MINUTES OF THE MEETING OF THE EBU LAWS & ETHICS COMMITTEE HELD AT 40 BERNARD STREET, LONDON WC1 ON WEDNESDAY 21ST APRIL 2004

Present:	Richard Fleet	Chairman
	Steve Barnfield	
	Max Bavin	Chief Tournament Director
	David Burn	(until part way through item 6.2)
	Jeremy Dhondy	
	David Martin	
	David Stevenson	
	Grattan Endicott	Vice-President
	Gerard Faulkner	Vice-President
	Nick Doe	Secretary

In the absence of Mr Pool due to illness, Mr Fleet as L&E Vice-Chairman took the chair.

1.	**Apologies for Absence**	Philip Mason	EBU Vice-Chairman
		Martin Pool	L&E Chairman
		Denis Robson	EBU Chairman

2. Minutes of Previous Meeting (14th January 2004)

2.1 Accuracy

Mr Barnfield (whose point about accuracy of the minutes of the meeting of 22nd October had been dealt with prior to his arrival at the meeting of 14th January) explained his difficulty with the wording of item 10.4 of the October meeting, and the L&E accepted that if Mr Barnfield did not find it clear and unambiguous, then there was a danger that others would not interpret it correctly. It was therefore agreed that the minute should be expanded to include a reference to the example in the *White Book*, as follows:-

A proposal from Mr Martin, seconded by Mr Stevenson, was approved unanimously as follows:-

> When a weighted adjusted score is awarded, the weighting may not include any element of a result derived through any action which would have been disallowed if it had itself been chosen at the table.

Notes:-

1. This is an extension of the principle referred to in the L&E comment on item 10.1 (03.80) above.

2. There are relevant examples in *White Book* paragraph 16.3, which read:-

16.3 Weighting when a call (or play) is disallowed.

Examples

(b) In a competitive auction East bids 3♥, which makes, but this is deemed illegal and disallowed. However, the TD judges that when the auction reaches his partner he would bid 3♥ much of the time. It is legal to include a percentage of 3♥ making as an adjustment since it is not via the disallowed call.

(c) East pauses over 1NT and asks questions, then passes. West doubles with a spade suit and only 12 points, getting 800. The TD decides the double was illegal, but considers a weighted adjustment because West might have bid 2♠. There are now two possibilities.

If the TD judges that 2♠ was a legal action, i.e. that he would not have disallowed it if asked to rule on a 2♠ bid in the same circumstances, then he may give a weighting based on 1NT undoubled, and on 2♠ being bid.

If the TD judges that 2♠ was not a legal action, i.e. that he would have disallowed it if asked to rule on a 2♠ bid in the same circumstances, then he may not give any weighting based on 2♠ being bid. In the example given that means he is going to rule 1NT undoubled minus three.

3. If further clarification is required, the full text of *White Book* paragraph 16.3 should be consulted.

The minutes of the meeting of 14th January were agreed to be a true record and signed by the Chairman.

2.2 Matters arising

2.2.1 Appeals – forfeited deposits (item 2.2.1)

The L&E noted that the Board had declined to accept the L&E's recommendation that deposits retained should be donated to a nominated charity, as it appeared to consider that this would put unwarranted pressure on Appeals Committees to retain deposits.

Mr Doe confirmed that the guidance for Appeals Committees concerning deposits was now available at EBU events.

The L&E decided to pursue the suggestion, made by Mr Dhondy at the last meeting, of creating a page on the EBU website aimed at improving the knowledge of Panel Referees and others who serve on Appeals Committees. It was agreed to ask Mr Dhondy and Mr Stevenson to liaise as to the content.

2.2.2 Panel of Referees (item 2.2.2)

The L&E noted that Chris Dixon had accepted an invitation to join the Panel.

2.2.3 White Book 2004 (item 3.1)

The L&E noted that a budget had been allocated for a modest print run once the index was ready. Mr Martin apologised that he had not yet been able to make progress on the index, but expected to be able to do so within a month or so.

Mr Stevenson reported that the person who had alleged that there was a serious error in the section relating to split tie procedures had been unable to remember what it was, so there was nothing to consider.

Any other matters not featuring elsewhere on the agenda

2.2.4 Articles for English Bridge (mentioned in item 8)

Mr Stevenson said that he had not yet drafted the proposed article, and was grateful for the reminder. Mr Doe promised to pass on to Mr Stevenson some further suggestions for topics which might usefully be covered, arising from queries raised by members.

2.2.5 Disciplinary matters (item 9.1)

Mr Fleet drew attention to the fact that publication in *English Bridge* did not appear to have taken place, and Mr Doe undertook to investigate and ensure that this was done.

2.2.6 Disciplinary matters (item 9.3)

Mr Doe confirmed that the letter to the member had indeed been sent (actually prior to the last meeting, although the minute did seem to suggest otherwise).

3. Appeal to the National Authority from the Suffolk Premier League

The L&E considered an appeal to the National Authority concerning an allegedly defective claim which had been upheld by the Tournament Director and Appeals Committee. It was agreed nem con that the appeal raised a question of principle in that one or more of the following factors was present:-

(a) the TD had considered a matter that was not relevant under the Laws;

(b) the County's procedures for dealing with the appeal appeared to have been seriously flawed;

(c) the Appeal Committee had failed to give reasons for its decision.

The deposit would therefore be returned.

[Messrs Bavin and Stevenson withdrew for the detailed consideration of the appeal.]

The L&E considered that the claim statement left it open to doubt as to whether the claimant was aware of the true position. Although on some lies of the cards this would not have been fatal to the claim, on the actual lie of the cards the claimant would have been in a position where he had a choice of actions which depended on whether he knew dummy's card to be a loser. If he was uncertain of the position, it would not be irrational to take the losing line. There was therefore a matter of doubt which the Law required to be resolved against the claimant. Accordingly, the claim was defective and the result of the board should have been that the contract failed by one trick. The appeal was therefore allowed and a result of down one confirmed.

Mr Doe was asked to write to the Tournament Director about the decision and to the County about its procedures.

4. Correspondence with players

4.1 03.55

The L&E considered a hand which had been recorded as a misbid in the Red category, in the light of explanations by the players, and determined to write to say that the explanation would be noted and kept on file for future reference. No further action was considered appropriate at present.

5. Technical matters – permitted methods

5.1 Artificial 1NT opening

The L&E considered a request to clarify whether it was permitted to use this opening to show specifically 5-5 or better distribution in two unspecified suits. Mr Stevenson expressed the view that the intention of the provision was to permit use of the bid as a general purpose strong bid (as in the old Vienna system, and akin to a strong club) To use it to show such specific distribution was to change the character of the convention, and therefore constituted an illegal treatment within the meaning of *Orange Book* paragraph 9.4.2. The L&E, however, considered that the actual wording, namely "Artificial, may be any shape…" (in *Orange Book* paragraph 13.3.3) should be interpreted literally to permit any agreement whatsoever as to the shape of the hands for which the bid would be used. Mr Doe was asked to write accordingly to the member who had raised the point.

The L&E noted that the matter had arisen in the context of a query as to what was meant by "equivalent playing strength". It was perhaps a defect in the current provision that nowhere in the provision was the word "strong" used (because a "strong opening bid" was one of the terms which was defined in terms of "Rule of X"). The L&E considered that it might have been better if the minimum permitted strength had been defined as Rule of (say) 25 or 17 HCP, rather than just 17 HCP, and agreed that consideration should be given to re-wording the provision as part of the *Orange Book* review.

5.2 Encrypted signals

Mr Dhondy had asked for a discussion on this subject. The agreement in question arises typically where dummy has a long suit missing the Ace, and no outside entry, and involves the defender with the Ace of the suit giving a signal along Smith Peter lines, while the defender without the Ace gives a count signal. Mr Dhondy considered that the method had bridge merit and should be permitted, but it appeared to be encrypted according to the definition in *Orange Book* paragraph 12.15.1 (second bullet).

The L&E agreed that the method described was encrypted. A proposal from Mr Barnfield that the method should continue to be prohibited, and that the fact should be publicised, failed for lack of a seconder. Mr Martin, seconded by Mr Burn, proposed that as a specific exception to the ban on encrypted signals, a count signal should be permitted in place of a Smith Peter in specifically-defined situations provided that the use of the method was fully disclosed. This was agreed by 4 votes to 2.

The L&E agreed that the question of whether it remained appropriate to maintain a general ban on encrypted signals should be considered as part of the *Orange Book* review.

5.3 Encrypted leads

Mr Endicott asked whether in the L&E's view a lead should be considered as giving a signal, so that a leading method which was encrypted was illegal. The L&E considered that as a lead gave information in a similar way to a signal, it might be appropriate, depending on the context, to define a signal to include a lead. Mr Stevenson was strongly of the view that the L&E should use terminology in the way it was understood by the general bridge-playing public, so that leads, signals and discards were three different things (signals being confined to carding agreements when following suit). In his view it was entirely clear that those terms were used in that sense in the *Orange Book*, and he did not think that the ban on encrypted signals applied to leads. Mr Burn was equally strongly of the view that terms used in a specific sense should be included as such in the glossary. Mr Endicott thanked L&E members for their contribution – it was not necessary to decide anything definitely.

6. Orange Book revisions

6.1 Timetable

Mr Fleet introduced the item by acknowledging that the timetable originally proposed had slipped considerably, and it was now obvious that there was a danger that the timetable for implementation of the proposed new Laws would impinge awkwardly on the process of the *Orange Book* revision. The question facing the L&E was whether it was appropriate to continue with the review in circumstances where the work might prove to be wasted because of changes to the Laws, or whether it was better to defer the review until the new Laws were in place.

Mr Stevenson considered that it was worth proceeding with the review for a number of reasons. First, the more piecemeal revisions that were made to the existing *Orange Book*, the more unwieldy it would become. Second, it did not appear at all likely that NBOs would lose responsibility under the new Laws for regulating such matters as permitted methods and alerting. Third, the new Laws would be likely to have a much greater impact on the *White Book*, which consisted of interpretations of Law and regulations which depended on the precise wording of various provisions of the Law; such was not the case with the *Orange Book*. Finally, although there were a number of matters of principle to be decided which might cause some difficulty, he did not think that it would be too time-consuming to sort out the detail once those matters of principle had been decided.

Mr Barnfield pointed out that because it contained Law interpretations it was likely to be a priority to revise the *White Book* once the provisions of the new Laws were known, so that any decision to defer the publication of a new *Orange Book* might risk a long delay until after the *White Book* had been completed.

Mr Endicott said that although he was not in a position to disclose details, it was likely that the new Laws would give greater freedom to event organisers, and that NBO options were likely to be extended rather than the reverse.

Mr Fleet reminded the L&E that the default position was that the review would proceed, and invited anyone who wished to argue for deferral to make a proposal. Nobody wished to do so. In the light of this agreement that the review should proceed it was agreed that it was desirable to put a more specific timetable in place.

Mr Endicott said that the text of the new Laws was likely to be available in late 2005, and implemented in 2006 (either on 1st January or on such later date as was convenient to local conditions). It might therefore prove convenient to seek to have the bulk of the text of the new *Orange Book* ready by about the time publication of the new Laws was anticipated, so that any changes dictated by the new Laws could then be made relatively quickly. The L&E agreed. It was likely that it would wish to bring the new Laws into operation at the beginning of the 2006/07 playing season (i.e. 1st September 2006). On that basis the new *Orange Book* could be brought into force at the same time. This would necessitate a first draft being ready by the end of 2004, with a final draft (subject to any changes dictated by the new Laws) being agreed by 1st September 2005.

6.2 Alerting

The L&E considered a paper from Mr Dhondy which sought to identify the decisions of principle which needed to be made, with some reference to more detailed matters. Mr Barnfield requested that the paper be re-circulated electronically, with a column for L&E members' comments, and it was agreed to do this.

The L&E was able to reach conclusions on a number of the points raised. *[Secretary's note – the headings in italics are taken from Mr Dhondy's paper, with the omission of some which were not discussed]*.

Scope of Alerting

Should we have alerting at all?

The L&E noted Mr Barnfield's comment that not much alerting which happens in clubs is particularly helpful, but agreed with his conclusion that on balance some alerting regime is necessary, particularly to deal with unusual methods.

Should we leave well alone (if it ain't broke…)?

Mr Burn expressed the view that changes were required, as the present rules result in too many redundant alerts. As a consequence, the present rules do not serve the proper purpose of an alert, which is to act as a trigger for a possible question. It was acknowledged that club players in particular are not likely to welcome changes, and it was agreed that it was preferable to implement all the changes which the L&E considered desirable at one and the same time, as piecemeal changes would be likely to be even more disruptive for the players.

Should we restrict the levels and occasions on which alerts are required?

The question of alerting over the level of 3NT was considered (see below).

Do we care whether we are in step with Europe? USA? The world?

The L&E thought that there was no particular need to be in step. The history of alerting over the level of 3NT (where we had changed because we were out of step, only to find other authorities moving in the opposite direction) illustrated the danger of trying to stay in step. WBF and EBL regulations are to alert anything which opponents might not otherwise be expected to understand, but the L&E considered that such an unspecific regulation was unlikely to workable except at the top levels of the game.

Is one size fits all appropriate (30,000 members but fewer than 25% play tournaments)?

The L&E did not think that anything else would work.

Do we stick to non-alerting of all aspects of the play?

It was agreed that there was no case for introducing play alerts.

Many are confused by alerts whether they are needed or not. They end up thinking the system is more complex than it is. Common themes from those who responded to the invitation to comment include the need for greater simplicity and less alerting overall.

The L&E acknowledged, as it has previously, that any scheme of alerting will inevitably involve a compromise between simplicity and "appropriateness" or "usefulness". Whilst greater simplicity was a desirable objective, it was by no means the only consideration. Mr Doe raised two points from the perspective of the person at Aylesbury charged with answering members' queries in this area. First, whilst there are only three rules, there are numerous examples, many of which are based on questions of what opponents are "unlikely to expect". The premise underlying those expectations is a traditional Acol base. If the expectations on which the examples are based were to be revised to bring them more into line with modern practice, as had been suggested, he considered that members would find an explanation of the underlying assumptions helpful. Second, there appeared to be a reluctance in some quarters to having exceptions to rules, as introducing a complicating factor. He did not think that players generally would be averse to learning a small number of exceptions (such as for artificial bids in very common use) if it made for a more coherent overall scheme, even if the structure was thereby nominally made slightly more complicated. The L&E considered that a small number of exceptions to the general rules would be acceptable.

Mr Bavin was asked whether he considered that a significant reduction in overall alerting would create problems for Tournament Directors, and he did not believe that this would be the case.

Do we want to add the concept of announcements? Will this complicate or simplify (responses are mixed here)?

Mr Stevenson said that he had found it surprising quite what an improvement it was to play under a regime where the agreed meaning of certain bids was automatically announced by the partner in place of an alert. The L&E agreed that it was appropriate to take the matter forward rather than dismissing it.

Mr Stevenson said that the particular advantage of announcements was that it removed a significant number of bids from the category of relatively meaningless alerts. He considered that the perceived disadvantages in terms of unauthorised information would be minimised by confining announcements to things which pairs would not generally be expected to get wrong. The obvious candidates were:-

- opening no-trump ranges
- transfers (perhaps over 1NT openings only)
- opening two bids

but it might be appropriate to add slightly to such a list.

The L&E was not unanimously in favour of the introduction of announcements, and noted that there were also some divisions among OBESC members on the subject. However it did consider that it was worth discussing further. It was suggested that with the approval of the Tournament Committee it might be possible to run an existing event under experimental regulations which included announcements on something like this scale, and gauge the players' reaction before making a decision on wider implementation. However, it was acknowledged that there is a problem with experiments of this nature, in that players' initial reactions to new regulations are prone to be unfavourable because of unfamiliarity, when greater experience may bring ready acceptance of the innovation.

It was agreed to seek the views of Council concerning the potential introduction of announcements. Consequently, Mr Pool would be asked to highlight this matter when presenting the minutes at the next Council meeting.

Changes to current regulations

The L&E considered a few specific areas, but was content to leave the detailed consideration of most to OBESC.

Level of alerting. Do we stop all alerting above 3NT (Does this include or exclude opening bids)? Does alerting at high levels helps the alerting side more than the opponents?

The L&E considered that there was a good case for reverting to the situation where there was no alerting at all of bids (but not passes, doubles or redoubles) over the level of 3NT. Whether this should apply to opening bids was worthy of further consideration. Some concern was expressed that players might have difficulty with the distinction between bids and other calls. However, it was generally considered that players sophisticated enough to be playing unusual, and therefore potentially alertable, meanings for passes, doubles and redoubles at a high level, were likely to be capable of understanding and alerting correctly.

Do we continue to alert bids whatever they mean? 2♣ in response to 1NT is an oft quoted example.

The L&E considered that it was not helpful that ordinary Stayman required an alert, although variants probably should remain alertable.

Do we alert natural bids? Weak two, but not WJO? 2 over 1 Game Force?

> The L&E considered that it was appropriate significantly to curtail the alerting of natural bids, but no decision were made as to how this might be achieved, and further discussion would undoubtedly be necessary.

Doubles. This is an area that has come in for a lot of comment because current rules are not well understood, confusing and at times illogical. The current rule is poorly understood at all levels and it isn't surprising! Alerts can be used to give information as to uncertainty. Making players ask about doubles replaces one set of abuses with another.

> The L&E agreed that this was a difficult area, and perhaps the one which it was most important to try to simplify. One possibility would be to alert only doubles which were played to have a meaning which was highly unusual in the context in which they were made. It was acknowledged that it might be difficult to find satisfactory wording for a regulation along these lines.

7. Disciplinary procedures

The L&E considered the draft of new disciplinary rules prepared by the EBU's Solicitors. It was agreed that any L&E members with any minor points to raise should be invited to send their comments to Mr Doe rather than raise them at the meeting. A number of matters of more importance were raised, and Mr Doe undertook to see that the L&E's comments were passed on as necessary. *[Secretary's note – the numbers in square brackets at the end of the following paragraphs are the paragraph references in the draft rules]*.

It appeared unnecessary to have a list of six categories of people from whom complaints might be considered if the final category was "a member of the public". [2.3]

There were some instances of cross-references to other constitutional provisions, which the L&E had not seen. Consistency needed to be checked. [4]

The appointment of a proposed Pro Bono Adviser was noted. Whilst it had been acknowledged that some members facing disciplinary action had felt disadvantaged by the lack of any mechanism to provide advice about the nature of the process they faced, the L&E thought that it was arguable that such advice as might be required could be provided without any formal appointment. It doubted whether there would be any suitable candidates prepared to take on the role. It also questioned whether the appointment would be better made by the Chairman of the L&E as opposed to the Chairman of the Union, as being likely to be more familiar with the possible candidates, although it acknowledged that it was open to the Chairman of the Union to consult about the appointment with whoever he thought fit. [4.5]

It seemed inappropriate for Vice-Presidents, given their attendance rights at L&E meetings, to be potential members of the proposed Disciplinary Committee. [6.1]

It appeared to be better for reports from the Disciplinary Committee to be made to the shareholders rather than to the Board. [6.3]

The L&E was strongly of the opinion that the standard of proof in a disciplinary matter should be beyond reasonable doubt when there was any allegation of dishonesty involved. Where the allegation concerned other matters (such as bad behaviour), it was perhaps more reasonable for guilt or innocence to be determined on the balance of probabilities. [6.13]

It was doubtful whether there should be a right for the L&E to appeal a decision of the Disciplinary Committee. If such a right were to exist, it should be made explicit whether it included the right to appeal against an acquittal or merely against sentence. [7.2]

There was concern at the appropriateness of the use of the Sports Dispute Resolution Panel, given that bridge is not recognised as a sport. The L&E did not know whether access to the Panel was available to an activity that was not recognised as a sport, and what the cost implications might be. It also doubted the relevance of the proposed sports law qualifications of the individual to be appointed to the Appeals Committee by the Director of the Panel. In general it had concerns that the proposed process was possibly inappropriate and potentially costly for an activity on the scale of Duplicate Contract Bridge in this country. It was also noted that the draft rules were extremely detailed, and it might not be appropriate for such detailed provisions to have full constitutional force (as it would require even a small change to go through the full process of formal constitutional change). Perhaps it might be possible to include the more fundamental matters in the constitution, but leave matters of detail to some other document which could be amended with less formality. [7.4]

It seemed right that an appeal should be successful if the Appellant could demonstrate that the Disciplinary Committee had imposed an excessive sanction, as well as one which was erroneous (as the use of the word "erroneous" suggested that the provision was confined to a sanction which the Committee had no power to impose). [7.12]

It was noted that the proposed maximum fine was at the same level as in the present Bye-laws, namely £500, and suggested that an increase might be considered. [8.1]

It should be made explicit who was to make decisions concerning the publication of disciplinary sanctions imposed. [8.3]

The L&E was concerned at the power to award costs, and did not think that the intention was clear. It appeared that a potential award of costs against a member who had been made subject to a disciplinary sanction might be tantamount to an additional penalty which could be very significant. If the idea was to confine the award of costs to a payment out of EBU funds to a member who had been found not guilty, then the wording should be changed to reflect this. [9.1]

There was a case for adding a new clause to the Bye-laws to allow for the possibility of deputy or substitute members being appointed in the situation where a Committee was unable to achieve a quorum. This might be particularly relevant for the L&E, where it was not uncommon for members to have to withdraw as a result of prior involvement in a case.

The L&E considered the situation in which there appears to be evidence of a serious breach by a member, but further investigation is necessary. It thought that the expression "make any and all appropriate enquiries" in the draft might be considered more restrictive than the "enquire in any manner which seems to the L&E to be appropriate" in the present Bye-laws, and recommended that some sort of wording implying a wide discretion (e.g. "as it thinks fit") should be included. It was important that there was a power to initiate investigations, and there was an argument that a power to organise surveillance or related activities was best given to an individual rather than a Committee. Both the Chief Tournament Director and the General Manager were suggested as appropriate individuals to whom such a power could be given, although neither was ideal in all respects.

8. Reports from Tournament Directors

8.1 04.01

The L&E confirmed the Red classification of the following psyche from the Swiss Teams Congress:-

Dealer W
Love all

North
♠ Q 10 8
♥ 9 7 2
♦ K 10
♣ K 10 4 3 2

West
♠ 9 7
♥ 10 5 4 3
♦ Q J 8 6 5
♣ 7 5

East
♠ K J 6 5
♥ K Q J 8
♦ A 9
♣ J 8 6

South
♠ A 4 3 2
♥ A 6
♦ 7 4 3 2
♣ A Q 9

Bidding:	**West**	**North**	**East**	**South**
	Pass	Pass	1♥	Dbl
	1♠*[1]	2♣	2♠	Pass
	3♥	Pass	Pass	Pass

1 4+ ♠s, forcing

Result: 3♥= N/S –140

8.2 04.02

The L&E decided that the prohibition on psyching a Multi in a Level 3 event does not extend to psyching a rebid, as by passing a 2♥ response when holding a weak two in ♠s.

9. Date of next meeting

Monday 26th July at 1 pm at 40 Bernard Street.

10. Any other business

10.1 Zero Tolerance

Mr Doe reported that following a discussion with the General Manager, Mr Pool proposed to schedule a discussion on Zero Tolerance at the next meeting.