



PRP Clarification Paper

The PRP have asked IMPRESS, in letters dated 11 May, 6 June and 16 June 2016, to clarify a number of points regarding IMPRESS's compliance with the requirements set out in Schedule 3 of the Royal Charter on Self-Regulation of the Press. We provide this clarification paper in response to these concerns. All documents referred to here **in bold** will be made available to the PRP alongside this paper. The points raised by the PRP have been addressed in the order in which the relevant Criteria appear in the Charter.

Criteria	PRP Concern	IMPRESS Clarification
1	<i>Could you confirm how many of the successful candidates for the original Board applied as a result of advertisement/publicity as opposed to being proactively contacted to apply for the roles?</i>	<p>Seven members (including the Chair) were appointed to the original Board, of whom only one was directly contacted by a representative of The IMPRESS Project before deciding to apply for the role:</p> <ul style="list-style-type: none">• Walter Merricks was not proactively contacted.• Deborah Arnott was not proactively contacted. Tom Murdoch of the Appointment Panel emailed a potential candidate who forwarded the details to DA, who then contacted Jonathan Heawood for further information before deciding to apply.• Iain Christie was not proactively contacted. JH contacted IC in April 2014

		<p>for advice about the IMPRESS Arbitration Scheme. JH subsequently asked if IC would like to join the panel of arbitrators when it was up and running and IC agreed. In October 2014, IC saw an advertisement for Board membership and contacted JH for further information before deciding to apply. IC did not know anyone on the Appointment Panel or the Board prior to his appointment.</p> <ul style="list-style-type: none"> • Sue Evison was not proactively contacted. • Maire Messenger-Davies was not proactively contacted. • David Robinson was proactively contacted by Caroline Instance, Deputy Chair of the Appointment Panel. • Patrick Swaffer was not proactively contacted. <p>In fact, of 72 applicants for the IMPRESS Board, only three were proactively contacted by IMPRESS, of whom two were ultimately unsuccessful in their applications.</p>
3	<p><i>We presume from your response to the issues raised [through] the call for information that the members of the original appointment panel were selected from among those that were subject to the ‘targeted approach’ by the IMPRESS Project. However, the panel was subsequently reconstituted and could you therefore comment on the decision to include the Chair and one Board member as members of the</i></p>	<p>The original Appointment Panel was constituted as a wholly independent subcommittee of the Board of The IMPRESS Project, the incubator body whose purpose was to take the necessary steps towards the establishment of IMPRESS. The original Appointment Panel was responsible for appointing the Chair and Board of IMPRESS and did so in accordance with the relevant Charter Criteria. These Criteria relate to the initial establishment of the Board and do not include any explicit provisions for the subsequent appointment of additional or replacement Board members. Therefore, this Criterion is not directly relevant to the constitution of the current IMPRESS Appointment Panel.</p> <p>Nonetheless, the Board decided that it was necessary and appropriate to</p>

	<p><i>reconstituted appointment panel in the light of this criterion?</i></p>	<p>provide an independent mechanism for the appointment of future Board members and for decisions regarding the remuneration of Board members. The Board therefore agreed on 8 September 2015 to reconstitute the Appointment Panel as a wholly independent subcommittee of the Board of IMPRESS.</p> <p>The Chair of IMPRESS was included <i>ex officio</i> in the reconstituted Appointment Panel on the basis that the Royal Charter requires the Chair to join the Appointment Panel for the appointment of further Board members. A second Board member of IMPRESS, who is Chair of the IMPRESS Finance and Audit Committee, was also included in the reconstituted Appointment Panel, as provided for in the IMPRESS Articles of Association (15.2).</p> <p>As described in our application, five members of the original Appointment Panel agreed to serve on the reconstituted panel, all of whom had been selected originally through a fair and open process. Both the Chair of IMPRESS and the second Board member who are members of the reconstituted Appointment Panel were also of course appointed to their substantive Board positions through a fair and open process.</p> <p>Thus, a majority of the members of the reconstituted Appointment Panel, the remit of which is to appoint future members to the Board and to make decisions on Board remuneration, are completely independent of and separate from either the executive or the Board of IMPRESS. This reflects the principles embodied in the UK Corporate Governance Code (2012), which states that a majority of the members of any nomination committee should be independent non-executive directors.</p>
5	<p><i>Do you have any comments on the letter from the Scottish Newspaper</i></p>	<p>The clear aim of the Charter is to ensure that a self-regulatory body is governed by a unitary and sovereign Board. The Charter sets out minimum</p>

	<p><i>Society in so far as it relates to your Board membership?</i></p>	<p>requirements for the composition of this Board and makes it clear that the Board is to be recruited on the basis of relevant skills and experience. This is not to be a stakeholder Board, representing the interests of different groups or sectors, but a skills-based Board.</p> <p>Good practice in governance is to ensure that a Board is large enough to include a diversity of skills and experience but small enough to provide effective oversight and decision-making. In light of this principle, the IMPRESS Articles allow for a maximum of 11 Board members. The Board currently has eight members. The Board’s composition meets the requirements of the Charter and its members have the necessary skills and experience.</p> <p>As and when further Board members are recruited by the Appointment Panel, in addition to or in place of existing Board members, it may be that the Panel highlights the need to draw on candidates with experience of the press in certain nations or regions of the United Kingdom. However, it would not be compatible with the Charter for IMPRESS to <i>reserve</i> Board places for ‘representatives’ of the news publishing industry from all the UK’s regions and nations as this would (a) change the Board’s character from that of a skills-based group to a stakeholder group, with potential perverse consequences for its ability to regulate fairly and impartially; and (b) distort the composition of the Board, which must include a majority of people who are independent of the press.</p> <p>It is important to note, in this context, that the IMPRESS Board includes members who are resident or employed in England, Scotland, Wales and Northern Ireland.</p>
6	<p><i>We will want to discuss the matter of your approach more generally in due</i></p>	<p>The obligation in the IMPRESS Articles of Association to consult participants on the budget extends of course to the tariff schedule, which is central to the</p>

	<p><i>course but for the time being it appears that the Regulatory Scheme Agreement (clause 4.1) allows the tariff schedule to [be] amended annually. Is there any provision requiring IMPRESS to consult participants before amending those tariffs (as opposed to the overall budget)? If not, was this considered?</i></p> <p><i>Also, could you please provide a copy of the current tariff schedule?</i></p>	<p>budget.</p> <p>For the avoidance of doubt, we provide a copy of the IMPRESS Financial Sustainability Policy, which sets out the consultation process in more detail, and a copy of the current IMPRESS Tariff Schedule.</p>
6	<p><i>Bearing in mind the existence of clause 3 in the IMPRESS/IPRT agreement allowing termination of your funding on short notice (particularly the catch-all at 3.2(vii)) and the existence of a similar (but narrower clause) in the IPRT/ACMT agreement – do you have any further information to provide on this issue?</i></p> <p><i>In your response to the first call for information on the matter of funding and independence you refer to the Independent Press Regulation Trust as being ‘a charity whose trustees are professionals with clear legal obligations set out in the IPRT Deed of Trust, a publicly available document’. We have been unable to find a copy of this deed</i></p>	<p>On 28 June 2016, the trustees of the IPRT wrote to IMPRESS as follows:</p> <p><i>‘The Trustees of IPRT note their power as expressed in Clause 3.2.3(viii) of the Funding Agreement, to decrease or terminate the Grant in the event they were decide that it is no longer practicable to continue funding IMPRESS. For the avoidance of doubt, the Trustees undertake to exercise such powers under this Clause only in the unlikely event that the IPRT does not itself have sufficient funds to meet its commitments to IMPRESS under this Agreement.’</i></p> <p>We provide a copy of the IPRT Declaration of Trust 081113.</p>

	<i>available to the public. We presume that you have seen this deed since you refer to its contents in support of your application, and we would be grateful if you would send us a copy.</i>	
6	<i>Could you confirm the process and timing for reviewing your funding prior to the end of the current four-year funding period?</i>	<p>IMPRESS has received a guarantee of £3.8m in funding from the Independent Press Regulation Trust (IPRT). Our forecast shows that this will be enough to subsidise IMPRESS’s costs for at least four years.</p> <p>In this period, IMPRESS expects to develop a diverse financial model, with income from regulatory fees and related services; fines (which will be ring-fenced, in line with the requirements in the Royal Charter); grants and donations; and savings and investment income.</p> <p>The Board has set itself the challenge of ensuring the organisation’s long-term financial sustainability.</p> <p>We provide a copy of the IMPRESS Financial Sustainability Policy, which sets out the process through which the Board will review its financial sustainability on a rolling basis.</p>
6	<i>It would also be helpful if you would clarify the timetable and process for obtaining your funding from IPRT. We have noted that the funding agreements between IPRT-IMPRESS and AMCT-IPRT are dated the same day. We would be grateful if you explain the sequence of events and timeline of the contacts you have had with all the key</i>	<p>We provide here a timeline of the events leading up to the completion of the IPRT IMPRESS Funding Agreement on 30 October 2015:</p> <p>11 November 2013: The IMPRESS Project was registered as a company limited by guarantee. The Directors, Lisa Appignanesi OBE, Isabel Hilton OBE and Professor Alastair Mullis, commissioned Jonathan Heawood to develop and implement plans to establish a press regulator which complies with the terms of the Royal Charter on Self-Regulation of the Press (‘the Charter’).</p> <p>January – December 2014: The IMPRESS Project received grants and</p>

	<p><i>parties prior to those arrangements being entered into. You will recall that we have already had a conversation as regards the due diligence IMPRESS performed to satisfy yourselves that the arrangements would ensure your independence. It would be useful if you could also set that out clearly.</i></p>	<p>donations from trusts and foundations including the Joseph Rowntree Reform Trust, the Andrew Wainwright Reform Trust, Betterworld and the Alexander Mosley Charitable Trust; high net worth individuals including Michael Frayn, Ian McEwan, Max Mosley, JK Rowling and David Sainsbury; and – via the crowdfunding platform Indiegogo –members of the public, who made a total of 60 donations.</p> <p>January – December 2014: The IMPRESS Project initiated a process, in line with the requirements set out in the Charter, leading to the appointment of an independent Board for the regulator. The process was completed in December 2014 with the appointment of Walter Merricks CBE (Chair), Deborah Arnott, Iain Christie, Sue Evison, Maire Messenger-Davies, David Robinson and Patrick Swaffer. (Sue Evison later stepped down from the Board and her expertise as a former journalist was replaced through the appointments of Martin Hickman and Emma Jones.)</p> <p>12 January 2015: The IMPRESS Board met for the first time and began the process of developing the regulator’s strategy, policies and procedures.</p> <p>10 March 2015: The IMPRESS Board discussed the principles which should inform IMPRESS’s future fundraising policy.</p> <p>23 April 2015: The IMPRESS Board approved the IMPRESS Fundraising Policy, which sets out the steps to be taken in relation to any grant or donation. This includes a number of questions for the Board to address in relation any donor.</p> <p>15 June 2015: The Charity Tribunal ruled that the Independent Press Regulation Trust (‘IPRT’) should be entered on the register of charities. The Tribunal’s decision concludes as follows (our emphasis):</p> <p><i>‘We note that Lord Justice Leveson’s recommendation for the</i></p>
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*establishment of an independent press regulator was made following a thorough-going public inquiry and public outrage at some of the press practices he uncovered. We also note that his recommendations were supported by all parties in Parliament. **We take into account the fact that, if such a regulator cannot be established by the Government for constitutional reasons and ought not to be established by the industry itself for reasons of propriety and public confidence, then the charity sector is uniquely placed to be able to offer both the mechanism and the means by which a benefit to the community as a whole can be achieved.***

See <http://www.charity.tribunals.gov.uk/documents/decisions/Vernor-Miles-decision-15-Jun-15.pdf> for the full decision of the Charity Tribunal.

16 June 2016: The Board noted the decision of the Charity Tribunal and proposed to approach IPRT for funding.

24 June 2015: IMPRESS: The Independent Monitor for the Press CIC ('IMPRESS') was registered as a company limited by guarantee.

8 July 2015: Jonathan Heawood wrote on behalf of IMPRESS to Wilfrid Vernor-Miles on behalf of IPRT to request funding (**IMPRESS Letter to IPRT 080715**).

10 July 2015: Wilfrid Vernor-Miles replied to Jonathan Heawood to explain that he and his fellow trustees were not prepared to enter into a funding agreement with IMPRESS until IPRT held sufficient funds to allow them to meet their obligations under any such agreement (**IPRT Email to IMPRESS 100715**).

July – September 2015: IMPRESS and IPRT liaised over the terms of a funding agreement whilst IPRT liaised with the Alexander Mosley Charitable

		<p>Trust (AMCT) over the terms of a separate funding agreement. In the course of these discussions with IPRT, IMPRESS sought reassurance that the proposed IPRT IMPRESS funding agreement would satisfy the requirements of the Charter and the IMPRESS Fundraising Policy.</p> <p>8 September 2015: The IMPRESS Board noted the progress of discussions between IMPRESS and IPRT and mandated Walter Merricks and Jonathan Heawood to finalise the terms of the funding agreement</p> <p>September – October 2015: Merricks and Heawood finalised the terms of the funding agreement, as mandated by the IMPRESS Board, and mindful of the requirements of the Charter and the IMPRESS Fundraising Policy. Their aim throughout was to protect the independence and integrity of IMPRESS, and they were ultimately satisfied that the agreement achieved this aim.</p> <p>30 October 2015: The trustees of IPRT reached a funding agreement with the trustees of the AMCT. Having concluded this agreement, they finalised and signed the IPRT IMPRESS Funding Agreement.</p>
6, 23	<p><i>You will have noted the provisional views of the PRP Board on the interpretation of criterion 6 in the note that we sent you on 31 May. Respondents have again raised this issue of how this agreement (taking into account the relevant matters) was reached and of the fees proposed to be charged to larger publishers which would, they say, preclude their membership.</i></p>	<p>On Wednesday 8 June 2016, IMPRESS launched a four-week consultation into its financial arrangements. We have given respondents the opportunity to comment on our financial arrangements in general and on the current tariff bands and fees in particular. The consultation was publicised to relevant media correspondents and was the subject of a dedicated email newsletter, which was sent out to all publishers on the IMPRESS database, alongside other stakeholders. It has been re-advertised in subsequent newsletters.</p> <p>Respondents have the opportunity to make submissions directly via the online form or in other ways. IMPRESS will deliberate on any responses to the consultation in July.</p> <p>We provide a copy of the consultation paper, Sustaining Trust – IMPRESS</p>

		<p>Consultation Paper. The online survey is available at http://impress.press/about-us/impress-opens-financial-consultation.html.</p>
8	<p><i>We are of course aware that you have adopted the Editors' Code as your initial Code pending consultation on a new one. Could you clarify the way in which your Board considered the way that the Editors Code meets criterion 8? In this connection you will note that one of the indicators for criterion 8 that we set following our consultation on the recognition process last year was 'The regulator has demonstrably considered relevant legislation, codes, rules and/or guidance in developing the code.'</i></p>	<p>As we have previously noted, Lord Justice Leveson anticipated that any regulator would adopt the Editors' Code of Practice as its initial standards code. Thus, the requirements relating to a code in Criterion 8 are clearly intended to describe the Editors' Code of Practice.</p> <p>Notwithstanding this fact, IMPRESS has considered relevant legislation, codes, rules and guidance in (a) choosing to adopt the Editors' Code as its initial standards code; and (b) preparing to consult the public on a new standards code.</p> <p>This research suggests that, whilst the Editors' Code is by no means a perfect code of standards, it reflects a normative approach, with elements that are shared by other codes in comparative jurisdictions. Principles relating to the following issues are found in a majority of the standards codes upheld by press councils in 50 comparative jurisdictions:</p> <ul style="list-style-type: none"> • Privacy • Discrimination • Children • Reporting of crime • Accuracy • Right to reply <p>These principles are all addressed in the Editors' Code.</p> <p>We provide a copy of a paper, IMPRESS Comparative Code Research, which was prepared for the Code Committee, and an academic peer-reviewed article, 'Press Codes and the Spirit of Equalities Legislation', by Jonathan</p>

		<p>Heawood and Brigit Morris, which will be published shortly in the journal Communications Law 21:2, 29-35.</p>
9	<p><i>Could you confirm how IMPRESS will ensure that the subscribers' complaints mechanisms manage conflicts of interest?</i></p>	<p>Publishers are required to provide IMPRESS with a statement of the arrangements, policies and personnel they have in place to deal with complaints fairly and effectively and ensure compliance with the Code. This includes nominating a senior individual within each title to have responsibility for legal and standards compliance and a mechanism whereby that person is alerted as to the article complained about, the name of the journalist involved and the name of the complainant at an early stage so that, where possible, the individual can pass the complaint to another person in the organisation in case of any conflict of interest.</p> <p>We provide a lightly amended version of the IMPRESS Regulatory Scheme, which states that (Article 2.3):</p> <p><i>'Publishers are required to provide IMPRESS with a statement of the arrangements, policies and personnel they have in place to deal with complaints and ensure compliance with the Code. This includes nominating a senior individual within each title to have responsibility for legal and standards compliance, and a mechanism whereby that person is alerted as to the complaint, the name of the journalist involved and the name of the complainant at an early stage so that, where possible, the individual can pass the complaint to another person in the organisation in case of any conflict of interest. The statement of arrangements should include details of the internal authority structure: where responsibilities for Code compliance lie, to whom notice of any failure in compliance would be reported (whether complained about or not), together with details of steps to deal with any failures in compliance. Publishers should report compliance failures of which they</i></p>

		<p><i>become aware to IMPRESS.'</i></p> <p>We will make the statement of arrangements for each publisher available to the PRP.</p>
10	<p><i>As you know, the issue of your scheme requirement for complaints to be dealt with within 21 days was raised by some respondents to the call for information who claimed that this was an inadequate time period. In response you have stated that there is provision to extend the time limit by the publisher obtaining agreement from IMPRESS under clause 4.5 of the regulatory scheme. This clause refers to 'exceptional circumstances'. However, the material in your Induction Pack implies that the timeline is automatically extended when it is necessary to obtain further information, and in particular neither your model complaints process chart nor your model complaints procedure¹ appear to make reference to the need to obtain the agreement of IMPRESS to an extension. These last two documents also contain provision</i></p>	<p>IMPRESS requires publishers to acknowledge complaints within seven calendar days and to issue a final decision letter within 21 calendar days. There is no automatic extension to these time limits.</p> <p>We provide the latest version of the IMPRESS Induction Pack v1.2, which clarifies these requirements.</p> <p>The Induction Pack includes amendments to the Model Complaints Policy and the Model Complaints Procedure. It also corrects the mistaken reference to 'working days', in the process chart, to 'calendar days'.</p> <p>IMPRESS has the power to allow publishers more time to resolve a complaint where exceptional circumstances apply (IMPRESS Regulatory Scheme (4.5)). Authority to grant an extension rests with the Chief Operating Officer and the Chief Executive Officer and will be dealt with within 24 hours of a request. This is clarified in a lightly amended version of the Regulatory Scheme Procedures (19).</p> <p>It would be unwise to seek to define 'exceptional circumstances', which are, by their nature, highly unusual and will be dependent on all the factors present in a particular case. Our Regulatory Scheme Procedures (19) direct the attention of IMPRESS complaints officers towards circumstances which could include an unusually complex complaint which may involve multiple parties or require interviews with multiple witnesses or a delay caused by unavoidable and unforeseen events such as illness, bereavement, the extended absence of a</p>

¹ See appendix 2, clause 10 of your Induction Pack.

	<p><i>for the publisher to close the complaint if the complainant fails to provide further information within 14 days but this is not reflected in the regulatory scheme. Finally, the model complaints process chart refers to the need to write to the complainant within 21 working days of the further information being received; however, we presume that you mean calendar days?</i></p> <p><i>Could you please clarify the position on these issues? Also if publishers are required to obtain the agreement of IMPRESS to any extension, then who would have authority to grant this on behalf of IMPRESS and how would any such request be dealt with sufficiently speedily? How would 'exceptional circumstances' be interpreted?</i></p>	<p>key witness or a natural disaster or serious accident.</p>
10,11	<p><i>Do you have any further comments on the points made by respondents (particularly Associated Press second response, paragraphs 67-70) on the need to ensure that complaints can be kept confidential and also to sometimes grant anonymity to complainants?</i></p>	<p>The IMPRESS Regulatory Scheme was designed on the assumption that all information received by IMPRESS in the course of handling a complaint would be shared with any other party to that complaint but would otherwise remain entirely confidential. There is a provision in the IMPRESS Regulatory Scheme to publish adjudications in a redacted form where necessary to protect the identity of complainants in sensitive cases and to prevent other private and confidential information from entering the public domain.</p> <p>In order to clarify our approach to questions of anonymity and confidentiality,</p>

		<p>we provide lightly amended versions of the IMPRESS Regulatory Scheme (5.4; 5.6; 6.5) and the associated IMPRESS Regulatory Scheme Procedures (26; 38; 40; 43).</p>
21	<p><i>The annual report template that you provided (document 40 with your application) does not appear to contain provision for all of the information required by this criterion.</i></p> <p><i>In particular, there seems to be no provision for:</i></p> <ul style="list-style-type: none"> <i>- (b) (i) identifying which complaints where multiple complaints</i> <i>- (c) a summary of any investigations carried out and the result of them; d) a report on the adequacy and effectiveness of compliance processes and procedures adopted by subscribers</i> <p><i>Further, in relation to b ii) articles in respect of which it has considered complaints to be without merit, and (iii) articles in respect of which it has considered complaints to be with merit, and the outcomes reached, in aggregate for all subscribers and individually in relation to each subscriber whilst your template does</i></p>	<p>Our new case management database has been designed to ensure that we capture all relevant data for these reporting purposes.</p> <p>We provide a revised version of the IMPRESS Annual Report Template, which, for the avoidance of any doubt, sets out the relevant provisions in relation to the Charter criteria.</p>

	<p><i>separate complaints into those with or without merit it does not provide any additional information in relation the outcomes reached or identify which articles they refer to.</i></p> <p><i>Please confirm that your annual report will contain the full information required by this criterion.</i></p>	
22	<p><i>Could you please confirm that your scheme complies in all material respects with the Arbitration Act 1996?</i></p> <p><i>Please confirm how your arbitration scheme ‘directs appropriate pre-publication matters to the courts’ as required by the criterion?</i></p> <p><i>Finally, could you provide further detail on how your plan to subsidise the costs of arbitration for smaller publishers will operate?</i></p>	<p>IMPRESS confirms that our arbitration scheme complies in all material respects with the Arbitration Act 1996.</p> <p>Paragraph 2 of the IMPRESS CIArb Arbitration Scheme makes reference to the 1996 Arbitration Act as follows:</p> <p><i>‘The Rules are intended to govern arbitrations under the Scheme. Arbitrations under the Scheme shall be conducted under the Arbitration Act 1996 (the Act). Where the arbitration is to be seated in Scotland it shall be conducted under the Arbitration (Scotland) Act 2010. These Rules incorporate the mandatory provisions of the relevant Act.’</i></p> <p>All arbitrators are independently appointed by CIArb who have certified that they are qualified and required to conduct arbitrations in accordance with the 1996 Arbitration Act. See below for more on the Scheme’s compliance with the 1996 Act.</p> <p>All requests for arbitration are subject to an administrative assessment of whether they are covered by the scheme. This includes an assessment of each claim to ascertain whether it relates to a pre-publication matter. Any pre-publication matter which seeks to prevent publication will be rejected as being</p>

		<p>outside the scope of the arbitration scheme and will be directed to the courts.</p> <p>We provide lightly amended versions of the IMPRESS Regulatory Scheme (8.2), IMPRESS Regulatory Scheme Procedures (46), IMPRESS CIArb Arbitration Scheme (1) and IMPRESS CIArb Arbitration Scheme Guidance to clarify this.</p>
22	<p><i>As you know respondents to the second call for information have repeated concerns about the potential cost of the scheme to publishers, including in light of the fact that the arrangements make their participation compulsory. You will be aware that the PRP Board will need to consider, inter alia, whether the arrangements are effective in accordance with the relevant principles in the Leveson report and these matters may impact on that. It would therefore be useful to have further comments from you on these cost issues, and on your decision that participation will be compulsory for publishers. We have previously asked you for confirmation that your scheme complies with the Arbitration Act 1996. In that connection we have noted that the combined effect</i></p>	<p>An agreement between IMPRESS (which is never a party to an arbitration) and a publisher for publishers to pay the costs of arbitrations with unidentifiable third parties does not fall within the scope of s60 of the Arbitration Act 1996. The aim of s60 is self-evidently to prevent one party from using its economic muscle to deter another party from bringing a claim by including onerous provisions at the point of negotiating a contract. Expert commentary on the Act confirms that ‘the purpose of [s60] is to prevent a party who wishes to pursue its claim finding that it is unable to do so because, whatever the result, it has agreed to bear some or all of its own costs.’²</p> <p>In contrast, the aim of the IMPRESS arbitration scheme is to be both accessible to claimants (Criterion 22 (e)) and inexpensive overall to all parties (Criterion 22 (g)).</p> <p>The IMPRESS CIArb Arbitration Scheme (5) expressly provides for an arbitration not to commence until both parties have entered into an arbitration agreement. Thus, the agreement to arbitrate between a claimant and a publisher is always made after the dispute in question has arisen.</p> <p>We believe that it would be impossible to deliver an effective arbitration scheme in keeping with the principles and criteria set out in the Royal Charter if it were not contractually binding on publishers to use it. If publishers were not</p>

² Guy Pendell and David Bridge, *Arbitration in England and Wales* (London: CMS, 2012), p. 317, available at https://eguides.cmslegal.com/pdf/arbitration_volume_I/CMS%20GtA_Vol%20I_ENGLAND%20WALES.pdf, accessed on 24 June 2016.

	<p><i>of your regulatory scheme and the arbitration scheme is that the publisher has to agree to pay the arbitrator's fees in every case and we would be grateful for your comments on the compatibility of this arrangement with s60 of the Arbitration Act.</i></p>	<p>contractually bound to arbitrate and were free to pick and choose which claims were submitted to arbitration, then members of the public would be denied access to justice.</p> <p>Schedule 2.7(c) of the Royal Charter shows that participation in the arbitration scheme must be binding upon participating publishers, unless and until the Board of the PRP has received evidence as part of a cyclical review to show that a regulator's arbitral process causes serious financial harm to local and regional publishers. Naturally, IMPRESS would make such evidence available to the PRP at the proper time. Clearly, in all other circumstances, the binding nature of the scheme is essential.</p> <p>IMPRESS has been very mindful of the cost burden on publishers, particularly local and regional publishers, of participating in a contractually binding arbitration scheme. In developing the scheme, IMPRESS has sought to strike a balance between the need to provide a free and accessible service to members of the public (Criterion 22 (e)) and the need to provide a service which is affordable to publishers of all sizes (Criterion 22 (g)). This is why IMPRESS has introduced the following safeguards:</p> <ul style="list-style-type: none"> • A cap of £3,500 on arbitration fees; • Provision for claims to be struck out by the arbitrator for a fee well below the £3,500 cap; • A cap of £3,000 on costs awards made against a publisher if the claim is upheld; • An administrative check to ensure that any claims which are outside the scope of the scheme are rejected by IMPRESS before the publisher incurs any cost; • One free arbitration per year for all publishers with a turnover of less
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		<p>than £1m; and</p> <ul style="list-style-type: none"> • Access to an optional, low cost, insurance scheme which is exclusive to IMPRESS publishers. <p>IMPRESS is very confident that its arbitration scheme offers exceptional value for money to publishers when compared to the costs of instructing lawyers and the time it takes to defend claims through the civil courts.</p> <p>IMPRESS has taken specific steps to prevent its arbitration scheme from causing serious financial harm to local and regional publishers IMPRESS has established a £50,000 arbitration fund which will be used to subsidise the costs of one arbitration per year for all publishers with turnover of less than £1m. We anticipate that the majority of arbitrations will be resolved at a cost far below the £3,500 limit, and that most publishers of this size will not generate arbitration claims, so this budget should be sufficient. IMPRESS will also be offering an exclusive insurance scheme to publishers in partnership with Howden Group, a specialist media insurance broker. For an annual premium of £250, the policy insures publishers against the costs of participating in multiple arbitrations, up to a limit of £3,500 per claim, with no excess.</p>
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