



Press Recognition Panel
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By email and post

Our ref: GRE/LWM/NEW182.4

23 May 2017

Dear Sirs

Application for Judicial Review: Decision of the Press Recognition Panel (PRP) dated 25 October 2016 Claim Number: CO/140/2017

We refer to the substantive hearing in this matter listed for 29-30 June 2017.

As you know, the NMA has sought judicial review of the PRP's decision to recognise IMPRESS because that decision was flawed and, in particular, because of the significant consequences of recognition that would result if section 40 of the Crime and Courts Act 2013 were to be brought into force. See for example the NMA's Statement of Facts and Grounds at paragraphs 5-6 and 75.

In advance of the General Election due to take place on 8 June 2017, the Conservative Party published on 18 May 2017 a Manifesto in which the following is stated at page 80:

"We will repeal Section 40 of the Crime and Courts Act 2014 [sic], which, if enacted, would force media organisations to become members of a flawed regulatory system or risk having to pay the legal costs of both sides in libel and privacy cases, even if they win."

In the light of this clear Manifesto commitment, we consider that if the Conservative Party remains in Government after the General Election, no sensible purpose would be served by arguing the judicial review case on 29-30 June. In practical terms, the repeal of section 40 will secure the NMA's objectives – to avoid being compelled to accept regulation by IMPRESS or else face adverse costs provisions in relation to relevant claims – without the need for a decision by the Court in relation to its judicial review claim. There will accordingly be no remaining purpose in that claim being pursued.

For the avoidance of doubt, we emphasise that the NMA remains of the view that its claim is well-founded and would succeed if pursued.

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The appropriate course would be to ask the Court to adjourn and stay the proceedings (with liberty to apply) pending the repeal of section 40. An adjournment, rather than withdrawing the proceedings, would be appropriate because of the possibility that the Government may not secure the repeal of section 40.

In our view, issues of costs should be adjourned until after the final resolution of these proceedings.

We invite your agreement to the above proposal, so that a Consent Order to this effect can be submitted to the Court for its approval as soon as possible after the General Election if a Conservative Government is re-elected to office.

Yours faithfully

A handwritten signature in black ink, consisting of the letters 'RPC' in a stylized, cursive font.

RPC