

PRESS RECOGNITION PANEL

Minutes of the meeting of the Board with IMPRESS held on 9 March 2015 at 107-111 Fleet Street, London EC4A 2AB

Present: Dr David Wolfe QC (Chair of the Panel), Emma Gilpin-Jacobs and Carolyn Regan

Visitors: Walter Merricks CBE, Chair Designate, IMPRESS
Jonathan Heawood, Founding Director, IMPRESS

In attendance: Susie Uppal (Executive Director), Holly Perry (Interim Governance Manager) (taking the note)

Welcome and introductions

1. The Chair welcomed Walter Merricks and Jonathan Heawood to the meeting.
2. Following introductions, the Chair set out the planned format for the meeting, which was expected to last around an hour and a half. It was hoped that this would allow sufficient time for discussion, but he invited IMPRESS to send any further thoughts in writing after the meeting.
3. In terms of timescales, the Panel would shortly start preparing documentation setting out proposals for how it intended to go about the task of receiving and considering applications for recognition. The Panel then expected (later in the spring) to consult widely on those proposals before publishing them in final form later in the summer of 2015.
4. In addition to any points the visitors wished to raise, the Chair emphasised that the Panel would very much welcome comments – as part of the discussions, or in writing after the meeting – on the following points¹:
 - the **general approach** the Panel should adopt to the recognition criteria and process;
 - how the Panel should approach the areas where the criteria for recognition were **least specific** (for example: public interest, appropriate internal governance processes);
 - how the Panel should give effect to its duty under paragraph 1 of Schedule 2 of the Charter to apply to the criteria concepts of: effectiveness, fairness and objectivity of standards; independence and transparency of enforcement and

¹ The Panel wrote to IMPRESS setting out the areas for discussion ahead of the meeting, and details were published on the Panel's website:

<http://www.pressrecognitionpanel.org.uk/documents/Letter%20to%20attendees.pdf>

compliance, credible powers; and remedies, reliable funding and effective accountability;

- what **evidence** the Panel should require in support of applications;
 - any relevant examples of **best practice** or other learning, including in those areas, of which you are aware;
 - on any particular **dangers**, including in any of those areas that visitors' think the Panel should be aware of;
 - how best the Panel should **seek the views of the public** and other interested persons on our draft proposals;
 - whether recognition applications might need to include, or could be said to include, information which was or might be **confidential**; and if so, how the Panel should respond to that;
 - whether the Panel should seek and take into account **public comment** on recognition applications which we receive and, if so, how best the Panel should go about doing that; and
 - Impress' current thinking and plans in relation to the making of any **application for recognition** and any issues IMPRESS would wish the Panel to have in mind in regard to those things.
5. The expectation was that the meeting would provide a forum for free and frank exchange of views. The meetings was being held in private, however a note of the key points discussed would be agreed by all participants for publication on the Panel's website.

Discussions

Applying for recognition

6. WM reported that IMPRESS was not in a position to commit to applying for recognition on the basis that the Board was not yet constituted and had therefore not made a formal decision regarding recognition. IMPRESS was genuinely interested in hearing from publishers - or IPSO - in relation to views on the substantive reasons for not applying for recognition. IMPRESS wanted to hear the reasons against recognition articulated clearly. IMPRESS was also interested to hear the views of those publishers making their own independent arrangements (including the Guardian, Independent and Financial Times).
7. JH reported that he had had discussions with a number of smaller publishers who were not part of IPSO, noting that the main regional press had signed up with IPSO. There appeared to be a market for IMPRESS in respect of small and independently owned publishers.

Developments at IMPRESS

8. WM outlined that there was a significant amount of work to do and IMPRESS had only a small number of staff and was relying heavily on board members to undertake work. Articles of Association were yet to be finalised as were terms and conditions for publishers and other key governance documents. WM emphasised that combining a need to be an independent body and allowing publishers a voice lay at the heart of what IMPRESS was trying to achieve. IMPRESS was embedding its approach to consultation and wished to engage proactively with editors, journalists and members of the public in its work.

Interpreting the Royal Charter

9. IMPRESS was keen to understand what was meant by the term 'on behalf of' within the Royal Charter – whether this meant audiences of potential members, or a minimum number of actual members. DW responded that the Panel had not yet thought this through although there was a clear intention on the Panel's part and also implicit in the Royal Charter that new entrants would be accommodated. The Panel was committed to ensuring that its structures - including requirements relating to funding mechanisms - were fit for purpose for the widest range of potential regulators. It was likely that a phased application process would be possible and the Panel would look to engage in pre-application dialogue.
10. DW added that the Panel was acutely conscious of the need to accommodate regional and micro publishers as well as big, national publishers. DW enquired as to how best to engage micro publishers. JH responded that 'hyper local publishers' were hard to engage with as a group as they were not part of the Newspaper Society or the Society of Editors. There were some key contacts, however there were over 200 such publishers and they did not have a representative body of any sort. JH undertook to provide the Panel with contact details so far as these were available.

Timing of process

11. JH was of the view that IMPRESS would need to proceed carefully, openly and publicly with any application for recognition and would need to do everything possible to mitigate risk. DW responded that the Panel would be open to a pre-application discussion and that the application process itself would be iterative. The fact of the application would be put in the public domain. In relation to placing the application itself in the public domain WM advised caution on the basis that if the Panel had consulted publicly on the process of recognition there should be no need to consult on the application itself.

Process of application

12. DW advised that there were a number of areas on which guidance needed to be formulated including in relation to complaints and arbitration. While Lord Justice Leveson had articulated what “bad” looked like, it was the Panel’s role to articulate what “compliant” looked like. However the Panel did not want to be overly specific. There was a case for arguing that the criteria in the Royal Charter should speak for themselves. However the Panel’s view was that it would be in the public interest for additional guidance to be developed.

Timing of application

13. DW explained – consistent with his evidence to the House of Lords’ Communications Committee Inquiry into press regulation – that if there was evidence that IMPRESS were going to be ready to apply for recognition by the summer or sooner, then the Panel would ensure it was in a position to take receipt of such an application. WM responded that in terms of timing there was pressure from potential publishers to ensure that IMPRESS was a recognised regulator by the time that exemplary damages take effect.
14. JH explained that if a decision was taken to apply for recognition, IMPRESS was likely to be ready to submit an application towards the end of September 2015 with the expectation that the Panel would be in a position to award recognition 4 to 5 weeks later.

Approach to less specific criteria

15. In relation to the interpretation of public interest, DW confirmed that the Panel would not be able to receive multiple interpretations. While any attempt to define the term might be perceived as overly prescriptive, the Panel was likely to give a range of interpretations – or define the outcomes that were intended to be achieved.
16. In relation to the Editors’ Code, IMPRESS reported that it had not requested permission to use it, but had been told by the Regulatory Funding Company (RFC) that it might be able to adopt it albeit under conditions of licence. IMPRESS had requested details from the RFC of their terms and conditions of licence.
17. In relation to independence, internal governance and funding, it was felt that these would need to be encapsulated in a broad definition and that the Panel would need to issue guidance on these areas. There were particular questions in relation to how the Panel would allow publishers a voice in any regulator without breaching the ‘buffer’ between regulator and publisher.

18. In relation to the Schedule 2 criteria, DW confirmed that these would allow the Panel to look at the spirit of Leveson and the Royal Charter without relying exclusively on the mechanics.
19. In relation to what evidence would look like, JH confirmed that IMPRESS had started mapping out its views around evidence in relation to the pre-application stage. In relation to the Royal Charter criteria, IMPRESS had sufficient evidence in respect of some of the criteria, including information on the appointments process, interviews, references, CVs etc. JH said that some of the criteria (e.g. the existence of a standards code) did not appear to require significant amounts of documentary evidence, and that others (e.g. the publication of compliance records) might be met on paper at the point of recognition, with further evidence available subsequently.
20. In relation to confidentiality, IMPRESS was comfortable with the principle of evidencing the mechanisms it had gone through, however confidentiality would need to be protected in relation to aspects of the appointments process and funding. DW advised that it might be possible for the mechanics of the funding formula to be put in public domain, accepting that the specific figures could not be.
21. WM reported that IMPRESS already had in place a set of arbitration rules, although it accepted that there was further work to do on these, including the potential for building in a mediation scheme.
22. In relation to seeking public views, DW reported that the Panel would consult far and wide, including with civil society groups, journalist schools, and anyone else the Panel was advised of.

Role of Press Recognition Panel

23. JH advised that any behaviour by the Panel which indicated mission creep would be very robustly challenged. There could be no hint whatsoever of the Panel straying into content regulation or becoming a direct regulator of news publishers.
24. DW responded that the Panel saw itself as enabling recognition and not erecting barriers. The Panel would do all that it could to make the Royal Charter workable, and would be as flexible as possible in interpreting the criteria, on the basis that it would be necessary for all 23 criteria to be met.
25. JH asked what other factors might trigger an ad hoc review. DW responded that the Panel had no fixed view on this point as yet, but would consult on this point as part of the public consultation on the recognition criteria.

Additional information

26. The Chair concluded the session by inviting IMPRESS to submit additional information as they wished. IMPRESS agreed to provide details of networks and contacts in relation to micro publishers and 'hyper locals', and also to advise the Panel of views about threats and opportunities for regulators.

Closing comments

27. The Chair thanked IMPRESS for attending and for speaking openly and frankly about issues that were of concern to them.