

ADDRESSING CONCERNS ABOUT IMPRESS' IMPARTIALITY

FINAL REPORT OF THE INTERNAL REVIEW PANEL

1. Introduction

- 1.1. On 6 December 2016, Ashley Highfield gave evidence to the House of Lords Communications Committee on behalf of the News Media Association ('NMA') that "*the chief executive of IMPRESS has made it very clear that he does not want us*". Jonathan Heawood, IMPRESS' CEO, wrote to Mr Highfield making it clear that IMPRESS was open to, and would be pleased to receive membership applications from Mr Highfield's company, Johnston Press, and other NMA members. He also asked for any evidence that supported Mr Highfield's view. David Newell replied for the NMA on 15 December 2016 asserting that Mr Heawood had attacked newspapers and an editor, supported boycotts, condemned particular business models and was willing only to take small media organisations. Mr Newell said Mr Heawood's views were shared by various members of IMPRESS' Board and Code Committee. His letter concluded by asserting that IMPRESS' funders and Board had an ulterior motive for establishing the organisation, which was to use it "*as a vehicle to trigger section 40 costs sanctions in order to punish the press who you all view with such contempt*".
- 1.2. On 6 January 2017, a 'dossier' the NMA had compiled was published by The Sun attributing statements, primarily the text of Twitter retweets, to Mr Heawood and to some IMPRESS Board and Code Committee members. Mr Newell sent this material to the Press Recognition Panel ('PRP') the same day. Some of this and similar material was also forwarded to the PRP two weeks later by the NMA's solicitors, RPC, with a letter inviting the PRP to review IMPRESS' recognition as a regulator.
- 1.3. The PRP's ad hoc review policy explains how such a review may be triggered. In summary, there will be a risk assessment to establish whether exceptional circumstances make it necessary taking into account whether there may have been breaches of the Royal Charter recognition criteria, their seriousness and the public interest. Ad hoc reviews are exceptional and the PRP reviews recognition on a cyclical basis in any event.
- 1.4. IMPRESS embarked on its own review of the material. It was then asked by the PRP to contribute to its risk assessment by commenting on the material along with tweets and retweets from two of IMPRESS' nine Appointment Panel members which had not featured in the dossier or the appendix to the RPC letter.
- 1.5. Although its risk assessment has yet to be completed, the PRP has indicated it believes there has been a serious breach of recognition Criterion 23 which states:

“The membership of a regulatory body should be open to all publishers on fair, reasonable and non-discriminatory terms, including making membership potentially available on different terms for different types of publisher”.

- 1.6. IMPRESS takes all the concerns raised about the material extremely seriously. It is imperative not only that its membership is open to all publishers on fair, reasonable and non-discriminatory terms, but also that publishers and the public perceive this is so. Further, IMPRESS does not seek to challenge the PRP; it wants to properly understand its concerns and respond constructively. IMPRESS believes its recognition as an independent press regulator is a privilege which it has worked hard to attain and one that must be maintained by openness to criticism, an ability to show genuine insight into and learning from mistakes and to take decisive action to prevent repetition.
- 1.7. This Final Report and the action recommended are driven by these principles. The findings and recommendations set out below result from the work of a review panel established by the IMPRESS Board’s Chair. We are:
 - Walter Merricks CBE, IMPRESS Board Chair, non-practising solicitor, Chair of JUSTICE, the law reform charity, Gambling Commission board member;
 - David Robinson, IMPRESS Board Senior Director and Chair of the Finance and Audit Committee, an Actuary, member of the Investigation Committee of the Institute of Chartered Accountants of Scotland; and
 - Patrick Swaffer, IMPRESS Board member, a Recorder of the Crown Court, President of the British Board of Film Classification, non-practising solicitor and former senior partner Goodman Derrick LLP.
- 1.8. Although we appreciate Mr Newell’s concerns extend to the whole Board, none of us have been named in connection with the specific issues raised by the Sun, the NMA, its solicitors and the PRP and none of these organisations have suggested that any of the three of us are not impartial. We see no impediment to us taking responsibility for this review. We have also taken legal advice from IMPRESS’ solicitors, Bindmans LLP, on how best to approach our task.
- 1.9. Our report has been presented to the IMPRESS Board. It has unanimously accepted the findings and recommendations set out below.

2. Summary of findings and recommendations

- 2.1. As discussed in the next section of this report, the responsibility for ensuring that membership of IMPRESS' regulatory scheme is open to all relevant publishers and that members are treated fairly falls squarely on IMPRESS' Board.
- 2.2. We have found some breaches of IMPRESS' internal standards by a minority of two of the Board. These breaches raise serious issues regarding compliance with Criterion 23. They have largely occurred as a result of the inappropriate sharing of content on Twitter which criticised The Sun, Daily Mail and News UK and was disrespectful towards particular named journalists. We conclude some of this material creates a risk that a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility of those Board members who disseminated it being biased in relation to their IMPRESS decision-making functions were particular publishers to seek and/or secure membership of IMPRESS' regulatory scheme. One part of a published article which was critical of Fleet Street publishers is also of concern. By 'bias' we mean an impediment to the exercise of the objective judgment that reasonably could be expected of a regulator. We are certain no IMPRESS Board decision has been affected by bias or any real possibility of it, not least because the publishers in question have not sought or expressed any interest in becoming scheme members. The potential conflicts of interest that have arisen to date for IMPRESS' Board have been appropriately managed through declarations and recusals. However, the risk and standards breaches we have identified need to be acknowledged by IMPRESS' Board, as they have been by the two Board members in question, and properly addressed.
- 2.3. We have also found breaches of IMPRESS' internal standards by Jonathan Heawood as IMPRESS' Chief Executive ('CEO'). Again, these mainly concern sharing of material on Twitter and how it could be perceived. Mr Heawood has taken responsibility and apologised for the risk and standards breaches identified. Again, we are certain that no decision by Mr Heawood has been affected by bias or any real possibility of it.
- 2.4. We have identified gaps and weakness in IMPRESS' policies, procedures and governance which have contributed to these breaches. Lessons have been learned and we have made 20 recommendations to address the problems that we have identified. The recommendations are designed to ensure that IMPRESS strengthens its standards, adheres to them and that no issues arise over compliance with Criterion 23 in the future.
- 2.5. The recommendations also address a related problem which is a risk of the perception of bias on the part of others associated with the organisation, in particular non-Board members of its Code Committee and Appointments Panel.
- 2.6. It is important to appreciate that the Code Committee has no decision-making powers and the Appointment Panel's powers have a narrow focus, as discussed below. However, we consider it important that their members are mindful of the risks that can arise from

published comments and material shared on social media like Twitter. Some statements published in the past and shared tweets may well have damaged the way IMPRESS is perceived.

- 2.7. A programme to implement the recommendations is in train. At the time of submitting this report to the IMPRESS Board, eight of the recommendations had been actioned and completed. Subject to Board agreement and the outcome of the consultation we propose to undertake on the draft Code of Conduct, the remaining 12 will be completed by 31 July 2017.
- 2.8. IMPRESS would also find it helpful to have the PRP's comments on the recommendations and its suggestions for how action can be monitored and any additional steps that might usefully be taken. IMPRESS would be particularly interested in the PRP's comments on our new draft Code of Conduct, related policies and the declaration of interest form, all of which are appended to this report.
- 2.9. Our recommendations are as follows:
 - **Recommendation 1:** We recommend that a new Code of Conduct should be adopted following consultation, replacing the Guidelines (Annex 1).
 - **Recommendation 2:** We recommend that IMPRESS' Articles be amended to insert a requirement that a Board member's term of office will be brought to an end if he or she can no longer act fairly and impartially.
 - **Recommendation 3:** We recommend that IMPRESS' Register of Interests Declaration be amended (Annex 2) to include on the list of interests to be declared 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 should also 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.
 - **Recommendation 4:** We recommend that Board members file new Register of Interests Declarations once Recommendation 3 is implemented.
 - **Recommendation 5:** We recommend that IMPRESS compiles and makes the information from the Register of Interest Declarations public, on its website.
 - **Recommendation 6:** We recommend that Article 13.3 powers are used to establish two separate Sub Committees responsible for prospective and actual members, Regulatory Sub Committee A and Regulatory Sub Committee B.

Regulatory Sub Committee B will deal 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 will deal 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. Such complaints will be referred to Sub Committee B.

- **Recommendation 7:** Members of the Board who would anticipate needing to frequently recuse themselves from decisions on matters dealt with by one or the other subcommittee would not be involved with it in any way. Each subcommittee should be separately administered.
- **Recommendation 8:** We recommend Martin Hickman does not sit as a member of Regulatory Sub Committee B, once it is established.
- **Recommendation 9:** We recommend IMPRESS begins recruiting for additional Board members.
- **Recommendation 10:** We recommend Emma Jones does not sit as a member of Regulatory Sub Committee B, once it is established.
- **Recommendation 11:** We recommend Professor Messenger Davies does not sit as a member of Regulatory Sub Committee B, once it is established.
- **Recommendation 12:** We recommend that the new Code of Conduct should apply to the Code Committee with adaptations to acknowledge that its role is advisory only and to other IMPRESS committees.
- **Recommendation 13:** We recommend that the new Code of Conduct should be brought to the attention of the Appointments Panel and it should be asked to adopt its own Code, based on similar principles, with adaptations to acknowledge that its role relates to Board appointments only.
- **Recommendation 14:** Jonathan Heawood has accepted a warning over his future conduct and has agreed to adhere to IMPRESS' new Code of Conduct. We recommend this be noted by the Board.
- **Recommendation 15:** We recommend that the CEO of IMPRESS is subjected to the same standards of conduct as those required of IMPRESS Board members.

- **Recommendation 16:** We recommend that Jonathan Heawood shall have no role in the administration of Regulatory Sub Committee B or in advising it.
- **Recommendation 17:** We recommend that when drafting revised guidelines, and finalising the draft Code of Conduct, proper consideration is given to the obligations of Board and Appointment Panel members of IMPRESS whose main professional role is to participate in and comment on the media. We consider that professional journalists and academics who represent IMPRESS must be more aware in future of the impact of their public statements and public sharing of content on the reputation and recognition status of IMPRESS. This will require IMPRESS representatives to restrict their future media activities.
- **Recommendation 18:** We recommend that the new Code of Conduct, Conflicts of Interest Policy and Directors' Register of Interests declaration should take much greater account of the risks posed to the independence of IMPRESS by perceptions of bias amongst its Board and committee members. There should be a greater requirement on all individuals associated with IMPRESS to be much more aware of how their past and current interests, statements and actions may be perceived by all those who could potentially be affected by a decision made by IMPRESS. This has to include all potential members, not just those that have joined IMPRESS or have not ruled out joining IMPRESS at some point in the future.
- **Recommendation 19:** We recommend that IMPRESS reviews its director induction, appraisal and development processes to ensure that internal standards are understood and maintained.
- **Recommendation 20:** We recommend that specific training be provided to all who are part of and associated with IMPRESS on what is acceptable to share publicly.

3. IMPRESS' decision-making structure

- 3.1. To properly understand the problems that have arisen and how they need to be addressed, it is necessary to first summarise IMPRESS' arrangements for decision-making and outline the standards currently in place for its decision-makers and others (see Section 4).
- 3.2. IMPRESS is a hierarchical organisation (Articles of Association ('Articles') 11.1), as envisaged by Charter recognition Criterion 1 ("*shall be governed by an independent Board*"). The Board is solely responsible for the content of IMPRESS' Standards Code ('The Code') (Criterion 7; Articles 6.2, 8.2.1 and 16). It establishes IMPRESS' 'participation' scheme ('membership scheme') for those publishers who successfully apply to be regulated by it ('scheme members') (Criterion 8B; Article 81). It is empowered to

hear and determine complaints about scheme members' breach of its Code (Criterion 11; Articles 8.2.4(b) and 8.2.12). The functions of complaints-handling officials (i.e. IMPRESS staff) are advisory or administrative, not adjudicative (Criterion 12; Articles 17), save for arbitrators in IMPRESS' arbitration service (Criterion 22; Articles 8.2.11). The Board may investigate matters that are not the subject of complaints (Criterion 18; Articles 8.2.13).

- 3.3. The Board currently comprises eight people. 11 is the maximum number currently permitted (Articles 11.3), though this could be amended. The Board's decisions are generally taken by simple majority votes (Articles 12.13 and 20.5). Board decision making may be delegated, but only to sub-committees of the Board itself comprising at least two Board members (Articles 13.3). Arrangements are in place to deal with certain conflicts of interest (Articles 14 and 29.2 and see below).
- 3.4. The expectation of every Board member is that they will be able to act fairly and impartially when making decisions in that capacity. This is the basis of their appointment (Criterion 5. F; Articles 11.4.5).
- 3.5. IMPRESS' Code Committee has 10 members, five of whom are also Board members. It has an advisory function only (Criterion 7; Articles 8.2.1), limited to offering advice on the contents and developing of any proposed Code (a new Standards Code has recently been consulted on). The Code Committee has no decision-making functions in relation to scheme membership, its terms, complaints, investigations, arbitrations - or indeed any IMPRESS function.
- 3.6. The Appointments Panel has a very important but narrow decision-making function, as we have said – to appoint members of the Board in a genuinely open, transparent and independent way (Criterion 1; Articles 15). The Panel has no decision-making functions in relation to scheme membership, its terms, complaints, investigations or arbitrations.
- 3.7. IMPRESS' CEO has no expressly recognised role in the Charter or Articles. The Board cannot delegate any of its decision-making functions in relation to admission to scheme membership, its terms, complaints, investigations or arbitrations to the CEO. In practice, the CEO exercises day to day administrative, management and spokesperson functions under the Board's direction. IMPRESS' Governance Policy explains the Board will delegate:

“to management such authority as is necessary for the purposes of effectively managing the company on a day to day basis and to monitor and evaluate the implementation of the strategy, policies and operational plans approved by the Board”

and that:

“The CEO of IMPRESS is responsible for:

- *The management of the organisation and its day to day activities*
- *The recruitment and appointment of staff*
- *Providing advice to the board on the strategic direction of the organisation and on management structure and processes.*

The CEO is:

- *Accountable to the board.*
- *Must not make decisions which are reserved for the board.”*

3.8. He is also a current member of the Code Committee.

4. Overview of IMPRESS’ internal standards

4.1. IMPRESS expects everyone who is part of and associated with the organisation to behave in a responsible way keeping in mind the Articles, especially its objects (Articles 4.1), the Charter and the law. It has also codified certain internal standards. The principal internal standards relevant to the concerns addressed in this report are:

- IMPRESS’ ‘Guidelines’ which were adopted by the Board in April 2016;
- IMPRESS’ Articles of Association, specifically Articles 14.4 to 14.7, which were adopted by the Board in June 2015;
- IMPRESS’ Register of Directors’ Interests Declaration which was adopted by the Board in September 2015; and
- IMPRESS’ Governance Policy which was adopted by the Board in September 2015.

4.2. IMPRESS also has a gifts and hospitality policy and terms of reference for its Code Committee, but these are not directly relevant to the concerns that have been raised about impartiality.

5. IMPRESS’ Guidelines

Scope

5.1. We consider that the Guidelines, as currently drafted, apply to IMPRESS representatives who are those individuals who are authorised to speak or write on IMPRESS’ behalf.

5.2. For the purposes of this review, we consider the standards to cover the following material:

- public statements made in a personal capacity as well as in an IMPRESS capacity; and

- public statements made via social media including Twitter. This includes direct tweets made in an IMPRESS or personal capacity or the reposting of others' content on social media, for example in the form of a 'retweet' or 'like'.

5.3. The relevant standards are:

“Care should be taken not to make any statement which: (a) goes against IMPRESS policy; (b) could reasonably be viewed as compromising IMPRESS’ impartiality on an issue relevant to IMPRESS’ work; (c) constitutes a breach of the criminal or civil law, or the standards code then upheld by IMPRESS; or (d) brings IMPRESS into disrepute in any other way...”

IMPRESS representatives should make clear in any social media profiles that they are communicating there in a personal capacity and that reposting others’ content (for example by retweeting) does not constitute an endorsement.”

- 5.4. So far, the Guidelines have been circulated only to Board members and staff. We take the view that non-Board Code Committee and Appointment Panel members, who have never seen the Guidelines, are not IMPRESS representatives for these purposes. They are not entitled to speak or write on IMPRESS’ behalf in any circumstances. In our view the guidelines apply only to those who do or might: the Chair, the CEO and COO, our PR representative, staff members contacting publishers or answering enquiries and Board members.
- 5.5. Unless specifically invited to do so, individual Board members are not authorized to speak or write on IMPRESS’ behalf and should take care to ensure that they are not perceived as doing so when speaking or writing in other capacities.
- 5.6. We recognise that Board members will often want to take public positions on issues related to press behaviour and regulation, not least because these issues are controversial and some Board members must have relevant industry experience (Criterion 5. b)).
- 5.7. IMPRESS Board members are all part-time non-executives who have other lives to lead and varied interests to pursue. In the pursuit of these other interests and activities they will often have opportunities or be expected to speak or write publicly. These opportunities should not be unreasonably curtailed. Making a clear distinction between the expression of personal views or those expressed in other professional capacities on the one hand and IMPRESS’ position on the other is therefore very important, but not always straightforward.

What constitutes “official IMPRESS policy”?

- 5.8. Where IMPRESS has made clear policy decisions that are in the public domain, e.g. responses to public consultations, these would constitute official IMPRESS policy.

What sort of material “could reasonably be regarded as compromising IMPRESS’ impartiality”?

- 5.9. IMPRESS is constituted as a unitary Board and it is Board decisions, not the positions of individuals who contribute to those decisions that could properly be seen to be affecting the public position of IMPRESS.
- 5.10. However, expressions of views by individual Board members could lead to a perception of bias if they suggest there is some impediment to the exercise of the objective judgment that reasonably could be expected of a regulator. A key aim of the Guidelines is to warn IMPRESS Board and staff that any public statements they may make, whether in an official IMPRESS capacity, as formally authorised representatives, or in a personal or other capacity, may affect the way IMPRESS is perceived and so risk creating a perception of bias.

How should the limitation of scope to “an issue relevant to IMPRESS’ work” be construed?

- 5.11. IMPRESS’ work covers all the activity required to pursue its objectives and to exercise its powers as set out in the Articles. This includes control of its finances, compliance with company law, press regulation policy decisions (such as the decision to apply for recognition) and responses to consultations by the PRP and the Government, its approach to the employment of staff, its communications policies and regulatory decisions.
- 5.12. Regulatory decisions, such as whether to admit a publisher to membership of IMPRESS’ scheme, whether to uphold a complaint, or whether to adopt a Code proposed by the Code Committee are plainly all “*issues relevant to IMPRESS’ work*”.
- 5.13. If the phrase “*issues relevant to IMPRESS’ work*” were construed narrowly, its meaning could be confined to upcoming specific decisions. In such circumstances a Board member who had previously expressed a view that might constitute a conflict of interest in relation to the specifics of forthcoming decision would be expected to recuse him or herself and take no part in it or be invited to do so.
- 5.14. However, IMPRESS’ work is not confined to taking specific decisions. Its work is to operate as an independent recognised press regulator and its functions encompass the maintenance of its good governance, of its recognised regulatory status, of its financial stability, and the regulatory service provided to its members and to potential members. In

this wider view of IMPRESS' work, public statements that could reasonably be regarded as compromising IMPRESS' impartiality could impinge on the perception of IMPRESS as an organisation that is governed in the public interest and not for any ulterior or undisclosed purposes.

- 5.15. We consider that the current Guidelines and proposed future Code of Conduct must embrace both types of decision-making.

Recusal

- 5.16. Any statement made by an IMPRESS representative in the past which “*could reasonably be viewed as compromising IMPRESS' impartiality on an issue relevant to IMPRESS' work*” regardless of whether they were writing or speaking should prompt recusal by that person from the decision that could be compromised in this way. This is no more than the necessary and practical response to application of the fair-minded and informed observer test mentioned above at paragraph 2.1.
- 5.17. We are satisfied that all Board and staff members are aware of this basic principle. Indeed when asked for their views on the dossier and appendix to the RPC letter, a number volunteered that what they had shared or written in the past would obviously prompt their recusal from any related future decision they could make in an IMPRESS capacity.

What breaches of the criminal law might be envisaged here, and what might constitute breaches of civil law?

- 5.18. There are rightly a very limited number of criminal offences that can be committed by making public statements, mainly to do with incitement to hatred. Breaches of civil law by way of public statements involve wrongdoing that is damaging to another party, such as making harmful defamatory remarks or disclosing matters to which an obligation of confidence attaches. We mention these provisions only for completeness sake. No issues of this kind arise in relation to the material we have considered.

Analysis

- 5.19. The Guidelines are helpful up to a point, but there are potential ambiguities around their application to statements made or material shared in non-representative capacities and problems with their scope (see further below). The importance of IMPRESS being, and being seen to be, an impartial and fair regulator open to all relevant publishers means that these ambiguities must be eliminated so that everyone who is part of and associated with the organisation can regulate their conduct. We have therefore drafted a new Code of Conduct (Annex 1) and propose to seek others' views before finalising it. We intend to simultaneously consult the Code Committee, the Appointments Panel, the PRP, IMPRESS members and the public on the draft.

Recommendation 1: We recommend that a new Code of Conduct should be adopted following consultation, replacing the Guidelines.

6. IMPRESS' Articles

Conflicts recognised by the Articles

- 6.1. Further relevant standards regarding registration of conflicts of interest and recusal are set out in the Articles at 14.4 to 14.7. These standards, as currently worded, apply to IMPRESS' Board. They do not apply to non-Board members of the Code Committee, Appointments Panel or to the CEO. They state:

“14.4 Subject to Article 14.5, any Director who becomes a Conflicted Director in relation to any matter must:

14.4.1 declare the nature and extent of his or her interest before discussion begins on the matter;

14.4.2 withdraw from the meeting for that item after providing any information requested by the Directors;

14.4.3 not be counted in the quorum for that part of the meeting; and

14.4.4 be absent during the vote and have no vote on the matter.

14.5 When any Director is a Conflicted Director, the Directors who are not Conflicted Directors, if they form a quorum without counting the Conflicted Director and are satisfied that it is in the best interests of the Company to do so, may by resolution passed in the absence of the Conflicted Director authorise the Conflicted Director, notwithstanding any conflict of interest or duty which has arisen or may arise for the Conflicted Director, to:

14.5.1 continue to participate in discussions leading to the making of a decision and/or to vote, or

14.5.2 disclose to a third-party information confidential to the Company, or

14.5.3 take any other action not otherwise authorised which does not involve the receipt by the Conflicted Director or a Connected Person of any payment or material benefit from the Company, or

14.5.4 refrain from taking any step required to remove the conflict.

14.6 This provision may be amended by special resolution but, where the result would be to permit any material benefit to a Director or Connected Person, only with the prior written consent of the Regulator.

14.7 The Directors shall cause a register of Directors' interests to be kept. A Director must declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the Company or in any transaction or arrangement entered into by the Company which has not previously been declared."

- 6.2 The concept of a 'Conflicted Director' is defined as follows (Articles 29.2) (our emphasis):

"... a Director in respect of whom a conflict of interest arises or may reasonably be expected to arise because the Conflicted Director or a Connected person is receiving or stands to receive a benefit or remuneration (other than a payment of a premium for indemnity insurance) subject to Article 14.1.1. from the Company, or has some separate interest or duty in a matter to be decided, or in relation to information which is confidential to the Company.

- 6.3 We have looked into how these provisions have worked in practice. Board members have made a number of declarations (as we would expect). Individual Board members have recused themselves from regulatory decisions on organisations with which they have a connection to avoid any appearance of bias. There have been no complaints or concerns raised about the appearance of, or actual bias, in any regulatory decisions.

Analysis

- 6.4. The Charter criteria 5 a) to e) render ineligible for Board appointment people who hold certain posts, and clearly operates on a continuous basis, so that for instance the criterion would be breached if an existing Board member was elected as an MP. Criterion 5. f), however, requires that to be appointed, a Board member should "*in the view of the Appointment Panel, be a person who can act fairly and impartially in the decision-making of the Board*". This criterion focusses on the time of appointment. A breach of this criterion does not occur even if subsequent events suggest that an appointed person would be unlikely to satisfy a hypothetical Appointment Panel of their

impartiality. If a person properly appointed turns out to be unsuitable, that is a matter for the regulator's internal processes to address.

- 6.5. Whilst any Board member can be removed from office (Articles 11.7.7), we believe that the ongoing need for fair and impartial decision-making needs special emphasis in the Articles.
- 6.6. Our Articles ought to provide for an express requirement for directors, once appointed, to remain capable of acting fairly and impartially in the decision-making of the Board, taking account of the existing provisions for recusal and our recommendations for regulatory decision making sub-committees and their membership (see below). There should be a proper process of removing them if they no longer meet that test.

Recommendation 2: We recommend that IMPRESS' Articles be amended to insert a requirement that a Board members term of office will be brought to an end if he or she can no longer act fairly and impartially.

- 6.7 To achieve these changes we propose to delete Article 11.7.7 (which, contrary to what the opening words of Article 11.7 suggest, does not concern automatic termination of office) and to insert new Article 11.7 A which would state:

“A Director may also be removed by the Members at a general meeting under the Companies Act and if, at a Board meeting, a majority of the other Directors concludes a Director is unable to act fairly and impartially or may reasonably be perceived as being unable to act fairly and impartially in the Company's decision-making notwithstanding any establishment of sub committees under Article 13.3 and the conflict of interest provisions of Article 14, they shall call a general meeting under Article 20 and propose the use of this removal power in respect of that Director giving reasons in writing at the same time as the notice required under Article 20.2.”

7. IMPRESS' Governance Policy

- 7.1. Further standards are set out in the IMPRESS Governance Policy with regards to conduct, conflicts of interest and gifts and hospitality. These standards, as currently worded, apply to Board members. They do not apply to members of the Code Committee, Appointments Panel or to the Chief Executive, who are not members of the Board. They state materially:

“Code of Practice & Conduct: principles

Board members owe a duty of good faith to IMPRESS and should act in its best Interests. Each Board Member should act honestly and diligently. The individual and collective actions of Board Members should protect and promote the reputation of the organisation and the trust and confidence of those with whom it deals.

Conflicts of Interest

Board Members should seek to avoid putting themselves in a position where there is a conflict (actual or potential) between their personal interests and their duties to the Board. So far as they are able they should not allow any conflict of interest to arise which might interfere with the exercise of their independent judgement. The provisions of Articles 14.4 – 14.5 in the IMPRESS Articles of Association set out the procedure to be applied where a director is receiving or stands to receive a benefit from the company, or has some separate interest or duty in a matter to be decided, or in relation to confidential information.

The Company Secretary will maintain the register of directors’ interests required by Article 14.7.”

- 7.2. These provisions will need to be amended to make reference to the new Code of Conduct, once adopted.

8. IMPRESS’ Register of Directors’ Interests Declaration

- 8.1. Directors of IMPRESS were required to complete and sign a Register of Directors’ Interests declaration on appointment to the IMPRESS Board. This is updated as and when new interests arise. However, in January of each year, directors are required to submit a fresh declaration. The Register of Directors’ Interests was last updated in January 2017. Directors are required to declare that:

“I understand and take responsibility that I must act in accordance with the Nolan principles. I must not receive any financial or non-financial benefit that is not explicitly authorised in my appointment with IMPRESS and should not exert any influence to acquire any preferential treatment for myself or other connected persons”

- 8.2. To promote transparency, the form also requires Board members to declare any ‘interest’ relating to themselves or a connected person with whom they currently have a personal or

business relationship which could reasonably be perceived as influencing their Board decision-making:

“Paid employment which includes non-executive positions, full or part-time employment, consultancies, self-employed/contract work and directorships and trustee role

Unpaid work which includes roles in organisations associated with publishing or journalism, public service roles, posts held in local or national communities organisations and trustee roles

Any business or company in which a substantial share-holding is held which has a direct contract with IMPRESS or is a potential contractor with IMPRESS

All membership bodies and associations including political parties, pressure groups and professional bodies

*Any close personal ties with IMPRESS advisers, directors of employees
Gifts or hospitality offered by external bodies which may be perceived as influencing the decisions of IMPRESS”*

- 8.3. There are helpful annotations on the form itself. For instance, the membership bodies and associations section adds *“Directors are free to engage in political activities or to maintain associations with professional organisations. Directors are required to declare such positions to give assurance that they do not conflict with the essential aims of IMPRESS.”* However, we consider these provisions can be strengthened so any personal or professional connection, past or present, with another individual or body that could reasonably be perceived as influencing a Board member’s IMPRESS decision-making is declared in order that it can be managed and addressed, including by recusal if that is appropriate. We therefore recommend that some additions be made.

Recommendation 3: We recommend that IMPRESS’ Register of Interests Declaration be amended (Annex 2) to include on the list of interests to be declared 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 should also 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.

9. Have IMPRESS' internal standards and procedures been breached by any Board member?

9.1. We now turn to our assessment of the actions of those about whom concerns have been raised, beginning with the IMPRESS Board.

9.2. The dossier and appendix to the RPC letter discuss three of its members, Martin Hickman, Emma Jones and Máire Messenger Davies.

Martin Hickman

9.3. We are satisfied that Martin Hickman has complied with the Guidelines and other internal standards in full. He has not made any public statement which goes against IMPRESS policy, could reasonably be viewed as compromising IMPRESS' impartiality on an issue relevant to IMPRESS' work or which brings IMPRESS into disrepute in any other way.

9.4. The allegations made against Martin Hickman relate largely to activities he undertook before he applied to become a director of IMPRESS and which were discussed as part of the process to appoint him to the Board. The PRP was made fully aware of these matters when assessing IMPRESS' application for recognition under the Royal Charter, most significantly his reporting of the phone hacking scandal and authorship of the *Dial M for Murdoch* book. It is significant that the PRP noted in its published recognition decision:

“Respondents [to the call for views] contended that the IMPRESS Board would be seen as lacking partiality because of the views and connections of some of their members. It was pointed out that Martin Hickman has co-written a book with current Labour Party deputy leader Tom Watson which was highly critical of News International....

The Chair noted that potential concerns about Martin Hickman as a Director of IMPRESS were discussed on page 189 of the Executive's report. The Board considered that the mechanisms in place operated to deal with that, or any other, risk of perceived bias by individual board members were such that his involvement did not make for a non-compliance with Criterion 23.”

9.5. Those 'mechanisms' were the existing arrangements for identification of conflicts of interest and recusal detailed above.

- 9.6. It is Martin Hickman's experience as an award winning investigative journalist who has reported extensively on consumer affairs and phone hacking which uniquely qualified him to fill one of the 'minority' positions on the Board reserved for individuals with experience of the press. In our view, these skills and experience are an asset to IMPRESS as an independent press regulator that is committed to high standards of journalism, insofar as any perceptions of bias are effectively managed.
- 9.7. Martin Hickman has told us that the allegations made against him centre on his reporting of actual and alleged illegal or unethical behaviour by journalists, which have since been apologised for by those publishers responsible and that as a consequence systems have been put in place to prevent such abuses occurring again.
- 9.8. We have read his book *Dial M for Murdoch* and several reviews of it which appeared in the national press over four years ago. The two points that strike us from reading these reviews are first the critical evaluation of the book as providing a detailed, objective and accurate analysis of the circumstances surrounding the phone-hacking scandal and secondly the main criticism levelled at the book being that it was 'old news' and offered limited new material and no new revelations.
- 9.9. We have also read Martin Hickman's Register of Directors' Interest declaration which was last made on 30 January 2017. He has declared current interests concerning rights to the book *Dial M for Murdoch* and his directorship and sole employee status of Canbury Press Ltd, a publisher of non-fiction books.
- 9.10. Last, the dossier suggests that Martin Hickman is a member of Hacked Off, the campaign group. He denies this and we accept what he says. He told us that he has some sympathy with the group and was commissioned to report on phone hacking trials. This is conventional journalistic activity on a matter of public interest. It does not breach IMPRESS standards in our view.
- 9.11. Martin Hickman tells us that he does not believe his activities in relation to News UK would affect his judgement should he be asked to participate in a future decision in relation to it or any of its publications. Nonetheless he does recognise that there would be a risk of perception of bias and, given this, he would certainly recuse himself from consideration of any issue, should one arise, in relation to News UK. He has also offered to resign from the Board within 30 days of News UK joining IMPRESS should his place on the board be cited by News UK as a reason why it would not join IMPRESS.
- 9.12. Martin Hickman also told us that he has no current interest in Byline, which is regulated by IMPRESS. He does, however, have a past interest in Byline which precedes his appointment to the Board of IMPRESS and Byline's application to join IMPRESS. He reported for them three years ago on the phone hacking and related trials. His company did publish *Beyond Contempt*, a book by Peter Jukes on the phone hacking scandal. *Beyond Contempt* was published prior to Peter Jukes becoming CEO of Byline and before

Byline joined IMPRESS. Martin Hickman has been recused from all regulatory decisions that have been made by the Board in respect of Byline.

- 9.13. We are satisfied that Martin Hickman has declared all current interests in accordance with IMPRESS' conflict of interest and governance policies. We do note, however, that the Register of Directors' Interests declaration relates to current interests and there is no requirement for Martin Hickman to declare past interests such as his coverage of various phone hacking trials and his previous roles in journalism. In our view, there may be circumstances in which past interests may expose a Board member to criticism of actual or perceived bias if that interest is not fully declared and transparently managed. This is especially important for Board members of a regulator who are appointed because of their experience of the industry which is subject to its regulation. We make no criticism of Martin Hickman, who declared his past journalistic activities on his CV when he applied to join the Board and has registered all current interests as is required by IMPRESS procedures.
- 9.14. Under recommendation 3, significant past activity will also be declared in future. It will be appropriate for all Board members to promptly file a new declaration once that recommendation is implemented. We also recommend that the register of interests be made public to promote confidence in IMPRESS' transparency.

Recommendation 4: We recommend that Board members file new Register of Interests Declarations once Recommendation 3 is implemented.

Recommendation 5: We recommend that IMPRESS compiles and makes the information from the Register of Interests' Declarations public, on its website.

- 9.15. We have carefully considered Martin Hickman's offer to resign from the Board were News UK to seek IMPRESS membership. Regardless of what he may choose to do in that scenario, we have concluded that our recommendations need to focus on changes that can be made now to address the concern that IMPRESS may not be 'open' to any relevant publisher and that making arrangements to change the Board's composition which are contingent on future events would be of limited help.
- 9.16. We have, however, decided that expectations of impartial regulatory decision-making by IMPRESS' Board on prospective and actual scheme members could be further strengthened by delegation arrangements under Article 13.3.
- 9.17. We intend to establish two separate Sub Committees, 'Regulatory Sub Committee A' and 'Regulatory Sub Committee B'. Responsibility for prospective and actual members which

fall into IMPRESS tariff band 7 (i.e. those with turnover of £20 million or more) and any complaints brought by those publishers or their editors or senior executives or journalists would fall to Sub Committee B, with Sub Committee A dealing with all other actual and prospective members. News UK and all other major national publishers would be dealt with by Sub Committee B, given their size. Further, where there is a complaint 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. Such complaints will be referred to Sub Committee B.

- 9.18. By apportioning the Board's responsibilities in this way, those members of the Board who would anticipate needing to frequently recuse themselves from decisions on Regulatory Sub Committee B matters would not be involved with that subcommittee in any way. This would apply to Martin Hickman. Subcommittee membership will be published on IMPRESS' website. We also propose that each subcommittee be separately advised and administered for reasons we shall come to. We also consider that IMPRESS should begin recruiting for additional Board members, particularly those with an industry background, so both sub committees maintain a reasonable number of appropriately experienced members on them in future taking account of Board Members terms coming to an end over time.

Recommendation 6: We recommend that Article 13.3 powers are used to establish two separate Sub Committees responsible for prospective and actual members, Regulatory Sub Committee A and Regulatory Sub Committee B. Regulatory Sub Committee B will deal with relevant publishers which fall into IMPRESS tariff band 7 (turnover of £20 million or more) and any complaints brought by those publishers or their editors or senior executives or journalists. Sub Committee A will deal with regulatory matters in relation to all other actual and prospective members save where there is a complaint or 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. Such complaints will be referred to Sub Committee B.

Recommendation 7: Members of the Board who would anticipate needing to frequently recuse themselves from decisions on matters dealt with by one or the other subcommittee would not be involved with it in any way. Each subcommittee should be separately administered.

Recommendation 8: We recommend Martin Hickman does not sit as a member of Regulatory Sub Committee B, once it is established.

Recommendation 9: We recommend IMPRESS begins recruiting for additional Board members.

Emma Jones

- 9.19. Emma Jones is a journalist who has worked for many of the tabloid newspapers she is alleged to dislike and want to close down. She worked for the Sun, Mail on Sunday and Sunday Mirror and was editor of the popular music magazine Smash Hits. She now writes for the New European and other sundry publications. She has written one recent article for Byline, an online news publication that is regulated by IMPRESS, and an article for IMPRESS' newsletter.
- 9.20. She writes in the direct style of a journalist. She asserts that newspapers have always supported her family and she owes a great deal to them and it is not surprising that she wants the industry to thrive. Her passion and commitment to journalism is what motivated her to apply to join the Board of IMPRESS.
- 9.21. She submitted that outside of her involvement with IMPRESS she is committed to promoting the press industry in many ways. She engages in voluntary work with schools to promote the value of journalism and to encourage the best young talent to become journalists in order to help ensure the future of newspapers. She often teaches young people about the excitement of working on newspapers such as the Sun, Mail on Sunday, Sunday Mirror and editing a national popular music magazine.
- 9.22. Emma Jones told us that the allegations made against her that she dislikes the conservative-leaning press and wants newspapers such as the Daily Mail and The Sun to be 'closed down' could not be further from the truth.
- 9.23. She does have concerns over the Daily Mail's coverage of race and immigration issues. She told us that she is entitled to be concerned about such issues and whether they are accurately reported and she takes a close interest in how newspapers cover these stories. She believes that this is compatible with her role as a regulator of press standards.
- 9.24. She told us that she is not a supporter of the Stop Funding Hate campaign, although she has some sympathy towards its objectives, and she relies on an accurate reading of her Byline article titled "*Can Our Favourite Brands Change Political Consciousness?*" in support of this position. We have read this article and have come to the conclusion that an

independent bystander would not reasonably conclude that it compromises IMPRESS' impartiality as a fair and impartial regulator. She expresses having reacted with some sympathy, but then questioned that reaction and the campaign itself, suggesting it was symbolic of political disenfranchisement. She does not encourage others to join the campaign in the article. Moreover, the article makes no direct reference to any specific newspaper or section of the press. In short, a fair reading is that this article is a comment piece on a topical campaign. We do not believe the publication of this article breached IMPRESS' internal standards.

- 9.25. More problematic is another article, *"Facing up to the Country and Western music – how hyperlocals can challenge traditional news brands"* which was published early in 2016 in IMPRESS' newsletter. This article was not mentioned in the dossier or in the annex to RPC's letter, but we identified it as something we should consider. Most of this article is an unobjectionable personal commentary on the changing nature of the press industry, however, one paragraph states:

"National newspapers are no longer the trusted brands they were. They are brands that, by and large, don't deliver. Hacking, police corruption scandals, skewed inward-looking narratives, bent bosses and shady proprietors, have contaminated Fleet Street and resulted in built-in obsolescence. It has become a failing industry that doesn't listen."

- 9.26. The article ends:

"Emma Jones is a board member of IMPRESS, the new press regulator."

"The views expressed here are solely those of the author and do not necessarily reflect the views of IMPRESS, its Board or its staff."

- 9.27. Emma Jones has told us that the article reflects her own views and that many would agree with her. IMPRESS itself published the piece and IMPRESS accepts the responsibility for having done so.
- 9.28. The difficulty with the quoted comments is that there is a risk of them prompting a perception of bias against 'Fleet Street' publishers. We have concluded that some of these words, particularly the unqualified reference to *"bent bosses and shady proprietors"*, 'contamination' and a *"failing industry that doesn't listen"* could be perceived to *"compromise IMPRESS' impartiality on an issue relevant to IMPRESS' work"* and were inappropriate for this reason. The article did not breach IMPRESS' standards, because it was written in February 2016, before they were adopted in April that year. It has now been removed from IMPRESS' website and any risk of the appearance of bias that arises in relation to it in future will be addressed by Emma Jones' revised declaration of interests and recusal.

- 9.29. Turning to the concerns about Emma Jones that were aired in the dossier and the annex to the PRC letter, these largely relate to public statements she is alleged to have made via her Twitter account between April 2016 and January 2017.
- 9.30. The focus of the concerns are 18 Twitter posts out of more than 3000 that were made from an account that she shared with her son and her business during this period. Of these 18 posts we concluded that two of the posts were original tweets authored by Emma Jones, six were 'likes' and 10 were 'retweets' of posts and material authored by others. In other words, only a very small amount of the material were originally authored by Emma Jones.
- 9.31. We note that in all cases Emma Jones was tweeting in a personal capacity and not in an IMPRESS capacity. The Twitter account she used until November 2016 was a business account which was shared by her son and not her personal account. Tweets appeared under the handle @Christmas_Cabin and not her name. The Tweets then became associated with her name and could be retrieved from her archive once she had changed her account to @MsEmma_Jones. We also noted that Emma Jones is not and has never been a formal spokesperson for IMPRESS. She partially complied with the requirements of the Guidelines once she opened her own Twitter account by making it clear that retweets are not endorsements. Although she did not clarify that her Tweets were in a personal capacity as required by the Guidelines, her profile makes no mention of IMPRESS. Her Twitter profile states:

“Journalist, Writer, Welsh Woman, Retweets are not endorsements, Joined November 2016”.

- 9.32. After careful consideration of each of the 18 posts we conclude that very few were direct statements made by Emma Jones in the form of tweets. There are only two direct tweets which take the form of announcements that were authored by Emma Jones. The first was a tweet dated 6 January 2017 in which she tweets:

“Irresponsible reporting of a given narrative/distorted news, creates more problems than it purports to reveal”

responding to a tweet which pointed out a misleading headline published in the Daily Express. In our view this statement does not breach any of the criteria set out in the Guidelines. The statement makes a general point about the importance of high media standards. It does not specifically target a newspaper or section of the press for criticism, less still unfairly.

- 9.33. The second is a tweet dated 12 November 2016:

“Stuck for ideas for Christmas prezzies for kids? Here’s one. Spread Love not Hate. Good on Ya #Lego #StopFundingHate”.

- 9.34. In our view this is potentially a breach of IMPRESS' Guidelines because it could be perceived to "*compromise IMPRESS' impartiality on an issue relevant to IMPRESS' work*" by creating a perception of bias against sections of the press who pursue such editorial lines. However, we have concluded, with some hesitation, that this tweet did not breach the current Guidelines on the grounds that it was isolated and there is no direct reference to or criticism of a specific newspaper or section of the press (despite the campaign being targeted at particular newspapers). We believe, however, that great care needs to be taken around expressing support for campaigns that oppose particular publishers' editorial lines. Tweets of this kind can easily create the perception of bias when made and repeated. These issues are addressed in Recommendations 1 and 3.
- 9.35. The remaining material posted by Emma Jones were retweets or likes which were not authored by her. She explained to us that she uses the 'like' function to tag articles of journalist interest and that it is incorrect to assume that a 'like' is an endorsement of any content that she tags. We are very doubtful others would always perceive a 'like' in this way, however. The word suggests positive appreciation, and 'likes' are described by Twitter itself as tweets the user appreciates.
- 9.36. We concluded that of the six 'likes', four did not make any direct criticism of specific newspapers or of sections of the press and did not therefore breach IMPRESS' internal standards. Two of these were somewhat disparaging of other journalists. We advise that caution is exercised in future when considering whether to retweet or 'like' posts of this kind, bearing in mind the new Code of Conduct.
- 9.37. We also concluded that Emma Jones did 'like' two posts which contained material that made direct criticism of specific sections of the press concerning "*an issue relevant to IMPRESS' work*" and that this led to a breach of IMPRESS' internal standards because they risked creating a perception of bias. These were:
- 16 June 2016: liked a tweet questioning Jo Cox MP's death: "Because #dailymail, you, the government, UKIP and other media incite anger, racism, paranoia, fear. That's why.
 - 9 December 2016: liked a tweet "#BoycottFreeLondonPapers they are rabid rightwing rags".
- 9.38. Emma Jones also shared material in the form of ten separate retweets which included content, authored by others, that was critical of The Sun and the Daily Mail. This included the sharing of content which made comparisons between the Daily Mail and Nazi Germany and which made statements about the British press being an enemy of free speech.
- 9.39. Examples of such material that was shared by Emma Jones, but was not authored by her were:

- 10 May 2016, in response to a Daily Express article asking what caused the breakdown of actress Sheridan Smith, retweeting “Wild guess, but I’d say it’s you shitty papers tormenting her”
- 26 October 2016 retweeted Politics.co.uk story “The British press is an enemy of free speech” (presumably a play on the words used in the Daily Mail’s ‘Enemy of the People’ headline)
- 28 October 2016 retweeted: “The Daily Mail and Adolf Hitler”
- 28 October 2016 retweeted “Mailonline’s reaction to @TheNewEuropean exclusive today. They really are lunatics”
- 13 January 2017 retweeted: “Could you love @jonsnowC4 anymore? #Legend” regarding Jon Snow’s tweet disparaging Rupert Murdoch.

9.40. We found that the act of publicly sharing the above content in the form of retweets could create the impression that Emma Jones supported the contents of those tweets and that might “*compromise IMPRESS’ impartiality on an issue relevant to IMPRESS’ work*”. This too led to a breach of IMPRESS’ internal standards because they risked creating a perception of bias.

9.41. In reaching this conclusion we must emphasise that Emma Jones did not author the original tweets, did not promote contents in any way other than sharing them by retweeting or ‘liking’. These tweets are a tiny portion of her twitter history, which we have reviewed. They are not representative. She complied with the Guidelines in making it clear that she was tweeting in a personal capacity and that retweets are not endorsements.

9.42. Emma Jones has also accepted that she unintentionally breached IMPRESS’ internal standards and has undertaken to adhere to IMPRESS’ new Code of Conduct.

9.43. We have found no evidence to support the allegation that Emma Jones hates the press, holds it in contempt, or is anti-press or is actually biased against sections of the press. Her actions in promoting the industry in general as a career indicate otherwise. It is clear to us, however, that Emma Jones has strong views about the coverage of immigration issues in sections of the press.

9.44. Emma Jones told us that she is aware of her obligations to IMPRESS regarding impartiality and if she were called upon to make a decision on a matter over which she has expressed strong views in the past she would declare this and recuse herself in accordance with IMPRESS procedures. She offered various thoughtful examples of the circumstances in which recusal would be appropriate. We considered this was indicative of her commitment to IMPRESS making decisions fairly and impartially. Given her past expressed views and employment history with The Sun, both of which she believed would

prompt recusal from certain decisions, we consider it would not be appropriate for her to sit on Regulatory Subcommittee B.

Recommendation 10: We recommend Emma Jones does not sit as a member of Regulatory Sub Committee B, once it is established.

9.45. We have read Emma Jones's Register of Director' Interests declaration which was last updated on 6 February 2017. She has declared interests in relation to her current journalistic activities. We are satisfied that she has declared all current interests in accordance with IMPRESS conflict of interest and governance policies. We do note, however, that there is no place to record past journalistic interests on the declaration form. As with Mr Hickman, this needs to be addressed once the new proposed Declaration arrangements are in place. Thought will also need to be given to declaring support for campaigns.

Professor Messenger Davies

9.46. Máire Messenger Davies is Emerita Professor of Media Studies at University of Ulster. She told us that as part of her role as a media studies academic and former journalist, she takes part in public discussion about the media in a number of forums, including social media, mainstream media, academic literature, articles, books, blogs, seminars, conferences and teaching programmes. Being able to participate in public discussions is an essential part of her role and of her academic freedom of expression. She told us that she has been a journalist herself and there is not the slightest evidence from her lengthy career that she hates the media. Professor Messenger Davies provided us with her full CV and career publishing archive to demonstrate her involvement in and commitment to the media. This shows that during her career she has published 10 books, six commissioned reports, 54 articles, chapters and anthology contributions and 11 reviews.

9.47. Since 2011 she has broadcast over 22,000 posts on Twitter. The material on which the allegations of bias are based relate to 24 posts made which amounts to less than 0.1% of all posts. She submitted that none of the 24 posts selected were authored by her and that they were selected for the primary purpose of undermining IMPRESS.

9.48. We carefully considered all the posts in turn and concluded that none of the 24 posts were statements authored by Professor Messenger Davies in the form of original tweets. 20 of the posts were 'retweets' of material authored by others and four were 'likes' of material authored by others. We were told by Professor Messenger Davies that she uses Twitter to share information with colleagues and students that encourage debate. She does not endorse posts that she 'retweets' or 'likes'. She made this clear in her Twitter profile in January 2017 following the complaint about her Twitter activity. Before then, her Twitter

profile did not mention her association with IMPRESS and did not specifically mention that she was tweeting in a personal capacity. Her current profile states:

“Media Studies prof, ex journalist. Author of Star Trek & American TV; TV is Good for Your Kids; Making People Count. Tweets my own, retweets not endorsements. Cardiff, Ulster, London. Joined July 2011”.

9.49. We concluded that Professor Messenger Davies’ Twitter profile now complies with IMPRESS’ Guidelines in that she makes it clear that she is tweeting in a personal capacity and that retweets are not endorsements. It was not compliant with the Guidelines during the period that the Tweets complained of were published. Professor Messenger Davies is not and has never been a spokesperson for IMPRESS.

9.50. We found that all 24 posts made by Professor Messenger Davies were highly critical of sections of the press, in particular the Daily Mail, The Sun and the Murdoch press. This included content which made comparisons between the Daily Mail and Nazi Germany, criticized the Daily Mail’s coverage of immigration issues and criticized The Sun for its treatment of women, misrepresentation and distortion of news and for engaging in corrupt and criminal behaviour. Examples of these retweets were:

- 13 November 2016 liked a tweet “The Sun is duplicitous. It lies. It distorts. It misrepresents. It is dark, low and dishonourable #DontBuytheSun”.
- 24 November 2016 liked a tweet. “Need to close down the toxic #MailScum somehow. It is destroying our democracy”
- 27 November 2016 retweets: “the way [The Sun] have treated women over the years has contributed to an attitude that kills women”
- 3 December 2016 retweets: “[that Daily Mail appears to have thrown caution to the wind & is now using Hitler and the Nazis methods to attack its enemies #Brexit #Fascists”

9.51. Professor Messenger Davies did not directly author these posts, nor did she endorse them with any approving commentary. Notwithstanding her explanation that she shares information which is of academic interest to her students and academic peers, we found that by redistributing this material publicly on Twitter, especially without the required disclaimer and given the volume and nature of it, she gave the impression that she supported the contents of those tweets. This, in turn, risked creating the perception of bias. In this instance, we consider that risk to be high. Of the tweets we considered, the language used in these was the most problematic, particularly the reference to ‘closing down’ The Sun and Nazi methods. There was also a period of very frequent Twitter use in November and December 2016.

- 9.52. For these reasons we found that Professor Messenger Davies has breached IMPRESS' internal standards by not using the required disclaimer, by sharing information in such a manner as to *"compromise IMPRESS' impartiality on an issue relevant to IMPRESS' work"* and by *"[not] acting in the best interest of IMPRESS"* and by not taking sufficient care to *"protect and promote the reputation of the organisation"*.
- 9.53. Professor Messenger Davies has accepted that she unintentionally breached IMPRESS' internal standards and has agreed to adhere to IMPRESS' new Code of Conduct. We consider she would need to recuse herself from any regulatory decision on the newspapers criticised in the tweets discussed above. It would not therefore be appropriate for her to sit on Regulatory Subcommittee B.

Recommendation 11: We recommend Professor Messenger Davies does not sit as a member of Regulatory Sub Committee B, once it is established.

- 9.54. We do not consider Professor Messenger Davies' public support for Hacked Off's campaign represents a current standards breach of any kind, but there needs to be transparency about such support and awareness of the circumstances in which it would prompt recusal. Recommendations 1 and 3 address this.
- 9.55. We have read Professor Messenger Davies' Register of Directors' Interests declaration which was last updated on 30 January 2017. She has declared interests in relation to her current academic and research activities and the fact that her phone was hacked by the News of the World because her contact details were in the phone directory of an academic colleague who was a victim of the 7/7 terrorist attacks in London. We are satisfied that she has declared all current interests in accordance with IMPRESS' conflict of interest and governance policies. She will need to carefully review her past roles and interests and make appropriate declarations under the new arrangements discussed in Recommendation 3, however.

10. The Code Committee's actions

- 10.1. The dossier published by The Sun and appendix to the RPC letter are critical of three of the 10 members of the Code Committee who are neither Board Members or IMPRESS' CEO, specifically Mary Fitzgerald, Paul Wragg and Gavin Phillipson. It is said that Ms Fitzgerald's Editorship of Open Democracy, a campaign group, is concerning as is her involvement with a petition about the Daily Mail's editorial line and Dr Wragg's contributions to Inform, a blog associated with Hacked Off. Professor Phillipson is criticised for having signed Hacked Off's declaration. All are criticised for retweets and a very limited number of tweets about sections of the press, including the Daily Mail.
- 10.2. There are three overarching points to make about these criticisms.

- 10.3. First, it is not correct to say, as The Sun did in its dossier article, that the Code Committee advises on implementation of IMPRESS' Code (whether in individual cases or otherwise). It has, as explained above at paragraph 3.5, no decision making functions of any kind. Its sole functions are to advise on and develop the Code. The Board decides whether to adopt the Code in the form proposed, if at all following consultation on its content.
- 10.4. IMPRESS published the draft Code which the Committee had prepared on 19 August 2016, inviting submissions from the public. The consultation period ran for a period of 6 weeks, ending on 29 September 2016. IMPRESS published a consultation paper explaining the reasons for the consultation and the thinking behind the draft Code. The consultation paper asked stakeholders to answer key questions that would assist the committee in finalising the draft Code for submission to the Board. IMPRESS received 42 submissions, eight of which were from stakeholders who requested that their submissions be anonymised.
- 10.5. As far as we can ascertain, the criticisms levelled at the non-Board and non-CEO members of the Code Committee were not made at that time (although it should be noted that most of the retweets criticised postdate the consultation). The draft Code was amended in the light of the consultation, finalised in draft, approved by the Board and will shortly come into force.
- 10.6. Nothing in the dossier or RPC letter appendix makes a link between the criticisms of Mary Fitzgerald, Paul Wragg and Gavin Phillipson and anything in the consultation draft or final Code. Nor is it suggested that the final Code breaches Criterion 23 in any way. These factors, taken together with the advisory nature of the Code Committee's role and the opportunity for anyone to comment on the Code in its formative stages, have led us to conclude that IMPRESS' objects have not been undermined through the involvement of Mary Fitzgerald, Paul Wragg and Gavin Phillipson in the drafting and development of the Code.
- 10.7. We have also considered whether any issues arise in terms of the compatibility of their professional roles, involvement with campaigning groups and Twitter activity and IMPRESS' current internal standards.
- 10.8. So far the Guidelines have been circulated only to Board members and staff. We take the view that non-Board member and non-CEO Code Committee members, who have never seen these guidelines, are not IMPRESS representatives for these purposes for the reasons set out above.
- 10.9. We conclude that none of the Code Committee have breached IMPRESS' Guidelines because, as currently worded, these internal standards do not apply to members of the Code Committee. It would not be reasonable to expect members of the Code Committee to comply with a set of Guidelines that they have never seen. Notwithstanding these conclusions, we consider that this situation is unsatisfactory. There may be

circumstances where the standing of IMPRESS as an independent and impartial regulator could be put at risk by the public statements or actions, whether actual or perceived, of a member of its Code Committee. Our expectation that everyone who is part of and associated with the organisation to behave in a responsible way keeping in mind the Articles, especially the objects needs to be properly codified for non-Board Code Committee members (and those of other IMPRESS committees). IMPRESS will also need to consider how best to monitor compliance and deal with any breaches.

Recommendation 12: We recommend that the new Code of Conduct should apply to the Code Committee with adaptations to acknowledge that its role is advisory only and to other IMPRESS committees.

11. The Appointment Panel's actions

- 11.1. No concerns have been raised about the Appointment Panel in the dossier, by the NMA, The Sun or by RPC in the appendix to their letter. IMPRESS has been asked to comment on certain Twitter posts by two of its members by the PRP, however.
- 11.2. The Appointments Panel's role is summarised above at paragraph 3.6. Its functions were discharged some time ago and it will only become active again when IMPRESS next recruits Board members.
- 11.3. That said, it would be very troubling were there a perception that IMPRESS' Appointments Panel might be biased against certain sections of the media because we regard the independence and integrity of the Appointments Panel to be a pre-requisite for the fair appointment of an independent and impartial Board. For these reasons we have closely reviewed the posts made by Damian Tambini and Aidan White and have carefully analysed the role played by them in the appointment of the Board, with specific focus on the appointment of those members of the Board against whom allegations have been made.
- 11.4. Damian Tambini and Aidan White were two of nine members of the Appointment Panel. The other seven members were Caroline Instance, Chris Kenny, Tom Murdoch, Ashok Gupta, Salil Tripathi, Penny Shepherd and Richard Gurner. One of our number - IMPRESS' Chair Walter Merricks - joined the Appointments Panel once in post and was involved in the appointment of all other Board members. Walter Merricks chaired the Appointment Panel that appointed all Board members, including Máire Messenger Davies, Emma Jones and David Robinson. David Robinson also joined the Appointment Panel on his appointment to the Board of IMPRESS. David Robinson was a member of the Appointment Panel that appointed Emma Jones and Martin Hickman to the Board of IMPRESS.

- 11.5. Of the nine members of the Appointments Panel who were involved in the appointment of Board members of IMPRESS, six were entirely independent of the press (Caroline Instance, Chris Kenny, Tom Murdoch, Penny Shepherd, Walter Merricks and David Robinson) and three had significant knowledge and experience of working in the media and/or commenting and writing about the media. Aidan White is a Director of the Ethical Journalism Network. He is a journalist who previously worked for national, regional and local newspapers including the Guardian, Birmingham Post and Mail. He served as General Secretary of the International Federation of Journalists for 24 years. Damian Tambini is an academic expert on media law who is Associate Professor at the London School of Economics and was formerly Head of the Programme in Comparative Media Law and Policy at Oxford University. Richard Gurner is owner and editor of the Caerphilly Observer, one of IMPRESS' founding members. He is a journalist who worked as a reporter on the Brighton Argus before moving into a corporate PR role.
- 11.6. IMPRESS' Articles of Association requires the Appointment Panel to include a majority of members who are independent of the press, which is clearly complied with by the composition of the panel described above. Six of the nine members of the Appointment Panel have no interests in the press or wider media. The Articles also require the Appointment Panel to include members who have experience of the press industry which may include no more than one serving editor. Aidan White and Richard Gurner provided this experience. Damian Tambini has an academic interest in the media. He has spent his entire career in the employment of academic institutions and has no commercial or editorial interest in the press.
- 11.7. In our view the requirement for the majority of the Appointment Panel to be independent of the press and the fact that the chair of the Appointment Panel Caroline Instance is entirely independent of the press provided an effective safeguard against any perceived bias of members of the panel who have active interests in the press. We further note that when he became Chair of IMPRESS, Walter Merricks, who has no interests in the press, played a significant part in ensuring that the Board contained a broad range of skills and experience which included the appointment of two members (Sue Evison and Emma Jones) who had worked extensively for tabloid newspapers.
- 11.8. We have carefully reviewed the role of the Appointment Panel to establish what the effect of any perceived or actual bias would be if it did exist amongst two of its nine members. The role of the Appointment Panel is to appoint members to the Board of IMPRESS in accordance with the provisions set out in the Articles. The Appointment Panel has no role in making decisions about the regulation of publishers who are members of IMPRESS or who might be potential members of IMPRESS.
- 11.9. In our assessment, none of the statements that we read, which had been published by Damian Tambini and Aidan White on Twitter, compromise their independence or impartiality in respect of the decisions they are required to take in their roles as members of IMPRESS' Appointment Panel. Both of the tweets from Damien Tambini to which our

attention has been drawn postdate his active involvement on the Appointments Panel by a considerable period of time. The same is true of almost all of Aidan White's tweets. The earliest of the tweets to which our attention has been drawn was 11 September 2016. It was critical of The Sun. Two more similar tweets followed that year. The last Panel decision was taken when Emma Jones was appointed (in November 2015), so there was a limited overlap between these tweets and Aidan White's Panel activity. This factor, combined with the number and content, mean the tweets are not sufficient to lead an informed impartial observer to conclude there was any real possibility of bias in relation to their Appointment Panel decision-making functions.

- 11.10. Even had there been that risk, Damian Tambini and Aidan White did not play a decisive role in the Appointment Panel's decisions. As the PRP is aware from IMPRESS' application for registration, Board appointments were the result of unanimous decisions of the whole Appointments Panel preceded by a rigorous process of sifting and assessment against objective, published criteria. The Panel were very mindful of the need for integrity, fair-mindedness and independence. These featured prominently in the criteria and the interview discussions. At least one candidate (a PR executive) was rejected because of a potential conflict of interests. The Panel felt that her professional commitment to her clients might be at odds with her duty to IMPRESS. If there is any aspect of the Board member selection process about which the PRP would like further information, IMPRESS will arrange to provide it.
- 11.11. This said, we see some value in the Appointments Panel being made aware of and strongly encouraged to adopt and document the principles set out in new Code of Conduct in relation to its future decision-making role.

Recommendation 13: We recommend that the new Code of Conduct should be brought to the attention of the Appointments Panel and it should be asked to adopt its own Code, based on similar principles, with adaptations to acknowledge that its role relates to Board appointments only.

12. Have IMPRESS' internal standards and procedures been breached by Jonathan Heawood?

- 12.1. Jonathan Heawood is IMPRESS' CEO, as we have said. He is not a member of the Board of IMPRESS and is therefore not bound by the requirement to make a Register of Directors' Interests declaration, nor is he entitled to vote on decisions reserved to the Board, a point emphasised in IMPRESS' governance policy. In short, he has no decision-making function that impacts on Criterion 23.
- 12.2. He is, however, the main spokesperson for IMPRESS and as such is clearly an IMPRESS representative as defined by the IMPRESS Guidelines.

12.3. Jonathan Heawood refutes the allegation that he is 'anti-press' and that he 'hates' certain sections of the press or is contemptuous of it. He denies any ulterior motive for the establishment of IMPRESS. He told us that he has a long-standing interest in press freedom and regulation. Over the years' he has shared positive as well as negative content about newspapers such as The Sun and the Mail. He told us that he noted their own views on occasion and has always supported their right to free speech. We considered material presented to us by Jonathan Heawood which showed that he has shared positive content about those sections of the press that he is accused of 'disliking' and that he has consistently shown support for the freedom of all sections of the press. Some examples of the statements we reviewed are set out below.

- 13 November 2010: He tweeted in response to criticism of the Daily Mail ; I don't get it. Free speech for tweeters but not for Mail journalists
- 22 May 2014: He tweeted in support of action taken by the Sun. This is good news: Sun executives to meet transgender group after Kate Stone furore
- 4 September 2014: He shared a link to an article in Press Gazette about the need to defend journalists from abuse of surveillance powers by the police: Liberty condemns seizure of Sun phone records amid new evidence of intrusive surveillance against journalists.
- 22 November 2015: He retweeted a post on Twitter that Tony Gallagher, Editor of the Sun, proposes to build up investigative power of the Sun.
- 25 November 2015: He shared a link to a letter by Stig Abell, Managing Editor of the Sun, in the Guardian: The Sun did not spin its headline. Letter from Stig Abell.
- 2 May 2016: He shared a link to an interview in the Guardian with Stig Abell, on his move from the Sun to become Editor of the Times Literary Supplement: From Sun to TLS: Stig Abell on phone hacking, Leveson and books.
- 9 November 2016: He tweeted a link to an article by the fact-checking charity Full Fact which debunked the claim that the Daily Mail's "Enemies of the People" headline echoed an earlier Nazi headline.
- He gave evidence to the Leveson Inquiry about the benefits to society of the existence of large and powerful news publishers: *"Without the power of the press to intimidate governments, it is hard to be confident that in every case, other speakers or publishers would be able to do so"*

12.4. The allegations against Jonathan Heawood include material arising from 29 posts that he made via his Twitter account. We carefully considered all 29 posts. We concluded that six

of these posts were announcements that had been originally authored by Jonathan Heawood. One was a 'like' of material posted by others and 22 were retweets of posts authored by others. Since joining Twitter in June 2009, his profile shows that he has made over 10,000 posts. The posts make up less than 0.3% of this activity.

- 12.5. Jonathan Heawood told us that prior to the complaint his Twitter profile contained the words 'Tweeting in a capacious personality'. This was a play on words intended to indicate that he was tweeting in a personal capacity. At the beginning of February 2017, his Twitter profile was amended to read "Tweeting in a personal capacity. Likes and retweets are not endorsements". He has since closed his Twitter account and is no longer active on the Twitter platform.
- 12.6. We concluded that Jonathan Heawood did not fully comply with the requirement in the IMPRESS Guidelines to make it clear that he is tweeting in a personal capacity and that when re-posting the material of others he does not endorse their views or any content contained within that material. Nevertheless, he remedied the situation in January and has now closed his account. Jonathan Heawood is a primary spokesperson for IMPRESS, along with the Board Chair, and is regularly quoted in the media. Moreover, Jonathan Heawood's key role is that of IMPRESS CEO and it should be expected that comments he makes, even in a personal capacity, will have a significant impact on his professional role at IMPRESS. It is problematic in our view, therefore, to separate out the 'personal' from the 'IMPRESS' in his case. To many this will inevitably appear an artificial distinction.
- 12.7. Of the six original tweets posted by Jonathan Heawood, we concluded that three tweets singled out specific newspapers for criticism and in so doing led to a breach of criterion (b) "*compromise IMPRESS' impartiality on an issue relevant to IMPRESS' work*".
- 12.8. The tweets that we found to have breached the Guidelines in this way were as follows:
 - 9 November 2016: "*If the Sun registered as an official Brexit group, then it should declare the MILLIONS it has spent on campaigning*"
 - 5 December 2016: "*swear an oath to live in Britain? If you fucking insist Mr Dacre.*"
 - 8 December 2016 "*that's weird because three-quarters of 'adult' Mail editors were found to be children in a fantasy land of their own making*"
- 12.9. We also concluded that Jonathan Heawood used inappropriate language in his 5 December 2016 tweet "*swear an oath to live in Britain? If you fucking insist Mr Dacre.*" which in our view was a breach of criterion (d) "*brings IMPRESS into disrepute in any other way*".

- 12.10. We did not regard two tweets made by Jonathan Heawood that were critical of press owners in general or which contained non-critical comments about specific newspapers to be a breach of the Guidelines. We judged that a 3 December 2016 tweet allegedly calling Daily Mail Editor Paul Dacre a “Degenerate Libertine”, did not breach the Guidelines on the grounds that when read in context it was clearly a play on words based on comments made by Jacob Rees-Mogg about Max Mosley that had recently been reported by the Daily Mail. This comment was ill advised, however.
- 12.11. We concluded that 19 of the 22 ‘retweets’ contained information which was critical of the press or some sections of it. The information shared relates to two key issues. Firstly, the Stop Funding Hate campaign to persuade advertisers to pull their ads from newspapers such as the Sun, Daily Mail and Daily Express who are accused of demonising foreigners and minorities. Secondly, press coverage of the decision of the High Court in ruling that MP’s must have a say on the triggering of Article 50 which made comparisons to Nazi Germany. We note that the information shared related to topical issues that were being hotly debated in the mainstream media, but considered that demanded special care be exercised.
- 12.12. Examples of retweets shared which we found to breach IMPRESS’ internal guidelines were:
- 23 October 2016 retweeted: “I do like @StopFundingHate’s campaign to defund racist media. @CoopUK, you have a choice where you advertise you know”.
 - 28 November 2016 retweeted: “John Lewis is “bringing its name into disrepute by advertising in a Neo-Fascist rag”
 - 3 December 2016 retweeted: “Daily Mail is increasingly adopting fascist style politics. Reverting to its Blackshirt supporting history”
- 12.13. We conclude that Jonathan Heawood has breached the Guidelines by sharing a pattern of material over a short period of time in the form of 19 retweets, which make generalized criticism of the Daily Mail and of The Sun and which showed support for the Stop Funding Hate campaign. We find that the act of re-posting this pattern of material led to a criterion (b) breach of the Guidelines because it “*could reasonably be viewed as compromising IMPRESS’ impartiality on an issue relevant to IMPRESS’ work*”. We find that 6 of these retweets contained comparisons between the Daily Mail’s editorial position and fascism. In our view the repeated sharing by Jonathan Heawood of this material, although not authored by him, led to a criterion (d) breach that “*brings IMPRESS into disrepute*”.
- 12.14. In coming to this conclusion we took into account the fact that Jonathan Heawood had not complied with the guideline requirement to make it clear that he was tweeting in a personal capacity and not endorsing material he re-tweeted, and that he is the main spokesperson for IMPRESS, that the Chief Executive position is his full-time role, that he

cannot therefore rely on a separation between the ‘personal’ and ‘IMPRESS’ and that his sharing of others’ tweets must be considered in the context of our finding that he has made a small number of personally authored tweets that make general criticisms of the Daily Mail. We share Jonathan Heawood’s own assessment that some of the posts were ill-judged and ill advised. We note that he initially curbed his Twitter activity as of 17 January 2017 and has since closed his Twitter account. Jonathan has apologised to the Board and has accepted a warning about his future conduct. He has agreed to adhere to IMPRESS’ new Code of Conduct. We accept his undertaking. His actions will be monitored through the usual management processes with particular attention being given to this commitment.

- 12.15. We find that the internal standards incorporated within IMPRESS’ Articles of Association, Governance Policy and Register of Directors’ Interests declaration do not apply to Jonathan Heawood because he is not a Board director of IMPRESS. It concerns us greatly that these standards do not apply to other senior representatives of IMPRESS and we repeat our recommendation made above that these standards need to be revised to cover all senior representatives of IMPRESS.
- 12.16. We have read the article published by Jonathan Heawood in Open Democracy regarding the BBC Charter, which was written with the support of the Board of IMPRESS. The article criticises the BBC Local Democracy Reporter scheme for directing licence-fee-payers’ funds towards large publishing companies which have a record of closing local newspaper titles and making journalists and other employees redundant. In the article, specific reference is made to six publishers including Johnston Press, Newsquest and Archant. No criticism is made of the editorial policy or journalism of these publishers such that an independent bystander would reasonably view the article as compromising IMPRESS’ openness to all news publishers on fair, reasonable and non-discriminatory terms. For these reasons we consider that this article does not breach the Guidelines on grounds of either (b) undermining ‘impartiality or (d) ‘brings IMPRESS into disrepute’.
- 12.17. We find no evidence to support the allegation that Jonathan Heawood ‘hates’ the press, that he is ‘anti-press’ or that he wants sections of the press to be closed down. It is clear to us, however, that he has strong views about recent editorial lines pursued by the Daily Mail and The Sun, which he has expressed both directly through originally authored tweets and indirectly by a handful of retweets. We are persuaded by other evidence that we have seen, which we refer to above, that Jonathan Heawood holds strong views which support the freedom of the press and that he has also shared posts which are supportive of newspapers such as the Daily Mail and The Sun. We find no evidence that Jonathan Heawood has “attacked” journalists.
- 12.18. We consider that Jonathan Heawood has not intentionally breached IMPRESS’ Guidelines, but he became ill-advisedly caught up in a public debate about press coverage arising from last summer’s European Union referendum and reacted to a number of personal attacks on him that appeared in the press and he used social media in

an inappropriate way. We are satisfied that he has learned a salutary lesson and regrets the damage that his actions have done to IMPRESS' reputation as a fair and impartial regulator that is open to all news publishers on fair, reasonable and non-discriminatory terms. He has responded by offering his unreserved apologies to the Board, pausing his social media activity and has subsequently closed his Twitter account and committing to IMPRESS' future internal standards. We have taken into account the fact that newspapers such as The Sun and Daily Mail, that Jonathan has inappropriately commented upon, are not regulated by IMPRESS and have no intention to apply to join IMPRESS or any other regulator that is recognised under the Charter, though this in no way excuses his actions. We make this point because, had Jonathan Heawood made similar comments about any newspaper that had applied to join IMPRESS or was seriously considering applying to join IMPRESS, we would consider his position to be untenable.

- 12.19. As with Emma Jones and Professor Messenger Davies, there is a possibility of Jonathan Heawood's past actions and statements affecting the perception of the way his administrative and advisory functions will be discharged in future in relation to the publishers of whom he has been critical. For this reason, we consider he should have no role in the administration of Regulatory Sub Committee B or in advising it.

Recommendation 14: Jonathan Heawood has accepted a warning over his future conduct and has agreed to adhere to IMPRESS' new Code of Conduct. We recommend this be noted by the Board.

Recommendation 15: We recommend that the CEO of IMPRESS is subjected to the same standards of conduct as those required of IMPRESS Board members.

Recommendation 16: Jonathan Heawood shall have no role in the administration of Regulatory Sub Committee B or in advising it.

13. The overall impact of the identified breaches

- 13.1. We are certain no IMPRESS Board decision has been affected by bias or any real possibility of it, not least because the publishers who were the subject of the standards breaches we have identified have not sought or expressed any interest in becoming scheme members. None of the breaches related to comments made or content shared about any publisher that has applied to join IMPRESS or is seriously considering doing so. These publishers are currently contractually bound as members of IPSO (or technically

the RFC) until 2019 and the terms of their membership require them not to become members of an approved regulator and there would be contractual consequences were these terms breached. The most likely scenario in which these publishers might seek to join IMPRESS would be one in which they decide not to renew their membership of IPSO. However, it is possible that if section 40 of the Crime and Courts Act were implemented in full, that the RFC might relax its rules and allow publishers to exit early.

- 13.2. We consider that the changes IMPRESS must now make need to cater for these possibilities, however remote they might be. Criterion 23 requires IMPRESS to make membership open to all relevant publishers on fair, reasonable and non-discriminatory terms at all times, not when some future event occurs.
- 13.3. There is no evidence to suggest that any of the IMPRESS representatives intended to breach the standards or that they are anti-press or have the ulterior motive ascribed to them. If they had, we have no doubt that this would have made the positions of IMPRESS representatives to be untenable. However, the breaches have undoubtedly had a serious impact on the way IMPRESS is perceived. We are troubled by the perception that has been created as a result of the posts when presented as a 'whole package' as well as particular shared content. We are particularly concerned with the impression that is created by the sharing of content which includes material which makes an association between certain sections of the press and extreme political regimes and which single out specific newspapers for repeated criticism. This is not the behaviour that we and, more importantly, the public, expect of senior representatives of an independent and impartial regulator.
- 13.4. The remedial action needs to therefore be decisive and comprehensive and IMPRESS must be seen to follow through with it. In particular, we are concerned that IMPRESS' procedures and guidelines are not sufficiently clear regarding how to manage the issue of perception of bias. As the first regulator to be recognised under the Charter, IMPRESS should expect to come under intense scrutiny and its procedures and guidelines need to be updated to better protect IMPRESS' standing as an independent and impartial regulator. In addition to the changes already recommended, we believe that managing perception of bias will be a significant, ongoing project that needs to be prioritised. To that end we have four final recommendations to make.

Recommendation 17: We recommend that when drafting revised guidelines, and finalising the draft Code of Conduct, proper consideration is given to the obligations of Board and Appointment Panel members of IMPRESS whose main professional role is to participate in and comment on the media. We consider that professional journalists and academics who represent IMPRESS must be more aware in future of the impact of their public statements and public sharing of

content on the reputation and recognition status of IMPRESS. This will require IMPRESS representatives to restrict their future media activities.

Recommendation 18: We recommend that the new Code of Conduct, Conflicts of Interest Policy and Directors Register of Interests declaration should take much greater account of the risks posed to the independence of IMPRESS by perceptions of bias amongst its Board and committee members. There should be a greater requirement on all individuals associated with IMPRESS to be much more aware of how their past and current interests, statements and actions may be perceived by all those who could potentially be affected by a decision made by IMPRESS. This has to include all potential members, not just those that have joined IMPRESS or have not ruled out joining IMPRESS at some point in the future.

Recommendation 19: We recommend that IMPRESS reviews its director induction, appraisal and development processes to ensure that internal standards are understood and maintained. Specific training should be provided on what is acceptable to share publicly.

Recommendation 20: We recommend that specific training be provided to all those who are part of and associated with IMPRESS on what is acceptable to share publicly.

14. Conclusions

- 14.1. We find that Emma Jones, Máire Messenger Davies and Jonathan Heawood have all breached IMPRESS' internal standards. We agree the PRP is right to indicate this raises serious issues about IMPRESS' compliance with Criterion 23 for recognition under the Royal Charter for self-regulation of the press.
- 14.2. We believe appropriate remedial action can be taken. Emma Jones, Máire Messenger Davies and Jonathan Heawood have all accepted that they unintentionally breached IMPRESS' internal standards and have agreed to adhere to IMPRESS' new Code of

Conduct. All have shown understanding of the seriousness of their actions and their impact. All have apologised and taken responsibility for their future conduct. We believe that it is incumbent on representatives of an independent press regulator to take great care in the making of public statements and the public redistribution of material which may give the impression of bias against specific newspapers or sections of the press, even in circumstances where disclaimers have made it clear that individuals are not endorsing those views and/or where they are sharing the material for the purposes of journalistic or academic research and debate.

- 14.3. Individuals must regulate their conduct, but an independent press regulator like IMPRESS must support them with robust structures and processes along with guidance on what is expected. IMPRESS has not gone far enough in the past.
- 14.4. We believe that IMPRESS faces a real challenge regarding how it balances and manages the requirement to have individuals with experience of the press involved in its Board and committees whilst at the same time retaining the confidence in its independence and impartiality of a partisan press with strong views on the form of regulation and the public. It must embrace that challenge. We believe it can.

Walter Merricks

David Robinson

Patrick Swaffer

17 May 2017

ANNEX 1: IMPRESS CODE OF CONDUCT

ANNEX 2: IMPRESS REGISTER OF INTERESTS