than an ILEX Practitioner acts for a particular client without that client’s express prior consent.*”

Q25. Do you have any comments on the Accounts Rules? If so, state what they are.

Provide comments below

We have some minor comments on the accounts rules. We believe the Code should state that a practitioner should seek to ensure that interest paid should reflect a fair interest rate. There should also be a requirement to return any client money not required to the client promptly. Clients should be made aware of any client money still held at the end of a matter.

Q26. Are there any matters included within the Accounts Rules that should not be included? If so, state what they are and why they should not be included.

Provide comments below

No comment.

Q27. Are there any matters which should appear in the Accounts Rules that do not appear at present? If so, state what they are.

Provide comments below

No comment.

Q28. Do you have any comments on the arrangements for accountants reports? If so, set them out.

Provide comments below

No comment.

- Q29.** Do you have any comments on the ILEX Practitioners Indemnity Insurance Scheme? If so, please state what they are.

Provide comments below

The Law Society strongly supports the rule that no Certificate should be issued until an applicant has obtained appropriate insurance cover. There should be no exceptions to this rule.

- Q30.** Do you have any comments on the arrangements proposed for the IPS Client Protection Scheme? If so, state what they are.

Provide comments below

We believe that in general the scheme is suitable. We would query whether clients who are likely to suffer a loss as well as those that have, should be able to apply to the fund. We also note that there are no provisions on undertakings and it is unclear whether any grant can be made where loss occurs due to the failure to comply with an undertaking.

It is important that the Client Protection Fund is carefully managed in such a way to ensure that there is full accountability for all contributions made into it by ILEX's regulated community, and to be certain that there is clarity and transparency regarding the way in which the regulatory functions associated with the Fund are resourced.

- Q31.** Will the arrangements provide an adequate safeguard to clients in the event of their suffering loss as a result of a Probate Practitioner's misconduct? If not, what changes would you recommend.

Provide comments below

No comment.

Q32. Do you have any comments on the IPS Poor Service Scheme? If so, state what they are.

Provide comments below

The Law Society believes that it is important that consumers are made aware of the details of the IPS Poor Service Scheme, and that this Scheme will become redundant when the Legal Ombudsman Service becomes operational.

Q33. Do you have any comments on the IPS Poor Service Scheme? If so, state what they are.

Provide comments below

This question is the same as question 32.

Q34. Do you have any comments on the proposal that complaints and allegations about the conduct of Litigators will be investigated in accordance with the normal IPS procedures?

Provide comments below

We believe the question should refer to Probate Practitioners as opposed to Litigators.

We agree that, in general, complaints and allegations about ILEX practitioners can be investigated in accordance with IPS procedures. However, there are particular issues that will arise when dealing with practitioners who work independently. IPS would have limited experience in considering allegations relating to a firm, as a whole, or indeed client money. IPS would need to consider how it will gain the expertise required to consider these types of allegations.

ILEX would have the power to inspect practitioners and would need to consider how it would target these inspections, how frequent these inspections would be and the inspection methodology that would be used. It might be difficult in the early stages of licensing to target inspections based on risk, so more inspections may need to be carried out at this stage.

ILEX would also have the power to intervene in a practice and would need to consider the systems and processes it would need to put in place in order to exercise these powers. It may be particularly difficult to intervene where the practitioner is employed or works within a business carrying out multiple different activities. We believe that if such a practitioner was ever to be intervened in then it may prove impossible to separate out the practitioner's work from the work of the business and even perhaps to identify client money.

Hence we do not believe this is a suitable practice structure.

As noted above, it appears that there is no requirement for practitioners to inform clients that they can take a complaint to the IPS (or the OLC in future) if they are not satisfied with the handling of the complaint. The IPS should consider adding this requirement to its practice management rules.

- Q35.** Do you have any comments on the proposal that complaints and allegations about the conduct of Litigators will be investigated in accordance with the normal IPS procedures?

Provide comments below

This question is the same as question 34.

- Q36.** Do you have any comments on the Right of Inspection Authority? If so, please set them out.

Provide comments below

No comment.

- Q37.** Do you have any comments on the circumstances in which a Certificate may be suspended? If so, please set them out.

Provide comments below

The Law Society believes that the suspension powers should not be limited to Independent Practitioners.

- Q38.** Do you have any comments on the CPD proposals? If so, please set them out.

Provide comments below

As outlined in question 18, Probate Practitioners should be required to annually affirm that they have met their continuous professional development requirements.

Q39. Do you have any comments on the CPD proposals? If so, please set them out.

Provide comments below

This question is the same as question 38.

SUBMISSION OF RESPONSE

Please send the response form to IPS through one of the following methods:

- Email to bbasra@ilexstandards.org.uk
- By post to ILEX Professional Standards Ltd, Kempston Manor, Kempston, Bedford MK42 7AB
- By DX to ILEX Professional Standards Ltd, DX 124780 Kempston 2

Submission deadline

The deadline for the submission of responses is **3 April 2010**

ILEX Professional Standards consultation: “Proposal to seek probate rights for ILEX members”

Response from the Solicitors Regulation Authority

Introduction

1. The Solicitors Regulation Authority (SRA) is the independent regulatory arm of the Law Society for England and Wales. We regulate individual solicitors, certain other lawyers and non lawyers with whom they practise, solicitors’ firms and their staff.
2. We welcome the opportunity to take part in this consultation, and have set out some comments below.

SRA comments

Q1. ILEX seeks the power to authorise suitably qualified members to carry out probate activities which are reserved legal activities. Do you have any comments on the scope of the activities covered by the application?

3. We do not have specific comments on the scope of activities covered by ILEX’s application.

Q2. Do you have any comments on who may enrol to become an ILEX Probate Practitioner? If so, please set them out.

4. We do not have any comment on the career stage or background from which applicants may seek to become an ILEX Probate Practitioner.

Q3. Do you have any comments on the eligibility criteria? If so, please set them out.

5. The proposed eligibility criteria set out on pages 3 and 4 of the consultation paper seem broad enough to help ensure those seeking to become ILEX Probate Practitioners have sufficient competence and knowledge within that area of practice.

Q4. IPS has set out minimum entry requirements that applicants must meet to provide probate services. Do you have any comments on the minimum requirements, as set out in the knowledge and experience guidelines?

6. We have no specific comments to make on the proposed minimum requirements.

Q5. IPS has set out knowledge requirements in the form of academic qualifications. Alternatively an applicant may provide evidence of experience where they do not hold relevant qualifications. Do you have any comments on this proposal? If so, please set them out.

7. It is important that IPS sets clear criteria to guide applicants choosing to demonstrate experience rather than formal qualifications, to ensure that applicants choosing to apply on this basis are not treated differently during the application process compared with those that hold the relevant qualifications.

Q6. IPS proposes that applicants who are not able to fully meet the entry requirements will be able to embark upon a developmental route to qualification. Set out any comments you have upon this proposal.

8. We agree with this proposal, although the developmental approach must be carefully managed to ensure that all applicants are still required to demonstrate the required level of competence and capability.

Q7. Set out any other comments you have on the entry requirements.

9. We have no other comments.

Q8. Do you have any comments on the proposals by which members will be authorised to provide probate services in independent practice? If so, set them out.

10. We agree it is essential for ILEX members seeking to provide probate services in independent practice to be required to demonstrate their competence and experience of practice management, that is fit-for-purpose when set against ILEX's practice management criteria (as described on page 7 of the consultation paper).

Q9. Do you have any comments on the proposed transitional practice management undertaking? If so, please set them out.

11. The transitional arrangements for members already providing unregulated will and probate services through their own practice seem appropriate – however IPS will need to be sufficiently resourced to be able to inspect and form a regulatory opinion about such practices as soon as the 3 month undertaking period has expired.

Q10. Do you have any comments on IPS proposals that members may be required to undertake the practice management course? If so, please set them out.

12. We agree that IPS is right to require this.

Q11. Do you have any comments on the practice management criteria? If so, please set them out.

13. We have no comments on the proposed criteria.

Q12. Do you have any comments on the requirement that applicants may be required to undertake a qualification in accounts? If so, please set them out.

14. We agree that ILEX members seeking to provide independent probate services (whether through the transitional arrangements or not) should be required to

demonstrate competence and proficiency in managing financial information and accounts. It is vital that client funds are managed transparently and safeguarded through client accounts, and this must be a primary focus of ILEX's approach here.

Q13. Do you have any comments on the proposed content of the accounts course and assessment criteria? If so, please set them out.

15. We have no comments on the contents or the proposed criteria.

Q14. Do you have any comments on the proposals for renewing certificates? If so, please set them out.

16. The proposed approach toward renewing certificates seems sufficiently flexible to allow IPS to impose any restrictions it believes are required for particular Probate Practitioners.

Q15. Do you have any comments on the practice structures through which probate practitioners may practice? If so, set them out.

17. We have no comments on the practice structures described on page 10 of the consultation paper.

Q16. Do you have any comments on the Practice Management Rules?

18. We agree with high level principles underpinning ILEX's Practice Management Rules, as set out on page 11 of the consultation paper – that is, “...to ensure the interests of clients are protected and to maintain consumer confidence in Probate Practitioners”.

19. Section 10 (page 66) of Appendix 6 in the consultation paper confirms that, in some cases, ILEX practitioners will be subject to complying both with ILEX's Practice Management Rules and with the rules applying to solicitors, including the Solicitors Code of Conduct, in the event that the practitioner is employed by a solicitor. Paragraph 10.3 of this section creates the requirement for ILEX practitioners to inform ILEX in writing if they become aware “...of any breach of these rules or the rules relating to the conduct of solicitors in relation to any client with whom or matter with which the ILEX Practitioner has had any personal dealings...” We agree that this communication is essential; however we are concerned at the potential this rule may create for matters which are actually properly solicitor misconduct matters, or that may provide indication of potential solicitor misconduct, to be reported and managed outside of the regulatory framework for solicitors. In practice, effective information sharing between IPS and the SRA will mitigate this risk – however it would be helpful for this part of the Practice Management Rules to make clear that ILEX practitioners who are bound by both the rules for legal executives and those for solicitors are required to report any breaches relating to the solicitors rules to the SRA.

Q17. Are there any items included within the Practice Management Rules which you think should not be included? If so, state what they are and the reasons why they should not be included.

20. We have no comments.

Q18. Are there any matters that should be included in the Practice Management Rules which are not there at present? If so, state what they are and why they should be included in the Rules.

21. We have no comments.

Q19. Do you have any comments on the ILEX Equality and Diversity Code? If so please state what they are.

22. Paragraph 7 of the Equality and Diversity Code refers to disciplinary action being taken against partners or employees that do not comply with their firm's anti-discrimination policy. This paragraph could also refer to the role of IPS in potentially taking regulatory action against the firm or a particular practitioner where serious non-compliance has occurred.

23. We note that although the Code is titled the ILEX Equality and Diversity Code, it is intended to focus on anti-discrimination (as confirmed at paragraph 53 of the consultation paper). While the Code may be an important tool for ensuring ILEX practitioners fulfil equality duties, we are not clear as to the extent to which it guides practitioners in achieving diversity within their firm or practice. The consultation paper itself states that the aim of the Code is "*...to ensure that a Probate Practitioner does not engage in anti-discriminatory practices*", but being respectful and accountable toward the diversity of employees and clients is of course a far broader remit than treating everyone fairly and equally. There may be some scope to highlight within the Code that Probate Practitioners and their firms will be responsive and respectful to the diversity of all those they come into contact with, including a commitment to make reasonable adjustments to accommodate the needs of different people they come into contact with.

24. A small point at paragraph 5 of the Code is the reference that "*..this firm will not behave in any of the following ways.*" We believe this would have greater impact if made clearer that it is specifically ILEX practitioners and their staff (ie the members of the firm) that will not behave in the different ways listed, as opposed to simply stating that the firm itself will not behave in those ways.

Q20. Do you have any comments on the ILEX Publicity Code? If so, please state what they are.

25. The Publicity Code proposed at Appendix 8 seems broad enough to cover the various circumstances under which ILEX practitioners advertise or otherwise promote their services. The regulatory approach used by IPS in monitoring compliance with the Code should focus on the intended outcomes of adherence to the Code, as set out in the first few paragraphs of the Code – namely, ensuring that publicity carried out by ILEX practitioners "*...must not be misleading, inaccurate or disreputable*" and "*...must comply with the law*".

26. Paragraph 13 of the Publicity Code reads that "*Advertising material should state that an ILEX Practitioner acts for a particular client without that client's express*

prior consent.” However, we are unclear as to whether this part of the Code should instead read that “*Advertising material should NOT state that an ILEX Practitioner acts for a particular client without that client’s express prior consent.*”

Q21. Do you have any comments on the Accounts Rules? If so, state what they are.

27. The underpinning purpose of the Accounts Rules, as set out at paragraph 56 of the consultation paper, is to “...*require that Probate Practitioners keep client and office money separated and that there is a clear audit trail of transactions.*”. We agree that this is logical and helps to support effective client protection.

Q22. Are there any matters included within the Accounts Rules that should not be included? If so, state what they are and why they should not be included.

28. We have no specific comments.

Q23. Are there any matters which should appear in the Accounts Rules that do not appear at present? If so, state what they are.

29. We have no specific comments.

Q24. Do you have any comments on the arrangements for accountants reports? If so, set them out.

30. The requirement for reporting accountants to report any concerns they have during their practice audit to IPS is sensible; however it is essential that IPS’s compliance and enforcement resources will be suitably developed and in a position to assess the significance of information received through this process, and then take forward any relevant regulatory activity swiftly.

Q25. Do you have any comments on the ILEX Practitioners Indemnity Insurance Scheme? If so, please state what they are.

31. Indemnity insurance is an important safeguard, and we agree that Probate Practitioners must not be issued with their Practitioner Certificate unless IPS is fully satisfied that adequate cover is in place. The proposed master policy scheme should be helpful to IPS in ensuring that this is the case for individual ILEX litigators choosing to insure themselves via this policy.

Q26. Do you have any comments on the arrangements proposed for the IPS Client Protection Scheme? If so, please state what they are?

32. The safeguarding of client interests and client funds is integral to effective consumer protection within the legal services sector, and we agree with the broad approach set out in Appendix 10 of the consultation paper. The Client Protection Fund in particular must be carefully managed in such a way to ensure there is complete accountability for all contributions made into it by ILEX’s regulated community, and to be certain that there is clarity and transparency regarding the way in which the regulatory functions associated with the Fund are resourced.

Q27. Will the arrangements provide an adequate safeguard to clients in the event of their suffering loss as a result of a Probate Practitioner's misconduct? If not, what changes would you recommend?

33. We note the statement at paragraph 69 of the consultation paper that "...*the onus will rest with a client to provide information in support of their claim and to show the loss they have suffered.*" While we agree that the Fund must be protected from false or over-inflated claims on it, it is important that a suitable balance is struck to avoid the claims process becoming simply another hurdle to try and overcome for clients that may already have suffered experienced significant genuine loss and hardship, both financially and emotionally, due to the misconduct of a Probate Practitioner. We agree that ILEX and IPS are right to flag up the importance of being able to make interim grants in cases of severe hardship, and as a means of supporting vulnerable clients.

Q28. Do you have any comments on the IPS Poor Service Scheme? If so, state what they are?

34. We have no comments on the IPS Poor Service Scheme.

Q29. Do you have any comments on the proposal that complaints and allegations about the conduct of Probate Practitioners will be investigated in accordance with the normal IPS procedures?

35. It seems sensible for IPS to approach all disciplinary proceedings using a common and transparent framework. As such we agree that complaints relating to the conduct of ILEX Probate Practitioners could be handled in accordance with IPS's normal procedures.

Q30. Do you have any comments on the Right of Inspection Authority? If so, please set them out.

36. The Right of Inspection Authority, as described on page 16 of the consultation paper, seems consistent with the rights of entry and inspection already afforded to other legal services regulatory bodies. The final version will need to provide IPS with a solid basis upon which it can conduct the required regulatory investigations, which may be required at very short notice if the reason prompting the inspection was sufficiently serious.

Q31. Do you have any comments on the circumstances in which a Certificate may be suspended? If so, please set them out.

37. We have no comments.

Q32. Do you have any comments on the CPD proposals? If so, please set them out.

38. We agree that the proposed 16 CPD hours for Probate Practitioners is consistent with practice for legal professionals working in other jurisdictions. The final version of this proposal could include a reference to the fact that IPS may

additionally require individual Probate Practitioners to attend other courses, as required (for example, following an inspection that had flagged up a particular training need.)



ILEX PROFESSIONAL STANDARDS LTD

CONSULTATION RESPONSE FORM - APPLICATION FOR PROBATE RIGHTS

ABOUT YOU

Please provide the following information about you. Where you are responding on behalf of an organisation please provide a contact name and telephone number.

Janine Moore

Your name

F.Inst.L.Ex

Name of organisation

51 Benhooks Avenue

Address

Bishops Stortford

.....

Hertfordshire

.....

CM23 3RG

Post code

07828 091174

Telephone no.

Janine@purdys-solicitors.co.uk

Email

If you are responding on behalf of an organisation outline the type of organisation for which you provide a response (eg representative body, regulatory body etc)

Do you consent to IPS publishing your response**Yes**

CONSULTATION QUESTIONS

- Q1.** ILEX seeks the power to authorise suitably qualified members to carry out probate activities which are reserved legal activities. Do you have any comments on the scope of the activities covered by the application?

No

Provide comments below

- Q2.** Do you have any comments on who may enrol to become an ILEX Probate Practitioner? If so, please set them out.

Yes

Provide comments below

'some practical experience' for Graduate members should be defined. In order to meet the very high standards required to run a probate practice and to provide services to the public there needs to be a very strict regime to qualify for Probate Practitioner status.

- Q3.** Do you have any comments on the eligibility criteria? If so, please set them out.

Yes

Provide comments below

I believe bankruptcy searches and CRB checks should be mandatory.

- Q4.** IPS has set out minimum entry requirements that applicants must meet to provide probate services. Do you have any comments on the minimum requirements, as set out in the knowledge and experience guidelines? If so, please set them out.

Yes

Provide comments below

I appreciate that persons other than Fellows of ILEX will wish to apply for

Probate Practitioner status. Employing the services of qualified external assessors is a good measure

- Q5.** IPS has set out knowledge requirements in the form of academic qualifications. Alternatively an applicant may provide evidence of experience where they do not hold relevant qualifications. Do you have any comments on this proposal? If so, please set them out.

No

Provide comments below

- Q6.** IPS proposes that applicants who are not able to fully meet the entry requirements will be able to embark upon a developmental route to qualification. Set out any comments you have upon this proposal.

Yes

Provide comments below

Having a developmental route to Probate Practitioner status is an excellent idea. Qualification and experience must underpin the issuing of Practitioner Certificates.

- Q7.** Set out any other comments you have on the entry requirements.

No

Provide comments below

- Q8.** IPS has set out minimum entry requirements that applicants must meet to provide probate services. Do you have any comments on the minimum requirements, as set out in the knowledge and experience guidelines? If so, please set them out.

Yes / No

Provide comments below

Repeat of question 4.

- Q9.** IPS has set out knowledge requirements in the form of academic qualifications. Alternatively an applicant may provide evidence of experience where they do not hold relevant qualifications. Do you have any comments on this proposal? If so, please set them out.

Yes / No

Provide comments below

SA question 5.

- Q10.** IPS proposes that applicants who are not able to fully meet the entry requirements will be able to embark upon a developmental route to qualification. Set out any comments you have upon this proposal.

Yes / No

Provide comments below

SA question 6.

- Q11.** Set out any other comments you have on the entry requirements.

Yes / No

Provide comments below

SA question 7.

- Q12.** Do you have any comments on the proposals by which members will be authorised to provide probate services in independent practice? If so, set them out.

No

Provide comments below

Q13. Do you have any comments on the proposed transitional practice management undertaking? If so, please set them out.

Yes

Provide comments below

I do not believe this is best practice. The public will be better served by ensuring that all those granted Probate Practitioner status have practice management skills in place before the Certificate is issued.

Q14. Do you have any comments on IPS proposals that members may be required to undertake the practice management course? If so, please set them out.

No

Provide comments below

Q15. Do you have any comments on the practice management criteria? If so, please set them out.

No

Provide comments below

Q16. Do you have any comments on the requirement that applicants may be required to undertake a qualification in accounts? If so, please set them out.

No

Provide comments below

Q17. Do you have any comments on the proposed content of the accounts course and assessment criteria? If so, please set them out.

No

Provide comments below

Q18. Do you have any comments on the proposals for renewing certificates? If so, please set them out.

No

Provide comments below

Q19. Do you have any comments on the practice structures through which probate practitioners may practice? If so, set them out.

No

Provide comments below

Q20. Do you have any comments on the Practice Management Rules?

Yes

Provide comments below

Will the Practice Management Rules be available online or in paper format?

I am not a fan of referral fees and hope that ILEX will make a stand against them. I am not sure that all lawyers act in the best interests of their clients and are totally honest about a fee being payable.

Q21. Are there any items included within the Practice Management Rules which you think should not be included? If so, state what they are and the reasons why they should not be included.

Yes

Provide comments below

See 21 above.

- Q22.** Are there any matters that should be included in the Practice Management Rules which are not there at present? If so, state what they are and why they should be included in the Rules.

No

Provide comments below

Due to the late submission of my consultation paper I have not had time to consider the Practice Management Rules that currently apply to solicitors and make comparisons.

- Q23.** Do you have any comments on the ILEX Equality and Diversity Code? If so, please state what they are.

No

Provide comments below

- Q24.** Do you have any comments on the ILEX Publicity Code? If so, please state what they are.

Yes

Provide comments below

It would be useful to have draft advertisements for Practitioners to consider before placing their own.

- Q25.** Do you have any comments on the Accounts Rules? If so, state what they are.

Yes

Provide comments below

The Accounts rules as mentioned are modelled on those issued by other regulatory bodies. I assume a hard copy in paper format will be

available?

Q26. Are there any matters included within the Accounts Rules that should not be included? If so, state what they are and why they should not be included.

No

Provide comments below

Q27. Are there any matters which should appear in the Accounts Rules that do not appear at present? If so, state what they are.

No

Provide comments below

Due to the late submission of my consultation paper I have not had time to consider the Solicitors Accounts Rules currently in force and make comparisons

Q28. Do you have any comments on the arrangements for accountants reports? If so, set them out.

No

Provide comments below

Q29. Do you have any comments on the ILEX Practitioners Indemnity Insurance Scheme? If so, please state what they are.

Yes

Provide comments below

Indemnity Insurance is a must for all Practitioners in independent practice. I am a little alarmed that a master policy is the proposed way forward. PI insurance has made the headlines recently and we are all aware of the potential for insurance companies to collapse under the

weight of claims. If practitioners are able to source their own insurance I do not see that this is a problem provided an appropriate Certificate of Insurance can be shown.

How is such insurance to be calculated – by risk or turn over or both?

Q30. Do you have any comments on the arrangements proposed for the IPS Client Protection Scheme? If so, state what they are.

Yes

Provide comments below

How are contributions calculated? Is there a set fee for all Practitioners?

Clause 5.2 refers to interest falling due after 7 days. An independent practitioner may be away and unable to deal with such a short time period. Consider extending this to 14 or 21 days.

I note that IPS has discretion to make changes to the Protection Scheme. Minor changes should not be a key factor but before major changes are made some input should be sought from the Practitioners themselves.

Will practitioners operating only an office account be expected to make the same payment as those offering client account?

Q31. Will the arrangements provide an adequate safeguard to clients in the event of their suffering loss as a result of a Probate Practitioner's misconduct? If not, what changes would you recommend.

Yes

Provide comments below

This is a difficult question to answer as there is currently no information available as to how much each member or practitioner will be required to pay and the number of payments required for clients who have suffered loss.

Q32. Do you have any comments on the IPS Poor Service Scheme? If so, state what they are.

No

Provide comments below

Q33. Do you have any comments on the IPS Poor Service Scheme? If so, state what they are.

Yes / No

Provide comments below

S/A question 32.

Q34. Do you have any comments on the proposal that complaints and allegations about the conduct of Litigators will be investigated in accordance with the normal IPS procedures?

No

Provide comments below

Q35. Do you have any comments on the proposal that complaints and allegations about the conduct of Litigators will be investigated in accordance with the normal IPS procedures?

Yes / No

Provide comments below

S/A question 34.

Q36. Do you have any comments on the Right of Inspection Authority? If so, please set them out.

Yes

Provide comments below

I assume that the removal of client documents from an independent practice will be with the written authority of the client?

- Q37.** Do you have any comments on the circumstances in which a Certificate may be suspended? If so, please set them out.

Yes

Provide comments below

If a Certificate is suspended through illness rather than any form of misconduct this needs to be published otherwise it can prejudice the practice of the Practitioner when fit enough to return to practice. Interventions by the SRA on the basis of illness have been extremely harmful to some practitioner's livelihoods.

- Q38.** Do you have any comments on the CPD proposals? If so, please set them out.

Yes

Provide comments below

I am happy with the current level of CPD although it may be sensible for Practitioners to renew their knowledge of accounts and management practice every 3 years or so.

- Q39.** Do you have any comments on the CPD proposals? If so, please set them out.

No

Provide comments below

S/A question 38.

SUBMISSION OF RESPONSE

Please send the response form to IPS through one of the following methods:

- Email to bbsra@ilexstandards.org.uk
- By post to ILEX Professional Standards Ltd, Kempston Manor, Kempston, Bedford MK42 7AB
- By DX to ILEX Professional Standards Ltd, DX 124780 Kempston 2

Submission deadline

The deadline for the submission of responses is **3 April 2010**

N.B.

CLAUSE 13 OF THE PUBLICITY CODE SHOULD READ “should NOT” rather than “should”.

LEGAL SERVICES OMBUDSMAN

3rd Floor
Sunlight House
Quay Street
Manchester M3 3JZ
Tel: 0161 8397262
Fax: 01618325446
DX 18569 Manchester 7
E-mail: lso@olso.gsi.gov.uk
Website: www.olso.org

**Professional Standards Manager
The Institute of Legal Executives
Kempston Manor
Kempston
Bedfordshire MK42 7AB**

31 March 2010

Dear Baljeet Basra

RE: Probate Rights for ILEX Members

Thank you for your letter dated 16 February 2010 enclosing your consultation paper on the above subject.

As the consultation paper does not relate to individual complaints, the Ombudsman has no specific comments to make other than to say that it appears to be a comprehensive document and she thanks you for sharing it with her and affording her the opportunity to comment on it.

Yours sincerely

**Rob Bartram
Legal Adviser**

BAR STANDARDS BOARD

ILEX Professional Standards – Proposal to seek probate rights for ILEX members Bar Standards Board response to consultation

The Bar Standards Board (BSB) welcomes the opportunity to respond to the consultation issued by ILEX Professional Standards (IPS) regarding its proposal to seek probate rights for ILEX members.

The BSB has two general comments to make.

Complaints and Discipline

The BSB considers it appropriate that complaints against probate practitioners are dealt with under the normal IPS investigation and disciplinary processes.

Referral arrangements

Part 4.4 of Appendix 6 covers “referral arrangements”. The BSB is against such arrangements and payments. It believes that the introduction of such financial interests can only dilute or inhibit the objective: an independent decision to act in the client’s best interests. The BSB would prefer to see a ban on such arrangements. If a ban is unacceptable on policy grounds for some valid reason then the next best thing is complete transparency, as proposed in the appendix. It should ensure that any intended mischief or financial gain by or for the practitioner to the detriment of the client should not occur.

Bar Standards Board
31 March 2010

IPREG

From: Ann Wright [mailto:Ann.Wright@ipreg.org.uk]

Sent: Tue 16/02/2010 16:26

To: Baljeet Basra

Subject: FW: probate rights

Good afternoon

I am writing on behalf of The Intellectual Property Regulation Board to confirm safe receipt of your e mail and to acknowledge that you have given us the opportunity to make submissions but we do not have any views in relation to this application.

Ann Wright
Chief Executive

BAR COUNCIL

From: Jan Bye [mailto:JBye@BarCouncil.org.uk]

Sent: Wed 07/04/2010 10:01

To: Baljeet Basra

Subject: RE: ILEX consultations on rights of audience and rights to conduct litigation

Dear Mrs Basra,

Thank you for your email. I can confirm that the Bar Council will not be responding to the ILEX consultation on probate rights.

Kind regards

Jan Bye

Head of Professional Affairs