

## **PRESS RECOGNITION PANEL**

### **Note of the meeting of the PRP with Lord Carlile at his offices on 8 February 2017**

David Wolfe, Chair of the Press Recognition Panel (PRP), was invited to meet with Lord Carlile. The note below covers the discussion.

#### **Attendees**

Lord Carlile (LC)

David Wolfe (DW), Chair of the PRP

Susie Uppal (SU), PRP Chief Executive

1. LC stated that whilst there was anxiety as to what should happen about the commencement of section 40 of the Crime and Courts Act 2013, the appetite for its immediate implementation may be hampered by some people's views about IMPRESS, and the existence of IPSO, to which a large number of print publishers were wedded and some thought were credible. He was however concerned about the local and regional media who could be broken by one libel action brought against them by a wealthy individual.
2. DW stated that the PRP had responded to the Government's consultation on section 40. Lord Leveson had produced a report and the recognition framework required section 40 to be implemented for it to work as intended. What was commonly forgotten was that the system when operational would provide two limbs - a mandatory mechanism under which ordinary people could bring legal causes for action and incentives/disincentives for those who subscribe to a recognised regulator and those who do not. If section 40 was not put fully into place then the decision would be to abandon those things. In respect of IPSO, DW's understanding was that they were not offering a mandatory scheme and that the extent of relevant publishers extended significantly beyond their members. In addition to those commonly spoken about (the Independent, the FT and the Guardian) there was significant local and regional press and large online publishers such as Ladbible, Pink News and Huffington Post who also sat outside.
3. LC commented that the system did not cover other important matters such as prepublication litigation, serious cases which may be better suited for court rather than arbitration and the role of conditional fee agreements.
4. DW replied that Lord Leveson had already considered many of these issues and others and had already come to conclusions. Some may disagree with those conclusions but that it is not for the PRP to revisit them.

5. DW did agree with LC's analysis that local press could be bankrupted by a wealthy litigant under the current costs regime (i.e. without section 40 in force); and whilst some had claimed that the alternative of mandatory arbitration would be too expensive for local publishers, the Charter system required a front-end filter (to dispose of vexatious and frivolous claims) and included a safety valve in that such publishers could be exempted from having to be part of a mandatory scheme if it appeared to the PRP that it would cause serious financial harm. In addition to that, the regulator could charge a small admin fee which could be disapplied by the PRP at the cyclical review stage, if it was causing serious financial harm.
6. LC asked why IPSO would not apply for recognition.
7. DW said that the PRP could do no more than refer to what IPSO and some of its members had said. Some describe it as a "theological" aversion. Tony Gallagher had said on the Today Programme today that it was because of fears that it would give MPs control over what newspapers publish. DW explained that PRP does not understand that suggestion. The PRP couldn't be more independent and so there was no substance to the any argument that, in practice, the system amounted to state control or anything like it. Even the Secretary of State had confirmed that she has no influence whatsoever over the PRP's decisions. DW noted the Irish system in which the Minister has a direct role.
8. DW explained that, even putting aside the fact that IPSO is unlikely to apply for recognition, the PRP would not anyway be properly able to undertake such an assessment against the Charter's recognition system without a lot more information than is presently in the public domain.
9. LC contemplated whether the PRP could have refused to grant recognition to IMPRESS despite the PRP considering that IMPRESS met the recognition criteria. DW said that the PRP did not consider that legally possible.
10. LC asked about funding. DW said that there was nothing in the Charter which precluded third party funding and that having looked very carefully, the PRP was satisfied that IMPRESS' funding was guaranteed for 4 years and that it did not impact on independence.
11. LC said that he had also looked at the funding agreements and that it appeared that IMPRESS funding was well distanced from IMPRESS.
12. LC commented that the world and interest in all this may have moved on.
13. LC and DW agreed that it may be useful to continue the dialogue with some of the lawyers from both Houses of Parliament and LC would see if something could be arranged.