



89up.org  
12 TILEYARD, LONDON N7 9AH

Susie Uppal  
Chief Executive  
Press Recognition Panel  
Mappin House  
4 Winsley Street  
London, W1W 8HF

& by email to: [applications@pressrecognitionpanel.org.uk](mailto:applications@pressrecognitionpanel.org.uk)

4 March 2016

Dear Ms Uppal

### **PRP's call for information regarding IMPRESS's application**

We write to request that the PRP consider the information set out in this letter when adjudicating on IMPRESS's application to be a recognised press regulator.

In the interests of transparency, we feel it is important to declare at the outset that we do not wish to see a regulator being recognised. This stems from our concerns over the impact on freedom of expression, a position we outlined in our recent publication *Leveson's Illiberal Legacy*<sup>1</sup>.

We trust this view will not affect the PRP's consideration of our submission, which is limited to information which relates to IMPRESS's compliance with the Royal Charter.

### **IMPRESS's compliance with the Royal Charter**

The scheme of recognition contained in the Royal Charter requires the Board of the Recognition Panel to consider the concepts of, amongst others, fairness and objectivity of standards, independence and transparency of enforcement and compliance, and reliable funding and effective accountability, in deciding whether to recognise a regulator<sup>2</sup>. Any regulator applying for recognition needs to be proven as both independent and a self-regulatory body<sup>3</sup>.

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<sup>1</sup> <http://www.89up.org/leveson>

<sup>2</sup> Paragraph 1, Schedule 2, Royal Charter on the Self-Regulation of the Press

<sup>3</sup> Paragraph 1, Schedule 3, Royal Charter on the Self-Regulation of the Press

We have several concerns about IMPRESS's ability to meet three of the criteria contained in Schedule 3, especially in light of the above considerations. We have set out questions addressing whether IMPRESS is:

1. independent (para. 1);
2. a self-regulatory body (para. 1);
3. funding arrangement compliant (para. 6).

## 1. Independence

Aside from small contributions from members, IMPRESS's funding comes entirely from the Independent Press Regulation Trust ('IPRT'). This charity was set up to provide IMPRESS's funding<sup>4</sup>. The IPRT's funding comes in the most part from just one source: the Alexander Mosley Charitable Trust ('AMCT'). The terms of the AMCT's funding of the IPRT are unknown.

It is clear from the IPRT Funding Agreement with IMPRESS<sup>5</sup> that the IPRT can withhold its grant from IMPRESS if the trustees of the IPRT believe that IMPRESS is not complying with the recommendations for press regulation within the Leveson report or the Royal Charter.

This relationship calls into question the independence of IMPRESS – if it makes a regulatory decision that the IPRT trustees or its funders do not agree with, will funding be withheld? For example, IMPRESS may receive a complaint about a potential breach of the Standards Code. If IMPRESS decides there has not been a breach, but the trustees of the IPRT or the AMCT believe that IMPRESS should have decided differently given the recommendations contained in the Leveson report, the IPRT would have grounds to withhold grant funds.

The reliability of IMPRESS's funding must therefore be called into question, because by the terms of the funding arrangement, the grants can be withheld by the trustees of IPRT if they disagree with a decision that IMPRESS has made. We urge the PRP to give serious consideration to whether IMPRESS meets the requirement of reliable funding required by the Royal Charter<sup>6</sup>.

Given IMPRESS's overwhelming reliance on the IPRT's funds, the independence of the IPRT and its ability to assess press regulation require scrutiny. The trustees of the IPRT are:

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<sup>4</sup> Commission refuses to register press regulation funder as a charity, Roy Greenslade, 5 November 2014 <http://www.theguardian.com/media/greenslade/2014/nov/05/press-regulation-charities>

<sup>5</sup> Dated 30th October 2015 – [document 37](#) IMPRESS application – see para 3.2.2

<sup>6</sup> Paragraph 1, Schedule 2, Royal Charter on the Self-Regulation of the Press

- Wilfrid Vernor-Miles, a private client solicitor who advises clients on wills, trusts and capital tax planning, as well as advising on charity formation and regulation, and acts as a trustee of numerous family and charitable trusts<sup>7</sup>;
- Richard Rees-Pulley, a private client tax specialist with experience in tax planning and trust issues who has several years experience advising high profile musicians<sup>8</sup>; and
- Christian Flackett, a director of private client and charities who has 18 years investment experience and is responsible for the management of private client portfolios<sup>9</sup>.

To date, we are unaware of any interest, experience, knowledge, or skills of these individuals regarding press and free speech. We urge the PRP to investigate this. The trustees of the IPRT will have the power to make decisions affecting the funding of IMPRESS. Our fear is that these trustees do not understand the Royal Charter criteria and could therefore make inappropriate decisions regarding the withdrawal of funding from IMPRESS.

We submit, that at a bare minimum, a charitable trust funding a potentially state-recognised press regulator, with a remit to withhold funding given its performance, and tasked with the crucial function of assessing Royal Charter compliance, would contain a broader range of skill-sets on the board than three wealth management specialists.

The only connection of the IPRT to press regulation appears to be the proximity of Wilfrid Vernor-Miles' professional address to that of their funders' professional address. The address given for the IPRT is where Mr Vernor-Miles works: Hunters Solicitors, 9 New Square, Lincoln's Inn. The address given for the AMCT is Payne Hicks Beach, 10 New Square, Lincoln's Inn. One of the AMCT's trustees is Max Mosley, who has a well publicised interest in the regulation of the press. Payne Hicks Beach are also known to be Mr Mosley's solicitors.

There appears to be an unknown personal and/or business relationship between the trustees of the IPRT and the AMCT. This may influence the decisions of the IPRT's trustees, who have no specialist knowledge of the press regulation field, to provide or withhold grant money to IMPRESS. This would, in effect, allow the AMCT to exercise financial control over IMPRESS and influence its decisions.

Further doubt is cast over the independence of IMPRESS from its funders given the close structural connections between the three entities. IMPRESS was headquartered at the same building as Sovereign Strategy, PR agents for Max Mosley and employers of Horatio Mortimer, a trustee of the AMCT.

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<sup>7</sup> <http://www.hunters-solicitors.co.uk/our-team/wilfrid-vernor-miles/>

<sup>8</sup> <http://www.sopherco.com/our-people/>

<sup>9</sup> <https://www.gam.com/christian-flackett/en/biography/>

The IPRT's funding arrangement, and the absence of any mention of any relationship to the AMCT by IMPRESS in its application to the PRP, gives the distinct impression that the IPRT is acting as a conduit for the primary funders of IMPRESS, because IMPRESS does not think it would get recognition if it applied for this with a single major donor, who was able to withdraw funding on the same terms as the IPRT is able to do. Why does the AMCT – or indeed Max Mosley – not fund IMPRESS directly?

In seeking to be independent of government and the press industry, it appears that IMPRESS has ended up dependent on a single wealthy individual. This is clearly not in line with the intentions of Lord Justice Leveson, whose criticisms of the Press Complaints Commission included that 'a few powerful individuals have been allowed to dominate the system'<sup>10</sup>.

We wrote<sup>11</sup> to both the IPRT and IMPRESS for responses to the issues we have raised. Neither were prepared to answer questions that, in our view, enhance transparency and are in the public interest.

Dependence on one or a handful of donors should disqualify IMPRESS from recognition because it lacks independence, a requirement of Schedule 3, Paragraph 1 of the Royal Charter.

We submit that these are critical factors that the PRP should investigate in the course of this recognition process. We urge the PRP to give serious consideration to the relationship between Mr Mosley, the AMCT, the IPRT and IMPRESS.

## **2. Self-regulatory**

The Royal Charter is entitled 'The Royal Charter on the Self Regulation of the Press.' The recognition criteria refers to self regulation yet these criteria are not defined. Although a regulator may be set up on behalf of the press<sup>12</sup>, it is unclear whether a regulator, established on behalf of such a small percentage of one part of the press, can be described as self-regulatory.

IMPRESS purports to be regulating on behalf of the independent sector (IMPRESS Application Matrix, section 6, page 18) yet by its own admission, it has only 14 publications signed up as members. Nine of these are "hyperlocal" sites, out of a total of more than 400 of this type of publication – that number itself is a fraction of the number of publishers in the UK.

According to the Office of National Statistics, approximately 60,000 people work as journalists in the UK, mostly for newspapers. It is doubtful whether even 0.1% of these would be regulated by IMPRESS.

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<sup>10</sup> Leveson report, page 1625

<sup>11</sup> see appendices to this submission

<sup>12</sup> Paragraph 1a, Schedule 4, Royal Charter on the Self-Regulation of the Press

<b>Titles</b>	<b>Number of titles</b>	<b>Number of titles signed up to IMPRESS</b>	<b>Percentage of sector regulated by IMPRESS</b>
National (UK-wide, Daily and Sunday)	22	0	0%
National (Wales, Scotland, NI, Daily and Sunday)	15	0	0%
Local	1,000 (*1700 websites)	10 (*incl web-only)	0.59%

Furthermore, the formation of IMPRESS does not meet international standards of a self-regulator for the press. ARTICLE 19's analysis<sup>13</sup> of the Royal Charter described the regulation not as 'self-regulation' (as claimed by its supporters) but as a 'co-regulatory' system. A similar co-regulatory system, introduced in Hungary in 2011, was widely viewed as a severe restriction on free media and criticised by the US State Department, the OSCE and EU. Co-regulation is an unusual model in democratic states.

### **3. Funding arrangement compliant**

Paragraph 6 of Schedule 3 of the Royal Charter requires that funding for the system be settled in agreement between the industry and the board. We do not believe that IMPRESS meets this criterion, because as we have set out:

- a) it is implied that the body be self-funding, yet IMPRESS is overwhelmingly funded by third parties;
- b) even if IMPRESS's external funding is satisfactory to its subscribers, its members can hardly be described to constitute 'the industry'.

Notwithstanding these points, IMPRESS has not even achieved an agreement on the sources of its funding with the few subscribers it currently has. We asked 13 IMPRESS subscribers<sup>14</sup> if they were informed of the sources of its funding prior to the application to the PRP for recognition: of the three who replied, two said they had not been.

The duty to properly inform members of IMPRESS of the sources of its funding are fundamentally intrinsic to the notion of a settled agreement being in place. Failure to do so reflects a failure to comply to the terms of the Royal Charter. We request the PRP investigate this matter fully and consider the effect of non-compliance with the merits of IMPRESS's application.

<sup>13</sup> UK: Draft Royal Charter on Self Regulation of the Press and Amendments to the Crime and Courts Bill, ARTICLE19 (March 2013) <http://www.article19.org/data/files/medialibrary/3687/13-04-02-LA-uk.pdf>

<sup>14</sup> see appendix 1 for more details

## Summary

In summary, our concerns are:

- that IMPRESS's funding does not allow it to act independently, with the risk that external influence will be exerted over its decisions
- that IMPRESS's funding agreement with the IPRT is not transparent, as it does not reflect the fact that IMPRESS will be funded overwhelmingly by one wealthy donor
- that IMPRESS's funding is unreliable, because it can be withdrawn if thought not to be Leveson or Royal Charter compliant
- the lack of capacity of the trustees of the IPRT to make informed decisions about IMPRESS's funding
- that IMPRESS has so few members, which represent such a small proportion of just one section of the press
- that IMPRESS has not agreed its funding with those subscribers that it does have.

We submit that obtaining answers to the following questions would help the PRP make an informed decision about IMPRESS's application for recognition:

1. How were the IPRT's trustees appointed? What is their expertise or interest in press regulation?
2. What is the personal or business relationship between the trustees of the AMCT, the trustees of the IPRT and IMPRESS?
3. What discussions did the IMPRESS board have when deciding whether to accept funding from the AMCT through the IPRT? Did it consider the effect that this would have on its independence?
4. Why does IMPRESS's funding come through the IPRT rather than from the AMCT directly, and why wasn't the AMCT, as the original source of the IPRT's funding, referred to in IMPRESS's application for recognition?
5. What is the connection between IMPRESS, Sovereign Strategy and Max Mosley?
6. How many of the approximately 400 hyperlocal publishers that IMPRESS purports to represent have been contacted about subscribing? How many of those have declined to subscribe?

7. What discussions did IMPRESS have with its members about its funding, as part of agreeing funding with the industry?

The issues raised in this submission are intended to assist the PRP to reach a comprehensive analysis of the merits of IMPRESS's application for recognition. As you are no doubt aware, the recognition of a press regulator under the Royal Charter would represent a big step in the landscape of press regulation and freedom of expression – it is not a decision that should be taken lightly or hurriedly and without full knowledge of all of the relevant facts.

Please do contact us if we can be of further assistance.

Yours sincerely,



Mike Harris & Sashy Nathan  
89up

Helen Anthony  
(Legal Policy Consultant)

Consultants to the Free Speech Network & authors of *Leveson's Illiberal Legacy*

Appendix 1:

IMPRESS TITLES AND AWARENESS OF AMCT FUNDING

Title	Date contacted by 89up	Replied	Aware of AMCT funding	Not aware of AMCT funding
A Little Bit Of Stone	11/02/16	N		
New Internationalist	12/02/16	N		
Caerphilly Observer	11/02/16	N		
New Internationalist	12/02/16	N		
On The Wight	12/02/16	N		
Port Talbot Magnet	12/02/16	N		
Positive News	12/02/16	N		
The Ferret	11/02/16	Y		Y
The Lincolnite	11/02/16	Y		Y
View Digital	11/02/16	N		
Your Harlow	12/02/16	N		
Your Thurrock	12/02/16	N		
Southport Reporter	12/02/16	Y	Y	

- It was unclear who at Byline media to contact with a query



89up.org  
12 TILEYARD, LONDON N7 9AH

The Trustees of the IPRT  
c/o Mr Wilfrid Vernor-Miles  
Hunters  
9 New Square  
London  
WC2A 3QN

17 February 2016

Dear Sirs

**The Independent Press Regulation Trust ('IPRT') & IMPRESS**

We write as consultants to the Free Speech Network in connection with the IPRT's funding of IMPRESS – the details of which are relevant to IMPRESS's application to the Press Recognition Panel ('PRP') to become a recognised press regulator.

We note that the Funding Agreement the IPRT signed with IMPRESS is dated 30 October 2015.

We would be grateful if you would answer the following questions, in the interests of transparency:

1. Where has or will the income of the IPRT, which will amount to over £950,000 per year for the next four years, come from?
2. What are, or will be, the conditions of the IPRT receiving that funding?
3. What discussions did the Trustees have when deciding to accept funding, and in turn to fund IMPRESS? Please could we have copies of the minutes of board meetings where such decisions were discussed and made?
4. What are the expected administration costs of the IPRT?
5. Does the IPRT pay any staff directly for its administration; if so whom?
6. Does the IPRT make any payments to any external bodies to undertake its administration; if so whom?

We note that your Charitable Objects include, 'having regard to the need to act within the law and to protect both the privacy of individuals and freedom of expression'. We therefore eagerly anticipate your assistance in this matter.

As you will be aware, the deadline for comments to the PRP is Friday, 4 March 2016, so we would be grateful for an answer to our questions within fourteen days.

Yours faithfully,

A handwritten signature in black ink that reads "H. Anthony". The signature is written in a cursive style with a capital 'H' and a period after the first name.

Mike Harris & Sashy Nathan, 89up

Helen Anthony (Legal Policy Consultant)

Freedom of expression consultants to the Free Speech Network and authors of *Leveson's Illiberal Legacy*



89up.org  
12 TILEYARD, LONDON N7 9AH

Jonathan Heawood  
IMPRESS  
83 Victoria Street  
London  
SW1H 0HW

18 February 2016

Dear Jonathan

**IMPRESS & The Independent Press Regulation Trust ('IPRT')**

We write as consultants to the Free Speech Network in connection with the IPRT's funding of IMPRESS – the details of which are relevant to IMPRESS's application to the Press Recognition Panel ('PRP') to become a recognised press regulator.

We note that the Funding Agreement the IPRT signed with IMPRESS is dated 30 October 2015 and that you have stated, "there is no capacity for any donor to exert influence on IMPRESS." In the interests of transparency, we would be grateful if you would confirm:

1. How IMPRESS settled its funding arrangement, 'in agreement between the industry and the Board, taking into account the cost of fulfilling the obligations of the regulator and the commercial pressures on the industry' (paragraph 6, Schedule 3 of the Royal Charter).
2. Did IMPRESS make clear to all its members that the funding the IPRT receives is primarily derived from the Alexander Mosley Charitable Trust and how was this communicated?
3. Whether IMPRESS has considered the implications on its operations, and in particular, its ability to operate independently, of having one major donor (the Alexander Mosley Charitable Trust via the IPRT), and what the conclusions of those considerations were.
4. What the business continuity plan entails should the IPRT withhold its grant on the basis that it believes that IMPRESS is not complying with the recommendations in the Leveson report (as allowed for in the IPRT/IMPRESS funding arrangement).

5. The involvement of IMPRESS staff, AMCT trustees and other affiliated agents in the establishment of IMPRESS and appointment of trustees, as well as the appointment process for the trustees, of the IPRT.
6. IMPRESS currently only has a membership of 12 out of 400 publications (3%), which make up a small sector of journalism. How many of the 400 publications did IMPRESS ask to join?

As you will be aware, the deadline for comments to the PRP is Friday, 4 March 2016, so we would be grateful for an answer to our questions within fourteen days.

Yours faithfully,



Mike Harris & Sashy Nathan, 89up

Helen Anthony (Legal Policy Consultant)

Freedom of expression consultants to the Free Speech Network and authors of *Leveson's Illiberal Legacy*

Mike Harris  
89up.org  
12 Tileyard Road  
London N7 9AH

By email: [charlene@89up.org](mailto:charlene@89up.org)

29 February 2016

Dear Mike,

**IMPRESS & the Independent Press Regulation Trust (IPRT)**

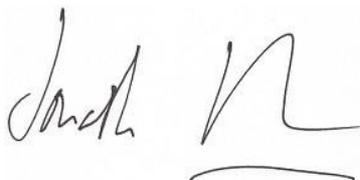
Thank you for your letter dated 18 February, which I received by email on 19 February. I was on annual leave last week and I am taking the earliest opportunity to respond.

You are aware that the Press Recognition Panel (PRP) have called for 'the public and interested third parties to read [IMPRESS's] application against the Royal Charter and send the PRP any relevant information that they are aware of that has not been included, to help inform the PRP's assessment.' The PRP note that they will 'only consider facts and evidence related to IMPRESS's compliance with the Royal Charter criteria, not opinions or hearsay.'

In your letter, you pose a number of questions which you suggest are relevant to IMPRESS's application to the PRP. However, when we spoke by phone on the afternoon of 19 February, you said that your motivation for sending the letter was that you 'don't want to see the emergence of a recognised regulator.' This indicates that you are interested more in undermining the recognition process than in contributing to it.

We would of course be happy to answer any questions which the PRP believe to be relevant to our application. We would also be happy to arrange a meeting if you would like to have a constructive conversation about the process we have followed in establishing IMPRESS, or our reasons for believing – in common with the National Union of Journalists, Sir Harold Evans and the majority of the British public – that the Charter framework offers an exceptional opportunity for establishing press regulation, for the first time in this country, on an independent and effective footing.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Heawood", with a horizontal line underneath.

Jonathan Heawood  
Chief Executive

83 Victoria Street  
London SW1H 0HW

T +44 (0)20 3585 4160  
E [info@impress.press](mailto:info@impress.press)



89up.org  
12 TILEYARD, LONDON N7 9AH

Jonathan Heawood  
IMPRESS  
83 Victoria Street  
London  
SW1H 0HW

1 March 2016

Dear Jonathan

**IMPRESS & The Independent Press Regulation Trust ('IPRT')**

Thank you for your letter dated 29 February 2016.

We are concerned that IMPRESS has not answered our questions nor have you engaged with their importance. You are of course right to say that we do not want to see the emergence of a recognised regulator – we outline our reasons for this below.

The questions we raise are legitimate and are the same type of questions asked by the House of Lords Communications Committee and that the Media Standards Trust has been asking of IPSO.

We believe it is both in the public interest, and relevant to IMPRESS's application for recognition as a press regulator, that IMPRESS answer questions relating to its funding arrangements and its subscribers. We repeat our request in our letter dated 18 February 2016, that you confirm:

1. How IMPRESS settled its funding arrangement, 'in agreement between the industry and the Board, taking into account the cost of fulfilling the obligations of the regulator and the commercial pressures on the industry' (paragraph 6, Schedule 3 of the Royal Charter).
2. Did IMPRESS make clear to all its members that the funding the IPRT receives is primarily derived from the Alexander Mosley Charitable Trust and how was this communicated?
3. Whether IMPRESS has considered the implications on its operations, and in particular, its ability to operate independently, of having one major donor (the Alexander Mosley Charitable Trust via the IPRT), and what the conclusions of those considerations were.
4. What the business continuity plan entails should the IPRT withhold its grant on the basis that it believes that IMPRESS is not complying with the recommendations in the Leveson report (as allowed for in the IPRT/IMPRESS funding arrangement).

5. The involvement of IMPRESS staff, AMCT trustees and other affiliated agents in the establishment of IMPRESS and appointment of trustees, as well as the appointment process for the trustees, of the IPRT.
6. IMPRESS currently only has a membership of 12 out of 400 publications (3%), which make up a one small sector of journalism. How many of the 400 publications did IMPRESS ask to join?

We will be making a submission to the PRP before this Friday and would be grateful for a response by then. If time does not allow (and we note that this may be the case given you have been on annual leave), perhaps you could write your responses directly to the PRP.

In relation to our reasons for not wanting to see the emergence of a recognised regulator, the views of the Free Speech Network and 89up are well known. We believe recognition of a press regulator under the current system would be undesirable and detrimental to press freedom, as outlined in our report *Leveson's Illiberal Legacy*. The post-Leveson legislative framework is problematic in that it allows a recognised regulator to refuse membership to a publisher; such publishers may be deterred from publishing due to the punishments in the Crime and Courts Act; and the legislation imposes substantive conditions which are designed to apply to 'relevant publishers', which is primarily made up of the print media.

The importance of upholding global standards on free speech has been noted by international bodies and NGOs. The OSCE Representative on Freedom of the Media Dunja Mijatović was critical of the Royal Charter, saying that 'Voluntary self-regulatory schemes should be preferred to government-mandated ones', and cautioned against 'additional state interface of any kind except supporting voluntary agreements'.

The current framework risks punishing some publishers for not subscribing to a recognised regulator, and makes joining this system quasi-compulsory. International human rights experts say that imposing special requirements on the print media is unnecessary, open to abuse, and should be avoided. Self-regulation of the press is the gold standard, and is supported by international bodies including the Council of Europe. While a truly self-regulatory body can have far-reaching powers, many provisions, including compulsory arbitration, the power to direct apologies and impose fines are problematic for freedom of speech if they are forced upon publishers by an externally imposed regulator.

We would be grateful for answers to our questions in advance of the PRP submission deadline, this Friday, 4 March 2016.

Yours faithfully,



Mike Harris & Sashy Nathan, 89up

Helen Anthony (Legal Policy Consultant)

Freedom of expression consultants to the Free Speech Network and authors of *Leveson's Illiberal Legacy*

Mike Harris  
89up.org  
12 Tileyard Road  
London N7 9AH

By email: [charlene@89up.org](mailto:charlene@89up.org)

4 March 2016

Dear Mike,

**IMPRESS & the Independent Press Regulation Trust (IPRT)**

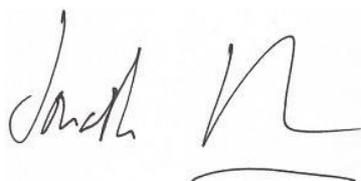
Thank you for your letter dated 1 March. You state that the questions you have raised are 'legitimate and are the same type of questions asked by the House of Lords Communications Committee and that the Media Standards Trust has been asking of IPSO.'

Of course, we cannot speak for either of these bodies, but our understanding is that they have been attempting to find out whether IPSO complies with the Leveson recommendations or the recognition criteria set out in the Royal Charter on Self-Regulation of the Press. IPSO has refused to put itself forward for recognition by the Press Recognition Panel and there is therefore no other mechanism by which these questions might be answered.

By contrast, we have submitted a detailed application to the PRP, all of which has been made public with the exception of a tiny amount of material which was redacted, in agreement with the PRP, to protect confidentiality. Your first question is addressed in this application, which is freely available on the PRP's website. Your remaining questions do not appear to have any bearing on the recognition criteria.

The PRP have issued a call for information in order to gather 'relevant information ... facts and evidence related to IMPRESS's compliance with the Royal Charter criteria.' If the PRP conclude that your questions, or any other issues raised in the course of the call for information, are significant, we will of course address them.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Heawood". The signature is written in a cursive style with a horizontal line underneath.

Jonathan Heawood  
Chief Executive

83 Victoria Street  
London SW1H 0HW

T +44 (0)20 3585 4160  
E [info@impress.press](mailto:info@impress.press)