



**RULE CHANGE APPLICATION MADE BY ILEX PROFESSIONAL
STANDARDS LTD TO THE LEGAL SERVICES BOARD
UNDER SCHEDULE 4, PART 3, PARAGRAPH 20(1)
LEGAL SERVICES ACT 2007**

FURTHER INFORMATION

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MONITORING COMPLIANCE WITH CODE

1. The LSB had requested the following information:

How IPS will monitor compliance with the Code by its members and how this is likely to change going forward. In particular, how IPS will identify the risks arising from having a principles-based Code? We would be interested in any thinking that you may have done about this with regard to an entity regulation environment and a potential future environment where legal executives would be able to undertake extended reserved activities and their own right and in entities not regulated by another AR. This would obviously mean that the risks would likely increase and the need for risk based monitoring of outcomes being achieved and appropriate enforcement measures in place where they are not.

2. As at present IPS will monitor compliance with the Code primarily through its complaints handling and misconduct procedures. Furthermore, the prior conduct parts of the annual subscriptions return and membership upgrade forms provide opportunities for members to declare to IPS any breaches in compliance.
3. The Code of Conduct defines the standards expected of members. It places individual obligations upon members, which include observing the ILEX and IPS rules, compliance with which can be monitored by ILEX and IPS through internal mechanisms such as CPD monitoring.
4. The new Code is clear and should increase awareness of the standards that can be expected of ILEX members by members themselves, their employers and the public. Most members of ILEX are employed and employers are able to report allegations of misconduct against ILEX members to IPS. Information may also be brought to the attention of IPS in the absence of a complaint. IPS will investigate such matters.
5. IPS recognises that its present approach is reactive. However, most of its members are employed by persons regulated by other approved regulators. Therefore it is not possible for IPS to enter firms to undertake monitoring of compliance.
6. Given the low levels of failure to observe and maintain standards there is no evidence to suggest that increased monitoring of compliance would be proportionate or necessary.
7. Moving forward IPS is making applications to become an approved regulator for the purposes of granting rights to undertake additional reserved legal activities to ILEX members. Those applications envisage members setting up practices. IPS is also considering making an application to become a licensing authority. The work associated with those applications will include developing conduct and practice rules applicable to those areas of work and management of legal practices. IPS will be

proposing that it undertakes proactive monitoring and inspection of practices regulated by it to mitigate and address risks associated with those forms of practise.

8. IPS has also developed additional codes that members undertaking reserved legal activities will have to comply with. The codes will be specific to practice management and accounts. These are matters not addressed within the current code because they do not apply to all members of ILEX.

DISSEMINATION OF THE CODE

9. The LSB had made the following request:

As there were only five respondents to the discussion paper, we would like a commitment that IPS will disseminate the Code as widely as possible to members and other relevant stakeholders to ensure they are aware of and understand the changes being introduced. As you mentioned this is covered in the application to some degree but we would appreciate confirmation that this remains a high priority.

10. IPS recognises the importance of bringing the Code to the attention of all ILEX members, as they will be bound by it. It also recognises the importance of the public knowing what Legal Executives are and the standards that apply to them.
11. Notice of the new Code will be brought to the attention of members through the Legal Executive Journal. The Legal Executive Journal is distributed to every member of ILEX. IPS is a regular contributor to the Journal and therefore ILEX members will be accustomed to regular features on regulatory matters, including good conduct issues.
12. The Journal will print the full Code. It will also contain reference to the IPS website from which download copies will be available. After the initial publication future IPS articles can also contain reference to the new Code.
13. IPS has already contributed an article to the Journal informing the membership of the new Code. The article provided an outline of IPS thinking on the new Code at that time and invited members to respond to the Code of Conduct consultation. A further recent article, reporting on the IPS official launch, referred to the proposed new Code of Conduct and its principles based approach.
14. Any new person joining membership of ILEX will receive a copy of the Code of Conduct. All newly admitted Fellows receive a full copy. This reflects that current position.
15. IPS is able to take advantage of various other events to bring the Code to the attention of members. These include the ILEX annual graduation ceremony.

16. The Code will be brought to the attention of other regulatory and representative bodies through direct mailing or email notification. IPS has begun a process of discussion with the Legal Ombudsman's office aimed at disseminating information to new employees.
17. IPS recognises the difficulty associated with informing consumers of the new code. It is intended that IPS will contact consumer associations, such as Which? and Citizens Advice Bureau to discuss whether and how information about IPS and the new Code can be disseminated to advisors and consumers.
18. As at present, IPS will continue to provide the Code to all complainants and members against whom a complaint is made.

BETTER REGULATION PRINCIPLES

19. The LSB had made the following request:

We would also appreciate some further explanation about how the changes will support the Better Regulation Principles. I am sure that you have thought about this but this is a key element of the approval requirements and it would be useful if some further analysis could be provided.

20. IPS has had regard to the Better Regulation Principles both in the way in which the application has been prepared and in the requirements placed upon members.

Proportionate

21. IPS has been aware, during its work on developing the new Code, that the requirements to be placed upon members should be proportionate. It has aimed to ensure that the principles contained in the code are reasonable, are capable of being met by members regardless of their area of practice and are adequate and appropriate to protect the interests of consumers of services provided by ILEX members. The Code is set at a level which does not attempt to specify single required ways to comply, but which allows for a range of good practices.

Accountable

22. The new Code sets standards against which the conduct of ILEX members will be assessed. It introduces new statements of accountability which the public and consumers can expect from ILEX members.
23. IPS will be accountable for application of the Code through its disciplinary committees. Those committees will report on their work annually to the IPS Board.

Consistent

24. The Code of Conduct is applicable to all ILEX members. Therefore the public and consumers can expect consistent standards of service from all grades of ILEX members.
25. IPS is also aware that most ILEX members are employed in legal practices, where their employers must comply with Codes of other regulators. The broad principles based approach has enabled IPS to ensure that the standards expected of ILEX members are consistent with those that their employers and their regulatory bodies expect.

Transparent

26. IPS has notified all interested stakeholders, including ILEX members and consumer organisations, of its proposals to develop a new Code. A consultation document was issued on the new proposals and invited comment. It was directly mailed to stakeholders which included consumer groups. Direct notification was sent to ILEX members through an article in the Legal Executive Journal. The ILEX Council, which comprises of ILEX Fellows, made a response reflecting the views of members which it represents.
27. An IPS working party considered each comment made by the respondents to the consultation. Where appropriate, amendments were made to the proposed Code, taking into account comments received.
28. The published Code will be available through the internet and IPS will report on members' performance against the Code as identified through its complaints, disciplinary and conduct procedures.

Targetted

29. The new Code is targeted at all ILEX members. ILEX has delegated to IPS responsibility for the regulation of ILEX members, including those that are not authorised persons under the Legal Services Act.
30. The standards of conduct include written matters arising in the course of professional practice, and also personal conduct, where it has a bearing on the honesty or integrity of members and where failings will impact adversely on the public and the administration of justice.

BB/Code info