MINUTES OF THE MEETING OF THE EBU LAWS & ETHICS COMMITTEE HELD AT 40 BERNARD STREET, LONDON WC1 ON WEDNESDAY 15TH JANUARY 2003

Present:	David Burn	Chairman
	Martin Pool	Vice-Chairman
	Steve Barnfield Richard Fleet David Martin Jeff Smith David Stevenson	
	Grattan Endicott Gerard Faulkner	Vice-President Vice-President
	Nick Doe	Secretary

Mr Burn being delayed, Mr Pool took the chair at the start of the meeting. Mr Burn arrived during the course of item 3 and took over the chair.

1.	**Apologies for Absence**	Denis Robson Philip Mason	EBU Chairman EBU Vice-Chairman
		Max Bavin	Chief Tournament Director

Mr Doe informed the Committee that Mr Robson had asked him to say that as EBU Chairman he proposed to attend occasional meetings, although by no means to attend every meeting, as he shared with his predecessor the view that the work of the Committee was best entrusted to its elected members. If any member of the Committee, however, felt that his presence at a particular meeting was especially desirable, he would do his best to be there.

Mr Faulkner considered this stance to be open to criticism. An ex-officio member is a full voting member of the L&E, and he thought that officers of the Union could discharge their functions better if they made it their business to attend meetings of Committees of which they were ex-officio members whenever possible. Opinions were expressed on both sides, and Mr Stevenson proposed, seconded by Mr Pool, that no action should be taken in respect of the EBU Chairman's comments. This was carried by two votes to one.

2. Minutes of the Meeting of 18th September 2002

2.1 Accuracy

It was agreed that the opinion expressed by Mr Pool in item 10.2 had been supported by Mr Stevenson. With the addition of a reference to this, the minutes were agreed to be a true record and signed by the Vice-Chairman.

2.2 Matters arising

2.2.1 Montreal meetings of WBF Laws Committee (item 2.2.3)

The L&E noted that the minutes were now available and had been circulated to L&E members.

3. Minutes of the Meeting of 11th December 2002

3.1 Accuracy

Mr Stevenson considered that his concerns on one aspect of the draft 2005 Laws had not been fully recorded. The L&E agreed that what had been included in the attachment to the minutes was only one example of a wider concern, and it was agreed to add the following wording at the beginning of item 14 of the attachment:-

"Mr Stevenson considered it a retrograde step for the Laws to permit the award of an artificial adjusted score when a bridge result could be or had been obtained on a board. This potentially had a number of undesirable effects, including allowing tournament directors to award artificial scores as a "cop-out". The L&E considered that the circumstances in which an artificial score could be awarded should be more tightly defined. One particular problem was that…"

With this addition, the minutes, including the attachment, were agreed to be a true record and signed by the Vice-Chairman.

3.2 Matters arising

3.2.1 Draft new Laws (item 2)

The L&E noted that it had previously been given to understand that the target date for implementation of the new Laws was 2005. The Christmas message to NBOs from the WBF President, however, had suggested 2007. Mr Endicott explained that the WBF Bye-laws required a revision no later than 2007, but the Laws Committee had decided to accelerate the process. The target date was still 2005, although it might be more realistic to think that implementation would actually take place in 2006. Mr Stevenson did not think that the timetable was of critical importance to the L&E, which had already decided not to defer amendments to the *White Book* and *Orange Book* pending implementation of the revised Laws.

Mr Faulkner considered that the L&E ought to make a decision as to whether to wait until it had considered all the draft material from the WBF before making representations via the EBL. He suggested, and the L&E agreed, that a piecemeal approach was likely to be more productive, with major concerns being the subject of formal representations as they arose. Relatively minor concerns could be adequately addressed by ensuring that Mr Endicott was aware of them, as otherwise the force of the major concerns would be likely to be lost in the length of the formal representation required.

It was agreed that Mr Doe should draft an initial representation for Mr Burn to approve.

3.2.2 Appeal from a County Conduct Committee (items 5.1 and 5.5)

The L&E noted that the Appeal Committee appointed at the last meeting had considered that it was able to overcome the procedural difficulties, had heard the appeal, and reduced the suspension from County events imposed on the player by the County Association.

The procedural aspects had been raised at Council, when it had been noted that a player suspended by his County from its events remained a member of the Union in good standing, and that it was not open to any other County to refuse his application for membership unless its constitution contained geographical constraints which he could not satisfy. It was noted that Council had been given an undertaking that all County constitutions would be reviewed when the Bye-laws had been revised, and that the Board had expressed the view that members' rights should be the same for all Counties.

The L&E noted that the Appeal Committee had determined to make recommendations to the County concerned, and these would be circulated to L&E members for information. It was suggested that a model set of regulations should be produced, but it was noted that the statement of the L&E's own procedures suggests that it should be adapted for their own use by Counties. It was therefore agreed that it was sufficient for this statement to be re-circulated to County Secretaries with a specific request that it be passed on to the Chairman of each County's Conduct Committee.

Mr Martin raised a general point of procedure arising from the appeal, namely the effect on a disciplinary case of a refusal of the complainant to give evidence. It was agreed that this tended to affect the weight which should be attached to the contents of the complaint, rather than its admissibility, although it was recognised that there would be cases in which the complainant was an essential witness.

3.2.3 Committee papers

Mr Faulkner reported that the General Manager had assured him that there was a management structure in place to ensure that papers could be issued even in the unexpected absence of the Secretary, and that the General Manager was confident that there would be no repetition of its failure to achieve the desired result.

4. Disciplinary matters

4.1 Reference from the EBU Board

The L&E reviewed a case in which it had not been possible to make any progress for some considerable time. Mr Fleet's proposal, seconded by Mr Smith, that no further action be taken, was agreed nem con.

4.2 Recent hearing

The L&E noted that an enquiry had recently taken place under Bye-law 36, and a member had been found to be in breach of the Bye-laws. A period of suspension had been imposed, and the member had appealed. The Appeal Committee had varied the sentence imposed by the L&E, and suspended the member for a period of six years. The Appeal Committee had confirmed the L&E's decision to publish full details in *English Bridge*.

Mr Faulkner (who had been Chairman of the Appeal Committee) asked whether the L&E could provide any guidance on two aspects connected with the minutes of the appeal. First, the member had asked for a copy of those minutes. The L&E believed that under the Human Rights Act the member had a right to a copy. Second, it was the custom that minutes of hearings and appeals, whilst recording the evidence in some detail, tended to be relatively brief when it came to giving reasons for the decisions made. This might not be helpful if it later came to consider the case as a sentencing precedent. Mr Faulkner wondered whether it would be helpful for an anonymised version, to include further details of the L&E or Appeal Committee's reasons, to be prepared and held in a separate precedent file. The L&E considered that this would indeed be helpful.

Mr Burn informed the L&E that he had been asked to draw to its attention the fact that details of the decisions of the L&E in this case had not been kept confidential as should have been the case. He reminded L&E members that a number of categories of L&E business are considered to be confidential. The most notable example is disciplinary matters, and L&E members are expected to

be assiduous in not discussing them outside the L&E. Mr Martin considered that the fact that the Human Rights Act requires hearings to be public (unless the member under enquiry opts for a private hearing) might affect this principle. The L&E decided, however to maintain its existing policy on strict confidentiality, although legal advice on the point should be obtained.

4.3 Procedures

Mr Burn commented that the recent case had been the first which had come to a formal hearing under the interim disciplinary procedure, and he had been impressed that the investigation had taken place without any knowledge whatsoever on the part of the L&E members who ultimately comprised the Judicial Panel.

Mr Fleet (a member of the Investigatory Panel) raised a question which had caused difficulty on investigation of a recent complaint. To what extent did the L&E as a whole, or the Investigatory Panel, have a discretion not to pursue a case even if there was evidence of a breach of the Bye-laws (whose wording was extremely wide)? The L&E considered advice from Mr Harris on the point. It thought that the wording of the Bye-laws could be improved, but it identified a distinction between the L&E's duty to "enquire" in Bye-law 36.4, and references to an "enquiry" in Bye-law 36.5. It considered that the former included the initial investigation, whereas it took the latter to refer to a formal enquiry or hearing.

The question of guidelines for the Investigatory Panel was raised, but Mr Barnfield considered that there was a danger of replacing a situation where (under the former procedure) the L&E had spent a great deal of time considering the detail of complaints, with one where it spent a great deal of time considering guidelines to cover situations which might only be hypothetical. The L&E confirmed that it delegated to the Investigatory Panel the power to exercise the discretions in this area vested in the L&E by the Bye-laws. If a case threw up lessons for the future, that was the function of the review of the case by the whole L&E after the case was concluded.

Mr Burn summarised the conclusions of a long discussion as follows:-

> If the Investigatory Panel concludes that the conduct complained of is:-
>
> - not unreasonable: or
> - not such, even if proved, as to amount to a breach of the Bye-laws; or
> - despite being a prima facie breach of the Bye-laws, not such as to give rise to the likelihood of any disciplinary penalty (including an admonishment) being imposed in the event of a formal hearing being held,
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> then the Investigatory Panel had a discretion not to proceed with the case.
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> If the Investigatory Panel concludes that there is a prima facie breach of the Bye-laws which might potentially lead to the imposition of a disciplinary penalty, then the fact that the complainant might have a remedy elsewhere does not necessarily rule out its being referred to the Judicial Panel for a formal hearing.

The L&E noted that there had been further discussions with the Hon. Solicitor about the future format of disciplinary procedures. It understood, however, that the Board was determined to seek detailed legal advice on the subject, and it considered it inappropriate for further debate (in L&E or Council) to pre-empt that advice.

The L&E considered the composition of the Investigatory Panel for the forthcoming year. It recognised that there were arguments both for and against any change in personnel. After discussion a proposal by Mr Burn, seconded by Mr Stevenson, that there should be no change, was carried nem con. *[Secretary's note – the Investigatory Panel accordingly comprises Messrs Barnfield and Fleet, together with the ex-officio members, who now comprise Messrs. Robson, Mason and Bavin].*

4.4 Pending case

Mr Doe informed the L&E that the Investigatory Panel had recently decided that a formal hearing should be held in respect of a complaint, and availabilities would be requested shortly.

4.5 Closed case

[additional item]

Mr Pool considered that further discussion was appropriate concerning the case referred to in item 10.2 of the minutes of the meeting of 18th September, which concerned a pair who had withdrawn from an EBU event in mid-session in reaction to an adverse ruling given by the TD. Rudeness to the TD was also alleged. The general view of the L&E was that this was the sort of case in which it might be appropriate to impose a disciplinary sanction, rather than to send a letter warning that any repetition would be likely to lead to disciplinary proceedings, which is what had been done in this case.

The L&E did not consider that it was necessary to give the Investigatory Panel specific guidelines, as the opinions expressed would no doubt be taken into account in any similar case which might arise in future.

The L&E thought that the possibility of making a specific regulation about mid-event withdrawals should be drawn to the attention of the Tournament Committee.

5. Orange Book 2003/04

Mr Stevenson reported that the Orange Book Electronic Sub-Committee had had lengthy discussions without reaching any definite conclusions as to the way forward. In the light of the timetable of Council meetings, he now considered it unlikely to be possible to adhere to the timetable previously proposed. Instead it was more likely that the revised edition would be finalised during the course of 2004, and come into force for the playing season 2004/05.

OBESC had concentrated so far on matters of principle relating to permitted methods and to alerting, and the various suggestions had been summarised in papers from Messrs Stevenson and Dhondy which had been circulated to L&E members.

A. Permitted methods

Mr Stevenson said that the principal decision to be made was how many levels of permitted methods there should be. One view was that the present number was about right; the other was that there were too many levels. Questions of nomenclature had also arisen. In particular it had been suggested that Level 2 should be abandoned as it was little used, and that Levels 3 and 4 might be combined.

There was general agreement in OBESC that the question of presentation needed to be addressed, so that the publication was easier to use. For example there might be a single section concerned with a type of call (e.g. 1NT openings) in which all the permitted options would be described with some sort of flag to indicate the levels at which each was permitted.

One of the difficulties which had been identified with the use of the existing levels was that there were a number of EBU Congresses where different events were played at different levels. Mr Stevenson hoped that the Tournament Committee would see fit to rationalise this, as he thought it was unpopular with the players.

Mr Pool thought that change for change's sake should be avoided, but that there was a case for combining Level 1 with Level 2 and Level 3 with Level 4. Mr Stevenson said that it should be recognised that "combining" levels was a misnomer. He did not consider it to be realistic to play all existing Level 3 and Level 4 events under regulations which were more liberal than Level 3 but more restrictive than Level 4. "Combining" the two levels would therefore effectively mean that

Level 4 would replace Level 3. Mr Fleet doubted that this was a good idea, in view of the considerable difference in the complexity of what is permitted at the two levels.

The L&E recognised that it may not have adequate information as to the extent to which each of the levels is used in practice, but the supposition is that Level 2 is widely used in the bridge holiday market, as well as by some clubs, and Levels 3 and 4 are widely used by clubs (with considerable geographical variations) and in EBU tournaments.

Mr Doe said that from the standpoint of the person at Aylesbury with responsibility for answering EBU members' queries about permitted methods, it was evident that all the existing levels were in common use. It was also clear that clubs were grateful to the EBU for providing a choice of three different levels, one or other of which seemed to suit the needs of most clubs. He was sure that clubs would prefer the continuance of such an arrangement to the alternative of having to devise their own arrangements from scratch.

Mr Martin asked what sort of regulations other NBOs have. Mr Stevenson said that it varied very widely, from a very laissez-faire stance (e.g. Australia) to a fairly restrictive policy (e.g. France). Mr Endicott believed that the EBU's approach is more sophisticated that nearly any other NBO.

Mr Burn favoured a flexible approach, whereby it was made clearer to sponsoring organisations that they could depart from EBU standards if they wished. He thought that it was necessary to keep the existing levels or something like them as a reference point for clubs. Mr Fleet thought that the existing levels were required because it was too difficult for most sponsoring organisations to do anything except choose one of the EBU levels.

Criticism had been levelled at Levels 1 and 5, which were not defined in the same way as Levels 2 to 4. There was no suggestion that sponsoring organisations should be prevented from organising events under a systems policy of their own. This could be simpler than Level 2 (i.e. Simple Systems, currently technically Level 1), more liberal than Level 4, or merely different from any of the EBU Levels. It did, however, appear that the use of the labels "Level 1" and "Level 5" was not widespread, and there was considerable support for the notion that the use of such terms was better abandoned.

At the close of the discussion Mr Stevenson, seconded by Mr Barnfield, proposed that, without at this stage making any decisions as to nomenclature, and subject to further discussions as to presentation and content, the existing Levels 2, 3 and 4 should be retained. This was carried unanimously.

Mr Martin, seconded by Mr Fleet, proposed that the existing Level 5 should be discontinued. This was carried by 5 votes to 2.

Mr Martin, seconded by Mr Burn, proposed that the existing Level 1 should be discontinued. This was carried by 4 votes to 3.

It was agreed that OBESC should proceed to give further consideration to the content, presentation and nomenclature of the three levels which it had been decided to retain.

B. Alerting

Mr Stevenson reported that OBESC's approach to the question had been from the starting point that the alerting regulations had remained largely unchanged for 15 years, and it was therefore perhaps time for a radical review. One problem was that there were different perceptions of the objectives. There were a number of possibilities:-

- to endeavour to have alerting regulations which were appropriate for the tournament game, without having a specific regime designed for club players;
- to endeavour to have a single set of alerting regulations which were appropriate for all levels of the game, difficult as that might be to achieve;

- to have a two-tier system of some sort.

Whatever might ultimately be decided, it appeared desirable to make it clearer to sponsoring organisations than it currently is that they do not have to follow the EBU's regulations but can choose their own if they wish.

Mr Stevenson also highlighted the discussions which had taken place on the subject of announcements *[whereby in certain circumstances the partner of the player who has made a bid automatically announces its meaning instead of alerting, a method in use in the ACBL]*. He considered that the main advantage of introducing announcements would be to confine alerts to calls which were in some way unusual. In other words, it would tend to eliminate the need to ask a question (because a call had been alerted) when in practice the answer was likely to be entirely expected. He considered that announcements, if introduced, should be confined to common situations, such as those in which nearly every plausible meaning of a particular call currently requires an alert. He reported that there had been a measure of agreement in OBESC that announcements were worth pursuing, although the extent of their application was not (at least yet) agreed.

One particular area which had been considered was the alerting of doubles, and there was agreement that alerting should be substantially curtailed. One possibility which had been discussed was to end the alerting of doubles after the first round of the auction, because experience suggests that doubles later in the auction are more likely to have vague meanings, and that alerting such doubles tends to help the alerting side rather than the opponents. Another possibility was to have a rule that only doubles with very strange meanings should be alerted. Mr Burn considered that support doubles and doubles with an unexpected lead-directing message would need to continue to be alertable. Mr Endicott suggested that it might be possible to end the alerting of doubles which were unambiguously for penalty or for takeout, but Mr Fleet thought that this would lead to problems of definition.

The question of the possible reintroduction of restrictions on alerting over the level of 3NT had also been discussed. Some restriction was thought appropriate, and the possibilities discussed included:-

- a complete absence of alerts over 3NT;
- alerts over 3NT only on the first round;
- alerts over 3NT only up to opener's rebid.

The possible abandonment of the rule which required an alert of a bid which was natural but unexpectedly forcing or non-forcing had also been mooted.

Mr Fleet asked whether attention had been given to the question of what, fundamentally, was the purpose of an alert. Mr Stevenson thought that it was reasonably common ground that the principal purpose was to assist opposing players in judging when they might need to ask a question. The problem was that it was not easy to provide a structure which served this purpose whilst retaining reasonable simplicity.

Mr Doe said that from his experience of responding to members' enquiries, it was in the clubs where the problems arose. They wanted a simple structure under which it was clear what was and was not alertable. If that meant that more experienced players found that the structure was not entirely appropriate to their expectations of opponents' methods, then they would be more likely to be able to cope than the ordinary club players.

Mr Barnfield considered that attention to the matters of detail which had been mentioned was all very well, but it begged the question of whether alerts were needed at all. He was uncertain what they really achieved, as he thought that the most useful alerts were of calls about which the opponents would wish to know in advance anyway. Mr Stevenson reiterated that alerts greatly reduced the need for questions when there was no alert.

Various possibilities for reducing the level of alerting were made by L&E members:-

- no alerting;
- alerting on the first round of the auction only;
- announcements on the first two rounds of the auction, and no alerting at any stage;
- alerting of very unusual meanings of calls only (although it was recognised that there would be difficulties of definition);
- no alerting at Level 3; alerting at Level 4 of anything not permitted at Level 3.

It was agreed that it would be appropriate to publicise in *English Bridge*, and perhaps on the website, a selection of the views which had been expressed, and to invite further feedback. Mr Endicott suggested that this should include tentative lists of:-

- calls which might be made subject to an announcement requirement;
- calls which might be expected to remain alertable (e.g. calls with very unusual meanings);
- calls which might be taken out of the scope of alerting.

It was agreed that Mr Stevenson and Mr Doe would prepare something to incorporate Mr Endicott's suggestion.

In the meantime OBESC would concentrate its efforts on the question of permitted methods.

6. White Book Revisions

Due to lack of time this item was deferred to the next meeting. Mr Stevenson commented that only one of the people who had been asked to contribute following the September meeting had yet done so, and any comments which L&E members wished to make would be appreciated without delay.

7. Reports from Tournament Directors

Due to lack of time this item was deferred to the next meeting. L&E members were asked to retain the papers.

8. Date of next meeting

Wednesday 12th March at 1 pm at 40 Bernard Street

9. Any other Business

None.

PRIVATE MINUTES OF THE MEETING OF THE EBU LAWS & ETHICS COMMITTEE HELD AT 40 BERNARD STREET, LONDON WC1 ON WEDNESDAY 15TH JANUARY 2003

4. Disciplinary matters

4.1 Reference from the EBU Board (Horton)

[Mr Endicott withdrew for this item]

The L&E noted that no independent legal advice had been received, although it understood that this was now available if required. The L&E noted the argument that it would be prejudicial to pursue the matter after such a lapse of time as had occurred, which gave rise to the risk of the L&E's procedures being found to have been flawed.

Although the member had allowed his membership to lapse, and had expressed his willingness to undertake not to re-join the Union, the L&E recognised that it was not appropriate to seek to circumscribe his ability to re-join, given that the case had been abandoned and he was therefore in good standing.