

**DRAFT FRAMEWORK FOR A ROYAL CHARTER**

**31 December 2012**

**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 Our Prime Minister announced to our Parliament the establishment of an Inquiry into the culture, practices and ethics of the press:

AND WHEREAS our 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:

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 there should be a mechanism to recognise and certify an independent regulatory body for the press

and that the responsibility for recognition and certification of such a body 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 an independent body corporate established solely for the purpose of determining recognition of an independent press regulation body or bodies, in pursuance of the recommendations of the Inquiry Report:

AND WHEREAS it is the intention of Our Government to introduce a Bill before Our Parliament to regulate the manner by which this Our Charter shall be capable of future amendment or dissolution:

**NOW KNOW YE that We by Our Prerogative Royal 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. The members of the Board of the Recognition Panel shall be the 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.

1.3. The Board of the Recognition Panel is responsible for the conduct and management of the Recognition Panel's business and affairs, in accordance with the further terms of this Our Charter.

## **2. TERM OF CHARTER**

2.1. This Our Charter shall take effect from [date of sealing or subsequent later date].

2.2. This Our Charter shall continue in force unless and until it is dissolved by an Act of Parliament.

### **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 independent bodies formed for the purpose of regulating relevant publishers, in accordance with the terms of this Our Charter.

### **4. FUNCTIONS**

4.1. The Recognition Panel has the general functions of:

- a) determining applications for recognition, in accordance with the terms of this Our Charter;
- b) reviewing whether a body shall continue to be recognised, in accordance with the terms of this Our Charter; and
- c) withdrawing recognition from a body where the Panel is satisfied that the body ceases to be entitled to recognition, under the terms of this Our Charter.

4.2. In performing these functions the Board shall apply the Scheme of Recognition set out in the Schedule to this Our Charter.

4.3. The Board shall manage the assets of the Panel efficiently and effectively so as to best achieve the Panel's purpose.

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

### **5. APPOINTMENT OF MEMBERS**

5.1. The Members of the Board shall be each of the current holders of the following offices:

[List of Offices to be agreed]

5.2. The Members of the Board shall appoint from amongst their number a Chair of the Board.

5.3. The Members of the Board shall serve in a personal capacity.

## 6. TERMS OF MEMBERSHIP

6.1. Each Member, including the Chair, shall hold and vacate his office in accordance with the terms of this Our Charter.

6.2. Subject to the terms of this Article, each Member shall hold his position for so long as he holds the relevant office specified in Article 5.1.

6.3. A Member shall not be permitted to resign unless he has also resigned, retired, or otherwise vacated the office specified in Article 5.1 by virtue of which he is a Member. A Member may resign by giving notice in writing to the Board.

6.4. 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 is appropriate. *[Drafting Note: An external check on such arrangements may be necessary either by way of third party approval or be making reference to an appropriate "rate card" by which such allowances and gratuities should be set]*

6.5. Upon a person ceasing to be a Member of the Board, for any reason, his successor shall be the current holder of the office specified in article 5.1 which the departing Member has resigned, retired from or otherwise vacated.

## 7. GOVERNANCE

7.1. Subject to the terms of this Article, the Board shall be responsible for the management of the affairs and activities of the Recognition Panel and shall determine and regulate its own procedures for conducting its business and discharging its functions under this Charter.

7.2. The Board shall not delegate the following decisions:

- a) A decision to recognise or withdraw recognition from a body in accordance with the Scheme of Recognition;
- b) A decision to undertake a review in accordance with the Scheme of Recognition.

7.3. 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 interests to the Board; and
- d) absent himself from decision-making where the Board determines it is appropriate so to do.

7.4. The Board shall publish its procedures.

## **8. STAFF**

8.1. The Recognition Panel may employ staff or engage such persons whose services are deemed expedient in order to carry out or promote the purpose of the Recognition Panel, in particular to organise, assist with the work of, and advise the Board.

8.2. The Board may authorise the payment of remuneration to a member of staff or pay or make payments towards the provision of a pension, allowance or gratuity, at such rates or amounts as it determines.

8.3. None of the following may be a member of staff employed by the Recognition Panel:

- 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 member of staff working for a public body.

## **9. POWERS**

9.1. The Recognition Panel, acting through the Board, may do all things that are lawful as may further the Purpose of the Panel, and in particular, but without limitation may:

- a) borrow or raise and secure the payment of money for any purpose including for the purposes of investment or raising funds;
- b) procure professional legal or other advisory services; and
- c) procure professional financial advice to secure the best management of its assets and funds.

## **10. CHARTER AMENDMENT**

10.1. Where the Board considers that any provision of this Our Charter requires revocation, amendment or addition, it shall pass a resolution at a meeting duly convened for that purpose recommending that such change be made.

10.2. Before any such resolution can be given legal effect so as to change the terms of this Our Charter, any and all requirements specified by Our Parliament (now or in the future) concerning the approval of, and manner in which, such change is to take place shall be fulfilled.

10.3. Provided the terms of Article 10.2 have been met, any such revocation, amendment or addition shall when approved by Us, Our Heirs or Successors in Council, become effectual so that this Our Charter shall thenceforth continue and operate as though it had been originally granted and made accordingly.

## **11. DISSOLUTION**

- 11.1. This Our Charter shall be capable of being dissolved only by means of an Act of Parliament.
- 11.2. Subject to article 11.1, the Board may, if it appears appropriate to do so determine to surrender this Our Charter, preliminary to its dissolution, with the permission of Us, Our Heirs or Successors in Council and upon such terms as We or They consider fit.
- 11.3. In pursuance of a direction to dissolve this Our Charter, the Board shall wind up or otherwise deal with the affairs of the Recognition Panel in such manner as it considers fit, provided that all remaining funds (which remain once the debts of the Panel have been paid in full) together with the proceeds from the sale of any assets belonging to the Panel shall be paid to the Consolidated Fund.
- 11.4. This article is subject to any applicable statutory provisions or other legal requirement.

## **12. MONEY**

- 12.1. The Recognition Panel shall be entitled to receive a single payment, in the form of an endowment of [£x million] from the Exchequer, which shall upon receipt, become the property of the Panel. The Panel shall defray all of its costs and expenses and meet all of its liabilities from the said endowment.
- 12.2. The sums received under the endowment (and any income or revenue derived from such sums) shall be used solely for the discharge of the functions for which the Recognition Panel is established.
- 12.3. Each Member shall exercise fiduciary duties in relation to the use, management and investment of such sums received. The Chair shall appoint

one Member to take specific responsibility for reporting to the Board on the management of the assets of the Panel.

### **13.ACCOUNTS**

13.1. The Board must keep proper accounts and proper records in relation to the accounts.

13.2. The Board must prepare a statement of accounts for each financial year, and shall have the accounts audited by external auditors.

### **14.REPORTS**

14.1. 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.

### **15.GENERAL**

15.1. 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.

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

15.3. The Recognition Panel shall have the capacity to sue and be sued and shall have power to do all other matters and things incidental or appertaining to a body corporate.

15.4. The Recognition Panel shall have the capacity of a natural person.

### **16.LIABILITIES**

16.1. Each and every Member of the Board and of the Appointments Committee shall be indemnified 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 Our Charter.

## **17. INTERPRETATION – [key definitions only]**

17.1. In this Charter:

- a) “editor”, in relation to a publication, includes any person who acts in an editorial capacity in relation to the publication.
- b) “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).
- c) “news-related material” means:
  - (a) news or information about current affairs;
  - (b) opinion about matters relating to the news or current affairs; or
  - (c) gossip about celebrities, other public figures or other persons in the news;
- d) “relevant publisher” means a person who publishes in the United Kingdom:
  - a) a newspaper or magazine containing news-related material, or
  - b) a website containing news-related material (whether or not related to a newspaper or magazine), and
  - c) is not regulated under an Act in the carrying on of that activity.

*[Drafting Note: this is intended to exempt broadcasters and will require amplification]*

e) “regulator” means an independent self-regulatory body formed to regulate relevant publishers.

## THE SCHEDULE

### SCHEME OF RECOGNITION

In the exercise of the functions set out in article 4 of this Our Charter the following Scheme of Recognition shall apply:

#### *Recognition*

1. The Board of the Recognition Panel shall recognise a body as an approved regulator if the Board is satisfied that the body meets the recognition criteria.
2. The “recognition criteria” means the requirements set out in recommendations 1 to 24 in the Summary of Recommendations of the Leveson Report, and the other requirements for recognition set out in Section 4 of Chapter 7 of Part K of that Report.
3. The Board of the Recognition Panel, in determining an application by a body for recognition as an approved regulator, may take into account recommendations 34 to 47 in the Summary of Recommendations of the Leveson Report.

*[Drafting Note: further definition of the criteria within the Charter remains an option for achieving greater certainty. Some recommendations may require further discussion, for example the interpretation to be given to recommendation 23.]*

#### *Review*

4. The Board of the Recognition Panel must review the recognition of a body as an approved 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.

5. The Board of the Recognition Panel may review the recognition of a body as an approved regulator at any other time if it thinks that there are exceptional circumstances that make it appropriate so to do. 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 approved regulator, and must specify its reasons for the proposal.
6. The Board of the Recognition Panel must prepare and publish a report of any review it conducts.

### *Withdrawal*

7. The Board of the Recognition Panel may withdraw recognition as an approved regulator from a body at that body's request, or where, following a review, the Board is satisfied that:
  - a. the body is not meeting the recognition criteria; or
  - b. the Board has insufficient information to determine whether or to what extent the body is meeting those criteria.
8. The Board of the Recognition Panel may not withdraw recognition from an approved regulator unless the Board has given the approved 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.

*[Drafting Note: other aspects for a Scheme may need to be included, for example a power to charge fees for applications, a power to suspend recognition, rather than withdraw it, if a review process is taking an undue amount of time.]*