

IMPRESS PRP Cyclical Review 2018 submission response document: Full statements and evidence in support

CRITERION 1

IMPRESS continues to be governed by an independent Board which was appointed in a genuinely open, transparent and independent way without any influence from industry, government or any third-party funder.

Since becoming recognised by the PRP in October 2016, the Chair and five members of the Board have continued to serve their original four-year terms of appointment. Two members of the Board who had originally been appointed for a two-year term (Deborah Arnott and Patrick Swaffer) were nominated for appointment for a further 4-year term by the Appointments Panel at a meeting held in September 2017 (Evidence: Appointment Panel Minutes September 2017).

In September 2017, IMPRESS published an internal review into concerns about the impartiality of a minority of its Board members which recommended a strengthening of the Board and its governance procedures (Evidence: [Addressing Concerns about IMPRESS's Impartiality: Final Report of the Internal Review Panel](#)). This has resulted in some changes to IMPRESS's Board and governance arrangements which are described below.

In December 2017, two new directors with significant industry experience (David Leigh and Andrea Wills) were appointed to the Board, to increase the size and breadth of experience of the Board. Their appointment followed a similar process to that which led to the appointment of the original Chair and Board members (Evidence: [IMPRESS news release](#); IMPRESS Recruitment Pack; Appointment Panel Minutes for July and September 2017; IMPRESS Board Meeting Minutes 29).

IMPRESS adopted a new Code of Conduct in place of existing Guidelines, after a six-week period of public consultation that ran from 24 July to 4 September 2017 (Evidence: [Code of Conduct](#); Code of Conduct consultation document). This set out clear standards for the Board in respect of social media activity and the making of other public statements. A new system of induction and appraisal for Board members was implemented in December 2017 to ensure that standards are understood and maintained (Evidence: New Director Induction Schedule; Board Appraisal Policy). A Board training day took place in December 2017 which focused on the public decision-making responsibilities of Board members.

A small number of potential breaches of the Code of Conduct have been reported to the Chair of IMPRESS since it was implemented. These were reviewed by a sub-committee of the Board. Two social media posts, both of which had been deleted within 24 hours of being reported, were found to be in breach of the Code of Conduct. Neither were found to compromise any Board member's ability to act fairly or impartially however. In response, the Board discussed the breaches and clarified any

misunderstanding about the social media policy set out in the Code of Conduct. (Evidence: IMPRESS Board Meeting Minutes 34). The Board considered the importance of ongoing monitoring of standards and of acting swiftly in the event of any potential breach of the Code arising. A Board training day was held November 2018 to provide refresher training for Board members on the Code of Conduct.

Not all aspects of the Code of Conduct are applied to members of the Code Committee (who are not members of the Board and who act in an advisory capacity to the Board) or to the Appointment Panel (who are also not Board members) and who have a specific remit to nominate suitable candidates for appointment to the Board. (Evidence: Code Committee and Appointment Panel terms of reference)

IMPRESS amended its Articles of Association in September 2017 to insert a requirement that a Board member's term of office will be ended if he or she can no longer act fairly and impartially. (Evidence: [Articles of Association](#); IMPRESS Board Meeting Minutes 28).

In July 2017, IMPRESS established a new Register of Interests which included a list of interests to be declared in respect of any significant publications, previous paid and unpaid roles and any support for pressure groups which seek to influence others on any issue related to the news publishing industry and IMPRESS' work. The notes on the declaration make clear that any personal or professional connection, past or present, with another individual or body that could reasonably be perceived as influencing a Board member's decision-making should be declared. All Board members filed new Register of Interests declarations in November 2017, which were subsequently made public on the IMPRESS website from 22 December 2017. (Evidence: [Register of Interests](#))

In December 2017, IMPRESS established two separate Sub Committees responsible for prospective and actual members, Regulatory Sub Committee A and Regulatory Sub Committee B. Regulatory Sub Committee B deals with relevant publishers which fall into IMPRESS tariff band 7 (turnover of £20 million or more) and any complaints brought by those publishers, their editors or senior executives or journalists. Sub Committee A deals with regulatory matters in relation to all other actual and prospective members, save where there is a complaint or an investigation that concerns an article that was originally published by, or is otherwise sourced from, a publisher that is or would be regulated by Sub Committee B were it a member of IMPRESS. These complaints will be referred to Sub Committee B. Each subcommittee has been separately administered by IMPRESS's Chief Operating Officer and, since her appointment in April 2018, by IMPRESS's Complaints and Investigations Manager.

(Evidence: [Regulatory Committee Terms of Reference](#); [Website: complaint adjudications](#); IMPRESS Regulatory Scheme Procedures 2018).

(1) Has IMPRESS had any correspondence or communication with IPRT, AMCT, Max Mosley or their representatives or any other funders concerning IMPRESS regulatory arrangements or decision making? If it has, provide details.

IMPRESS has complied in full with the terms of the IPRT-IMPRESS Funding Agreement. The Press Recognition Panel decided that these terms secured IMPRESS's independence for the purposes of the recognition criteria.

IMPRESS has not had any correspondence or communication with IPRT, AMCT, Max Mosley or their representatives or any other funders concerning IMPRESS's regulatory arrangements or decision making other than that, in accordance with clause 4.1 of the IPRT-IMPRESS Funding Agreement, IMPRESS provides the trustees of the IPRT with a report every six months.

In its assessment of IMPRESS's application for recognition, the PRP executive stated that:

'it does not seem unreasonable that IPRT has powers to request information from IMPRESS to ensure that money is being spent for the purposes for which it is provided; and we do not consider those powers are sufficient in themselves to compromise independence.' (Decision Report, p. 23)

These reports confirm to the trustees of the IPRT that the funds are being spent on the purpose set out at Recital E of the Funding Agreement:

'...of ensuring [IMPRESS's] establishment as a truly independent press regulator for the whole or any part of the United Kingdom in accordance with the recommendations set out in Lord Justice Leveson's 'Report into the Culture, Practices and Ethics of the Press' of 29th November 2012 and the Royal Charter on Self-Regulation of the Press (the Purpose).'

The reports also confirm that IMPRESS has not engaged any of the Notice Events set out at Clause 3.2 of the Agreement.

The trustees of the IPRT have not exercised their power under clause 4.3 of the Agreement to clarify any information provided to them in these reports. Nor have these reports been the subject of any further correspondence or communication with the trustees of the IPRT, AMCT or their representatives, or any other prospective funders.

(Evidence: IPRT Decision Reports).

(2) Provide details of any meetings that have taken place between IMPRESS executives, Board (including the Chair) or committee members and IPRT, AMCT, Max Mosely or any of their representatives.

In the course of establishing IMPRESS, representatives of IMPRESS met representatives of the AMCT to seek assurance that funding was available and that the conditions of funding would allow independence to be secured.

The Press Recognition Panel confirmed in its decision of 25 October 2016 that such meetings did not compromise IMPRESS's independence for the purposes of the recognition criteria (Decision Report, p. 32).

The Directors of IMPRESS are responsible for the organisation's financial sustainability and have consistently taken steps to ensure the sound management of the organisation's finances. See below (Criterion 6) for more information about IMPRESS's fundraising.

In an article published in Press Gazette on 7 November 2016, shortly after the PRP's decision, Max Mosley made the following statement:

'My family's support for Impress is a public service, that's why it's charitable. If necessary, funds are available to support Impress until at least 2026.'

Among other fundraising and business development activities, Jonathan Heawood, CEO of IMPRESS, therefore met Max Mosley, trustee of the AMCT, on 27 July 2017, to ask whether the AMCT would indeed consider providing further funding towards the purpose set out in the IPRT-IMPRESS Funding Agreement; and to seek assurances that the conditions of any such funding would continue to allow IMPRESS's independence to be secured.

Mr Mosley confirmed that he would be happy to discuss the possibility of further funding with his fellow trustees; and that he understood and respected the need for any such funding to continue to allow IMPRESS's independence to be secured.

Jonathan Heawood and Ed Procter, COO of IMPRESS, subsequently met the trustees of the IPRT and their legal representative, on 26 June 2018, to discuss IMPRESS's application for further funding (see below, Criterion 6). The trustees confirmed that, should funding be available, it would naturally continue to allow IMPRESS's independence to be secured.

These verbal confirmations have since been underpinned by a renewed set of Funding Agreements between AMCT and IPRT and between IPRT and IMPRESS. See below (Criterion 6) for more information about these Agreements.

(3) Provide details of any additional sums received (beyond those paid through the IMPRESS- IPRT agreement) from Max Mosley, AMCT or their representatives.

No additional sums have been received from Max Mosley, AMCT or their representatives.

(4) Provide details of any funds provided from other sources (excluding regulatory fee income) – giving the amount, funder and terms of the funding.

No funds have been received from any other sources.

CRITERION 2

The IMPRESS Board continues to be chaired by Walter Merricks (Chair). Walter Merricks CBE was the first Chief Ombudsman of the Financial Ombudsman Service, with responsibility for an organisation of 1,500 staff and a £90m budget. He also completed a six-year term as a member of the Board of the Gambling Commission and has been involved in dispute resolution and regulation in the fields of legal services, healthcare, insurance, energy and intellectual property, among others. He has also worked as a legal journalist and academic.

Therefore, there has been no change to the role of Chair, since the current Chair was nominated by the Appointment Panel in June 2015. Further, there has been no change to the process used to select members of the appointments panel and the process used by the appointment panel to appoint the Chair.

Walter Merricks continues to satisfy the restrictions of Criterion 5(d), (e) and (f), which had been assessed and approved by the PRP.

The Chair term is due to expire in October 2019, at which point the process used by the Appointment panel to appoint or reappoint a Chair for the next term will be engaged.

CRITERION 3

The Appointment Panel continues to be chaired by Caroline Instance. Caroline Instance MCIPD was appointed Chief Executive of OPRA in 1996, after 18 years in human resources, to set up the UK's first statutory regulator for pensions. From 2002 to 2011 she was CEO of the two UK professional bodies for actuaries. She facilitated improvement to their self-regulatory mechanisms and assisted in the merger of the bodies and development of a new Privy Council Charter. She is currently a trustee of ShareAction.

There has been no change to membership of the appointments panel since October 2016. The original panel was appointed in an independent, fair and open way, as previously assessed by the PRP. 7 out of 8 members are demonstrably independent of the press. Two members have current understanding and experience of the press.

Current members of the appointment panel are:

Caroline Instance (Chair) – independent of the press

Chris Kenny – independent of the press

Walter Merricks – independent of the press

Tom Murdoch – independent of the press

David Robinson – independent of the press

Damian Tambini – independent of the press/current understanding and experience of the press

Aidan White – current understanding and experience of the press

(Evidence: [Website: appointment panel members](#))

CRITERION 4

Since becoming recognised by the PRP in October 2016, the Chair and five members of the Board have continued to serve their original four-year terms of appointment. Two members of the Board who had originally been appointed for terms of two years (Deborah Arnott and Patrick Swaffer) were nominated for appointment for a further 4-year term by the Appointments Panel at a meeting held in September 2017 (Evidence: IMPRESS Appointments Panel Minutes July 2017 and September 2017; IMPRESS Board Meeting Minutes 28).

An additional two Board members, with significant industry experience (David Leigh and Andrea Wills), were appointed to the Board in December 2017, to increase the size and breadth of experience of the Board. Their appointment followed a similar independent process to that which led to the appointment of the original Chair and Board members. The positions were widely advertised, and shortlisting criteria were carefully applied. The Board accepted both nominations made to it by the Appointment Panel, having withdrawn an earlier nomination after declarations of interests had been further assessed. Neither David Leigh or Andrea Wills are serving editors.

The process for appointing two new members to the Board was as follows.

Process

On 3 July 2017, the Appointment Panel ('the Panel') met to review the process for Board appointments. The Panel members are:

- Caroline Instance (Chair)

- Tom Murdoch (Deputy Chair)
- Chris Kenny
- Damian Tambini
- Aidan White
- Walter Merricks (Board Chair)
- David Robinson (Board Treasurer)

The Panel was provided with secretarial services by the IMPRESS staff team, which prepared a briefing note for the Panel (Evidence: IMPRESS Appointment Panel Guidance on Re-appointment 030717), setting out how the appointment process should be governed by the requirements set out in the Royal Charter on Self-Regulation of the Press ('the Charter'); the Articles of Association of IMPRESS: The Independent Monitor for the Press CIC ('the Articles'); and the Panel's own Terms of Reference.

The note was discussed by the Panel at the meeting on 3 July. The Panel then asked the secretariat to prepare a Recruitment Pack and Timetable (Evidence: IMPRESS Appointment Panel Minutes July 2017). These documents were approved at the subsequent Panel meeting, on 5 September 2017 (Evidence: IMPRESS Recruitment Pack 2017 and Appointment Panel Timetable 2017).

On 12 September, the Board confirmed that the Panel should be free to nominate up to two additional Board members (Evidence: IMPRESS Board Meeting Minutes 28).

In the Recruitment Pack, the Panel set out the following selection criteria:

*Candidates must be able to demonstrate the following **essential** criteria:*

- *The capacity to act fairly and impartially in the decision-making of the Board.*
- *The capacity to contribute effectively to the leadership of an organisation in a non-executive capacity.*
- *Knowledge and experience of journalism or news publishing.*
- *Knowledge and experience relevant to the role of regulating the press.*
- *Acceptance of the demands of a public role in the field of press regulation.*
- *Commitment to advancing the objects of IMPRESS, as expressed in our Articles of Association: 'to promote, for the benefit of the community, the integrity and freedom of the press and to encourage the highest ethical*

standards in news reporting and news publication in particular, but not exclusively, by operating as an independent press regulator in compliance with the principles and in the form and with the composition and powers and otherwise as recommended, in the Royal Charter’.

Candidates may also be able to demonstrate the following **desirable** criteria:

- *Experience of serving on the Board of an organisation in the public, private or voluntary sector.*
- *Experience of acting in a regulatory capacity.*

The Recruitment Pack also set out the restrictions on Board membership, as follows:

IMPRESS is entirely independent of the news publishing industry, Government and Parliament. For that reason, and to comply with the Royal Charter, we ask that all candidates must:

- *Not be a serving editor. (Senior journalists who are not serving editors are not excluded. Please contact IMPRESS if you are in any doubt about the implications of this for your application.)*
- *Not be a member of the House of Commons, the Scottish Parliament, the Northern Ireland Assembly, the National Assembly for Wales, the European Parliament or the House of Lords (but only if, in the case of the House of Lords, the member holds, or has held within the previous five years, an official affiliation with a political party), nor Minister of the Crown, member of the Scottish Government, Northern Ireland Minister or Welsh Minister.*
- *Be a fit and proper person (i.e. not excluded from acting as a company director or trustee of a charity).*

The Recruitment Pack stated that the Panel would treat any application as a declaration that a candidate should not be excluded for any of these reasons. The opportunity to join the IMPRESS Board was advertised in the following locations:

- Press Gazette, <http://www.pressgazette.co.uk/jobs/>
- Women on Boards, <https://www.womenonBoards.net/en-GB/>
- NED on Board, <https://www.nedonBoard.com/>
- Women in Journalism, <http://womeninjournalism.co.uk/>

The Recruitment Pack was made available on the IMPRESS website (www.impress.press). The IMPRESS Twitter account was used to publicise this opportunity.

- 'We are hiring two new Board members to sit on the IMPRESS Board. Deadline today, 5pm. Apply online here: [impress.press/about-us/vacan ...](http://impress.press/about-us/vacan...)' 19/10/2017
- 'Our Board vacancy application has been extended until 19th October 2017 – Apply here: [impress.press/about-us/vacan ...](http://impress.press/about-us/vacan...)' 12/10/2017
- Retweeted: Press Gazette 'Impress is looking to recruit new paid members of its Board, deadline 12 October [pressgazette.co.uk/job/Board-memb ...](http://pressgazette.co.uk/job/Board-memb...) #ad' 06/10/2017
- 'We are hiring two new Board members to sit on the IMPRESS Board. Apply online here: [impress.press/about-us/vacan ...](http://impress.press/about-us/vacan...)' 05/10/2017
- Retweeted: Press Gazette 'Press regulator @impressproject is recruiting up to two paid Board members [pressgazette.co.uk/job/Board-memb ...](http://pressgazette.co.uk/job/Board-memb...) #ad' 18/09/2017

A deadline of 12 October was set for applications. Potential applicants were encouraged to contact the CEO, Jonathan Heawood, for information regarding the role and the appointment process.

The CEO also proactively contacted several prospective candidates whose names had been identified by the Panel. Some of these prospective candidates provided the names of further prospective candidates.

Of the 13 candidates who subsequently applied, two had been identified in this proactive way. One of these two candidates was subsequently shortlisted.

Some prospective candidates expressed concern about the pending judgement in the Judicial Review (JR) claim brought by the News Media Association (NMA) against the Press Recognition Panel (PRP) in relation to its decision to approve IMPRESS as a recognised regulator. They wished to know the outcome of this claim before deciding whether to apply to the Panel.

The JR judgement was handed down on 12 October, hours before the application deadline. To give candidates an opportunity to apply in the knowledge that IMPRESS's approved status was secure, the deadline was extended by one week, to 19 October.

When the deadline passed, applications had been received from 13 candidates.

Shortlisting

All 13 candidates' applications were circulated by email on 20 October to all Panel members, who were invited to provide feedback on the candidates against the

published criteria. On 25 October, the Panel Chair, Caroline Instance, reviewed this feedback and, in dialogue with the Board Chair, Walter Merricks, identified a shortlist of five candidates for interview.

The Panel Chair wrote to all Panel members on 25 October to propose that these five candidates should be invited to interview on 1 November. This proposal was agreed by email, in line with the Panel's Terms of Reference.

Interviews

On 1 November, candidates attended an interview with three Panel members: Caroline Instance; Tom Murdoch; and Walter Merricks. In line with the Terms of Reference, a majority of the interviewers were not members of the IMPRESS Board.

Candidates were given every opportunity to demonstrate their compatibility with these criteria through a formal, structured interview.

References were taken up for selected candidates following the interview and selected candidates completed declaration of interest forms.

Throughout the process, the Panel sought evidence to support its view as to whether the candidates would be able to act fairly and impartially in the decision-making of the Board, as required by the Charter.

The Panel also confirmed that no candidates were excluded by virtue of the exclusions set out in the Charter.

Further, the Panel confirmed that candidates would be able and willing to comply with the requirements set out in the IMPRESS Code of Conduct.

Following the interviews, the interviewers collated the evidence they had gathered and reached a shared decision. They identified two candidates for nomination to the Board; another nomination was withdrawn following an assessment of their declaration of interests, which the Panel decided had made them ineligible for appointment to the Board.

The Panel chair wrote to the full Panel on 18 November 2017 to propose the final two candidates who should be nominated. The Panel agreed unanimously to this proposal, in line with the Terms of Reference.

On 20 November 2017 the Panel submitted a final nominations report to the Board which set out its reasons for concluding that the nominated candidates meet the published selection criteria and, in particular, that they will be capable of acting fairly and impartially in the decision-making of the Board; that they are not excluded from a role on the IMPRESS Board; and that they are able and willing to comply with the requirements set out in the Code of Conduct.

The Board accepted the final nominations of the Appointment Panel by e-mail on 21 November 2018.

(Evidence: [Articles of Association](#); IMPRESS Recruitment Pack; IMPRESS Appointment Panel Meeting Minutes July 2017 and September 2017, IMPRESS Board Meeting Minutes 29; [Website: Board member profiles](#); [Register of Interests](#)).

CRITERION 5

No new members have been recruited to the Appointment Panel since the PRP last assessed its composition against Criterion 5 on 25 October 2016. No member of the Panel has taken up any of the restricted roles set out in Criterion 5. The Panel met on 3 July 2017 and 5 September 2017 and a further meeting is scheduled for 20 November 2018.

(Evidence: Appointment Panel terms of reference; [Website: Appointment Panel biographies](#); IMPRESS Appointment Panel Meeting Minutes July 2017 and September 2017).

CRITERION 6

IMPRESS undertook a public consultation over its funding arrangements in June 2016 and has since undertaken annual consultations with its regulated publishers in January 2017 and 2018 over its funding arrangements, budget and subscription fees.

(Evidence: [Financial consultation June 2016](#), Participant consultation in January 2017 and January 2018, IMPRESS Board Meeting Minutes 24; IMPRESS Board Meeting Minutes 31).

(1) Have all payments of the grant amounts from IPRT been made on time and in accordance with the terms of the IPRT- IMPRESS funding agreement?

All payments of the grant amounts from the IPRT have been made on time and in accordance with the terms of the Funding Agreement.

(2) Have there been any payments made by IPRT to IMPRESS in addition to the grant amount in accordance with clause 2.2 of that agreement or otherwise?

IMPRESS has found its budget adequate to meet the core regulatory activities. However, to develop complementary activities, further requests for funding have been made.

On 13 February 2017, IMPRESS wrote to the IPRT to request an additional payment of £500,000 in accordance with clause 2.2 of the Funding Agreement. This payment was intended to (a) support the cost of legal representation in the Judicial Review brought by the News Media Association (NMA) against the PRP's decision of 25 October 2016 to recognise IMPRESS, and the potential cost of legal representation in the Judicial Review brought by Jacqui Hames against the government's decision not to commence section 40 of the Crime and Courts Act 2013; (b) improve public understanding of IMPRESS's work and the wider post-Leveson framework; (c) subsidise the cost of arbitration for news publishers; and (d) provide legal advice for

news publishers. IMPRESS considered these activities complemented its core regulatory functions.

After sending this request, IMPRESS reviewed its strategic plans and settled on slightly different priorities. Meanwhile, the legal representative of the IPRT confirmed by telephone that some elements of the request fell outside the charitable remit of the IPRT.

Therefore, on 12 April 2017, IMPRESS wrote to the IPRT with a revised request, for an additional payment of £263,000, to (a) subsidise the cost of arbitration for news publishers; (b) provide legal advice for news publishers; (c) diversify IMPRESS's income by fundraising from trusts, foundations and individuals; and (d) improve public understanding of IMPRESS's work and the wider post-Leveson framework.

On 6 July 2017, IMPRESS wrote again to the IPRT to provide further information on the element of this request that related to public understanding of IMPRESS's work and the wider post-Leveson framework.

On 25 July 2017, the IPRT wrote to IMPRESS with an offer to make an additional payment of £133,000, to (a) subsidise the cost of arbitration for news publishers; (b) improve public understanding of IMPRESS's work and the wider post-Leveson framework. The IPRT confirmed that the payment would be subject to the terms of the Funding Agreement.

On 2 August 2017, IMPRESS wrote to the IPRT to accept this additional payment under the terms of the Funding Agreement.

(3) Can you confirm that there have been no notices served to terminate or reduce funding under clause 3.2 of the IPRT-IMPRESS funding agreement?

No notices have been served to terminate or reduce funding under clause 3.2 of the IPRT-IMPRESS funding agreement.

(4) To IMPRESS' knowledge, have any notices been served by AMCT on IPRT in accordance with clause 3 of their agreement?

To our knowledge, no notices have been served by AMCT on IPRT in accordance with clause 3 of the AMCT-IPRT Funding Agreement.

(5) Provide details any changes to regulatory fees.

IMPRESS has made an interim change to its regulatory fees for the financial year 2018-19 which will be formally consulted on with members in January 2019. The effect of the change is for publishers to pay the lesser of 0.1% of annual turnover or the tariff turnover band fee.

(6) In light of the requirement in the criterion that – 'funding should be negotiated well in advance', can you outline what steps have been taken and what further steps are planned to secure further funding once the funding under the IPRT agreement expires in 2020?

As set out above (Criterion 1), IMPRESS has taken certain steps to secure further funding once the funding under the IPRT Agreement expires.

IMPRESS has established clear goals to increase and diversify its revenue to ensure that funding is available to support the long-term operations and development of IMPRESS. A list of over 50 charitable trusts and foundations has been drawn up and initial contact has been made with several potential funders. It is not expected, however, that significant funding from such new sources will be available by the time the current IPRT agreement expires in 2019. IMPRESS has therefore sought to extend its funding agreement with IPRT, whilst simultaneously pursuing other sources of funding. We will disclose further information about any new funding arrangements once they have been finalised.

On 18 May 2018, IMPRESS wrote to the IPRT to request further funding, to cover the period from 2019 – 2022.

On 25 May 2018, the IPRT responded to this request to say that the trustees were agreeable in principle and were prepared to consider an application from IMPRESS for further funding. The trustees requested further information about how IMPRESS's proposed activities would benefit the public.

On 15 June 2018, IMPRESS responded to this with a detailed description of its proposed activities, showing how these activities would benefit the public.

On 26 June, Jonathan Heawood and Ed Procter attended a meeting with the IPRT trustees, where they provided the trustees with a verbal summary of the plans set out in the letter of 15 June.

On 14 November 2018, IMPRESS signed a new four-year funding agreement with the IPRT ('the 2018 agreement') which effectively extends the 2015 agreement until autumn 2022.

The 2018 agreement is almost identical to the 2015 agreement. It provides for the payment of £2.85m in total by IPRT to IMPRESS over a period of four years in six equal instalments of £475,000 to be made at six-monthly intervals. The final payment will be made on or before 1 April 2022, ensuring that IMPRESS has sufficient funds to fulfil its obligations under the Charter until at least 25 October 2022.

The trustees of IPRT and the Board members of IMPRESS have a shared commitment to diversifying IMPRESS's charitable income to ensure the long-term sustainability of IMPRESS. With this in mind, the 2018 agreement requires IMPRESS to report on its fundraising activities to IPRT on a monthly basis (clause 5.3).

If IMPRESS raises new funds towards the same purpose as the IPRT grant, then IMPRESS and IPRT may agree to spread the IPRT grant over a longer period than four years, up to a maximum of seven years in total, if, 'having consulted with IMPRESS', the Trustees of IPRT 'reasonably consider ... that the funds will not during the specified period be reasonably required for the fulfilment of the Purpose ... but so that the Funding Period may not be extended by more than three years in total' (clause 3.3). This provision can only be activated with the written agreement of both parties (clause 8.2[2]).

These provisions require the IPRT to act reasonably, to consult IMPRESS and to secure IMPRESS's signed consent to any revisions to the schedule of payments. Taken together, these provisions confirm that any revision to the schedule of payments would only be made if such revisions did not negatively affect IMPRESS's capacity to meet the requirements of Criterion 6 or any other criterion.

The 2018 agreement includes an explicit reassurance that IPRT will not arbitrarily suspend IMPRESS's funding (clause 4.3). This reassurance was given previously in the form of a supplementary letter.

(7) Please provide all and any information about communications with non-member funders about future funding.

IMPRESS is in the early stages of contacting other charitable trusts and foundations. We will disclose further information about any new funding arrangements once they have been finalised.

(Evidence: IPRT-IMPRESS funding agreement 2018; AMCT-IPRT funding agreement 2018.)

CRITERION 7

There has been no change to the responsibilities of the Board or the Code Committee regarding the standards Code. The responsibilities are set out in part 16 of the [Articles of Association](#).

There have been two appointments to the Code Committee. Both Andrea Wills and Jonathan Collett applied to join the Board and were interviewed by the Appointment Panel as part of the Board recruitment process. Having considered detailed nomination reports provided by the Appointments Panel in respect of their suitability to join the Board, the Board agreed to appoint both candidates to the Code Committee.

There has been no change to the appointment process of Code Committee members.

The members of the Code Committee are as follows:

- Jonathan Heawood (ex officio)
- Walter Merricks (ex officio; IMPRESS Chair)
- Maire Messenger-Davies (Code Committee Chair)
- Emma Jones
- Iain Christie
- Andrea Wills
- Jonathan Collett

- Mary Fitzgerald
- Gavin Phillipson
- Lorna Woods
- Paul Wragg

Collectively, these members demonstrate exceptional experience and understanding of journalism, media ethics, media law, equalities and human rights, the public interest and digital media and are, accordingly, able to adequately advise the Board on the IMPRESS Standards Code and the associated requirements under Criterion 8, 8A and 8C. Mary Fitzgerald is the serving editor of a relevant publisher (openDemocracy).

The Code Committee Terms of Reference set out the responsibilities of the Code Committee; the Code Committee exists to advise the Board on the development of the IMPRESS standards code ('the Code') and any guidance on that Code to be issued for the benefit of the public and/or for the use of the Board or Complaints Committee or complaints-handling officials when determining complaints under the Code.

On 13 December 2016, upon receiving advice from the Code Committee, the IMPRESS Board agreed to adopt the IMPRESS Standards Code and Code guidance in accordance with the implementation plan. The final version of the IMPRESS Standards Code was adopted by the IMPRESS Board on 14 March 2017.

(Evidence: [Articles of Association](#); Code Committee Terms of Reference; [IMPRESS Website: Code Committee](#); IMPRESS Board Meeting Minute 32; IMPRESS Board Meeting Minute 21).

CRITERION 8

[The IMPRESS Standards Code \(the Code\)](#) is a modern Code that aims to assist journalists by promoting and supporting their work. It also aims to protect the public from invasive journalistic practices and unethical news reporting. The Code is practical and responsive to emerging challenges in the digital era, including issues like verifying the authenticity of sources and information and using content from social media.

[The Code Committee developed and consulted on the Code](#). There were six stages to the development process including comparative press code research (of fifty-six press codes from around the world), public engagement, hosting roundtables of experts – including legal experts. IMPRESS then published a draft standards code on 19 August 2016 inviting submissions in an open public submissions process.

IMPRESS published a consultation paper explaining the reasons for the consultation and the thinking behind the draft standards code. The consultation paper asked

stakeholders to answer key questions that would assist the Code Committee in finalising the Code. The formal six-week public consultation on the draft standards code, ran for a period of 6 weeks, ending on 29 September 2016. IMPRESS received 42 submissions, eight of these were from stakeholders who requested that their submissions be anonymised, which were published on the IMPRESS website. They represent a diverse cross-section of interests across society and included legal and regulatory analyses. Following this, there was an IMPRESS-regulated publisher consultation and a final drafting stage.

The Code came into effect on 24 July 2017 following an interim implementation period for publishers to ensure it could be road-tested and so that they could phase in compliance with the Code.

The Code meets the requirements of Criterion 8, specifically:

The importance of freedom of speech

As set out in the IMPRESS Standards Code: Consultation Paper, one of the central themes of the Code is the protection and promotion of freedom of speech. The Code protects freedom of speech and investigative journalism in several ways. One example is the preamble to the Code provides an overview of the value of journalism in democratic societies, underscoring the critical importance of journalists' roles in exposing corruption, holding power to account and reporting on matters of public significance.

Another is the public interest justification; a critical component of the Code, that promotes and protects the work of publishers and journalists to investigate and publish news stories that expose matters of general importance to society. The importance of the public interest, and its applicability to many clauses in the Code, is reflected in its prominence at the start of the Code.

The interests of the public (including but not limited to the public interest in detecting or exposing crime or serious impropriety, protecting public health and safety and preventing the public from being seriously misled)

As set out in the IMPRESS Standards Code: Consultation Paper, several clauses attract a public interest justification. The public interest may be used to justify publications or activities that would otherwise constitute a breach of the Code when the benefits to society outweigh the harm caused by the publisher. It includes a non-exhaustive list of factors that is intended to guide journalists and the public when determining if a matter is in the public interest. Regarding the detecting or exposing serious impropriety, the Consultation Paper says the term 'serious impropriety' extends to incompetent, dishonest and misleading behaviour. Further, such conduct is regulated by the Code in terms of: a) The revelation or discussion of matters such as serious incompetence or unethical behaviour that affects the public; b) Putting the

record straight where an individual or organisation has misled the public on a matter of public importance; and, c) Revealing that a person or organisation may be failing to comply with any legal obligation they have.

The Code Guidance sets out that the examples of specific matters that may engage the public interest in the Code should only be taken as illustrative. For instance, the public interest could include but is not limited to: putting the record straight where an individual or organisation has misled the public on a matter of public importance; public health and safety and the prevention and detection of crime. The guidance directs that matters in the public interest are only matters in which individuals have a stake as members of society. So, journalistic activities that pursue these objectives, despite having the potential to cause some harm, may be in the public interest. The Guidance sets out the competing interests that publishers must balance in order to comply with the Code.

The need for journalists to protect confidential sources of information, and the rights of individuals.

The Code clause on sources (Code Clause 8) recognises the need for journalists to protect sources. The Code also protects the rights of individuals including privacy rights (Code Clause 7), provides protection from harassment (Code Clause 5), protects the rights of children (Code Clause 3) and provides anonymity for children and the victims of sexual offences involved in criminal proceedings (Code Clause 6).

Specifically, it must cover standards of:

a) conduct, especially in relation to the treatment of other people in the process of obtaining material

The Code covers standards of conduct. The preamble to the Code sets out “all references here to publishers apply equally to anyone acting under a publisher’s authority. All references here to journalists apply equally to anyone acting in a journalistic capacity.” The Code Guidance further states “complaints may also be made regarding conduct pursued as part of ‘news-gathering activities’, such as conduct that may engage the harassment clause or the privacy clause.” Several clauses require publishers not to pursue news-gathering practices that would adversely affect others, for instance through harassment or covert methods of obtaining information. Code Clause 5.1 on harassment requires publishers to ensure that ‘journalists do not engage in intimidation’ and Code Clause 5.2 prohibits deception including the use of covert equipment or means to obtain information. Additionally, Code Clause 7.2.a provides that, where not qualified by a public interest justification, publishers must not ‘use covert means to gain or record information’. The Code clauses on harassment, justice and privacy set out further detail on journalistic conduct.

b) appropriate respect for privacy where there is no sufficient public interest justification for breach

Code Clause 7 protects a person's right to privacy in circumstances where they have a reasonable expectation of privacy. Such an expectation may be determined by factors which include, but are not limited to, the criteria listed in Code Clause 7.1. This is subject to a public interest exception. Code Clause 5 also offers protection from harassment and other invasions of a person's privacy.

c) accuracy, and the need to avoid misrepresentation

Code Clause 1 regulates news publications for accuracy, requiring publishers to 'take all reasonable steps to ensure accuracy' (Code Clause 1.1) and 'correct significant inaccuracies with due prominence at the earliest opportunity' (Code Clause 1.2). Code Clause 1.3 requires publishers to 'always distinguish clearly between statements of fact, conjecture and opinion'. Lastly, Code Clause 1.4 provides that, 'whilst free to be partisan, publishers must not misrepresent or distort the facts'. The accuracy clause promotes journalism that is truth-seeking and that strives to present news content in a careful and precise manner. The use of verifiable information and sources is an important part of this aim. The wording of the accuracy clause acknowledges that in some cases, mistakes and inaccuracies may occur. However, IMPRESS expects its publishers to correct significant inaccuracies. Further detail is set out in the Code Guidance.

IMPRESS also considers the Code meets criterion 8(a), 8(b) and 8(c) and is framed in a manner consistent with the potential for complaints to be heard and decided upon by IMPRESS under criterion 11 (a) to (c). The preamble to the Code as well as the Code Guidance sets out that all publishers regulated by IMPRESS agree to abide by the following rules, which together constitute the Code – this indicates the reciprocity between the Regulatory Scheme agreement and the Code. The Code also sets out that publishers are ultimately responsible for upholding Code. The Code envisages that complaints may be made to IMPRESS against a publication, not against an individual journalist, although the conduct of an individual journalist pursued as part of 'news-gathering activities' may form the basis of a complaint, such as engaging the harassment clause or the privacy clause.

Finally, the Code Clauses were written in such a way that allows a) anyone personally and directly affected by the alleged breach of the Code to complain, b) a representative group affected by the alleged breach where there is public interest in the consideration of the complaint, to complain or c) allow a third party seeking to ensure accuracy of published information to complain.

(Evidence: [IMPRESS Standards Code](#); [Guidance on IMPRESS Standards Code](#); [IMPRESS Standards Code: Consultation Response Paper](#))

CRITERION 8A

IMPRESS continues to provide advice to the public in relation to issues concerning the press and the Code, along with a service to warn the press, and other relevant parties such as broadcasters and press photographers, when an individual has made it clear that they do not welcome press intrusion.

Members of the public can make a request to IMPRESS to issue an [Advisory Notice](#) to its publishers to give warning or advice about unwelcome press intrusion. The service sits under Part 7 of the Regulatory Scheme Agreement and para 8.2.8 of the Articles of Association. Information and guidance about this service is available on the IMPRESS website. An online request form is made available on the IMPRESS website for parties to complete or a party can contact IMPRESS directly and make a request. IMPRESS Advisory Notices can also be issued to broadcasters on behalf of members of the public, if required. 4 advisory notices have been requested and issued by IMPRESS since October 2016. There has been no change to the use of the broadcasters and press photographers' database, which is appended.

The IMPRESS website contains news and up-to-date information about all aspects of the Code, detailed guidance on the Code and developments in the press, press regulation, digital media and other relevant political, economic and social developments impacting on the sector. IMPRESS also accepts general enquiries from the public through a helpline, online form and inbox. Subscribers can also join our public newsletter, to receive regular updates on the latest developments at IMPRESS. Since May 2017, IMPRESS has responded to 40 general enquiries. Detailed advice is not offered in case-specific scenarios which may compromise IMPRESS's ability to adjudicate on active or future matters.

To ensure the Code was accessible, a copy editor was hired to review the language in the Guidance; they were advised the Guidance should be aimed at those with the reading capacity of a 12-year old.

IMPRESS uses a knowledge and skills matrix to identify any staff training or development needs. All IMPRESS staff with responsibility for complaints handling are required to have the skills to deal with vulnerable individuals and those who need additional support. Staff who require support in this area receive additional training. IMPRESS also has a reasonable adjustments policy. This policy confirms IMPRESS's commitment to improving accessibility for everybody that IMPRESS deals with; sets out some of the basic principles of IMPRESS's legal duty to provide reasonable adjustments for disabled people; and, sets out the factors that IMPRESS will consider in dealing with requests for reasonable adjustments.

(Evidence: [Articles of Association](#); Regulatory Scheme Agreement; [Guidance on IMPRESS Standards Code](#); [Website: News page](#); [Website: Advisory Notice](#); [Reasonable Adjustments Policy](#); IMPRESS Advisory Notice database)

(1) How many advisory notices have been requested of IMPRESS by individuals and how many have been issued?

As above, 4 have been requested; 4 have been issued.

CRITERION 8B

There has been no change to the requirement that IMPRESS members be held strictly accountable under the Code for any material that they publish, including photographs, however sourced, to the exclusion of advertising content. This is set out at para 7.3.2 of the Articles of Association.

The Code also makes provision for editorial transparency. Code Clause 10 Transparency sets out that IMPRESS publishers must clearly identify content that appears to be editorial but has been paid for, financially or through a reciprocal arrangement, by a third party. This standard requires publishers to clearly distinguish advertising content from other forms of content which fall within the remit of the Regulatory Scheme agreement. The Guidance on the Standards Code sets out the purpose and interpretation of the transparency clause, including stating at part 10.12, “this clause relates to editorial content, not to advertising. Advertising standards are regulated by the Advertising Standards Authority.”

The Advertising Standards Authority were specifically consulted during the IMPRESS Standards Code Consultation. [The IMPRESS Standards Code: Consultation Response Paper](#) sets out a summary of the responses regarding the transparency clause.

IMPRESS adopts the definition of marketing communication as set out in the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code). The CAP Code further requires marketing communications to be readily recognisable: 2.4 “Marketers and publishers must make clear that advertorials are marketing communications, for example by heading them ‘advertisement feature’.” The Committee for Advertising Practice also sets out in their guidance that while marketers are primarily responsible for the content of advertisers, publishers have a duty to make clear that advertisement features are advertisements. The IMPRESS Code and Guidance and the CAP Code and Guidance read together ensure there is no regulatory gap based on the definition of advertising content.

(Evidence: [Articles of Association](#); [IMPRESS Standards Code](#); [IMPRESS Guidance on Standards Code](#)).

CRITERION 8C

The Articles of Association, at para 8.2.7, require that IMPRESS provides non-binding guidance on the interpretation of the public interest that justifies what would otherwise constitute a breach of the standards code. The Code makes provision for the public interest. Public interest is described in the Guidance on the IMPRESS Standards Code and is published on the IMPRESS website; this is non-binding and non-exhaustive.

The Guidance is framed in the context of the different provisions of the Code relating to the public interest.

An example of this on page 15 of the Guidance, which sets out that there is a public interest qualification concerning Code Clause 3:

“This clause attracts an exceptional public interest qualification. This clause is not breached if an overwhelming public interest in the act or publication complained of outweighs the harm.”

(Evidence: [Articles of Association](#); [Guidance on the IMPRESS Standards Code](#)).

CRITERION 8D

There has been no change in the [Whistleblowing hotline service](#) provided independently of IMPRESS by the whistleblowing charity [Protect](#) (formerly Public Concern at Work) that was assessed by the PRP in IMPRESS’s original application for recognition.

IMPRESS has received annual reports from Protect which show that only one call was received in the past two years. This relates to a “mystery shopper” call made by IMPRESS to test the service.

The budget for providing the service has been reduced to reflect the low level of use in the past two years. Annual reviews of the service level agreement with Protect are linked to the number of journalists and contributors working for IMPRESS regulated publishers. As the number of journalists protected under the scheme grows, the cost of delivering the service is expected to increase.

2 IMPRESS members of staff attended Whistleblowing [training delivered by Protect](#) in 2017. IMPRESS’s Complaints and Investigations Manager and Complaints Executive are due to attend further whistleblowing training delivered by Protect on 15 November 2018.

IMPRESS met with Protect’s Director of Development in February 2017 and September 2018 to review the service provided.

(Evidence provided: Service Level Agreement with Protect; Annual renewal confirmation 2018; Protect Annual Report 2018; [Website: whistleblowing](#)).

- (1) Confirm the number of calls received by the whistleblowing service. In respect of any that were received confirm whether there was follow up action and the outcome.**

As above, one has been received and no further action was required.

CRITERION 9

IMPRESS publishers must undergo [compliance checks](#) prior to becoming a regulated member of IMPRESS; this includes appropriate internal governance processes, transparency on what governance processes they have in place, and the provision for notice of any failures in compliance, together with details of steps taken to deal with failures in compliance.

Before a publisher is regulated by IMPRESS, they must have established a policy for handling complaints and whistleblowing arrangements; to have confirmed their arrangements for adhering to the requirements of the IMPRESS Regulatory Scheme; to have clearly publicised their internal complaints process and how to refer complaints to IMPRESS on their publication platform; and devised a system to help themselves track complaints and to report to IMPRESS each year within the established period. They must also nominate a senior individual to take responsibility for dealing and complying with the IMPRESS standards code. IMPRESS requires publishers who have submitted any application to join IMPRESS to undertake a pre-compliance checklist, including a Statement of Arrangements Questionnaire, which is assessed by IMPRESS. IMPRESS then verifies the ownership structures of applicant publishers by reference to Companies House and Experian searches, reviews the publishers' complaints policies and procedures (in particular that they have an effective system for managing any conflicts of interest when investigating complaints), confirms that systems are in place to record and report complaints and compliance failures to IMPRESS, and reviews the compliance arrangements for each title to ensure that there were clear steps and responsibilities to deal with failures of compliance.

When a publisher joins IMPRESS, they contract to become a participant in the IMPRESS Regulatory Scheme Agreement (the agreement); as a result, they are bound by the terms of the agreement.

The agreement sets out, at part 2, that 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 IMPRESS Standards Code. This includes information on the nomination of a senior individual within each title to have responsibility for legal and standards compliance (who must report and record internally on compliance every quarter), 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 also 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 are also required to report compliance failures of which they become aware of to IMPRESS.

At the end of each financial year IMPRESS contacts all regulated publishers to confirm that they continue to comply with these requirements. The statistics on publishers' compliance failures are reported annually (Evidence: IMPRESS Annual Reports). As an interim measure, spot checks are also undertaken by IMPRESS throughout the year to monitor on-going publisher compliance.

IMPRESS has received 117 applications from publishers who wish to be regulated by us to date. 66 of those applications have been granted and 62 concern publishers currently regulated by IMPRESS. 4 regulated publishers have left the scheme since its inception. 2 publishers have been issued with regulatory scheme agreements, 38 applications are in pre-compliance processing, 8 applicants have withdrawn, and 3 applications were rejected.

(Evidence: Publisher Compliance Report; Statement of Arrangements Questionnaire; IMPRESS Annual Reports).

CRITERION 10

When a publisher joins IMPRESS, they contract to become a participant in the IMPRESS Regulatory Scheme Agreement (the agreement); as a result, they are bound by the terms of the agreement.

The agreement sets out, in part 2, that 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 IMPRESS Standards Code. Publishers are also required to provide IMPRESS with all the information and documentation that may be reasonably required to enable IMPRESS to perform its regulatory functions, particularly its compliance functions. Part 3 of the agreement sets out the complaint handling requirements of regulated publishers. When a publisher applies to join IMPRESS, they are provided with a model complaints policy which they may adapt according to their organisational needs; this sets out that publishers must acknowledge a complaint within 7 days and provide a complainant with a formal decision on the outcome of the complaint within 21 days. The core requirements of the policy (which cannot be changed) are pulled from part 3 of the agreement. When publisher's do not meet these requirements, complainants may escalate their complaint to IMPRESS. Publishers are also provided with a Model Complaint Enquiry Form & Model Complaint Log to assist in keeping track of complaints and reporting complaint numbers to IMPRESS each year; this log requires publishers to record the date the acknowledgement letter was sent, the date any additional information was requested, the date any progress letter was sent and the date the final decision letter was sent. Part 9 of the agreement sets out the requirements for publisher's regarding maintenance of compliance records.

IMPRESS requires regulated publishers display how to complain in a prominent position in each regulated title and include the IMPRESS trust in journalism mark and how to contact IMPRESS. At the end of each financial year IMPRESS contacts all regulated publishers to confirm that they continue to comply with these requirements. At the end of the financial year we undertook an audit of all regulated publications to check that information was being displayed in accordance with the requirements of the IMPRESS Regulatory Scheme. This resulted in 14 instances of non-compliance, 12 of which were subsequently corrected following correspondence with publishers. These related to failure to clearly display the IMPRESS 'Trust in Journalism' mark and details of how to complain to the publisher and to IMPRESS. IMPRESS is in the process of taking action against one publisher who continues to be non-compliant with the terms of the Regulatory Scheme. The other publisher had sold the publication in question and it ceased to be regulated by IMPRESS. As an interim measure, spot checks are also undertaken by IMPRESS throughout the year to monitor and resolve issues of on-going publisher compliance with this requirement. Going forward, IMPRESS will be formalising this process, conducting and logging formal monthly spot checks on samples of publishers.

The IMPRESS Regulatory Scheme is designed to ensure publishers take active responsibility for complaints-handling, rather than automatically forwarding complaints to IMPRESS. Part 4 of the agreement states before accepting a complaint IMPRESS will seek confirmation as to whether the complainant has already complained to the publisher and has either not received a substantive response within 21 calendar days of its communication, or the complainant is dissatisfied with the response. IMPRESS will direct complainants who have not yet complained to the publisher according to the publisher's relevant complaints policy, to complain directly to the publisher. IMPRESS will also follow up with those complainants after 21 days have passed, to confirm that their complaint has been resolved by the publisher. Complaints subsequently escalated to IMPRESS are dealt with in accordance with the Regulatory Scheme Procedures.

At the end of each financial year, publishers are required to submit information on the complaint volume, complaint handling and escalation of complaints to IMPRESS. These statistics are reported in the IMPRESS Annual Report. When a complaint is escalated to IMPRESS, an assessment is undertaken of the publisher's compliance with the timescales required to acknowledge and respond to the initial complaint. The result of this assessment is included in all published complaint adjudications (usually under paragraph 5). The publishers who have received most complaints are also the publishers that are most complained about to IMPRESS. Therefore, IMPRESS regularly reviews and assesses the operation of the internal complaints systems of publications that the public complains about and has not identified any significant issues of non-compliance.

(Evidence: Regulatory Scheme Agreement, [Model Complaints Policy](#), [Model Complaint Enquiry Form](#), [Model Complaint Log](#), IMPRESS Annual Reports).

(1) Provide the total number of complaints about publishers received by or referred to IMPRESS.

IMPRESS started to regulate its first publisher in June 2016 and its complaints workload has increased as the number of regulated publishers has grown.

At the end of each financial year, publishers report to IMPRESS the number of complaints they have received since coming under the regulatory remit of IMPRESS. In the financial years ended 31 March 2017 and 31 March 2018 publishers reported receiving a combined total of 100 complaints.

Up to and including 31st October 2018, IMPRESS has received a total of 162 complaints about publishers, of which 53 are multiple complaints.

Of the complaints received, 124 were about publishers that are regulated by IMPRESS.

On receiving a complaint IMPRESS liaises with the complainant to gather relevant information to assess whether the complaint can be accepted in accordance with the rules set out in the regulatory scheme. The assessment period runs from the time a complainant first contacts IMPRESS, having first complained to the publisher, to the time IMPRESS decides to accept the complaint.

Following assessment against its regulatory scheme, IMPRESS accepted 25 complaints, 3 of which were IMPRESS-initiated investigations.

Once IMPRESS has decided to accept a complaint it embarks on an investigation. The investigation period runs from the time the complaint has been accepted and confirmed with the complainant to the distribution of a proposed adjudication to the parties. IMPRESS aims to complete investigations within 42 calendar days (IMPRESS Regulatory Scheme, Paragraph 5.8).

The minimum length of time taken to investigate a complaint was 2 days.

The maximum length of time taken to investigate a complaint was 98 days.

The average length of to time taken to investigate a complaint was 46 days.

59% of complaints were investigated within 42 days.

The main reasons why complaints took longer than 42 days to complete were as follows:

- Delays in investigation processing because procedures being road-tested for the first time;
- A complex complaint in which the Regulatory Committee required legal advice to be sought before coming to a proposed adjudication;
- The investigation was delayed by the Christmas holiday period; and

- Staff turnover and delays caused by lack of human resource in intervening period.

The Regulatory Scheme requires IMPRESS to publish adjudications on the IMPRESS website within 7 calendar days of conclusion of the complaint (IMPRESS Regulatory Scheme, paragraph 5.7)

85% of adjudications were published within 7 calendar days of the conclusion of the complaint. However, all adjudications were published within 11 days of conclusion.

The reasons for the short delays to publication were as follows:

- The Easter/Christmas bank holiday period fell in the middle of the seven-day publication period;
- The publisher raised technical concerns about complying with the direction. Publication of the adjudication was therefore delayed ensuring that the direction has been fully complied with at the time of publication; and
- Staff turnover and delays caused by lack of human resource in intervening period.

(2) Provide the numbers rejected with reasons (as per the categories in the Annual Reports)?

IMPRESS rejected 137 of the 162 complaints it received (85%) The reasons for rejecting complaints were as follows:

38 complaints were rejected because the publisher was not regulated by IMPRESS.

73 complaints were rejected because the complaint was referred prematurely to IMPRESS. In other words, the complainant had not sought to resolve their complaint with the publisher prior to contacting IMPRESS.

10 complaints were rejected because they did not fall within the scope of the IMPRESS Regulatory Scheme.

16 complaints were rejected because they were outside allowable time limits. In other words, they did not relate to recently published articles.

(3) Break down the complaints that were accepted, into the categories listed in (a), (b) and (c) of criterion 11.

11(a) Complaints received from anyone personally and directly affected by the alleged breach of the standards code = 11;

11(b) Complaints received from a representative group affected by the alleged breach where there is a public interest in it being considered = 0

11(c) Complaints received from a third party seeking to ensure accuracy of published information = 14

(4) Categorise the outcomes of those complaints that were accepted and which have concluded.

28 cases were accepted and concluded.

Of these:

11 complaints were dismissed for being without merit.

3 complaints were upheld in full

3 complaints were upheld in part

6 complaints were withdrawn by the complainant, prior to adjudication

1 arbitration claim was upheld in part

1 arbitration claim was upheld in full

1 arbitration request has been accepted (not yet concluded)

2 requests for arbitration were refused

(5) What was average length of time taken (from receipt by IMPRESS) to conclude the complaints that were accepted?

The IMPRESS regulatory scheme requires complaints to be concluded in 42 calendar days (Paragraph 5.8). IMPRESS measured this from the date the complaint is accepted and confirmed with the complainant to the date that the parties are issued with a proposed adjudication. This excludes the assessment period during which time IMPRESS liaises with the complainant to ascertain the information required to assess the complaint. It also excludes any time taken to assess comments received from the parties about a proposed adjudication and time taken to publish the final adjudication.

The minimum length of time taken to investigate a complaint was 2 calendar days.

The maximum length of time taken to investigate a complaint was 98 calendar days.

The average length to time taken to investigate a complaint was 46 calendar days.

59% of complaints were investigated within 42 calendar days.

CRITERION 11

There has been no change to the powers that the IMPRESS Board has to hear and decide on complaints about breach of the Code by those who subscribe. This is set out at 8.2.3 of the Articles of Association and at part 4 and 5 of the Regulatory Scheme Agreement.

The provisions under this Criterion are implemented in accordance with IMPRESS Regulatory Scheme Procedures.

(Evidence: [Articles of Association](#); Regulatory Scheme Agreement).

CRITERION 12

IMPRESS has changed the way its Board makes decisions on complaints by establishing Regulatory Committees of members of the Board.

In February 2018 IMPRESS expanded its [regulatory team](#) to include a Complaints and Investigations Manager, a Complaints Executive and a Regulatory Assistant. This was in accordance with operational plans to upscale once IMPRESS's growing number of [regulated publishers](#) started to generate complaints (Evidence: Organisational structure).

Prior to December 2017, the Board met in full to consider all complaint adjudications. However, from December 2017, a system of regulatory committees was established to determine complaints and other regulatory decisions. This provides for the Chair of IMPRESS to nominate a minimum of three Board members, reflecting the composition of the Board, to sit on specific regulatory committees, whilst taking account of any declarations of interest. Board members are also required to confirm that they have no conflicts of interest to declare, in accordance with the 'Conflicted Director' provisions set out in Paragraphs 14.4 to 14.7 of IMPRESS's Articles of Association, before their appointment to a Committee is finalised. Regulatory Committees have fully delegated powers to make final decisions on behalf of the Board. The names of Board members who made up a regulatory committee that decide a specific complaint are included on the front page of all published complaint adjudications to provide additional transparency.

IMPRESS's regulatory function is overseen by the Chief Operating Officer, Ed Procter. Complaints and Investigations Manager Lexie Kirkconnell-Kawana, manages the regulatory team which consists of a Complaints Executive and a Regulatory Assistant. Lexie acts as Secretary to Regulatory Committees and liaises with the Chair of IMPRESS over the appointment of Board members to committees. The Board has delegated responsibility to the executive to assess all complaints, to manage the investigation of complaints, to draw the committee's attention to any facts to be determined and issues to be decided, to present draft adjudications in straight forward cases and to finalise complaint adjudications in liaison with the Regulatory Committees. All complaint adjudications are discussed and approved by a Regulatory Committee before they are finalised and sent to the parties, prior to publication.

IMPRESS Regulatory Scheme Procedures set out how enquiries, requests and complaints are handled in practice. Since 25 October 2016, there have been various changes to the IMPRESS Regulatory Scheme Procedures – the original procedures, the procedures with tracked changes, and current procedures are attached. The reasons for changes to the internal regulatory scheme procedures are as follows:

- IMPRESS' move to a digital-first customer enquiry and publisher application processing system.

- To streamline, simplify and clarify several processes.
- An update to the IMPRESS model letters and forms.
- Various updates to IMPRESS company policies such as Data Protection and Code of Conduct.
- Procedural changes to conform to the changing legal context which impact on complaints processing, following the decision of Coulter v IPSO.
- Various updates to the IMPRESS/CI Arb Arbitration Scheme.

(Evidence: [Regulatory Committee Terms of Reference](#); [Regulatory Scheme](#); IMPRESS Regulatory Scheme Procedures 2018; [Website: complaint adjudications](#); Organisational Structure; [Articles of Association](#); [Website: Staff](#).)

CRITERION 12A

There has been no change to the Regulatory Scheme for this issue.

(1) Have there been any challenges or applications to stay or sist? If so provide details.

IMPRESS received one request to stay an investigation due to related legal proceedings. The request was refused because at the time the complaint was made the legal proceedings had commenced. The complainant was given the option of either proceeding with the complaint or of withdrawing the complaint and then considering whether to complain afresh once the legal proceedings had concluded.

CRITERION 13

Serving editors are not involved in advising or adjudicating on complaints. Regulatory Committees are drawn from members of the Board. The Articles of Association continue to prevent serving editors from being appointed to the Board. The terms of reference of Regulatory Committees provide for committees to broadly reflect the composition of the Board.

Most of the Board (60%) are independent of the Press.

CRITERION 14

There has been no change to the Regulatory Scheme for this issue; there are no charges for regulatory activity requests made to IMPRESS. Prior to 25 May 2018, there was an £10 administrative charge for subject access requests under the Data Protection Act. There is now no charge for such requests.

(Evidence: [Website: Complaints FAQ Question 11](#))

CRITERION 15

When a publisher joins IMPRESS, they contract to become a participant in the IMPRESS Regulatory Scheme Agreement (the agreement); as a result, they are bound by the terms of the agreement.

The agreement sets out that IMPRESS may investigate potential Code breaches or breaches of its internal governance requirements whether in response to a complaint or not. Where there has been a complaint, IMPRESS will accept the complaint from a) anyone personally and directly affected by the alleged breach of the Code, b) where there is an alleged breach of the Code and there is public interest in the consideration of the complaint from a representative group affected by the alleged breach, or c) from a third party seeking to ensure accuracy of published information. This is set out at Part 4 of the agreement.

The IMPRESS Board has the power to direct appropriate remedial action for breaches of the IMPRESS Standards Code and Regulatory Scheme Agreement and the power to direct publication of corrections and apologies. Specifically, IMPRESS may impose financial sanctions up to 1% of turnover attributable to the publication concerned with a maximum of £1m; to this end, IMPRESS may require publishers to supply appropriate information relating to their turnover. This is set out at Part 6 of the agreement and Paragraph 6 of the Regulatory Scheme.

These powers apply in all IMPRESS investigations and equally to instances where there have been individual breaches of the IMPRESS Standards Code and Regulatory Scheme Agreement.

There have been 6 instances of individual standards breaches – in 5 cases IMPRESS has directed the specific wording and placement of corrections. IMPRESS has not yet dealt with a case concerning groups of people as defined in criterion 11 (b) where there is no single identifiable individual who has been affected. There have been 11 cases concerning matters of fact, where there is no single identifiable individual who has been affected; in those cases, there were 6 instances of breaches and 5 instances where no breach was found. *See Criterion 19 for further detail on remedies directed or sanctions imposed.*

Examples of where publishers have complied with the directed specific wording and placement of corrections have been provided.

The IMPRESS Articles of Association set out at Article 14.4, subject to Article 14.5, the process whereby any Director becomes a Conflicted Director in relation to any matter. IMPRESS Board Members and senior management publicly declare any interests that a member of the public, acting reasonably, would consider might influence their words, actions and decisions; this is set out in the publicly available

Register of Interests. Further, IMPRESS Board Members and senior staff have declared their interests in accordance with the stipulations set out in our Code of Conduct.

The table (Recusals Information Table) sets out the regulatory decisions made by IMPRESS in which recusals have been applied. For IMPRESS Board members recusals apply from the point at which members of the Board may be called upon to discuss or decide a regulatory issue. IMPRESS has recused Board members or members of the Executive on 19 occasions regarding seven cases due to a potential conflict of interest.

In four cases, IMPRESS was contacted by the complainant or others to draw IMPRESS's attention to the potential conflict. In three of these cases IMPRESS had already recused the conflicted Board members. In one case a Board member continued to be involved because the potential conflict was decided to be immaterial.

In three cases IMPRESS identified a potential conflict and recused Board members without a specific request being received from anyone external to IMPRESS.

(Evidence: Regulatory Scheme Agreement, Corrections examples, [Register of Interests](#), [Code of Conduct](#); Recusals Information Table, [Website: Complaint Adjudications](#)).

CRITERION 16

There has been no change to the powers that the IMPRESS Board has to direct the nature, extent and placement of corrections and apologies, in the event of no agreement between a complainant and a subscriber (pursuant to criterion 10).

CRITERION 17

There has been no change to the scope of the IMPRESS Board's powers with respect to prevent publication of any material, by anyone. The IMPRESS Board is not able to prevent publication of any material, by anyone as set at 7.4 in the Articles of Association.

IMPRESS can offer advice to editors of subscribing publications relating to code compliance, as per 8.2.7 of the Articles of Association.

For example, IMPRESS was sent images of individuals using drugs in a town centre and was asked to advise whether publication of the images would amount to a breach of the Code. The publisher was referred to the privacy and public interest clauses of the Code and Guidance. Advice was given on the key issues that the publisher needed to weigh up to comply with the Code.

IMPRESS also offer a range of free code compliance resources via its website. This includes an in-depth description of the Code clauses application and reach and in-depth Guidance on the Code.

(Evidence: [Articles of Association](#), [Website: Standards Code](#); [Guidance on Standards Code](#); [Website: membership resources](#)).

CRITERION 18

There has been no change to the powers that IMPRESS has over its authority as an independent self-regulatory body to examine issues on its own initiative and to have sufficient powers to carry out investigations both into suspected serious or systematic breaches of the Code and failures to comply with directions of the Board. These are incorporated into the Articles of Association, Regulatory Scheme and the Regulatory Scheme Agreement with publishers.

IMPRESS's investigations process is set out in the Regulatory Scheme Procedures. An internal review of IMPRESS's investigations procedures commenced in September 2018 and is due for completion in March 2019. This will address IMPRESS's approach to deciding what amounts to a serious or systemic breach of the Code or internal governance requirements.

Since being recognised by the PRP in October 2016, IMPRESS has commenced three preliminary investigations on its own initiative. In each case, the conclusion of the preliminary investigation was that there was no case to answer and no further investigation was required. The Regulatory Scheme and Regulatory Scheme Agreement both require publishers to co-operate with IMPRESS investigations. In all three cases publishers complied fully with the investigations.

The first investigation considered the fitness for purpose of the director of a publishing company that was regulated by IMPRESS, once IMPRESS had become aware that the individual had been convicted of a serious criminal offence in the past. The investigation determined that the publisher had not concealed the director's criminal convictions and had not sought to mislead IMPRESS. It also concluded that there was no provision within the IMPRESS Regulatory Scheme to prohibit an individual with a previous criminal conviction from being a director of a publishing company regulated by IMPRESS.

The second investigation considered allegations made by an assistant editor, whose contract of employment had been terminated by a publisher. IMPRESS considered that the information provided to IMPRESS engaged the regulatory scheme in three respects: (i) alleged encouragement to falsify a story that was known to be untrue; (ii) alleged termination of the employment contract of a contributor for refusing to breach the Code; and (iii) alleged falsification of information about the ownership and editorial control of the publication. The investigation concluded that the publisher was not regulated by IMPRESS, nor had it applied to be regulated by IMPRESS, at the time

the contract of employment was terminated. Therefore, the publisher was not bound by the terms of the IMPRESS Regulatory Scheme at the material time of the alleged breaches. Moreover, IMPRESS found that the reasons for termination of the contract of employment were related to other issues. It also concluded that pre-regulation compliance checks undertaken by IMPRESS had confirmed the ownership and editorial control structure of the publication.

The third investigation considered the allegation that a journalist of a regulated publisher had acted aggressively and in a threatening way at a public meeting during the course of their journalistic activities. As part of the investigation IMPRESS secured and analysed video footage of the incident and concluded that the behaviour complained of, whilst discourteous, did not meet the threshold for harassment under the Code.

IMPRESS continues to maintain a £50,000 investigations fund which is topped up each year and which operates as a separately designated account. There has been no expenditure from the fund on investigations since it was established. The fund is considered to be sufficient based on an assessment of the number and type of publications regulated by IMPRESS and the number of complaints received to date. The value of the fund is reviewed annually to ensure that it continues to be sufficient.

CRITERION 19

There has been no change to the Board's powers to impose appropriate and proportionate sanctions, to direct the nature, extent and placement of corrections and apologies and to ascertain appropriate information from subscribers in order to ascertain the turnover attributable to a publication. These are set out in Paragraph 6 of the Regulatory Scheme.

As of 31 October 2018, IMPRESS has not imposed any financial sanctions. In 5 cases IMPRESS has directed the specific wording and placement of corrections. Once a complaint adjudication has been finalised IMPRESS puts a publisher on notice that the adjudication will be published in 7 days and requires the publisher to publish the correction to coincide with IMPRESS's publication of the adjudication. In all cases the regulated publisher has complied fully with the direction. All complaint adjudications are published on the IMPRESS website and include information about when a published correction was required.

(Evidence: [Articles of Association](#); [Regulatory Scheme](#); Regulatory Scheme Agreement; IMPRESS Regulatory Scheme Procedures 2018; Financial Balance Sheet)

CRITERION 19A

(1) Can you confirm the continued existence of the fund and its current balance?

The ring-fenced enforcement fund has a current balance of £50,000.

(2) Did IMPRESS consult with donors and members for additional funding to support investigations as envisaged at the time of recognition? If so, provide details.

IMPRESS has not consulted with donors and members for additional funding to support investigations because current funding was felt to be sufficient at this point in the development of IMPRESS. IMPRESS will continue to maintain a ring-fenced fund of £50k for investigations. This will be topped up each year and the adequacy of the fund reviewed each year to ensure it is sufficient to meet the needs of our expanding regulatory remit.

CRITERION 20

There has been no change to the Board's powers and duties to ensure that all breaches of the Code that it considers are recorded as such and that proper data is kept that records the extent to which complaints have been made and their outcome. This is set out at 8.2.14 of the Articles of Association and part 9 of the Regulatory Scheme Agreement.

At the end of the financial year, IMPRESS publishes details of all complaints received by IMPRESS, including multiple complaints, articles in respect of which it has considered complaints to be without merit and those which it has considered to be with merit and the outcomes reached, in aggregate for all participating publishers and individually in relation to each title and each publisher. The annual report also includes numbers of complaints received by publishers and their outcomes.

All complaint adjudications are published on the IMPRESS website.

(Evidence: [Articles of Association](#), Regulatory Scheme Agreement, [Website: Annual Reports](#), [Website: Complaint Adjudications](#)).

CRITERION 21

An annual report is produced every year that meets the requirements of Criterion 21. [Annual Reports](#) are published on the IMPRESS website.

The timeline for format and production of the Annual Report is:

From April to August of a calendar year IMPRESS source information for the report. The report is produced over September and October and is subsequently published.

(Evidence: IMPRESS Annual Reports, [Website: Annual Report](#)).

CRITERION 22

There have been three changes to the [Arbitration Scheme Rules](#) since IMPRESS was recognised in October 2016. The claimant administrative fee has been permanently removed from the scheme, the fees of the arbitrator are now paid by IMPRESS and not the publisher and breaches of the data protection act have come within the scope of the scheme. The result of these changes is that the arbitration scheme is now free to access to both members of the public and to publishers.

IMPRESS offers an accessible low-cost arbitration service. The Board is required to provide arbitration as a means of dispute resolution between IMPRESS regulated publishers and members of the public under part 9 of the Articles of Association and part 8 of the Regulatory Scheme Agreement.

When a publisher joins IMPRESS, they contract to become a participant in the IMPRESS Arbitration Scheme (the Scheme); as a result, they are bound by the terms of the Scheme. Para 4 of the Scheme sets out that the publisher is required to participate in arbitration under the terms of the IMPRESS Regulatory Scheme, in instances where IMPRESS has determined that such a dispute is suitable for arbitration.

An individual or organisation who is seeking legal redress and compensation from an IMPRESS publisher may request arbitration via the Scheme. The rules of the Scheme set out in the CIArb/IMPRESS Arbitration Scheme Rules. Arbitrations under the Scheme are 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. The Scheme rules incorporate the mandatory provisions of the relevant Act.

The Scheme relates only to civil claims between a claimant and a participating publisher for: (a) defamation; (b) breach of confidence; (c) misuse of private information; (d) malicious falsehood; (e) harassment; or (f) breach of the Data Protection Act.

The process of arbitration is as follows: claimants are required to complete an arbitration request form. IMPRESS will decide whether the dispute is suitable for arbitration. This assessment ensures the complaint concerns a publisher who is regulated by IMPRESS; relates to one of the areas of civil law covered by the scheme; is not more suitably directed to the courts; and has described the harm or loss the claimant has suffered and how this harm or loss has been caused to them by the

publisher that IMPRESS regulates. If accepted, the claimant's request will then be sent to the publisher – the publisher must respond within ten days. The claimant and the publisher must then apply for an arbitrator to be appointed. Arbitrators are appointed independently by the Chartered Institute of Arbitrators. Arbitrators have the power to: give directions to the parties as to the procedure and the timings that will apply, including powers in the event of a party's failure to comply with the directions; strike out or dismiss an entire claim or part of a claim where there is no reasonable ground for a claimant to bring a claim; award costs against a publisher to a maximum sum of £3000 and make awards of damages to a claimant; direct that a publisher not republish the information that is the subject of the claim; and give other award or direction that an arbitrator thinks is appropriate in the circumstances.

The appointed arbitrator will decide how the arbitration will proceed and whether to hold an oral hearing; this includes seeking information and asking questions of the parties to determine the facts. The arbitrator will decide the procedures relating to any oral hearing. The arbitrator will aim to conclude the case within three months. Where an arbitrator makes an award or direction, that decision is final and binding.

A claimant does not have to pay costs for the arbitration and cannot have an award of costs made against them under any circumstances. If the claimant succeeds in their claim, the arbitrator may decide to award costs against the publisher (capped at £3000 'in ordinary circumstances'). If either party decides to have legal representation, they are responsible for the cost. The fees of the arbitrator shall be paid by IMPRESS, capped at £3500.

IMPRESS publishes [guidance](#) on the arbitration scheme on its website.

- (1) Provide the number of requests for arbitration received.**
- (2) Provide the numbers of those requests for arbitration rejected by IMPRESS, with reasons given in each case.**

IMPRESS has received 5 requests for arbitration. 2 of those requests have been rejected. The reasons are as follows:

1. The Committee was not satisfied that the claim adequately set out the harm or financial loss that the claimant had suffered as a result of a publisher's tweet. It noted that the claimant largely relied on the fact that he had been awarded damages in a previous arbitration in respect of an allegation for 'tabloid-trolling' as evidence that the same type and degree of damage had been caused in this case, but the Committee did not consider that that evidence was persuasive in and of itself.

The Committee was not satisfied that the claim adequately demonstrated how it was the publisher's action, in tweeting a link to an allegedly defamatory third-

party blog, that caused the alleged harm or financial loss to the claimant, as opposed to the publication of the original blog post.

2. The Committee was not satisfied that the claim clearly set out the harm or financial loss that the claimant had suffered as a result of the published article. It noted that the claimant largely relied on the fact that the article was part of a wider campaign which they accepted that the publisher was not a party to.

The Committee was not satisfied that the claimant adequately described how the article had caused the alleged harm and loss to the claimant. This is because, although the claimant identified specific harm and loss caused by a 'wider campaign', the claimant failed to specify any harm or loss which arose as a direct result of the article published by the regulated publisher. The Committee determined that any harm or loss caused to the claimant by the publisher was trivial or incidental in conjunction with the remainder and was thus too insignificant to meet the test.

In this latter case, the claimant subsequently provided further information and was encouraged to submit a fresh request for arbitration which they chose not to progress.

(3) Provide the number of those requests referred to the arbitrator and the outcomes of those cases if completed.

3 requests have been referred to arbitration (one is currently active and yet to conclude). The two concluded arbitration award summaries are as follows:

Jonny Gould and Evolve Media Limited

Arbitrator: Ian Ridd

Date Arbitrator appointed: 2 March 2018

Date of Award: 14 May 2018

Claim: Defamation

Outcome: Claim for defamation upheld.

Award: £900 damages awarded to the claimant. Order to publish a full apology on its website and a retraction and a full apology on Twitter, in a form to be agreed by the parties, or in default of agreement, to be settled by the arbitrator. Question of costs to be reserved to arbitrator's further award.

Dennis Rice and Byline Media Holdings Limited

Arbitrator: Clive Thorne

Date Arbitrator appointed: 3 April 2017

Date of Award: 6 July 2017

Claim: Defamation, Malicious Falsehood, Harassment

Outcome: Claim for defamation partially upheld. Other claims withdrawn by consent.

Award: £2,500 damages awarded to the claimant. Order not to republish the information or statement contained in the defamatory tweet.

(Evidence: [Articles of Association](#), Regulatory Scheme Agreement, [CIArb/IMPRESS Arbitration Scheme Rules](#), [Guidance on the IMPRESS arbitration scheme](#), [Website: Arbitration](#)).

(4) Have any IMPRESS members or potential members expressed concerns about the arbitration process (including it resulting or potentially resulting in serious financial harm)? If so outline the concerns expressed.

IMPRESS has received feedback from some publishers that non-commencement of Section 40 of the Crime and Courts Act and the Government's decision to repeal it has removed the protection against legal threats afforded them under the recognition scheme. The effect of non-commencement of Section 40 of the Crime and Courts Act is that wealthy litigants may 'bypass' the contractually binding arbitration scheme of an approved regulator without incurring a cost-shifting penalty as envisaged by the recognition scheme. There is no evidence of which we are aware, however, of any claimant bypassing IMPRESS's arbitration scheme and litigating against a publisher regulated by IMPRESS instead.

Some publishers have also raised concerns that the low bar of entry to the IMPRESS arbitration scheme requires them to spend time defending trivial, or vexatious claims. There is no evidence, however, that any IMPRESS publisher has been required to defend a claim that an independent arbitrator has subsequently ruled to be trivial or vexatious. IMPRESS has refused two requests for arbitration.

(5) Have any complainants expressed concerns about the arbitration process? If so outline the concerns expressed.

Two claimants expressed dissatisfaction with the administrative suitability test applied by IMPRESS which resulted in their request for arbitration being refused before it was referred an arbitrator.

In one of these cases IMPRESS offered the claimant the opportunity to resubmit a request with additional information, which the claimant declined to do.

In the other case, the claimant complained that his request had been refused because of biased decision making by IMPRESS. IMPRESS responded by reminding the claimant that those members of the Board who may have actual or perceived conflicts of interest in relation to the defendant publisher were recused from participating in the decision.

One claimant expressed dissatisfaction with the amount of time that it took for an award of damages to be paid by a publisher and criticised IMPRESS for not enforcing the award. IMPRESS pointed out to the claimant that it has no powers to enforce an arbitration award. Nevertheless, IMPRESS issued the publisher with a regulatory notice concerning compliance with the contractually binding conditions of the

regulatory scheme. The damages award was eventually paid within 50 days of publication of the award.

(6) Please provide your own analysis of any issues or difficulties that have arisen in relation to your arbitration arrangements.

Our analysis of the arbitration arrangements is that they have generally worked well. In both completed cases, the arbitrator finalised an award within three months of appointment, with minimum legal costs and expenses being incurred by either party. In both cases the publisher was required to pay compensation to the complainant. In our assessment, the costs and speed of the process compared very favourably with going to court. In another recently commenced arbitration, the case appears to be progressing in accordance the timescales set out in the scheme rules.

Any concerns we have about the arbitration arrangements are to do with the application of an administrative suitability test by IMPRESS which enables us to filter out inappropriate requests and to protect publishers from spending time and money defending inappropriate claims. We believe that there may be some merit in future in incorporating a two-stage process into the arbitration rules to provide for an initial assessment by the arbitrator, rather than by IMPRESS. This would remove any risk, however remote, of IMPRESS refusing a request for arbitration that subsequently resulted in litigation. It would also ensure that all requests resulted in a final and binding arbitration award. However, IMPRESS has decided that with only five requests for arbitration received to date, it is too soon to make a change to the scheme at the present time.

CRITERION 23

Since becoming recognised in October 2016, IMPRESS has conducted two consultations with regulated publishers (January 2017; January 2018) over the annual tariff payable by publisher turnover band. The annual tariff schedule has not increased and continues to be directly linked to the turnover of regulated publishers.

IMPRESS has not received any representations from any members or potential members that the terms of membership are not fair, reasonable or non-discriminatory.

Earlier this year, however, IMPRESS received feedback from several publishers about the steep rise in fees between turnover bands. The concern expressed was that a marginal increase in turnover which took a publisher into a higher tariff band could result in as much as a seven-fold increase in fees.

IMPRESS responded to this feedback by putting in place an interim annual tariff schedule which required publishers to pay the lesser of 0.1% of annual turnover or the applicable tariff band fee. IMPRESS wrote to all publishers on 25 July 2018 to confirm

this interim offer and to inform publishers that it will formerly consult over any permanent changes to the tariff schedule during its annual participant's consultation in January 2019.

There has been no change to the eligibility criteria, policy or process for joining IMPRESS. These are set out in the Articles of Association, Regulatory Scheme, Regulatory Scheme Procedures and "Join Us" section of the IMPRESS website. Publishers complete an application form to join IMPRESS and then complete a pre-regulation compliance assessment before entering into a regulatory scheme agreement with IMPRESS.

Since January 2016 IMPRESS has received 117 applications from publishers to join its regulatory scheme. Of the 117 applications received to date:

66 (59%) publishers went on to become regulated by IMPRESS as of 16 October 2018 (of which 4 have left the regulatory scheme and 1 of which has given notice to leave the scheme).

Caerphilly Observer left the regulatory scheme because it was dissatisfied with how IMPRESS had communicated with it over funding arrangements and an internal impartiality review.

Arkboun Ltd, NVM Newspaper Associated Ltd and Ramsay and Warboys Reporter left the scheme because they ceased to publish news related material. One other publisher has given notice of its intention to leave the scheme on 31 March 2019 because of concerns about fee levels, feedback from readers and disagreement with the editorial stance taken by another publisher regulated by IMPRESS.

Concerning all other applications, as of 31st October 2018:

2 (4%) publishers issued with a regulatory scheme agreement (but not yet regulated)

27 (53%) publishers in process of satisfying pre-regulation requirements of the scheme

11 (22%) publishers yet to engage with IMPRESS over satisfying pre-regulation requirements of the scheme

(Reasons for not engaging were: application received very recently (5), a new start up publisher that is not yet in a position to provide required evidence (4), publisher too busy at present time to satisfy pre-regulation requirements (2))

8 (16%) publishers withdrew application

Reasons for withdrawal of application were: ceased to publish (1), unwilling or unable to comply with pre-regulation requirements (6), applied to join an alternative regulator (1)

3 (6%) IMPRESS advised publisher that they did not meet basic requirements of the scheme

Reasons for rejection of the three applications were: Did not publish in the UK (2); Publisher did not publish news related material under a system of editorial control (1)

(Evidence: Financial Consultation 2016; Participant Consultations 2017 and 2018; e-mail dated 25/07/2018: IMPRESS membership Fees - Interim Offer).