



PRESS RECOGNITION PANEL BOARD

CHIEF EXECUTIVE'S REPORT – MARCH 2018

Meeting: by email

Status: for noting

Lead responsibility: Susie Uppal,
Chief Executive

Contact details: 020 3443 7072

Purpose

1. The purpose of this paper is to provide an update to the Board on Executive activity since the February 2018 CEO report.
2. The Board is invited to **note** the contents of the Chief Executive's report.

Executive summary

3. The Board is being updated in respect of organisational and financial matters.

Delivery updates

Nominations Committee

4. Seventeen applications were received for the role of Independent Member by the closing date of 7 March 2018. The Nominations Committee Interview Panel (Carolyn Regan, Emma Gilpin Jacobs and I) met on 19 March and will be interviewing 4 candidates on 24 April 2018.

Judicial Review Judgment

5. No decision has been heard from the Court of Appeal as yet.

IMPRESS

6. As I explained in the February Board meeting, information had been received in respect of IMPRESS' arbitration scheme. I am in correspondence regarding the matter.

Data Protection Bill

7. The Bill passed second reading in the House of Commons on 5 March 2018. MPs are now considering the Bill in a Public Bill Committee.
8. On 14 March 2014, we submitted written evidence to the Public Bill Committee. The submission addresses misinformation and misunderstanding about the system of press regulation that Parliament agreed for England and Wales following the Leveson Inquiry (Annex A).
9. Our submission has been published online by the Committee. We have also published it on the PRP's website and sent a copy to stakeholders on our database.
10. The Public Bill Committee is scheduled to conclude by 27 March 2018.

Stakeholder engagement

11. The Chair and I met with Brian Whittle MSP (South Scotland) at his request on 7 March 2018 at his request.
12. The Chair and I attended the Oxford Media Conference on 12 March 2018.
13. The Chair and I met with Ian Paisley MP on 27 March 2018 at his request.
14. The Chair and I will be meet with Bill Wiggin MP on 28 March 2018 at his request.
15. Notes of the meetings will be circulated and published when they have been agreed.

Research update

16. Annex B includes an update on key external matters relevant to our work.

Corporate Services

17. I reviewed our office arrangements and, having discussed the matter with Harry Rich, the Board member with special responsibility for financial matters, have agreed to move into a 3 person office for a 6 month period at a monthly rate of £2,620.10 (ex VAT) from 1 June 2018. Our current monthly rate until 31 May 2018 is £3,833.00 (ex VAT).
18. I reviewed our contract for services with Metatale Ltd and have agreed rate reductions and enhanced service provision.
19. I reviewed our contract for services with DeHavilland and agreed a 6 month contract at a lower rate of £2,700 from 30 March to 29 September 2018.

Finance

20. A bank-reconciled set of management accounts as at 28 February 2018 is attached at Annex A. The management accounts also include the 6 month reforecast carried out in October 2017.
21. The deficit for the period ended 28 February 2018 is £358,370 against the February 2018 forecast of £393,996. This represents a positive variance of £35,626 on forecast to the year to date. Details and an explanation of why key variances have arisen are detailed against the relevant lines.
22. As previously reported, the High Court Judgement arising from the Judicial review awarded the PRP full costs that were incurred on the case. Counsel's fees and associated costs (excluding staff time) of £28,349 were incurred as at 28 February. The award income has not yet been provided for in the management accounts.
23. The Board is invited to note the latest position regarding the PRP's finances.

Implications

24. The implications of decisions taken by the Board as set out in this paper are as follows:
 - Budget – There are no specific implications in addition to the issues referenced.
 - Legislation – The Data Protection Bill as mentioned in this paper.
 - Resources – any resourcing considerations are referenced and there are no specific implications other than these.
 - Equality, Diversity and Inclusion – no specific implications.

Devolved nations

25. There are no implications/differences in relation to the areas of work covered in this paper and the devolved nations.

Communications

26. There are no other issues to report which have communications implications, so far as I am aware.

Risks

27. There are a range of risks involved in the areas of work covered in this Paper.

Recommendations

28. The Board is asked to **note** the contents of the Chief Executive's report.

Attachments

Annex A – Written evidence submitted by the PRP

Annex B – External Matters Update

Annex C – Management accounts as at 28 February 2018

Data Protection Bill

Written evidence submitted by the Press Recognition Panel

14 March 2018

Introduction

1. The Press Recognition Panel (PRP) is concerned about misinformation and misunderstanding about the system of press regulation that Parliament agreed for England and Wales in 2013 following the Leveson inquiry.
2. We note the outcome of the Government's consultation on the Leveson Inquiry and its implementation.
3. It remains the PRP's view that section 40 of the Crime and Courts Act 2013 should be implemented in England and Wales in order to:
 - a) Give everyone, not just the rich, access to legal remedies to challenge alleged press illegality;
 - b) Protect the press from the chilling effect of threats of large legal costs by those who wish to stifle free speech and investigation; and
 - c) Remove political influence from press regulation.

The Leveson Inquiry

4. A key Leveson recommendation was the creation of a genuinely independent and effective system of press self-regulation. The new system received cross-party support in the form of the Crime and Courts Act 2013. The Act sits alongside the Royal Charter which created the PRP and includes the assessment framework we apply.
5. Although we and others use the word "press" as a convenient short-hand, the Charter and linked legislation (in England and Wales) are equally applicable to online news publications and websites (whether connected to printed publications or entirely freestanding). It is wrong to suggest that Leveson did not cover online news sites, or that the new system does not do so.

The new independent system that Parliament agreed

6. The Charter established the PRP as a uniquely-independent body to oversee press regulators. The PRP is entirely independent, including of politicians, the press and other interests.

7. The Charter specifies 29 criteria which, if met, ensure that press regulators who comply with them are, among other things:
 - a) Independent;
 - b) Properly funded;
 - c) Able to protect the public; and
 - d) Secure freedom of speech.
8. The criteria are based on the recommendations of the Leveson Report. The PRP is not aware of any ongoing controversy about the criteria or their appropriateness for assessing regulators.
9. The PRP's powers are specific and limited. When it comes to regulators, the PRP simply ensures that approved self-regulators meet and continue to meet the criteria.
10. The PRP:
 - a) Is not a regulator;
 - b) Has no control over the press or any publisher;
 - c) Cannot tell any press organisation, publisher or regulator what to do;
 - d) Does its job without any politicians, media organisations or others having any ability to influence its actions or assessments.
11. The PRP board was appointed through an entirely independent process with absolutely no press or political involvement. The Charter itself can only be changed (or any board members removed) by a two-thirds majority of those who vote in each of the House of Commons, the House of Lords and the Scottish Parliament, and with the unanimous agreement of the PRP board. That gives the PRP unique protections to secure the independence of its decisions. It is untrue and misleading to claim that the PRP is a government organisation or under the influence of government.

Assessing press regulators

12. The PRP is the only independent body established to assess press regulators against the Charter criteria. It would clearly not be appropriate for the government or politicians (nor the press, nor anyone appointed by them) to judge or assess press regulators. As all parties agree, politicians should not interfere with the running of the press or have any undue influence over it. Genuinely independent assessment is essential.
13. The 29 criteria interact, and all must be met to provide effective public safeguards. Regulators cannot pick and choose which criteria they wish to meet

and which to ignore. A regulator cannot be almost compliant. It follows that the PRP cannot recognise a regulator which does not meet all the criteria, nor refuse recognition to a regulator which does. The PRP can neither under-enforce nor gold plate the criteria. Making an application involves being open and transparent and demonstrates a commitment to protecting the public in the way that Leveson recommended and that Parliament agreed was needed.

14. There can be more than one approved regulator and the PRP is prepared to accept future applications.

IMPRESS

15. In October 2016, IMPRESS became an “approved regulator” following a rigorous, independent, and transparent assessment by the PRP against all 29 criteria. Members of the public and those opposed to IMPRESS and the recognition system had, and took, full opportunity to comment on IMPRESS and its operations. We took all views into account.

16. IMPRESS is funded by a trust that receives charitable donations. When the PRP assessed it, we looked carefully at its funding arrangements, as the Charter requires. IMPRESS provided us with all the information we required. We formally invited and received public comments on that information. We were satisfied that there were no mechanisms in place for anyone to have any undue influence over IMPRESS - a key consideration in ensuring independence of funding.

17. In October 2017, a Judicial Review of our decision upheld the legality of all our conclusions, and wholly dismissed criticism of the way the PRP went about the assessment.

18. The PRP is aware of press reports regarding IMPRESS’ funding. Nothing we have seen there, or in other communications directly to us on that and other issues, suggests that the Charter threshold for an “ad hoc review” of our decision about IMPRESS has been reached. In particular, we have seen nothing to suggest any compromise on the independence of its funding.

19. Later this year, in the “cyclical review” of IMPRESS which the Charter requires, we will transparently and openly review all aspects of IMPRESS’ continuing compliance with all 29 Charter requirements.

Mandatory access to arbitration – protecting ordinary people

20. A key Leveson recommendation was that ordinary members of the public needed affordable access to justice if they think they have been legally wronged by a news publisher – for example in civil cases of libel, slander breach of confidence, misuse of private information, malicious falsehood or harassment. The Charter sets out minimum standards for such a system.

21. That is needed because ordinary members of the public cannot currently afford the high legal costs usually associated with action in the courts. Arbitration by a

Charter-compliant scheme would secure proper access to legal redress for all.

22. The Charter requires a filter system to ensure an arguable case to take a claim forward and block vexatious or frivolous challenges.
23. Under the Charter, it is mandatory for an approved regulator to provide access to arbitration for anyone who has a proper claim to bring. Without that fundamental mandatory protection, no arbitration system delivers this bedrock of the Leveson proposals. It follows that, to meet those requirements, it must not be possible for publishers or regulators to choose which cases they allow through to arbitration.
24. Only IMPRESS currently offers an arbitration scheme that meets the Charter's standards. Other regulators could be established (or adapt themselves) to meet those requirements. But no others do so at present.

IPSO

25. The 29 Charter criteria have overwhelmingly been accepted as the appropriate assessment framework, even by those unhappy with the Leveson recommendations.
26. Notably in that regard, on 12 March 2018 at the Oxford Media Convention, the Secretary of State stated that he wanted to see IPSO's low cost arbitration system "working, so anyone, of whatever means can get redress. It can't be right that, in some places, a large front page mistake can still get a tiny page 18 correction."
27. IPSO has not been independently assessed against the Charter criteria by the PRP. However, we have observed a number of public comments about the organisation, including by politicians, which are based on a misunderstanding of the Charter requirements and their application through a process of open, transparent and independent assessment. We pick up here on just three examples.
 - a) Even the review which IPSO commissioned into its own compliance did not claim it to be fully compliant. And even where it considered there to be substantive compliance, its approach needs to be treated with caution. For example, under the Charter, an approved regulator must have the ability to conduct investigations on its own initiative if there is evidence of serious or systemic breaches of its standards code. IPSO's reviewer regarded that requirement as substantively met on the basis that IPSO can initiate investigations if there is evidence of serious and systemic breaches of its standards code. That is not Charter-compliant, and it would not meet the minimum requirement for public protection as we would independently interpret and assess them.
 - b) The information – for example about its funding – which IPSO chose to make available for that reviewer was also far less than we would require to enable us to assess key matters such as independence of any regulator. It was certainly much less than what we required from IMPRESS. The information made available to the reviewer would be inadequate for the PRP to reach a

properly informed and transparently considered decision about IPSO's compliance with the Charter requirements. Without more information, the only independent conclusion would be a 'deemed fail'.

- c) As above, a Charter-compliant arbitration scheme must be mandatory: publishers cannot choose which cases to deal with that way (forcing others into court). We understand that IPSO runs a voluntary arbitration scheme so that not all its members are part of it; even members who have joined the scheme can apparently select which cases go to arbitration.

Section 40 – incentivising and protecting publishers

- 28. Leveson anticipated that incentives would be required to encourage news publishers to form or sign up to approved regulators while at the same time offering an alternative route to access to justice in relation to those who chose not to do so.
- 29. The mechanism provided by section 40 of the Crime and Courts Act 2013 in England and Wales has not yet been commenced. The Government now plans to ask Parliament to repeal section 40 whilst at the same time apparently still hoping that IPSO will become compliant. And of course, even if IPSO were to do that it would have no impact on the large sections of the press and online media which have nothing to do with IPSO.
- 30. Section 40 would also give financial protections to publishers who are members of an approved regulator. This is because anyone wanting to bring legal action against those publishers could raise the issue through arbitration and avoid a costly court case. If someone still chose to pursue the matter through the courts, those publishers would be protected from paying any legal costs. Section 40 supports investigative journalism and removes the chilling effect brought about from the threat of legal action that journalists often face.
- 31. It is wrong to suggest that commencement of section 40 would leave publishers with a choice of facing costs, win or lose, or joining IMPRESS. There is nothing to stop other regulators being established which meet the Charter requirements.

Protecting the local press

- 32. The new system of independent regulation includes special protections for the local and regional press to avoid causing them financial hardship. Leveson was completely aware of the particular position of local and regional publishers and built in protections for them.
- 33. If a financial problem arose, the PRP is empowered to dis-apply the arbitration requirements for local and regional publishers.

Affected publishers

- 34. The new system of regulation applies to what the Crime and Courts Act 2013 terms 'relevant publishers'; namely businesses that publish news-related material that is written by different authors and that is subject to editorial control. This

includes international, national, regional, local and hyperlocal titles, operating across print or online or both. It encompasses what might be termed the 'traditional print press' as well as the range of newer publications that are proliferating due to the internet.

35. The new system of regulation applies to any and all news publishers that can be sued in the courts of England and Wales. For global companies established overseas, if they have a legal base in England or Wales sufficient for them to be subject to the jurisdiction of the courts here, the system applies to them. It would be wrong to focus only on IMPRESS and IPSO and their membership.

Social media

36. It appears to the PRP that several social media platforms may well fall within the Crime and Courts Act 2013 definition of 'relevant publisher'. If so, then a framework for regulating them already exists in the form of the recognition system. Social media platforms that are relevant publishers should be subject to the same domestic legal structures as all other relevant publishers. It will ultimately be for the courts to decide whether such social media platforms are indeed relevant publishers.

Political activity

37. The new system of regulation was intended to prevent politicians from interfering with press regulation. The Government's proposal that Parliament should repeal section 40 shows that political involvement is continuing, and the public is being denied access to independently verified, affordable justice.
38. It is the independent view of the Press Recognition Panel that section 40 should be commenced immediately to bring the political involvement to an end and provide the public protections that were agreed by Parliament.

The Data Protection Bill

39. Leveson recognised the role that data protection regulation could have in press regulation.
40. The Data Protection Bill lists exemptions to the protection of personal data for special purposes that include journalism. Part 5, paragraph 24 states the codes of practice and guidelines the controller must have regard to in determining whether it is reasonable to believe that publication would be in the public interest and would therefore be entitled to exemptions.
41. It is the PRP's contention that 'any code which is adopted by an approved regulator as defined by section 42(2) of the Crime and Courts Act 2013,' should be added to the list. This wording should be used, rather than name a specific approved regulator or code, otherwise the system agreed by Parliament to oversee press regulation is being disregarded.
42. The proposed inclusion of a power to allow a Minister to decide, following consultation, to add additional codes to those specified in the Act itself has no

relevance at all at this stage when Parliament is deciding what should be explicitly specified in the Bill itself.

Contact details

43. Please contact us if you would like more information:

office@pressrecognitionpanel.org.uk.

44. Our policy is to meet on an open basis with anyone interested in our work. We would be happy to do that here including, in particular, to explain or expand on any of the points above.

Update on key external matters

1. The update on key external matters is a research-informed piece based on a sample of information available in the public domain.

Commercial Landscape

2. Music magazine NME closed its print edition after 66 years. The NME.com website will continue. The brand will continue to keep a sporadic presence in print with special issues such as its paid-for series NME Gold.
3. The latest ABC figures show that The Metro's total print circulation has overtaken The Sun's for the first time. As reported in Press Gazette, The Sunday Mirror fell 20 per cent to 488,609 copies and the Daily Mirror was down 19 per cent year-on-year to 567,418 copies. The Daily Telegraph sold 374,719 copies, an 18 per cent year-on-year drop, while The Sunday Telegraph sold 297,379, a 17 per cent drop. Free newspaper City AM was the only national publication not to see a drop in circulation year-on-year, staying steady at around 91,000 copies.
4. Google announced that it is creating a new platform to help publishers convert readers into subscribers. The platform, called Subscribe with Google, will manage subscriptions to news outlets. UK launch partners for Subscribe With Google include the Financial Times and The Telegraph.
5. The Guardian reported that Snapchat is so popular in Britain that its advertising revenue will overtake Twitter's UK revenue in 2019, and revenue from consumer magazine and cinema advertising within two years.

Political

6. Secretary of State for Digital, Culture, Media and Sport Matt Hancock announced that the Government intended to ask Parliament to repeal section 40 of the Crime and Courts Act.
7. Matt Hancock has also announced the appointment of Dame Frances Cairncross as the Chair of the Government's review to examine the sustainability of high quality journalism.
8. The Data Protection Bill passed second reading in the House of Commons on 5 March 2018. Much of the debate focused on the Lords amendments on press regulation. Labour said it would seek to retain the amendments and the Government said it would attempt to defeat the amendments.
9. Subsequently, MPs began considering the Bill in a Public Bill Committee. The Committee agreed to remove clause 142 from the Bill which committed the Government to an inquiry under the Inquiries Act 2005 into 'issues arising from

data protection breaches committed by or on behalf of news publishers'. The Committee also agreed to remove clauses 168 and 169 from the Bill which would have extended Section 40 to Data Protection offences.

Campaigns

10. Hacked Off announced that it would apply for a Judicial Review of the Government's decision to cancel Leveson Part two (against the expressed views of the judge) and to not commence section 40 of the Crime and Courts Act.
11. On 20 March 2018, Hacked Off held a lobby of Parliament to mark five years since the Royal Charter was created.

Press Recognition Panel

MANAGEMENT ACCOUNTS

11 Months to February 2018

Press Recognition Panel
Period ended 28 February 2018

220	11 Months to February 2018			Full year to March 2018	
	Oct 17			Oct 17	
	Actual	Reforecast	Variance	Budget	Reforecast
	£	£	£	£	£
Income					
Subscription Fees	70,521	77,541	(7,020)	95,874	95,874
Bank Interest	1,835	2,147	312	3,540	2,312
Total Income	72,356	79,688	(6,708)	99,414	98,187
Expenditure					
Board costs					
Board Salaries & NIC	58,129	60,036	(1,907)	65,410	65,912
Board Travel & Subsistence	13	295	(282)	240	140
Total Board Costs	58,142	60,331	(2,189)	65,650	66,052
Communications					
Consultation Document & Translation	9,515	6,550	2,965	14,630	7,850
					Forecast saving of 30% not realised due to the report being longer than anticipated.
Website & Visuals	3,454	3,213	241	2,724	3,330
Total Communications Costs	12,969	9,763	3,206	17,354	11,180
Other costs					
Executive team costs	230,496	243,732	(13,236)	258,306	261,269
HR & Recruitment	4,366	6,170	(1,804)	8,064	6,370
					Provisions for HR & Recruitment costs not utilised as yet.
Serviced and Virtual Offices	55,627	54,978	649	73,320	59,708
Meeting rooms	2,587	3,063	(476)	3,702	3,063
Travel & Subsistence	274	327	(53)	600	377
Information Technology	5,140	5,135	5	7,509	5,609
IT hardware	2,930	3,198	(268)	3,600	3,198
Audit & Accountancy	21,260	21,348	(88)	39,992	38,484
Printing & Stationery	4,146	3,690	456	8,711	3,880
Insurance	5,663	5,710	(47)	8,152	8,120
Legal	20,458	48,646	(28,188)	50,000	48,646
					Legal contingency of £30,000 not utilised.
Subscriptions & publications	6,468	6,505	(37)	7,368	7,108
Finance charges	189	188	1	240	208
Sundry expenses	11	900	(889)	1,800	1,050
	359,615	403,590	(43,975)	471,364	447,091
Total Expenditure	430,726	473,684	(42,958)	554,368	524,323
(Deficit) for the period	(358,370)	(393,996)	35,626	(454,954)	(426,137)
Reserves Bfwd	1,246,359	1,246,359		1,246,359	1,246,359
Reserves Cfwd	887,989	852,363		791,405	820,222

Press Recognition Panel
Period ended 28 February 2018

	Feb-18		Mar-17	
	£	£	£	£
Current Assets				
Current account	116,538		92,340	
Deposit account	-		158,304	
Barclays account	805,674		1,003,777	
Cash at bank		922,212		1,254,421
Prepayments	9,764		26,292	
Outstanding fees	110,000		-	
Accrued Income	166		227	
Third Party Deposit	7,000		12,600	
Sundry debtors		126,930		39,119
Creditors: amounts falling due within one year				
Trade creditors	3,546		9,034	
Deferred income	149,479		-	
Credit card	-		1,103	
Social security and other taxes	3,123		13,524	
Pensions	1,035		2,310	
Sundry creditors and accruals	3,970		21,210	
		161,153		47,181
Net Current Assets		887,989		1,246,359
Funds brought forward				
Funds bought forward at 31 March		1,246,359		1,954,072
Surplus/(deficit) for the period to date		(358,370)		(707,713)
		887,989		1,246,359