



**MINUTES OF THE MEETING OF THE EBU LAWS & ETHICS COMMITTEE
HELD AT THE WAVERLEY HOUSE HOTEL, LONDON WC1,
ON WEDNESDAY 8TH SEPTEMBER 2004**

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|-----------------|-----------------|---------------------------|
| Present: | Martin Pool | Chairman |
| | Richard Fleet | Vice-Chairman |
| | Steve Barnfield | |
| | Max Bavin | Chief Tournament Director |
| | Jeremy Dhondy | |
| | David Martin | |
| | David Stevenson | |
| | Gerard Faulkner | Vice-President |
| | Nick Doe | Secretary |

1. **Apologies for Absence**
- | | |
|------------------|-------------------|
| David Burn | |
| Grattan Endicott | Vice-President |
| Philip Mason | EBU Vice-Chairman |
| Denis Robson | EBU Chairman |

2. **Minutes of Previous Meeting (26th July 2004)**

2.1 **Accuracy**

It was suggested that minute 3.2 was in error in that the L&E had actually decided to re-open the matter in the circumstances quoted, rather than that the right to do so should have been reserved (by the Investigatory Panel). After a discussion it was not agreed that the minute was in error. The minutes were therefore agreed to be a true record and signed by the Chairman.

2.2 **Matters arising**

2.2.1 *L&E webpage (item 2.2.1)*

Mr Stevenson reported that he hoped to make further progress during a visit to Aylesbury the following day.

2.2.2 *White Book 2004 – index (item 2.2.2); amendments (item 2.2.5)*

Mr Stevenson reported on a number of tabled amendments, and drew the L&E's attention to the following:-

- paragraph 90.4.2 – the wording “illegal convention” had been changed to “illegal method” in order to make it clear that that provision concerned covered the use of an illegal method which was not conventional.
- paragraph 146.1.4 – the provision with regard to gross and manifest scoring errors now included a limitation to errors by an official scorer. Mr Pool suggested that the word “scorer”

be omitted so that errors by any official were covered. Mr Bavin suggested that the examples in the last sentence were unnecessary and should be deleted. Both suggestions were agreed.

- paragraph 146.4.2 – the extension of the correction period for score queries arising in the penultimate session of an event had been included as agreed at the previous meeting.
- paragraph 161.3 – amendments were required to the advice on VP scales for Butler and cross-IMP events, and it was agreed that Mr Stevenson and Mr Bavin should decide on the amendments to be made.

In addition the following amendment was agreed:-

- paragraph 93.4.5 – in view of the Board's decision not to follow the recommendation about giving forfeited deposits to charity, the note referring to the recommendation should be removed.

Other minor corrections were noted. Two suggestions for amendments were not agreed to be necessary:-

- that the expression “a bounce in response to a pre-empt” required clarification.
- that details of what constitutes “over-Swissing” should be included.

Mr Doe reported that he had just received Mr Martin's draft of the index, and it was agreed that this should be circulated for comment with a relatively short timeframe for responses.

2.2.3 *Articles for English Bridge (item 2.2.3)*

Mr Stevenson reported that this was another matter due to be progressed during his visit to Aylesbury.

2.2.4 *Disciplinary matters (item 2.2.4)*

Mr Doe reported that he had ensured that the Editor of *English Bridge* now had the text of the announcement, but had not yet managed to confirm that the item would definitely be published in October. [*Secretary's note – publication in the October issue is now confirmed*].

2.2.5 *Psyche record (item 5)*

The L&E noted that no response had been received from the players concerned (although the standard wording invites comments without in any way suggesting that they are a requirement).

2.2.6 *Publication of minutes on the website (item 12.2)*

The L&E noted and agreed Mr Stevenson's suggestion that the minutes should be published with effect from the first meeting whose decisions were not included in the 2004 *White Book*, which appeared to mean with effect from the December 2003 meeting.

2.2.7 *Publication of disciplinary decisions (item 12.3)*

The L&E noted that the revised draft of the Disciplinary Rules had addressed its concerns about disclosure to complainants, by giving a discretion to disclose subject to undertakings as to confidentiality.

A query was raised as to whether the proposed provision adequately addressed the question of information leaking out as opposed to being officially disseminated. Mr Doe said that he had not thought that this had been the focus of the concern at the last meeting, but he would ascertain what the Solicitors thought.

Any other matters arising not featuring elsewhere on the Agenda

2.2.8 *New Disciplinary Rules – transitional provisions (item 3.1)*

Mr Doe reported that this was to be dealt with by a provision that the new rules applied to any case where no decision to convene a formal disciplinary hearing had been made under the old arrangements. The provision was included in the introductory provision in the Bye laws rather than in the Disciplinary Rules themselves.

2.2.9 Permitted methods (item 6.4)

[Secretary's note – although a matter was raised and some discussion took place, it was agreed that it was appropriate to consider it under item 5, and it is minuted there]

3. Technical matters

3.1 Permitted methods - 2♥/2♠ openings

The L&E considered the status of an opening bid of two of a major which shows:-

EITHER an Acol two bid in the bid suit

OR a hand with 9-13 HCP with 5-5 distribution in the bid suit and a lower-ranking one

(i.e. a simple version of Tartan two bids)

The point at issue was that *Orange Book* paragraph 12.6.1 appears to disallow it at Level 2 as being a mixture of weak and strong types. However, *OB* para 12.6.3 suggests that the agreement is a single type, classified as “non-strong” because of the point count of the weaker option, in respect of which any agreement is permitted which promises 4+ cards in the bid suit. This interpretation would mean that the method was permitted at Level 2.

Mr Bavin said that it had always been his interpretation that para 12.6.3 was subservient to para 12.6.1, which led to the conclusion that the method in question is not permitted at Level 2. This interpretation would mean that it is only permitted at level 4, as there is no provision at Level 3 to cover it. It was suggested that the L&E's policy ought to be to resolve ambiguities in favour of the more liberal of the possible interpretations, but in support of resolving the ambiguity more restrictively, possible difficulties in defence were cited, e.g.:-

- weaker or less-experienced players might be unwilling to compete for fear that opener held the strong option; and
- it is not clear what meaning should logically be played for a 2NT overcall (strong balanced would be suggested over the weak option, but unusual over the strong option, so pairs would not necessarily know what to do over the combination bid).

The L&E approved a proposal from the chair that Mr Bavin's interpretation should be followed for the time being, and that OBESC should be asked to consider as part of the *Orange Book* review the level to which it recommended that such openings should be assigned, and to devise appropriate wording to give effect to its recommendation without ambiguity.

4. Correspondence with players

4.1 04.55 and 04.56

The L&E considered correspondence arising from an incident at the Northern Summer Congress in Scarborough, involving the conduct of a member of the Panel of Referees. Correspondence had been received which could be interpreted as a formal complaint. However, the L&E thought it appropriate to consider the matter as, if it were ultimately decided that disciplinary action was warranted, it was likely that the matter could be dealt with under the proposed new Disciplinary Rules.

The L&E decided to send copies of the correspondence to the player with an invitation to comment.

5. Orange Book revisions

The L&E noted that no detailed proposals from OBESC were yet available. Mr Stevenson reported that he had made his own proposals to the rest of the group, but with the exception of various discussions with Mr Dhondy, he had had little feedback from other members. Mr Pool considered

that this was very disappointing as it had been identified at the last meeting as a priority matter for this meeting. It was a matter of urgency to make progress.

Mr Stevenson said that he did not know whether the lack of response from other members signified that they were in general agreement with his proposals, or whether there might be some matters where there were still significant disagreements. Mr Dhondy felt that there probably had been real progress on the matter of announcements and alerting, but that progress on permitted methods depended on the outcome of the debate as to the number of levels there should be.

A suggestion was noted that it did not appear that communicating solely by electronic means had worked well, so an old-fashioned face to face meeting might perhaps be the answer.

It was agreed that it was important for OBESC to make significant progress without any further delay. In the area of announcements and alerting, there was no reason why the detailed discussions which remained necessary should not be put in hand immediately. With regard to permitted methods, some aspects would have to wait until the Tournament Committee's views were known and Council had had the opportunity to consider the views of both committees, but progress thereafter was a matter of urgency. There must be detailed proposals submitted to the next meeting, which would be scheduled for early November. Mr Stevenson had the support of the L&E if he wished to impose fairly tough deadlines on OBESC members for responses to proposals. If necessary, OBESC's report should include minority or alternative proposals for the L&E to consider.

5.1 Announcements

There was no discussion of matters of detail.

5.2 Alerting

There was no discussion of matters of detail.

5.3 Permitted methods

The L&E noted that members of OBESC had been unclear as to the number of levels for which they were expected to produce detailed proposals, following the proposal at the last meeting that most EBU events might be played at one of only two levels, broadly equivalent to the present Levels 2 and 4. The choice for OBESC was to seek to concentrate on Levels 2 and 4 and come back to Level 3 later, or to continue to consider detailed recommendations for all three levels. The view was expressed that this was an unhelpful argument which was preventing any meaningful progress being made.

The suggestion was made that it might be possible to allow an intermediate level for those that wanted it without having to devise an updated Level 3, by encouraging sponsoring organisations to continue to use Level 3 as set out in the 1998 *Orange Book*, as an alternative to the Level 2 and 4 equivalents to be set out in the 2006 *Orange Book*. The suggestion was subject to some criticism as being cumbersome and potentially confusing.

Mr Doe reported that it had not been considered feasible to obtain a view from Tournament Committee members on the proposal for two levels for EBU events in advance of next week's TC meeting. However, the matter was on the agenda for that meeting, and he would endeavour to ensure that the minutes were available in time to be circulated with the Council papers.

[Secretary's note – at its meeting on 16th September the Tournament Committee readily accepted both the L&E's recommendations, namely:-

- *that there should be one level of permitted conventions applicable to all events at each EBU congress (except for lower-flighted events or other events specifically designed for less-experienced players); and*
- *that the vast majority of EBU events should be played at one of only two levels of permitted methods, broadly equivalent to the present Levels 2 and 4, although special arrangements might have to be devised for a small number of tournaments.*

The Chairman of the Tournament Committee has confirmed her willingness for this decision to be recorded in this note prior to the circulation of the Tournament Committee minutes].

Mr Stevenson drew the L&E's attention to the fact that the discussion at the last meeting had not included any reference to the requirements of the Counties, many of which play most of their events (and some, all) at Level 3. He considered that it was the L&E's responsibility to provide suitable levels of permitted methods for all players, and not to define an equivalent to Level 3, even if such a level were not to be used for EBU events, would be an abrogation of that responsibility. It was agreed that when the Tournament Committee's views were known, it would be appropriate for the question of Counties' requirements to be flagged up at Council.

6. Disciplinary procedures

The L&E considered a revised set of draft Disciplinary Rules, which had also been sent to Council Delegates for comment. The short timeframe which had been imposed for comments was criticised, although the L&E noted that this had been largely dictated by the dates of absences from the office of relevant staff at Aylesbury.

The L&E considered a number of aspects of the revised draft.

[Secretary's note:-

(a) For ease of reference, the matters considered are minuted in the order in which the relevant provisions appear in the draft rules, rather than in the order in which they were discussed.

(b) The changes since the previous draft (which was considered at the April meeting) are significant, and involve considerable re-numbering. For ease of comparison, both the numbering in the revised draft and that in the earlier draft are included, the latter in square brackets.]

Jurisdiction (Rule 2.1 (ii) [same])

The L&E noted that it was proposed that the officers of affiliated clubs should be subject to the disciplinary jurisdiction of the EBU, even if not themselves EBU members. Mr Doe explained that this jurisdiction clause had been made narrower in scope since the previous draft, but that this element had been retained because it was perceived that there was a case for having jurisdiction over, say, the individuals responsible for a case of victimisation of an EBU member by an affiliated club which was run by individuals who were not EBU members. The suggestion was made that such an aim might be better accomplished by having a Bye law provision requiring officers of affiliated clubs to be EBU members. Doubt, however, was cast on whether this was either desirable or workable in practice.

Initial procedure (Rule 7.1 [5.1])

The L&E considered that the example (of the sort of investigations which the L&E might make) in the penultimate sentence might be considered to detract from the wide scope of the discretion given to the L&E earlier in the clause, and could safely be omitted.

Appeals to the Sports Dispute Resolution Panel (SDRP) (Rule 10.2 [7.2])

The L&E noted that the right of appeal to an independent body chaired by an SDRP nominee had been replaced by a two-tier system whereby appeals were generally to an EBU Appeal Committee (much along the lines of the procedure under the present Bye-laws). However, in cases where the sanction imposed affected the player's right to play (i.e. expulsion or suspension from membership, or suspension from participation in specified events), there was a right to elect for the appeal to be to the SDRP.

A number of concerns were expressed:-

- Access – Mr Doe said that it had been confirmed that the SDRP would be prepared to be involved despite the fact that duplicate contract bridge is not recognised as a sport.
- Scope of appeals – Mr Fleet was concerned in the light of recent happenings at the Olympic Games that there should be no question of the SDRP's potential involvement in disciplinary appeals implying any right to appeal to them in non-disciplinary matters. Mr Doe undertook to seek advice on the point.

- Expense – the concern expressed at the April meeting about the possible cost of involving the SDRP was repeated. Mr Doe reported that he had been informed that the SDRP was well used to tailoring its procedures to the scale appropriate to the resources of the parties. In addition the SDRP Rules specifically gave the parties the option to agree on a procedure, which might help in keeping costs down. The default position under the SDRP Rules was that each side paid its own costs, although there was a power to award costs. The L&E thought that it would be helpful if more detailed information as to the likely costs of involving the SDRP could be made available, and Mr Doe undertook to obtain further details.

Appeals by the L&E (Rule 10.3 [7.3])

The L&E considered that there was no reason for it to have a right to appeal findings of fact or of guilt or innocence, although a right for it to appeal against the sanction imposed if it were perceived to be unduly lenient, or indeed unduly severe, might be useful in the interests of consistency of sentencing.

Appeals to an EBU Appeal Committee (Rule 10.6 [7.6])

The L&E considered that the scope of the EBU Chairman's right to appoint a person outside the specified categories to an Appeal Committee should be limited to cases where insufficient suitable people were available from within those categories.

Costs (Rule 12 [9])

Considerable concern was expressed at the open-ended nature of the liability implied by an unrestricted power to award costs, despite the suggestion that the Board issue guidelines (such as to provide that the power should only be exercised in exceptional circumstances or when either party had behaved unreasonably). It was considered that the very existence of the power to award costs could be likely to deter a defendant with a good defence from mounting that defence for fear of incurring substantial costs.

Minor matters

L&E members were invited to contact Mr Doe after the meeting about any minor matters which they felt ought to be considered.

7. Reports from Tournament Directors

7.1 04.22

The L&E considered a case in which confusion had arisen because it was not clear whether the term "jump overcall" (as used in the "Action when opponents intervene with" section of the convention card) should be taken to include double and higher jumps. It was agreed that OBESC should be asked to consider the questions of terminology and convention card design raised by the case.

7.2 04.28 and 04.30

The L&E considered two appeals chaired by the same player (not a member of the Panel of Referees), in both of which the Appeals Committee had upheld the TD's decision but had made no comments at all on the form. The L&E confirmed that it does expect Appeals Committees to record some reasons for their decisions, not least because having nothing to say suggests that the decision might have been so obvious that consideration should have been given to forfeiting the deposit.

7.3 04.41

The L&E considered whether it might be possible to issue some guidance on the approach to be adopted when questions of possibly frivolous psyching arose. The L&E concluded that it was a matter of judgment for TDs, and did not wish to give any guidance beyond noting that a psyche should not normally be considered frivolous if the TD considered that the player had been genuinely (even if misguidedly) attempting to improve his own side's score.

7.4 04.53Dealer S
Love all

North
 ♠ 7 3
 ♥ 10 9 8 5 3
 ♦ A 9 7
 ♣ A J 9

West
 ♠ J 2
 ♥ 6 4 2
 ♦ 8 6 3
 ♣ K 10 6 5 3

East
 ♠ A K Q 10 9
 ♥ 7
 ♦ K Q 5 4
 ♣ 8 7 4

South
 ♠ 8 6 5 4
 ♥ A K Q J
 ♦ J 10 2
 ♣ Q 2

| Bidding: | West | North | East | South |
|-----------------|-------------|-----------------|-------------|-------------------|
| | Pass | 2♦ ^A | 2♠ | 1NT |
| | Pass | 3♥ | Pass | Pass ^H |
| | Pass | Pass | Pass | 4♥ |

Result: 4♥= N/S +420

Tournament Director's statement of facts & ruling

I was called at the end of play. N and S both agreed that S's pass after 2♠ was not made in tempo. I asked the players to record the score as played and I would return shortly with a ruling. (Note – this was the penultimate board of the event).

I ruled that N has chosen, from among logical alternatives, one that could have been suggested by the unauthorised information communicated by S's hesitation.

N's alternatives (to 3♥) are Pass and Double, and I estimated that each was equally likely. Pass leads to a result of 2♠ –2 by E, N/S +100. Double leads to a result of 3♥ +1 by S, N/S +170.

I adjusted the score under Law 12C3 to 50% of +170 (3♥+1 by S) and 50% of +100 (2♠–2 by E).

Appeals Committee's decision

The Committee agreed with the ruling of the Tournament Director.

The decision to support the TD's ruling was not a difficult one and the arguments put forward by N did not convince the Committee otherwise.

The decision to return the deposit was very close and it was ultimately decided that the relative inexperience of the appellants was the only justification for this decision.

[Note by TD: the Appeals Chairman was aware of the EBU's guidelines for deciding whether to retain deposits.]

L&E comment:

The TD and Appeals Committee should have considered whether Double (as well as 3♥) was suggested over Pass by the unauthorised information. If it was, then a Pass should have been imposed, as in those circumstances to include any element of a contract derived through a double would not be appropriate (a "Reveley" ruling).

If (assuming that Double was not suggested) the TD considered that Double and Pass were equally likely, then it would have been normal to use "sympathetic weighting" in favour of the

non-offenders, in which case the weighting for 2▲–2 might have been expected to be, say, 60%.

It appears that the Appeals Committee may have mistakenly concluded from their lack of sympathy with N's bridge arguments that he was inexperienced (a trap for the unwary!).

8. Date of next meeting

Wednesday 10th November at 1 pm.

[Secretary's note – the venue is confirmed as 40 Bernard Street]

9. Any other business

9.1 EBU diary

Mr Stevenson reminded the L&E that it had been agreed that the Yearbook would contain the cumulative *Orange Book* amendments on an annual basis, but this appeared to have been overlooked in the transition from Yearbook to diary. The L&E hoped that this would be rectified so that the amendments were included in future years.