



**FINAL DRAFT ROYAL CHARTER ON SELF-REGULATION OF THE PRESS**

**ELIZABETH THE SECOND by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith:**

**TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING!**

WHEREAS on 13<sup>th</sup> July 2011 The First Lord of Our Treasury announced to Our Parliament holden at Westminster the establishment of an Inquiry into the culture, practices and ethics of the press:

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AND WHEREAS Angela Frances, Baroness Browning, Minister of State at the Home Office and the Right Honourable Jeremy Hunt, Our Secretary of State for Culture, Olympics, Media and Sport appointed the Right Honourable Lord Justice Leveson as Chairman of this Inquiry, pursuant to section 3(1)(a) of the Inquiries Act 2005, by letter dated 28<sup>th</sup> July 2011, to be assisted by a panel of senior independent persons with relevant expertise in media, broadcasting, regulation and government appointed as Assessors under section 11(2)(a) of that Act:

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AND WHEREAS the Terms of Reference for the Inquiry included provision for the making of recommendations for a new more effective policy and regulatory regime which supports the integrity and freedom of the press, the plurality of the media, and its independence, including from Government, while encouraging the highest ethical and professional standards:

AND WHEREAS the Report of the Inquiry into the Culture, Practices and Ethics of the Press was presented to Parliament pursuant to section 26 of the Inquiries Act 2005 on 29<sup>th</sup> November 2012:

AND WHEREAS the Report of the Inquiry recommended that for an effective system of self-regulation to be established, all those parts of the press which are significant news publishers should become members of an independent regulatory body:

AND WHEREAS the independent regulatory body which is intended to be the successor to the Press Complaints Commission should put forward the Editors' Code of Practice as its initial code of standards:

AND WHEREAS the Report of the Inquiry recommended that there should be a mechanism to recognise and certify an independent regulatory body or bodies for the press, and that the responsibility for such recognition and certification should rest with a recognition body:

AND WHEREAS the Report of the Inquiry recommended that such a recognition body should not be involved in the regulation of the press:

AND WHEREAS it is in the interests of Our People that there should be a body corporate established for the purpose of determining recognition of an independent regulatory body or bodies, in pursuance of the recommendations of the Report of the Inquiry.

**NOW KNOW YE that We by Our Prerogative Royal and of Our especial grace, certain knowledge and mere motion do by this Our Charter for Us, Our Heirs and Successors will, ordain and declare as follows:**

## **1. INCORPORATION**

- 1.1. There shall be a body corporate known as the Recognition Panel.
- 1.2. There shall be a Board of the Recognition Panel which shall be responsible for the conduct and management of the Recognition Panel's business and affairs, in accordance with the further terms of this Charter.
- 1.3. The Members of the Board of the Recognition Panel shall be the only Members of the body corporate, but membership of the body corporate shall not enable any individual to act otherwise than through the Board to which he belongs.

## **2. TERM OF CHARTER**

- 2.1. Articles 3.2 and 5 and Schedules 1 (*Appointments and Terms of Membership*) and 4 (*Interpretation*) shall take effect on the day following the date the Charter is sealed.
- 2.2. The remainder of this Charter shall take effect from ~~the day after the last date that the Chair and the initial Members of the Board of the Recognition Panel are appointed, and the Panel shall be duly established on that day.~~
- 2.3. This Charter shall continue in force unless and until it is dissolved, in accordance with Article 10, by Us, Our Heirs or Successors in Council, or otherwise.

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## **3. PURPOSE**

- 3.1. The Purpose for which the Recognition Panel is established and incorporated is to carry on activities relating to the recognition of Regulators in accordance with the terms of this Charter.
- 3.2. Provisions and definitions to assist in the interpretation of this Charter are contained in Schedule 4 (*Interpretation*).

## **4. FUNCTIONS**

- 4.1. The Recognition Panel has the functions, in accordance with the terms of this Charter, of:
  - a) determining applications for recognition from Regulators;
  - b) reviewing whether a Regulator which has been granted recognition shall continue to be recognised;
  - c) withdrawing recognition from a Regulator where the Recognition Panel is satisfied that the Regulator ceases to be entitled to recognition; and

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- d) reporting on any success or failure of the recognition system.

4.2. In performing the functions in Article 4.1 the Board shall:

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- a) apply the Scheme of Recognition set out in Schedule 2 (*Scheme of Recognition*); and
- b) manage the assets of the Recognition Panel efficiently and effectively so as to best achieve the Recognition Panel's Purpose.

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4.3. The functions of the Recognition Panel shall be public functions.

## 5. APPOINTMENTS AND MEMBERSHIP

- 5.1. The Board of the Recognition Panel shall consist of a Chair and no fewer than 4 and no more than 8 other Members.
- 5.2. Appointments to the Board of the Recognition Panel, and the terms of such appointments, shall be regulated by Schedule 1 (*Appointments and Terms of Membership*).

## 6. GOVERNANCE

- 6.1. Subject to the terms of this Article, the Board shall determine and regulate its own procedures for conducting its business and discharging its functions under this Charter.
- 6.2. The Board shall not delegate the following decisions:
  - a) A decision to recognise or withdraw recognition from a Regulator in accordance with the Scheme of Recognition;
  - b) A decision to undertake an ad hoc review in accordance with the Scheme of Recognition.
- 6.3. The Board shall put in place arrangements by which a Member can:
  - a) register his interests or any other matter he considers relevant to the Purpose of the Recognition Panel;
  - b) determine whether any interest he holds, directly or indirectly, gives rise to a conflict of interest;
  - c) declare such conflicts to the Board; and
  - d) absent himself from decision-making where the Board determines it is appropriate so to do.
- 6.4. The Board shall publish its procedures.

## 7. STAFF

- 7.1. The Recognition Panel may employ staff or otherwise engage people whose services are deemed expedient in order to carry out or promote the Purpose of the Recognition Panel, and, in particular, to organise, assist with the work of, and advise the Board.
- 7.2. The Board may authorise the payment of remuneration to members of staff or pay or make payments towards the provision of pensions, allowances or gratuities, at such rates or amounts as it determines.
- 7.3. None of the following may be a member of staff employed by the Recognition Panel or be otherwise engaged by the Recognition Panel in a similar capacity (whether on a full-time or part-time basis):
- a) a relevant publisher or someone otherwise involved in the publication of news or current affairs in the United Kingdom;
  - b) a person who is part of the governing body of a relevant publisher;
  - c) the chair or member of the Board of a Regulator;
  - d) a member of staff working for a Regulator or relevant publisher;
  - e) a civil servant; or
  - f) a serving or former member of the House of Commons, the House of Lords, the Scottish Parliament, the Northern Ireland Assembly or the National Assembly for Wales.

## 8. POWERS

- 8.1. The Recognition Panel, acting through the Board or through anyone duly authorised in accordance with Article 6, may do all things that are lawful as may further the Purpose of the Recognition Panel, and in particular, but without limitation may:
- a) borrow or raise and secure the payment of money for the purpose of performing the Panel's functions;
  - b) enter into enforceable arrangements requiring the non-refundable payment of fees by Regulators seeking recognition;
  - c) procure professional legal or other advisory services; and
  - d) procure professional financial advice, including for the purpose of achieving best value for money.

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## 9. CHARTER AMENDMENT

- 9.1. A provision of this Charter may be added to, supplemented, varied or omitted (in whole or in part) if, and only if the requirements of Article 9.2 and 9.3 are met.
- 9.2. Subject to Article 9.3, before any proposal (made by any person) to add to, supplement, vary or omit (in whole or in part) a provision of this Charter

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(“proposed change”) can take effect, a draft of the proposed change must have been laid before Parliament, and approved by a resolution of each House.

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9.3. Where a proposed change would be within the legislative competence of the Scottish Parliament, Article 9.2 shall apply with the reference to laying before Parliament taken to mean laying before the Scottish Parliament, and the reference to approval by a resolution of each House taken to mean approval by a resolution of the Scottish Parliament. This provision does not affect the requirement for approval of proposed changes by Parliament under Article 9.2 with respect to matters that do not fall within the legislative competence of the Scottish Parliament.

9.4. For the purpose of this Article, “approved” means that at least two-thirds of the members of the House in question or the Scottish Parliament who vote on the motion do so in support of it.

9.5. The Recognition Panel may only propose a change to the terms of this Charter if a resolution has been passed unanimously by all of the Members of the Board, who shall determine the matter at a meeting duly convened for that purpose.

9.6. The provisions of Article 9.2 and 9.3 do not apply to a proposed change to this Charter that is required merely to correct a clerical or typographical error.

9.7. Provided the terms of Article 9.2 and 9.3 have been met, any such addition, supplement, variation or omission shall, when approved by Us, Our Heirs or Successors in Council, become effective so that this Charter shall thenceforth continue and operate as though it had been originally granted and made accordingly.

## 10. DISSOLUTION

10.1. This Charter, and the Recognition Panel created by it, shall not be dissolved unless information about the proposed dissolution has been presented to both Parliament and the Scottish Parliament, in each case with a motion seeking approval.

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10.2. Where both Parliaments approve the motion (which in the case of Parliament shall mean approval of each House) the dissolution shall proceed.

10.3. Where only one of the two Parliaments approves the resolution, no dissolution shall take place. Instead, the Charter shall be amended (without recourse to Article 9):

a) to remove, modify or maintain such functions (and associated powers and responsibilities) of the Recognition Panel as is directly necessary to implement the decision of each Parliament; and

b) the Recognition Panel shall have the power to put in place such transitional or consequential measures as it considers necessary to implement the decision of each Parliament.

10.4. For the purpose of this Article, “approved” means that at least two-thirds of the members of the House in question or the Scottish Parliament who vote on the motion do so in support of it.

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10.5. The Recognition Panel may, if it appears necessary to the Board (acting unanimously) to do so:

- a) surrender this Charter (and, provided the terms of Article 10.1 have been complied with, thereafter dissolve the Recognition Panel) with the permission of Us, Our Heirs or Successors in Council and upon such terms as We or They consider fit; and
- b) wind up or otherwise deal with the affairs of the Recognition Panel in such manner as they consider fit, provided that all remaining funds (which remain once the debts of the Recognition Panel have been paid in full) together with the proceeds from the sale of any assets belonging to the Recognition Panel shall be paid to the Consolidated Fund.

10.6. The dissolution of the Recognition Panel is subject to any applicable statutory provisions or other legal requirement (relating to the cessation of the body’s operation, including as an employer or contractor).

## 11. MONEY

11.1. The Exchequer shall grant to the Recognition Panel such sums of money as are sufficient to enable the Board to commence its operations and thereafter fulfil its Purpose for the first three years after the date upon which this Charter becomes effective. The grant of such monies shall be in accordance with the general principles of Managing Public Money.

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11.2. The Board shall prepare annual budgets for each financial year, and in doing so shall have regard to the need to ensure it achieves value for money. For the first three years after the date upon which this Charter becomes effective, the Board shall provide the Lord Chancellor, upon request, with such budgets, once prepared, and with such other information as he requires, in order to estimate the on-going costs of the Recognition Panel from time to time.

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11.3. The Board shall prepare, consult publicly upon, and publish a scheme for charging fees to Regulators in relation to the functions of recognition and review, to come into force from the third anniversary of the date upon which this Charter becomes effective. Any fee charged shall comply with Article 11.4. The aim of the scheme shall be for the Recognition Panel to recover its full costs in determining applications for recognition and for conducting cyclical reviews, as appropriate.

11.4. The Board may determine to set different fees for different circumstances, and shall comply with the following;

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a) in the case of a fee payable by a Regulator relating to an application for recognition, the fee may not exceed an amount equal to £300,000 per year for each of the first three years of recognition;

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b) in the case of a fee payable by a Regulator relating to a cyclical review, the fee may not exceed an amount equal to £220,000 per year for each year prior to the next cyclical review;

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c) in each case the amount specified shall be revised, annually, according to the indexation formula specified at Article 11.5; and

d) the Board may aggregate the specified annual amounts payable by a Regulator where necessary to carry out its functions of determining an application for recognition or conducting a cyclical review.

11.5. The following indexation formula is to be used by the Recognition Panel to vary all financial amounts specified in this Charter, including those in the Schedules to this Charter. Where no period for variation is specified, the amount shall be varied on each anniversary of the date this Charter becomes effective:

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Where:

- CPIA represents the Consumer Price Index all items index figure for the month before the proposed revision is to be made; and
- CPIB represents the Consumer Price Index all items index figure for the month before the effective date of this Charter.

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11.6. The Board shall design the scheme so that fees become due and payable irrespective of the success of an application or the outcome of a cyclical review, and for their consequent enforceability as a matter of private contract law.

11.7. In the event that the Board considers that its income (from whatever source received) is likely to be insufficient to meet its expenditure relating to (a) legal or other expenses arising from litigation or threatened litigation, (b) ad hoc reviews or (c) wholly unforeseen events, it shall have the right to request further reasonable sums from the Exchequer. In response to such a request, the Exchequer shall grant such sums to the Recognition Panel as it considers necessary to ensure that the Purpose of the Recognition Panel is not frustrated by a lack of funding.

11.8. References to the Exchequer in this Article mean the Exchequer acting through the Lord Chancellor, and with the consent of the Lords Commissioners of Our Treasury.

11.9. Each Member shall exercise fiduciary duties in relation to the use and management of all monies received by the Recognition Panel. The Chair shall appoint one Member to take specific responsibility for reporting to the Board on the management of the finances of the Recognition Panel.

11.10. Where, as a result of any amendment approved in accordance with Article 9.3, the costs of the Recognition Panel contain amounts relating solely to the exercise of its functions in relation to Scotland:

- a) Scottish Ministers shall make provision for the funding of such costs, where they are not otherwise recoverable from fees payable under this Article; and
- b) Article 12 shall apply as if references to the “Comptroller and Auditor General” mean the Auditor General for Scotland so far as the accounts for such costs are concerned.

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## 12. ACCOUNTS

- 12.1. The Board must keep proper accounts and proper records in relation to the accounts.
- 12.2. The Board must prepare a statement of accounts for each financial year, and must send a copy of the statement to the Comptroller and Auditor General as soon as practicable after the end of the financial year.
- 12.3. In accordance with any necessary arrangements made between the Comptroller and Auditor General and the Recognition Panel, the Comptroller and Auditor General will examine, certify and report on the statement each year.
- 12.4. The Recognition Panel shall make arrangements for a copy of the certified statement and the Comptroller and Auditor General's report to be laid before Parliament.
- 12.5. In this Article, and Article 13:
  - a) “financial year” means:
    - i. the period beginning with the date this Charter becomes effective under Article 2.2 and ending with the following 31 March; and
    - ii. each successive period of twelve months ending with 31 March;
  - b) where the administrative assistance of a Minister of the Crown is required for the Recognition Panel to lay a document before Parliament, the Lord Chancellor shall provide such assistance.

## 13. REPORTS

- 13.1. As soon as practicable after the end of each financial year the Board must prepare and publish a report about the activities of the Recognition Panel during that year, including whether it has granted recognition to, or withdrawn it from a Regulator. The Board shall make arrangements for the Report to be laid before Parliament and the Scottish Parliament.



**14. GENERAL**

14.1. The Recognition Panel shall have perpetual succession, and shall continue to exist as a legal person, regardless of the changes in its composition which occur when particular individuals cease to be Members and are succeeded by other individuals.

14.2. The Recognition Panel shall have a Common Seal. The Recognition Panel may alter its Common Seal or replace it with a new one.

14.3. The Recognition Panel shall have the capacity and powers of a natural person, and in particular ~~shall have~~ the capacity to sue and be sued.

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**15. LIABILITIES**

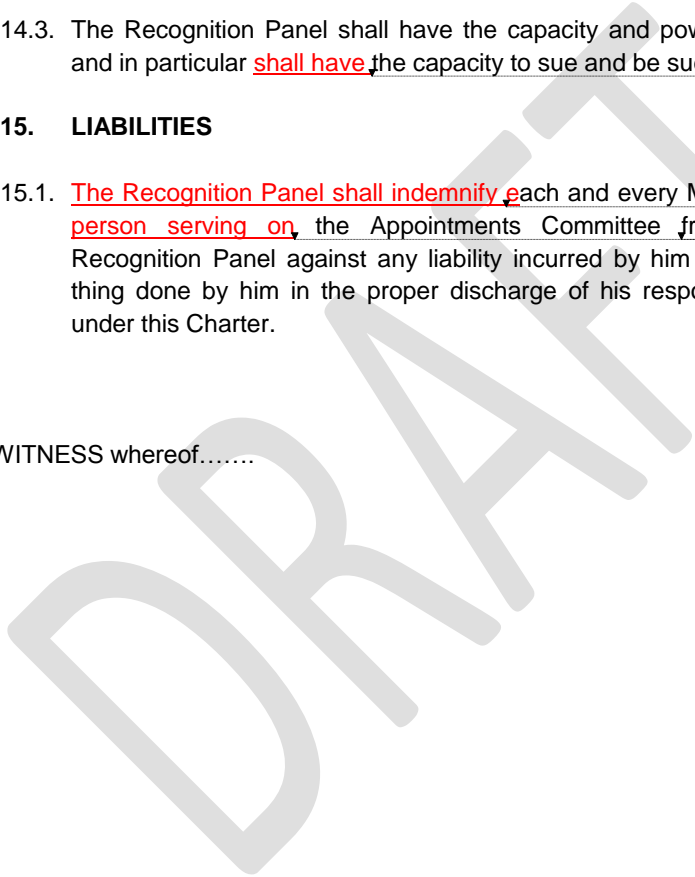
15.1. ~~The Recognition Panel shall indemnify~~ each and every Member of the Board and ~~person serving on~~ the Appointments Committee ~~from the assets of the~~ Recognition Panel against any liability incurred by him by reason of any act or thing done by him in the proper discharge of his responsibilities, office or duty under this Charter.

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## SCHEDULE 1

### APPOINTMENTS AND TERMS OF MEMBERSHIP

#### 1. Initial Appointments to the Board of the Recognition Panel

- 1.1. This paragraph regulates the manner in which the initial appointments to the Board shall be made. Thereafter, upon any further appointment being required (whether of a successor or additional Member), the terms of paragraph 7 (*further appointments*) shall apply.
- 1.2. The appointment of the first Chair of the Board together with at least 4 initial other Members shall follow a fair, open and merit-based process, to be conducted in the manner, and by the persons, described in this paragraph, and paragraphs 2 (*appointments committee*), 3 (*criteria for appointment*) and 4 (*commissioner for public appointments*).
- 1.3. The responsibility for identifying and thereafter appointing the Chair of the Board shall be that of an independent Appointments Committee, constituted in accordance with paragraph 2. This Appointments Committee shall ensure that the Chair is identified and appointed first, before the appointment of any other Members of the Board.
- 1.4. The other initial Members of the Board shall be identified and appointed by the Appointments Committee, acting together with the Chair of the Board. It will be the responsibility of the Chair of the Board, once identified, to decide how many initial Members (being at least 4 and no more than 8) shall be appointed under this paragraph.

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#### 2. Appointments Committee

- 2.1. The Commissioner for Public Appointments shall:
- a) appoint the Appointments Committee;
  - b) decide how many people will serve on that Committee; and
  - c) allow his Office to support the work of that Committee.
- 2.2. The Chair of the Committee shall be a Public Appointments Assessor (appointed pursuant to the Public Appointments Order in Council 2013).
- 2.3. In order to ensure the independence of the Appointments Committee, a person shall be ineligible to be appointed if he:
- a) is a serving editor of a publication of a relevant publisher;
  - b) is a relevant publisher or otherwise involved in the publication of news or current affairs in the United Kingdom;
  - c) is a member of the House of Commons, the Scottish Parliament, the Northern Ireland Assembly, the National Assembly for Wales, the European Parliament

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- or the House of Lords (but only if, in the case of the House of Lords, the member holds or has held within the previous 5 years an official affiliation with a political party); or
- d) is a Minister of the Crown, a member of the Scottish Government, a Northern Ireland Minister, or a Welsh Minister.

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### 3. Criteria for Appointment to the Board of the Recognition Panel

3.1. In making any appointment to the Board under this Schedule, the matters set out in this paragraph shall be used for:

- a) determining the overall nature of the membership of the Board; and
- b) assessing the suitability of any particular person to be appointed as the Chair or a Member of the Board.

3.2. The criteria for appointment as a Member of the Board are:

- a) That every Member shall have:
- i. senior level experience in a public, private or voluntary sector organisation; and
- ii. an understanding of the context within which a Regulator will operate.
- b) That at least one Member shall have:
- i. legal qualifications and skills, together with an understanding of the legal framework within which the Board must operate;
- ii. financial skills, including experience of delivering value for money;
- iii. experience of public policy making;
- iv. experience in the context of consumer rights;
- v. an understanding of the national and regional environments within Great Britain that are relevant to the work of a Regulator.

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3.3. In order to ensure the independence of the Board, a person shall be ineligible to be appointed, or to remain as, a Member of the Board if he:

- a) is or has been an editor of a publication of a relevant publisher;
- b) is a relevant publisher or otherwise involved in the publication of news or current affairs in the United Kingdom;
- c) is a member of the House of Commons, the Scottish Parliament, the Northern Ireland Assembly, the National Assembly for Wales, the European Parliament or the House of Lords (but only if, in the case of the House of Lords, the member holds or has held within the previous 5 years an official affiliation with a political party); or
- d) is a Minister of the Crown, a member of the Scottish Government, a Northern Ireland Minister, or a Welsh Minister.

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#### **4. Commissioner for Public Appointments**

- 4.1. After the initial appointments made by the Appointments Committee, and where further appointments to the Board are contemplated, pursuant to paragraph 7 (*further appointments*), the requirements of paragraph 4.2 shall apply.
- 4.2. Before a person selected for appointment to the Board (other than by the Appointments Committee) can be appointed formally, the Commissioner for Public Appointments shall be asked to consider whether the process followed in the selection of that person was fair, open and merit-based, and, if he considers that it was, to confirm that this was the case, in writing. In order to be in a position to give such confirmation, the Commissioner may specify terms to the Board as to how it conducts a further appointments process.
- 4.3. No appointment to the Board shall be valid unless (a) it has been made by the Appointments Committee or (b) the confirmation described in paragraph 4.2 has been published by the Commissioner.

#### **5. Terms of Membership**

- 5.1. Each Member, including the Chair, shall hold and vacate his office in accordance with the terms of this Charter.
- 5.2. Each Member shall be eligible to serve for an initial term of 5 years and shall be eligible to reappointment for a further period of up to 3 years. The Board shall have regard to the importance of staggering the reappointment and retirement of Members to deliver appropriate continuity in the performance of its functions.
- 5.3. The Board may make arrangements to pay or make provision for paying, in respect of any Member, such amounts by way of allowances or gratuities as the Board determines. The amount of any such allowances or gratuities shall be set having regard to the prevailing rates payable to the members of boards of public sector bodies.

#### **6. Termination**

- 6.1. Any Member of the Board may resign by giving notice in writing to the Recognition Panel.
- 6.2. If the Board is satisfied (which shall require a majority of two thirds of the Members entitled to vote to concur), that a Member is unwilling, unable or unfit to discharge the functions of a Member of the Board under this Charter, that Member shall be duly dismissed and notified in writing of this fact, together with reasons. The Member concerned shall not be entitled to vote on this matter and the Board may make further provision as to the operation of this paragraph under Article 6 of this Charter.

## 7. Further Appointments

### 7.1. Upon:

- a) any person, including the Chair, ceasing to be a Member of the Board, for any reason, or
- b) the Board determining that the appointment of an additional Member is desirable (having regard to the limitation on numbers imposed by Article 5.1),

the process for appointing a successor or additional Member (as appropriate) shall be fair, open and merit-based, and meet the requirements of paragraphs 3 (*criteria for appointments*) and 4 (*commissioner for public appointments*). The responsibility for making such an appointment (including selection) shall lie with the serving Members of the Board, and not the Appointments Committee.

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## 8. Interpretation

8.1. Schedule 4 to this Charter shall be used in interpreting this Schedule.

8.2. A reference to a paragraph means to a paragraph in this Schedule.

## SCHEDULE 2

### SCHEME OF RECOGNITION

In the exercise of the functions set out in Article 4 the following Scheme of Recognition shall apply:

#### *Recognition*

1. The Board of the Recognition Panel shall grant recognition to a Regulator if the Board is satisfied that the Regulator meets the recognition criteria numbered 1 to 23 in Schedule 3, and in making its decision on whether the Regulator meets those criteria it shall consider the concepts of effectiveness, fairness and objectivity of standards, independence and transparency of enforcement and compliance, credible powers and remedies, reliable funding and effective accountability, as articulated in the Leveson Report, Part K, Chapter 7, Section 4 ("Voluntary independent self-regulation").
2. The "recognition criteria" means the requirements set out in Schedule 3 to this Charter.
3. Nothing in the recognition criteria shall be interpreted in a manner which conflicts with any regulatory obligation imposed on a Regulator. A regulatory obligation is one that (a) regulates the manner in which the Regulator is required to operate, (b) is contained in legislation and (c) applies as a matter of general law to bodies of the legal class to which the Regulator belongs.
4. The Board of the Recognition Panel, in determining an application by a Regulator for recognition, may but need not, take into account any of recommendations 34 to 36 (inclusive), 38, 43, 44 to 45 (inclusive) and 47 in the Summary of Recommendations of the Leveson Report. Where the Recognition Panel is satisfied that a Regulator meets the recognition criteria it shall not refuse to grant recognition to that Regulator by reason of a failure to comply with any of these specified recommendations.

#### *Cyclical Reviews*

5. The Board of the Recognition Panel must review the recognition of a Regulator as soon as practicable after:
  - a) the end of the period of two years beginning with the day of the recognition,
  - b) the end of the period of three years after that period, and
  - c) the end of each subsequent period of three years.
6. As part of its cyclical review of a Regulator the Board of the Recognition Panel may:
  - a) call for (or receive voluntarily from a Regulator) evidence from that Regulator about the fairness, effectiveness and sustainability of its arbitral process (including any small administration fee) and its complaints handling (to the extent that this interacts

- with the arbitral process), including from any assessment of these arrangements that the Regulator has undertaken, and
- b) seek evidence on the matter from third parties.

7. Where the Board has received such evidence as part of a cyclical review, it shall consider that evidence, and publish its conclusions on the fairness, effectiveness and sustainability of the Regulator's arbitral process. Such conclusions may include:

- a) recommendations about or revisions to the Recognition Panel's policies and guidance on the operation of criterion 22 (published in accordance with paragraph 13 (*policies and guidance*) of this Schedule);
- b) directions to the Regulator to amend any small administration fee; or
- c) that where it determines the requirement to provide an arbitral process causes serious financial harm to subscribers who publish only on a local or regional basis, the Recognition Panel may allow recognition to continue on the basis that such subscribers may, but need not, participate in the Regulator's arbitral process. Criterion 22 shall be interpreted accordingly.

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#### *Ad hoc Reviews*

8. The Board of the Recognition Panel may review the recognition of a Regulator at any other time if it thinks that:
- a) there are exceptional circumstances that make it necessary so to do, having regard, in particular, to whether there have been serious breaches of the recognition criteria; and
- b) there is a significant public interest in a review of the Regulator's recognition being undertaken.
9. Where the Board proposes to carry out a review in such exceptional circumstances it must give reasonable notice in writing of its proposal to the Regulator, and must specify its reasons for the proposal.

#### *General*

10. The Board of the Recognition Panel must:

- a) prepare and publish a report of any review it conducts, whether of a cyclical or ad hoc nature; and
- b) inform Parliament, the Scottish Parliament, and the public as soon as practicable if, on the first anniversary of the date upon which this Charter becomes effective, and thereafter annually if:
- i. there is no recognised regulator for a continuous period of 3 months after the first anniversary of the date upon which this Charter becomes effective; or

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- ii. in the opinion of the Recognition Panel, the system of regulation does not cover all significant news publishers.

#### *Withdrawal*

11. The Board of the Recognition Panel may withdraw recognition from a Regulator at that body's request, or where, following a review, the Board is satisfied that:

- a) the Regulator is not meeting the recognition criteria; or
- b) the Board has insufficient information to determine whether or to what extent the Regulator is meeting those criteria.

12. The Board of the Recognition Panel may not withdraw recognition from a Regulator unless the Board has given the Regulator at least 3 months' notice in writing of its proposal to do so. Any such notice may be cancelled before the expiry of the period of 3 months.

#### *Policies and Guidance*

13. The Board of the Recognition Panel shall from time to time publish policies, guidance and information, as it thinks appropriate, about the manner in which it proposes to conduct the Scheme of Recognition, including material relating to:

- a) the making, processing and administration of applications (including for cyclical reviews);
- b) the conduct of ad hoc reviews; and
- c) the payment of any relevant fees.



### SCHEDULE 3

#### RECOGNITION CRITERIA

The following requirements are the recognition criteria for the Scheme of Recognition established under Article 4 of, and Schedule 2 to, this Charter:

1. An independent self-regulatory body should be governed by an independent Board. In order to ensure the independence of the body, the Chair and members of the Board must be appointed in a genuinely open, transparent and independent way, without any influence from industry or Government. For the avoidance of doubt, the industry's activities in establishing a self-regulatory body, and its participation in making appointments to the Board in accordance with criteria 2 to 5; or its financing of the self-regulatory body, shall not constitute influence by the industry in breach of this criterion.
2. The Chair of the Board (who is subject to the restrictions of criterion 5(d), (e) and (f)) can only be appointed if nominated by an appointment panel. The selection of that panel must itself be conducted in an appropriately independent way and must, itself, be independent of the industry and of Government.
3. The appointment panel:
  - a) should be appointed in an independent, fair and open way;
  - b) should contain a substantial majority of members who are demonstrably independent of the press;
  - c) should include at least one person with a current understanding and experience of the press;
  - d) should include no more than one current editor of a publication that could be a member of the body.
4. The nomination process for the appointment of the Board should also be an independent process, and the composition of the Board should include people with relevant expertise. The appointment panel may only nominate as many people as there are vacancies on the Board (including the Chair), and the Board shall accept all nominations. The requirement for independence means that there should be no serving editors on the Board.
5. The members of the Board should be appointed only following nomination by the same appointment panel that nominates the Chair, together with the Chair (once appointed), and should:
  - a) be nominated by a process which is fair and open;
  - b) comprise a majority of people who are independent of the press;
  - c) include a sufficient number of people with experience of the industry (throughout Great Britain) who may include former editors and senior or academic journalists;
  - d) not include any serving editor;
  - e) not include any serving member of the House of Commons, the Scottish Parliament, the Northern Ireland Assembly, the National Assembly for Wales, the

European Parliament or the House of Lords (but only if, in the case of the House of Lords, the member holds or has held within the previous 5 years an official affiliation with a political party) or a Minister of the Crown, a member of the Scottish Government, a Northern Ireland Minister or a Welsh Minister; and

f) in the view of the appointment panel, be a person who can act fairly and impartially in the decision-making of the Board.

**Deleted:** Minister

**Deleted:** Executive

**Deleted:** Government

6. Funding for the system should be settled in agreement between the industry and the Board, taking into account the cost of fulfilling the obligations of the regulator and the commercial pressures on the industry. There should be an indicative budget which the Board certifies is adequate for the purpose. Funding settlements should cover a four or five year period and should be negotiated well in advance.

7. The standards code must ultimately be the responsibility of, and adopted by, the Board, advised by a Code Committee which may comprise both independent members of the Board and serving editors. Serving editors have an important part to play although not one that is decisive.

**Deleted:** The standards code which is the responsibility of the Code Committee, must be approved by the Board or remitted to the Code Committee with reasons. The Code Committee will be appointed by the Board, in accordance with best practices for public appointments, and comprised of equal proportions of independent members, serving journalists (being national or regional journalists, or, where relevant to the membership of the self-regulatory body, local or on-line journalists) and serving editors. There will be a biennial public consultation by the Code Committee, the results of which must be considered openly with the Board.

8. The code must take into account the importance of freedom of speech, the interests of the public (including but not limited to the public interest in detecting or exposing crime or serious impropriety, protecting public health and safety and preventing the public from being seriously misled), the need for journalists to protect confidential sources of information, and the rights of individuals. Specifically, it must cover standards of:

- a) conduct, especially in relation to the treatment of other people in the process of obtaining material;
- b) appropriate respect for privacy where there is no sufficient public interest justification for breach; and
- c) accuracy, and the need to avoid misrepresentation.

8A. A self-regulatory body should provide advice to the public in relation to issues concerning the press and the standards code, along with a service to warn the press, and other relevant parties such as broadcasters and press photographers, when an individual has made it clear that they do not welcome press intrusion.

8B. A self-regulatory body should make it clear that subscribers will be held strictly accountable under the standards code for any material that they publish, including photographs, however sourced. This criterion does not include advertising content.

8C. A self-regulatory body should provide non-binding guidance on the interpretation of the public interest that justifies what would otherwise constitute a breach of the standards code. This must be framed in the context of the different provisions of the code relating to the public interest.

8D. A self-regulatory body should establish a whistleblowing hotline for those who feel that they are being asked to do things which are contrary to the standards code.

9. The Board should require, of those who subscribe, appropriate internal governance processes (for dealing with complaints and compliance with the standards code), transparency on what governance processes they have in place, and notice of any failures in compliance, together with details of steps taken to deal with failures in compliance.
10. The Board should require all those who subscribe to have an adequate and speedy complaint handling mechanism; it should encourage those who wish to complain to do so through that mechanism and should not receive complaints directly unless or until the internal complaints system has been engaged without the complaint being resolved in an appropriate time.
11. The Board should have the power to hear and decide on complaints about breach of the standards code by those who subscribe. The Board will need to have the discretion not to look into complaints if they feel that the complaint is without justification, is an attempt to argue a point of opinion rather than a standards code breach, or is simply an attempt to lobby. The Board should have the power (but not necessarily the duty) to hear complaints:
  - a) from anyone personally and directly affected by the alleged breach of the standards code, or
  - b) where there is an alleged breach of the code and there is public interest in the Board giving consideration to the complaint from a representative group affected by the alleged breach, or
  - c) from a third party seeking to ensure accuracy of published information.

In the case of third party complaints the views of the party most closely involved should be taken into account.
12. Decisions on complaints should be the ultimate responsibility of the Board, advised by complaints handling officials to whom appropriate delegations may be made.
- 12A. The Board should be prepared to allow a complaint to be brought prior to legal proceedings being commenced. Challenges to that approach (and applications to stay or sist) can be decided on the merits.
13. Serving editors should not be members of any Committee advising the Board on complaints and should not play any role in determining the outcome of an individual complaint. Any such Committee should have a composition broadly reflecting that of the main Board, with a majority of people who are independent of the press.
14. It should continue to be the case that complainants are able to bring complaints free of charge.
15. In relation to complaints, where a negotiated outcome between a complainant and a subscriber (pursuant to criterion 10) has failed, the Board should have the power to direct appropriate remedial action for breach of standards and the publication of corrections and apologies. Although remedies are essentially about correcting the

record for individuals, the power to direct a correction and an apology must apply equally in relation to:

- a) individual standards breaches; and
  - b) groups of people as defined in criterion 11 where there is no single identifiable individual who has been affected; and
  - c) matters of fact where there is no single identifiable individual who has been affected.
16. In the event of no agreement between a complainant and a subscriber (pursuant to criterion 10), the power to direct the nature, extent and placement of corrections and apologies should lie with the Board.
17. The Board should not have the power to prevent publication of any material, by anyone, at any time although (in its discretion) it should be able to offer a service of advice to editors of subscribing publications relating to code compliance.
18. The Board, being an independent self-regulatory body, should have authority to examine issues on its own initiative and have sufficient powers to carry out investigations both into suspected serious or systemic breaches of the code and failures to comply with directions of the Board. The investigations process must be simple and credible and those who subscribe must be required to cooperate with any such investigation.
19. The Board should have the power to impose appropriate and proportionate sanctions (including but not limited to financial sanctions up to 1% of turnover attributable to the publication concerned with a maximum of £1,000,000) on any subscriber found to be responsible for serious or systemic breaches of the standards code or governance requirements of the body. The Board should have sufficient powers to require appropriate information from subscribers in order to ascertain the turnover that is attributable to a publication irrespective of any particular accounting arrangements of the publication or subscriber. The sanctions that should be available should include power to require publication of corrections, if the breaches relate to accuracy, or apologies if the breaches relate to other provisions of the code.
- 19A. The Board should establish a ring-fenced enforcement fund, into which receipts from financial sanctions could be paid, for the purpose of funding investigations.
20. The Board should have both the power and a duty to ensure that all breaches of the standards code that it considers are recorded as such and that proper data is kept that records the extent to which complaints have been made and their outcome; this information should be made available to the public in a way that allows understanding of the compliance record of each title.
21. The Board should publish an Annual Report identifying:
- a) the body's subscribers, identifying any significant changes in subscriber numbers;

- b) the number of:
- (i) complaints it has handled, making clear how many of them are multiple complaints,
  - (ii) articles in respect of which it has considered complaints to be without merit, and
  - (iii) articles in respect of which it has considered complaints to be with merit, and the outcomes reached,
- in aggregate for all subscribers and individually in relation to each subscriber;
- c) a summary of any investigations carried out and the result of them;
- d) a report on the adequacy and effectiveness of compliance processes and procedures adopted by subscribers; and
- e) information about the extent to which the arbitration service has been used.
22. The Board should provide an arbitral process for civil legal claims against subscribers which:
- a) complies with the Arbitration Act 1996 ~~or the Arbitration (Scotland) Act 2010 (as appropriate)~~; Deleted: ("the Act")
  - b) provides suitable powers for the arbitrator to ensure the process operates fairly and quickly, and on an inquisitorial basis (so far as possible);
  - c) contains transparent arrangements for claims to be struck out, for legitimate reasons (including on frivolous or vexatious grounds);
  - d) directs appropriate pre-publication matters to the courts;
  - e) operates under the principle that arbitration should be free for complainants to use<sup>1</sup>;
  - f) ensures that the parties should each bear their own costs ~~or expenses~~, subject to a successful complainant's costs ~~or expenses~~ being recoverable (having regard to section 60<sup>2</sup> of the ~~1996 Act or Rule 63 of the Scottish Arbitration Rules~~<sup>3</sup> and any applicable caps on recoverable costs ~~or expenses~~); and
  - g) overall, is inexpensive for all parties.
23. 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.

<sup>1</sup> The principle that arbitration should be free does not preclude the charging of a small administration fee, provided that: (a) the fee is determined by the Regulator and approved by the Board of the Recognition Panel; and (b) the fee is used for the purpose of defraying the cost of the initial assessment of an application and not for meeting the costs of determining an application (including the costs of the arbitration).

<sup>2</sup> Section 60 (Agreement to pay costs in any event): *An agreement which has the effect that a party is to pay the whole or part of the costs of the arbitration in any event is only valid if made after the dispute in question has arisen.*

<sup>3</sup> The Rules are set out in Schedule 1 to the Arbitration (Scotland) Act 2010. Rule 63 (Ban on pre-dispute agreements about liability for arbitration expenses) M: Any agreement allocating the parties' liability between themselves for any or all of the arbitration expenses has no effect if entered into before the dispute being arbitrated has arisen.

## SCHEDULE 4

### INTERPRETATION

#### Part 1 - Key definitions

1. For the purposes of this Charter:

a) “Regulator” means an independent body formed by or on behalf of relevant publishers for the purpose of conducting regulatory activities in relation to their publications;

b) “relevant publisher” has the meaning given in section 41 of the Crime and Courts Act 2013.

#### Part 2 - Other definitions

2. In this Charter:

a) “ad hoc review” means a review conducted pursuant to paragraph 8 of Schedule 2 (*scheme of recognition*);

b) “Appointments Committee” means the committee established to make appointments to the Board of the Recognition Panel under paragraph 2 of Schedule 1 (*appointments and terms of membership*);

c) a reference to “the Board” means the governing body of the Recognition Panel (except in Schedule 3 (*recognition criteria*) where it means the Board of the Regulator);

d) “cyclical review” means a review conducted pursuant to paragraph 5 of Schedule 2 (*scheme of recognition*);

e) “editor”, in relation to a publication, includes any person who acts in an editorial capacity in relation to the publication;

f) a reference in any article or Schedule to the date upon which this Charter becomes effective means the date the Charter takes effect in accordance with Article 2.2;

g) “Leveson Report” means the Report of an Inquiry into the Culture, Practices and Ethics of the Press, ordered by the House of Commons to be printed on 29 November 2012 (HC 779);

h) a reference to “Managing Public Money” means the document entitled “Managing Public Money” last published by Our Treasury in July 2013, (including any

**Deleted:** “relevant publisher” means a person (other than a broadcaster) who publishes in the United Kingdom;¶  
¶ a newspaper or magazine containing news-related material, or¶ a website containing news-related material (whether or not related to a newspaper or magazine);¶  
¶ “broadcaster” means:¶  
¶ the holder of a licence under the Broadcasting Act 1990 or 1996; ¶ the British Broadcasting Corporation; or¶ Sianel Pedwar Cymru;¶  
¶ a person “publishes in the United Kingdom” if the publication takes place in the United Kingdom or is targeted primarily at an audience in the United Kingdom;¶  
¶ “news-related material” means:¶  
¶ news or information about current affairs;¶  
¶ opinion about matters relating to the news or current affairs; or¶  
¶ gossip about celebrities, other public figures or other persons in the news.¶

**Deleted:** October 2007

amendments made by Our Treasury to that document, or any document that replaces or incorporates it);

- i) a reference to a “Member” of the Board in the articles of this Charter (including Schedule 1 (*appointment and terms of membership*)), includes a reference to the Chair of the Board, unless the context otherwise requires;
- j) “member of the Scottish Government” has the meaning in section 44 of the Scotland Act 1998;
- k) “Minister of the Crown” has the meaning in section 8 of the Ministers of the Crown Act 1975;
- l) “Northern Ireland Minister” means a Minister as defined in section 7(3) of the Northern Ireland Act 1998 or a junior minister appointed under section 19 of that Act;
- m) “Scheme of Recognition” means the arrangements described in Schedule 2 (*scheme of recognition*);
- n) “standards code” means the code established by a Regulator in accordance with Schedule 3 (*recognition criteria*);
- o) “Welsh Minister” means a Minister appointed under sections 46 or 48 of the Government of Wales Act 2006.

3. In interpreting this Charter, and except where the context requires otherwise, words importing the masculine gender include the feminine, and vice versa, and words in the singular include the plural, and vice versa.

4. In this Charter a reference to an article refers to a provision of the main body of the Charter and a reference to a paragraph means a provision in a Schedule to this Charter.

5. In this Charter a reference to an Act of Parliament, an Act of the Scottish Parliament, or an Order in Council includes any Act or Order that replaces or incorporates it.