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Dear Ian

Internal Governance Rules (IGR) – Dual self certification

You will have seen the letter from David Edmonds to Alan Kershaw, written following our 30 September Board meeting at which your compliance with the IGRs was discussed. In that letter David said that the Board was delighted with the progress that you have made in meeting the requirements of the IGRs. I would like to re-emphasise this and also our appreciation of the way that you have engaged with my team on this issue.

This document presents the Board's final assessment of the dual ILEX / ILEX Professional Standards independence certificate for 2010/11.

Overall conclusion

We are satisfied that the internal governance structures that you have in place are compliant with the IGRs and are happy to confirm our acceptance of your certificate.

This was the first time that the dual self-certificates had been returned since the establishment of IPS as the regulator of members of the Institute of Legal Executives and since the introduction of the IGRs in January 2010. Therefore, we have looked in detail at the structures that have been put in place in separating regulation from the representative functions of the professional body. We have tested compliance against the framework for safeguarding the independence provided by the IGRs.

Our initial assessment provided in July set out areas where we had concerns and asked for further information. In some areas we asked you to tell us whether you recognised the risks that we had raised and if so how these risks are being mitigated.

Having considered the suite of information that you have provided, including your response to our initial assessment, we are satisfied that the governance structures - the protocols and service level agreements - that you have in place are compliant with the IGRs and are fit for purpose.

There remain only two outstanding issues that require action:

1. **Approaching the LSB:** we remain of the view that it is not appropriate to have codified restrictions on when ILEX or IPS may approach the LSB in time of dispute – in requiring

either body to provide five days notice to the other if they intend to refer a matter to the LSB and requiring that any dispute subject to independent mediation is only referred once independent mediation has terminated. We appreciate that the intention behind these restrictions is to ensure that there is sufficient opportunity for internal resolution of issues. As an example of best practice this seems sensible but this should not extend to formal restriction provisions. We would be grateful if the relevant governance documents could be amended accordingly.

2. **Regulatory board member dismissal:** we raised a concern that your protocols and code of conduct make no reference to the IGR requirement for ILEX/IPS not to dismiss any member of the regulatory board without the concurrence of the LSB (other than by exception). You have responded that you do not perceive this to be a risk as you have confirmed that notice will be given to the LSB. In light of this reassurance we will not insist that the protocols and code of conduct are amended immediately to spell out this requirement. However, we ask that they are amended as part of your next schedules review of your governance arrangements. Please note when doing so that the IGRs require concurrence from the LSB rather than simply notice being given. You also state that concurrence will not be appropriate where a Board member is dismissed by the Chair of IPS. The IGR does not distinguish between the person (or body) carrying out the dismissal but the level of Board interest in practice will align to the level of risk in the different circumstances.

Looking forward

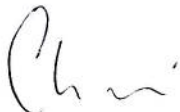
As you know, dual self-certification of compliance with the IGRs is an annual process and certificates will be due again in April 2011. Our focus next year will move away from reviewing the newly established governance arrangements and towards reviewing the practical effectiveness of embedding those arrangements. Or in other words that independent regulation is being delivered in practice. This is important as obstacles to the regulatory body's ability to determine and deliver its own strategy may be undesigned and cultural as much as systemic.

Next year we will be pro-active in identifying areas of risk to the delivery of independent regulation in practice and the 2011 review will be targeted at these areas, employing intelligence on real issues. A key test will also be IPS decision making in light of pressure legitimately brought from practitioners, either individually, or through their professional body. For example, to draw on the example provided in Diane's response to our initial IGR assessment, it is important that decisions on applying for additional practice rights are based on regulatory capability considerations as much as the aspirations of ILEX and its members.

I have written to Diane in the same terms and copied in David McGrady. Letters will be published on the LSB web-site early next week.

If you have any further queries please contact Chris Handford on 020 7271 0074 or chris.handford@legalservicesboard.org.uk. I also remain available to discuss these matters with you.

Yours sincerely



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Cc: Alan Kershaw, Chair