PRP

INDEPENDENTLY
OVERSEEING
PRESS REGULATION

PRESS RECOGNITION PANEL

Decision Following the Consultation on Proposals for Recognition of Press Self-Regulators

September 2015

Foreword

The UK press is made up of a great many national, regional and local publishers, operating across print, online and in some cases both. Following the public outcry over the behaviour and criminal activity of some sections of the press, the Leveson Report made recommendations for a new system of regulation.

The Royal Charter that followed created the Press Recognition Panel (PRP) as part of ensuring the freedom of the press whilst also protecting the interests of the public. The PRP is independent from any other body or influence, including from government and the press.

We do not regulate the press – we are not a regulator. We assess whether regulators who seek recognition meet the 29 criteria set out in the Charter. This ensures that, amongst other things, regulators are independent of the publishers they regulate, are funded to do their job, allow for any publisher to join up if they want to, and provide the public with proper opportunities to raise concerns about the conduct of the regulator's members.

If a regulator meets all the criteria, then we will recognise them. We cannot recognise a regulator that does not meet all 29 criteria.

The Charter sits alongside provisions in the Crime and Courts Act 2013, which will bring benefits to publishers that are members of an approved regulator; while changes to the court cost rules should make it easier for members of the public to challenge the actions of publishers who choose not to be.

This summer we consulted widely across the UK on how we propose to deal with applications for recognition and how we should apply the 29 criteria. This document summarises what we learnt and sets out our final decision.

I would like to thank everyone who assisted with and participated in our consultation events as well as those who commented in writing. They included: members of the public; academics; representative bodies; small and large newspapers; publishers; campaigning organisations; and regulators.

The comments we received have helped us to refine our thinking. We have made a number of amendments to our proposed guidance in the light of what we learnt and what people have said to us. Some respondents asked us to impose additional requirements on top of the 29 criteria as they are set out in the Charter including some publishers saying that recognition should depend on the nature and extent of membership of the applicant. We cannot do that.

The only responses we did not consider were those that fell outside the remit of the consultation including those seeking to re-open old debates (such as relating to the Charter itself, or to the creation of the PRP).

Regulators are now welcome to apply to the PRP for recognition. We have published guidance on our website to support regulators through the process. Next year we will consult on the other matters related to our role.

Dr David Wolfe QC, Chair

Executive Summary

1. In this consultation we sought views on our proposals for receiving and determining applications for recognition from independent self-regulators. We highlighted the process we intended to use and proposed guidance to applicants through a recognition matrix made up of the criteria specified in the Charter, additional indicators, and examples of evidence.

2. The consultation prompted 200 written responses and attracted over 100 attendees at our public events. We were delighted by the number and range of responses we received, which included members of the public, academics, and organisations including small and large newspapers, representative bodies, publishers, media owners, campaigning organisations and regulators. We considered responses on the quality of the points raised, rather than on the number of times that they were made.

3. Respondents generally agreed with our proposal to use a recognition matrix to guide applicants, with differing views on the level of detail and type of guidance we should provide. We considered carefully the responses put forward and have amended the matrix as a result. We have tracked these changes to demonstrate where they have been made and provide an explanation against each criterion. The criteria regarding funding and arbitration received more detailed feedback, so these are discussed in the body of the document.

4. Respondents also generally agreed with our proposed process for receiving and determining applications, although a number of issues were raised. As a result of feedback we have decided that we will publish applications from regulators (redacting confidential information) and allow 20 working days for third parties to feedback facts and evidence during a call for information.

5. We received polarised views on a number of issues in the consultation, including our interpretation of some criteria, and our proposed process for receiving applications and recognition of regulators at different stages of their operation. We were pleased to receive such challenging and different views, which have helped us develop a robust process for receiving and determining applications.

6. A number of the respondents provided feedback that fell outside the remit of this consultation - such as whether the PRP should exist and views on the Crime and Courts Act 2013. These issues are noted in section three of the document.

7. Some respondents suggested additional indicators, which if adopted, would add extra requirements not falling within the Charter criteria. Others, including some opposed to the whole Charter framework, said that, even where a regulator met the Charter criteria, we should nonetheless refuse to recognise them. As we explain, neither of those are within our remit.

8. We are grateful to those who took the time to engage in the process. Our guidance for applicants, including our recognition matrix, is published on our website alongside this document.

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Section One: Introduction

Background

1. The Press Recognition Panel (PRP) was established as a result of the Leveson Inquiry into the culture, practices and ethics of the press and was created by a Royal Charter on 3 November 2014. We are independent of government, Parliament, the press or any other such interest.

2. Our role is to consider whether or not independent press self-regulators (regulators) meet, and continue to meet, the recognition criteria in Schedule 3 of the Charter. We will do this in a fully transparent way, by recognising regulators that meet the requirements set out in the Charter's recognition criteria, undertaking reviews of those regulators, removing recognition if a regulator no longer meets the criteria, and reporting on the successes or failures of the recognition system.

3. We want to implement the Charter in a way that is not unduly complicated and most importantly takes account of the views of the public. Our aim is to implement a fair and balanced process for recognition that supports, promotes and provides beneficial, independent oversight of regulators.

4. We do not regulate the press and cannot compel any regulator to apply for recognition.

5. The process for recognising regulators will be completely new, untried and untested. We therefore wanted to consult publicly on our proposals to give all interested parties the chance to inform how we will operate.

The consultation process

6. Our consultation was launched on 8 June 2015 and ran until 31 July 2015. The launch was marked by an event hosted by the London School of Economics Media Policy Project on 9 June 2015.

7. During the consultation period, we held eight public events across the UK, covering England (London, Birmingham, Manchester and Durham), Scotland (Glasgow), Northern Ireland (Belfast) and Wales (Cardiff), which attracted over 100 participants. The events both raised awareness of the consultation and delivered constructive feedback from interested parties and a lively debate.

8. We also held an interactive webinar, which generated an informative discussion. The written consultation responses, notes of the consultation events, and the webinar are all available on our website **www.pressrecognitionpanel.org.uk.**

[1] http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.levesoninquiry.org.uk/about/the-report/

Outcome of the consultation

9. We are grateful to all those individuals and organisations who responded formally to our written consultation; and to those who provided assistance with and participated in our consultation events.

10. We particularly welcome the insight the responses gave us on the different perspectives on press recognition. Respondents represented a broad range of stakeholders, including from across the spectrum of the publishing community. Some respondents questioned the validity of the Charter itself – which is a debate that goes beyond the remit of this consultation. Others asked us to do things that the Charter does not allow us to do – for example to change or enhance the criteria; or refuse recognition even where an applicant meets the criteria. The general consensus though was that our proposed approach to recognition was about right.

11. We have considered carefully what was said at the consultation events and all the responses we received to help us shape the final recognition process. As a result we made a number of changes to the process where we considered these were warranted on the basis of the merit of the response, rather than the number of respondents making that point. We have provided further clarification of the criteria where we agree it is needed – and removed it where, on balance, we feel the individual criteria are sufficiently clear.

12. We have reviewed our proposals for assessing applications. We agree that by publishing an application in full and calling for information we are more likely to make the process more accessible to members of the public and generate information of relevance and value that we might otherwise not have seen. We have taken on board concerns raised about how we decide to grant recognition. Specifically, we have made clear that there is no provision in the Charter for any sort of interim or 'conditional' recognition – we will either grant recognition or we will not. It all depends whether the applicant is able to demonstrate that they meet all the Charter criteria.

13. This document summarises the feedback we received, our response to that feedback and the approach we will take to recognition as a result when we open to receive applications on 10 September 2015. In some cases we have responded to and utilised quotes relating to a particular question under the heading of another question or section. This is to ensure that we adequately responded to the concerns raised, while maintaining a continuity of themes.

Respondents

14. In total, 200 written responses were received to the consultation and over 100 people came to our events. Respondents came from a wide range of backgrounds, including members of the public, academics, and organisations including small and large newspapers, representative bodies, publishers, media owners, campaigning organisations and regulators. Our approach to consultation, with the opportunity to contribute to the debate, was generally well received.

15. For written responses, we asked respondents to indicate (under the headings provided) which group or type of stakeholder they were. This was to help us understand the context of the response and therefore be better placed to assess the potential impact. The breakdown of responses by type of stakeholder is summarised below (Tables 2 and 3). Where we received responses from individuals who did not clarify their respondent type, we have included them as 'members of the public'.

16. The organisation Hacked Off, has been campaigning for the "full implementation of the Leveson reforms via the Royal Charter and the associated legislation, and if necessary by further legislation."[2] Members of the public who support the organisation were encouraged by Hacked Off to respond to the consultation and provide feedback on certain criteria, and a large number did so (156 individuals).

17. When reviewing responses we gave weight to the substance of the point being made, not to the number of times it was raised.

18. The tables below breakdown the responses to our consultation in further detail.

Table 1 – Number of participants in consultation activities

Feedback type	Number of participants
Written responses	200
Consultation event attendees	103[3]
Interactive webinar viewings	43

[2] See letter from Dr Evan Harris to David Wolfe QC dated 31 July 2015, accompanying Hacked Off's consultation response

[3] This does not include the number of attendees at the LSE hosted event, for which there was no register, but included about 40 people.

Table 2 – Individuals providing written responses

Respondent	Number of participants
Academic	1
Other	2
Member of the public	178
Total responses	181

Table 3 – Organisations providing written responses

Respondent	Number of participants
Local newspaper	1
Regulator	3
Trade union	1
Member organisation/representative body	1
Publisher	4
Third sector and campaigning organisation	4
National newspaper, magazine, website	2
Other	3
Total responses	19

Section Two: Consultation questions, feedback and PRP proposals

> Question 1: Do you agree with the principle of using indicators and examples of evidence as guidance to applicants and the PRP in determining applications?

Number of written responses clearly stating yes or no to Question 1		
Yes	No	**Total**
21	1	**22**

19. In the consultation document we proposed using a 'recognition matrix' to demonstrate the possible indicators and examples of possible evidence, which could assist us when determining whether or not a regulator meets the criteria set out in Schedule 3 of the Charter. Whilst it is for regulators to decide how best to demonstrate compliance with the criteria, the matrix is available to provide guidance, particularly for those criteria that may require clarification.

20. Some respondents commented on the wording of the criteria, which we are unable to change.

21. The majority of the written responses agreed with the proposal in Question 1. One respondent did not agree with our approach because of wider concerns around the Charter. The key issue raised was the balance between providing guidance and not straying beyond our powers. These points are explored further under Question 2.

Amending the matrix

22. One respondent, whilst supporting our overall approach, suggested that the term indicators "might be seen as adding to the Leveson criteria rather than showing how they will be interpreted" (Hacked Off); and suggested using the terms 'guidance' and 'clarification' instead. They said that we should also be clarifying the criteria rather than elaborating them. Other respondents stated that we should elaborate the criteria further and use key performance indicators to ensure that the regulator's process is robust.

23. One respondent said that we should distinguish between evidence that is mandatory and that which is not and commented on the distinction between "indicators" and "evidence".

24. More generally, respondents highlighted the need to demonstrate our independence when developing our guidance, including the need to distinguish clearly between the initial process for recognition and the ad-hoc and cyclical reviews.

Our response

25. Given the general agreement in favour of our approach, we have decided to proceed with the principle and terminology of indicators and examples of evidence. While we agree that some of the examples of evidence would need to be included in an application, we do not believe it is necessary to distinguish between what is mandatory and what is not.

26. We do not believe it is within our remit to set key performance indicators, but agree these could be helpful for regulators to set for themselves as one way to evidence compliance with the criteria.

27. In addition to the matrix, we are publishing guidance on the recognition process and making an application, which more clearly explains our role. We will consult separately on our approach to ad-hoc and cyclical reviews in the first half of 2016.

> Question 2: Do you agree with the indicators and evidence we propose? Give reasons if you wish. For specific comments on the criteria, use the comments box on the matrix.

Number of written responses clearly stating yes or no to Question 2		
Yes	No	**Total**
14	9	**23**

28. Respondents broadly agreed with the proposed indicators and examples of evidence included in the matrix. The majority of those that disagreed with our proposals commented on only a small number of our proposed indicators and examples of evidence. Several respondents gave detailed feedback on a large number of the criteria. We are grateful to those who took the time to work through specific criteria in detail, and the contributions put forward.

29. We will cover the broad issues raised in respect to this question in this section, and include specific points against criteria in the matrix in section four. The matrix details our amendments as 'tracked changes', along with a comments box to highlight issues raised and our response.

30. Finally, a number of respondents commented on the adequacy of the criteria themselves, something which we were unable to consider as part of this consultation. The feedback we received was however useful, and we will use this information when considering how we will inform Parliament, the Scottish Parliament and the public in 2016 as required by the Charter[4].

[4] The Charter requires the Board to: "inform Parliament, the Scottish Parliament, and the public as soon as practicable if, on the first anniversary of the date the Recognition Panel is first in a position to accept applications for recognition and thereafter annually if:

i. there is no recognised regulator; or ii. in the opinion of the Recognition Panel, the system of regulation does not cover all significant relevant publishers" (Schedule 2, 10 (B))

We will also inform the Welsh Assembly following a request earlier this year. We have not received a request from the Northern Ireland Assembly, but would be pleased to make a similar arrangement.

Going beyond the criteria

31. Many respondents highlighted the need to provide sufficient clarification to guide an applicant without providing indicators that risk going beyond the criteria set out in the Charter.

> *"It is important that applicants have a clear understanding of the intentions and range of the process."* (Anonymous)

> *"...applicants will need a lot of guidance to understand what a shared understanding of what a particular charter criteria might generally look like."* (Make Public)

32. Several respondents said that while it was important to provide guidance, the criteria should only be clarified where absolutely necessary:

> *"The PRP should only consider issuing guidance, in the interests of transparency, only where a criterion in the Charter is so ambiguous that reasonably competent people might reach different judgements as to whether or not a regulator satisfies that criterion."* (IMPRESS)

33. Generally respondents felt that we had struck the right balance, but several highlighted examples where they felt we may have gone beyond our powers:

> *"Yes we do agree - but with some change of approach. It is important that these criteria are not "gold-plated" in the sense of additional requirements being added at this stage to what the Royal Charter says (itself an appropriately very close translation of Leveson's criteria). We think that the PRP has generally avoided this but we identify examples where the suggestions have that effect."* (Hacked Off)

Our response

34. We were pleased that the majority of respondents to this question believed that we had broadly struck the right balance between guiding a regulator through an application, without being overly prescriptive or going beyond the criteria. When developing our proposed indicators and examples of evidence we only added indicators where we thought the criteria were ambiguous and an applicant might need additional guidance on how to meet them.

Use of adjectives and adverbs in indicators

35. We received a number of comments about our use of the words 'reasonable', 'reasonably' and 'proportionate' as part of some proposed indicators in the recognition matrix. Several respondents said that the use of these descriptors extended beyond our powers.

> *"Criterion 8 requires that the Code must address various matters. It is the responsibility of the Board of the Regulator to ensure that happens (Criterion 7). The Panel cannot test the proportionality and reasonableness of the Code without interfering with the responsibility reserved to the Board of the Regulator."* (Simon Carne)

> *"The PRP does not have a mandate to determine whether a code is 'proportionate' to a regulator's subscribers or 'reasonable' in its terms."* (IMPRESS)

36. Other respondents noted that the concept of 'reasonableness' was applied in very different contexts, so that rather than clarifying criteria, it provided further ambiguity.

Our response

37. We included qualification of the terms 'reasonableness' and 'proportionality' in some of our proposed indicators because we wanted to find a way to ensure that all the criteria are effectively met, and in some cases, in a way that was not overly onerous on the applicant. It was not our intention to 'test' the applicant's decision over certain matters, or to suggest that an applicant should be discriminatory in its operations.

38. When developing the indicators, we started from the position that if decisions taken by an applicant's Board were not 'reasonable', this might indicate that other criteria may not have been met. In other contexts, for example in relation to the publication of the complaints procedure, we used the words "available to anyone who might reasonably want to access it" so as not to make the requirement overly burdensome. Having reviewed the responses received, we have amended the wording in some instances, as highlighted in section four.

Evidence of operation

39. Hacked Off and IMPRESS raised concerns over our proposed examples of evidence that were operations-related; for example, data on the volume and type of complaints received for various criteria. They said that such examples were premature for testing a new regulator and could cause confusion. They suggested that it would be better to use evidence of operation for future reviews instead.

40. However, another respondent suggested that such evidence would be helpful in assessing an application:

> *"If the regulator has already been operating, you could ask it for an interim report covering its prior activities. This both provides good evidence for this criterion [21], but would also form strong evidence supporting several of the others."* (Ian Badcoe)

Our response

41. We designed our proposals for a scheme of recognition that would allow for different types of regulator to apply for recognition at various stages of operation. Any applicants that were already operational would have different types of evidence available compared with a newly established organisation. In both cases the applicant would need to demonstrate its ability to comply with the Charter criteria and it is for them to decide the best way in which to do this. We have made this clearer in our guidance to applicants.

'No elaboration proposed'

42. Where we believed the criteria were clear, and therefore did not require indicators, we noted this in the matrix by the phrase 'no elaboration proposed'.

43. Several respondents disagreed with our choice of criteria where we considered that no further elaboration was necessary. We have highlighted the relevant criteria in section four.

44. Some respondents noted their concern that the use of 'no elaboration proposed' meant that we would not apply the criteria in a robust manner during the assessment period.

> *"We note the consultation document proposes 'no elaboration' to Charter Criteria 5 (c) which requires that members of a self-regulators board should 'include a sufficient number of people with experience of the industry (throughout the United Kingdom) who may include former editors and senior or academic journalists'. We hope 'no elaboration' does not mean this important criteria will not be applied rigorously."* (Associated Newspapers)

Our response

45. We developed the wording 'no elaboration proposed' in the matrix to indicate where we believed the criteria were clear enough and did not require further clarification. This did not mean that those criteria would be applied any less robustly, just that they were clear. We have amended the matrix to state 'indicators clearly included in the criterion' instead of 'no elaboration proposed' in order to clarify this.

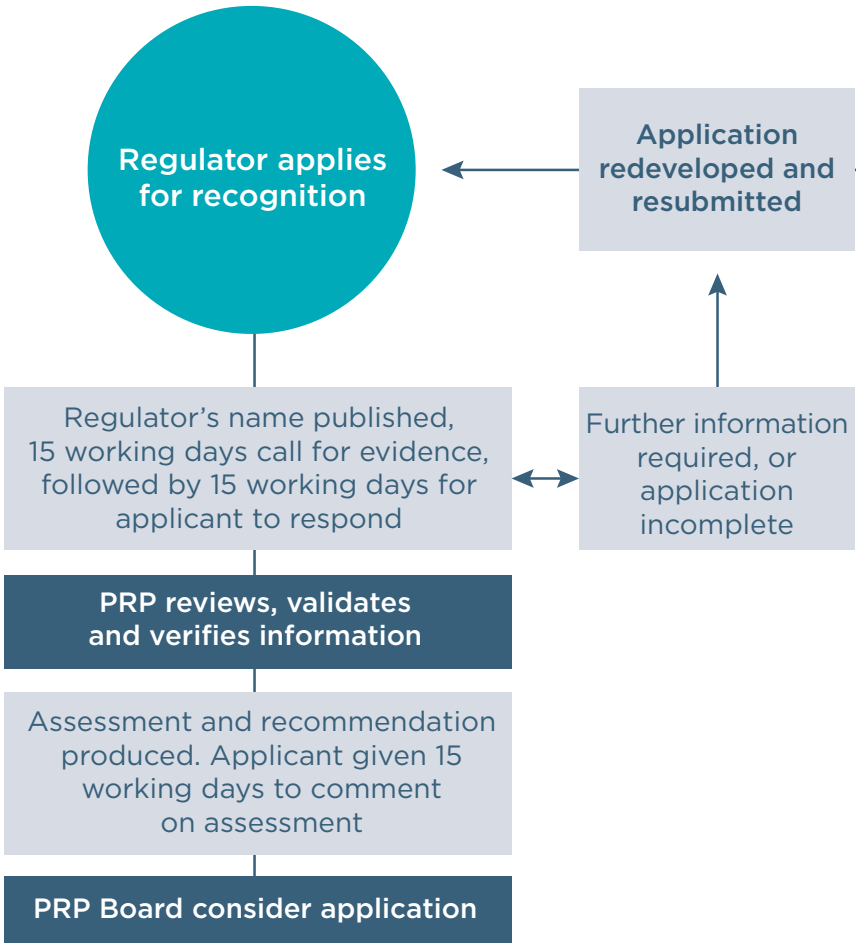
46. Where respondents have suggested we do need additional indicators, we have highlighted these in the matrix in section four.

> Question 3: Do you agree with our proposed approach to dealing with applications? Give reasons if you wish.

Number of written responses clearly stating yes or no to Question 3		
Yes	No	**Total**
15	7	**22**

47. In our consultation document we outlined our proposed approach to dealing with applications, and the stages/elements it would include[5] (see Figure 1).

Figure 1 – Consultation proposals for dealing with applications



48. Whilst respondents were broadly supportive of our overall approach to dealing with applications, we received a variety of responses, which focused on different stages of the proposed process as discussed below.

[5] The granting of recognition is covered under Question 5.

Call for evidence

49. As part of the recognition process, we proposed having a 'call for evidence', which would allow for interested parties to provide information on an applicant. There is no express Charter requirement for this and in the interests of balancing transparency with expediency we had proposed we should only publish the name of the applicant and not the full application.

50. A number of attendees at our consultation events said that it was not clear whether or not a 'call for evidence' meant a full consultation. It was suggested that a 'call for information' would better describe what we were trying to achieve.

Our response

51. We agree that the phrase 'call for information' makes the intended process clearer. A number of other respondents made similar points and suggested that the PRP should publish the application and run a full consultation process.

Publication of application

52. Some written respondents said they saw no value at all in conducting a call for evidence if, as per our proposals, we only published the regulator's name.

> *"A third party is no better placed than the PRP to determine, from its name alone, whether a new and/or previously unrecognised regulator meets the Charter criteria. A consultation which cannot, by its nature, generate relevant or valuable information is likely to waste the time of the PRP and the applicant and may lead to dissatisfaction on the part of any respondents."* (IMPRESS)

53. There was considerable support for a process that published the application in full (with commercially confidential information redacted), as it would be more likely to generate valuable feedback, and give greater public confidence in the system.

> *"This [the proposal] cannot meet your commitment to transparency. How can interested parties possibly comment constructively without any opportunity to examine applications?"* (Associated Newspapers)

> *"To consult on the full application, redacted where necessary to protect personal or commercially-sensitive data. This would allow third parties to comment on the substance of the application and would be more likely to generate information which is of relevance and value to the PRP and the applicant."* (IMPRESS)

> *"...if the PRP wishes to cater for the opportunity for the public to comment before application is decided, it would be sensible to publish the detail of the application along with it (except for any parts deemed by the applicant and the PRP to be commercially or otherwise confidential or to involve personal data). If the application is not published third parties (and the public) will be left in the dark and only able to comment on superficial details, such as the name of the applicant or the people behind it."* (Hacked Off)

Our response

54. Irrespective of the terminology used, we disagree that publication of only the applicant's name would not in itself provide relevant and valuable information. It is likely that there would be information about the applicant in the public domain, for example on members of the Board, which would allow for feedback in relation to the requirements of criteria 1-5.

55. One reason for proposing this approach had been to reduce the amount of time it would take to process an application. We also wanted to avoid putting commercially confidential information into the public domain, which might deter applicants of different sizes coming forward. We had also considered the issues that would arise if applications were amended by the applicant after submission/publication.

56. Having considered the feedback we received, we note these concerns need to be balanced against other things including: encouraging more robust applications, making it easier for respondents to provide more relevant information, and improving public confidence in the process. Given the range of responses supporting the publication of applications, we have concluded that publishing an application in full and allowing the public to provide information relating to it is an effective way to help us verify information in an application. We will therefore take the additional step to publish the application in full (redacted where necessary).

57. We will still use the process as a 'call for information' rather than a general consultation, and the applicant will still get the opportunity to comment on the information we receive, unless the respondent asks for the information not to be shared. This will be explained further in our guidance to applicants.

58. The call for information will not be an opportunity for third parties to submit opinions or hearsay, or to assess or comment generally on whether or not an applicant meets the criteria. It is an opportunity for third parties to share facts and evidence with us to inform our assessment.

Consulting on our assessment

59. A number of respondents suggested that the PRP should publish the executive team's initial or draft assessment alongside the application. Others suggested that we should publish our assessment at the point it is shared with the applicant.

> *"We would further suggest that the PRP publishes its initial or "draft" assessment alongside the application.* (Hacked Off)

> *"... the assessment that you send to the applicant (Bullet 3 of Paragraph 59 of the pdf) should also be published on your website and third parties also given an opportunity to respond prior to you making the final decision."* (Louis Lillywhite)

Our response

60. We considered these points carefully, as the suggested approaches could have benefits in relation to transparency, engagement and feedback.

61. Publishing the application at the same time as the PRP executive team's initial assessment could, however, reduce the usefulness that public engagement has in providing information to the team when carrying out the assessment – something which we feel is valuable. We also consider it more appropriate to let the applicant review a copy of the assessment at a point where we have been able to consider the evidence submitted to us by third parties.

62. We therefore consider that publishing a single 'call for information' at the beginning of the process will be the most effective way for us to take account of third party information in making our assessment. It is after all for the PRP Board to decide on whether or not an applicant meets the criteria.

Time given to respond to calls or requests for information

63. In our consultation we suggested that at each stage of the process we would allow 15 working days for applicants and interested individuals to respond, and a number of respondents supported this proposal.

> *"The 15 days proposed is a reasonable time period to ask for views, and the applicant should be sent all comments at the end of the 15 days, with up to 15 days to respond to the PRP if it chooses."* (Hacked Off)

> *"...[the proposal]seems both fair and appropriately time constrained."* (Neville Cramer)

64. However, several respondents questioned whether 15 working days is long enough to provide information on an applicant, particularly if their full application was published.

> *"...while 15 working days might be sufficient time to react to applications from smaller regulators, for larger regulators 15 working days is not enough time for all interested third parties to study the application fully, to consult, gather evidence and to respond adequately."* (Hilary Chadwick)

Our response

65. We agree with many respondents that 15 working days would be an appropriate time to respond to a call for information if only the name were to be published. We also agree, that if we publish the application in full, interested parties would need a longer period of time to consider the application and to work out what additional information they have which might assist us. We need to ensure that we strike the right balance between expediency and allowing respondents the time they need to review and comment.

66. We have concluded that 20 working days would be an appropriate time for interested parties to respond. We will continue to allow 15 working days for the regulator to respond to information provided by such parties after the call for information period.

Format of notification

67. We received a number of responses stating the need to ensure that our call for information is reached by a broad range of interested parties and suggested ways of doing this.

> *"Substantial resources should be committed to publicising applications as widely as possible, in order to maximise the public reach of the proposed terms of reference of the new regulator."* (Hilary Chadwick)

> *"Perhaps you could additionally notify parties via a twitter feed, RSS feed or email subscription list? This would potentially elicit views from interested third parties and may prompt them to revisit your website or take an interest in the affairs of the PRP more generally."* (Ombudsman Services)

Our response

68. We would like a full range of interested parties to respond to our call for information. In our guidance for applicants we set out how we intend to undertake our call for information. We have taken these points into account and will ensure we publish our announcements widely.

> Question 4: Do you agree with our proposed approach to discussions with applicants? Give reasons if you wish.

Number of written responses clearly stating yes or no to Question 4		
Yes	No	**Total**
18	4	**22**

69. In our consultation, we proposed welcoming discussions between our executive team and applicants before they formally applied and providing assistance with the process as required. We made clear that it is not our intention to advise the applicant on how it should meet the criteria, nor would we be able to help with the development of an applicant's internal processes.

70. The responses to the consultation demonstrated that there was general support for our proposed approach to executive team discussions with applicants, but different views about the level of any possible support.

> *"...your approach looks to be reasonable in both fostering appropriate dialogue between the PRP and potential Regulators while setting clear standards to ensure the process remains transparent, impartial and fair"* (Ombudsman Services)

71. One respondent noted that there was insufficient information in the consultation to determine if our proposals were suitable or not.

Greater collaboration

72. Several respondents said that they did not agree with our proposals, and that there should be deeper collaboration pre-application to make it as easy as possible for applicants to meet the requirements. This was supported by comments made by a number of participants at our consultation events.

> *"There is no constitutional reason why the PRP should not be able or willing to offer advice, without prejudice, to prospective regulators. A regulator can gain no unfair advantage from such advice, and it is in the interests of the public for regulators to satisfy the recognition criteria, so long as these are interpreted by the PRP in line with the principles outlined above."* (IMPRESS)

"We believe that the PRP should take a more positive and proactive approach: it should be willing (at staff level and without prejudice to any later assessment) [to] advise the applicant and help it develop Charter-compliant systems and operation with as much guidance as required... While we acknowledge that the Board of the PRP may not wish to have direct contact with potential applicants to avoid their objectivity coming into question, we believe there is no harm in the staff of PRP doing so and we believe this should be made clear." (Hacked Off)

Our response

73. We will welcome discussions between the PRP executive team and applicants before they formally apply and will provide assistance with the application process as required.

74. Several respondents said they wanted a deeper collaborative approach in the pre-application process. We believe that such an approach would not be appropriate. Fundamental to how we will discharge our obligations under the Charter is our independence from external influence. Whilst we agree there is a distinction between the PRP Board (who make the recognition decision) and our executive team (who prepare an assessment and recommendation to the Board), it could be considered to compromise the independence of staff assessing the systems and operation of an applicant if they had been involved in their design.

Publishing discussions

75. One individual respondent, a member of the public, who did not agree with our proposals in Question 4, nonetheless said that should we decide to engage in discussions with applicants, we should at least publish that we have done so, although the details of the engagement could be confidential. The respondent also said we should consider whether to meet other interested parties at an appropriate time.

Our response

76. We want our executive team's discussions with applicants to be free and frank, but also without prejudice to the outcome of the PRP Board's recognition decision. Any discussions that take place once an application has been made will be noted in the outcome report following the Board's decision, but the content of those discussions will remain private.

77. Third party information may have an important role to play in the recognition process, specifically during our 'call for information'. Whether or not we meet third parties will depend on the information we receive back from such a process.

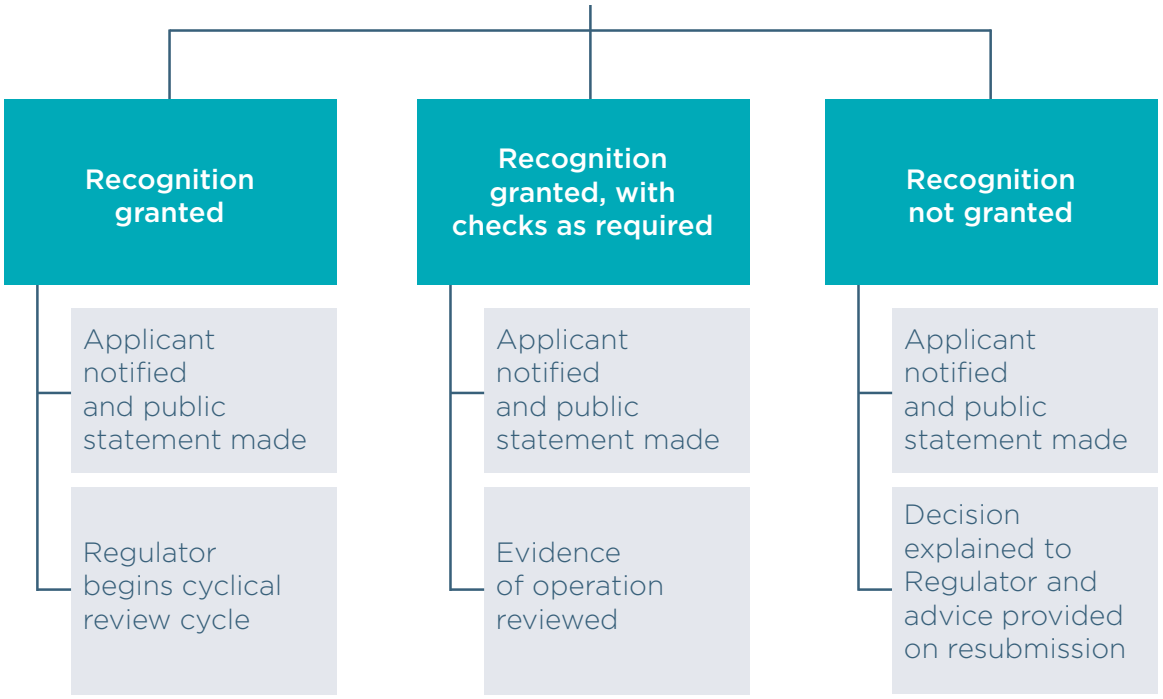
> Question 5: Do you agree with our proposed approach to granting recognition?

Numbers of written responses clearly stating yes or no to Question 4		
Yes	No	**Total**
16	6	**22**

78. In the consultation document we explained that applications might come from regulators of various sizes and at different stages of their operation. We stated that the decision about recognition will depend on the applicant being able to demonstrate, to our satisfaction, that it has the processes and resources in place to meet the criteria set out in Schedule 3, even if it does not yet have evidence of sustainable operation.

79. Whilst sixteen written respondents answered yes to Question 5, demonstrating that there was general support relating to our proposed approach to granting recognition, several concerns were raised about this approach, which are highlighted below.

Granting recognition



80. Several respondents commented on the middle column of our proposed recognition process, the 'recognition granted, with checks as required'. Specifically that this proposal went beyond our remit.

> *"We believe that the "middle option" of "Recognition granted, with checks as required" is potentially beyond what the PRP is permitted to perform under the Charter, and in addition is counter to the agreed policy which was that the Recognition Body should not, and should avoid the perception of, continually checking or recognised self-regulators. This has the benefit of making clear that the PRP does not have a role in overseeing, even indirectly, the newspapers which subscribe to such a regulator, nor in monitoring recognized self-regulators... No provision is made for a separate category of "recognition with checks" if that is what is suggested. The Charter and the associated legislation only provide for a binary distinction. So it is a binary judgment which the PRP must make: recognition or not."* (Hacked Off)

> *"...the PRP has no mandate to conduct 'checks' outside the scope of a formal review. The promise to 'monitor' a regulator (paragraph 64) suggests a role which is beyond the mandate set out in the Charter...The PRP's role in the field of press regulation is constitutionally sensitive and must only be carried out through the formal and transparent mechanisms provided by the Charter: initial, ad hoc and cyclical reviews."* (IMPRESS)

81. Another respondent suggested we could include an additional column to show an iterative conclusion, reducing the risk of negative publicity to applicants.

> *"Put simply, I suggest that the flowchart on page 14 should have four possible outcomes, not three. In addition to (1) Granted, (2) Granted with Checks, and (3) Not Granted, there should be an outcome in which the PRP seeks more details (further and better particulars) relating to some or all aspects of the application. In one sense, this could be said to be part of the Not Granted outcome. But it would be naive not to be alert to the potential for negative publicity triggered by with a "Not Granted" outcome, contrasted with "The PRP is seeking more information before making a decision"."* (Simon Carne)

Our response

82. We agree that there is no provision in the Charter for any sort of interim or 'conditional recognition' – recognition must either be granted or not granted. It was not our intention to suggest otherwise and we have removed the 'recognition granted, with checks as required' column to avoid any confusion.

83. We consider that as the process itself is a potentially iterative one, there will be plenty of opportunities for a regulator to withdraw from recognition or re-develop their application. At the point at which the PRP Board makes its decision, it may wish to request further information from the regulator. In such a situation, this is not an automatic rejection, but an adjournment of the decision pending further information. Where the Board decides that the information provided by a regulator gives them enough evidence to make a decision, the outcome could still be that the applicant should not be granted recognition.

Evidence of sustainable operation

84. We received several comments about recognition of a regulator without a history of sustainable operation or that did not yet have members. Some respondents asked whether it was appropriate to grant recognition given the potential impacts (which are discussed in Question 6), others whether the approach was consistent with the Charter.

> *" Fundamentally, even if all the individual criteria are met, surely the PRP has to then stand back and ask itself whether the regulator seeking approval has a sustainable operation and a sufficient core of members to make it effective. If a regulator has no membership or only a limited membership, it should not be approved…the Leveson Report stated that "a new system of regulation should not be considered sufficiently effective if it does not cover all significant news publishers."* (Guardian News Media Limited)

> *"In 'Granting Recognition', PRP states it is anticipated that applications could be received from regulators of "various sizes" and "at different stages of operation", and that recognition could be granted even if they do not have evidence of sustainable operation. This seems misconceived. PRP should not be granting recognition to applicants which do not have the backing of significant news publishers so they are able to deliver sustainable independent, self-funded, self-regulation for "the industry" as recommended by Leveson (e.g. Vol IV, Part K, Chapter 7, para 3.14) and envisaged by the Charter."* (The Financial Times)

85. Respondents also questioned how we would ensure that an applicant was "formed by or on behalf of relevant publishers" (Schedule 4(1)(a) of the Charter), and queried if this was possible with no members.

Our response

86. All applicants will need to be able to demonstrate that they meet all the Charter criteria. If the PRP Board considers that they do, the Charter requires they recognise the applicant. It would be beyond our powers to refuse recognition on the basis of other factors or considerations which are not set out in the Charter.

87. Contrary to what some respondents stated, nothing in the Charter says that recognition should depend on the nature and extent of membership of the applicant.

88. Applications will be considered in relation to the circumstances that prevail at the point the regulator applies for recognition. We do not propose to comment further on what are currently theoretical scenarios when it comes to potential applicants

> Question 6: Do you consider that our proposals will have any impacts, either positive or negative, including on our compliance with the Public Sector Equality Duty (PSED)?

89. The process for assessing applications for recognition will be completely new, untried and untested. We wanted therefore to consult widely on our initial proposals for how the process for receiving and determining applications might look, including examples of the type of evidence the PRP would expect to receive to demonstrate compliance with the Charter criteria.

90. No respondent said anything of direct bearing on our discharge of the Public Sector Equality Duty but some commented on other potential impacts, which we consider below.

91. We received no evidence on the potential monetised costs and benefits of the options under consideration, but have considered the wider advantages and disadvantages of the suggestions made, both in terms of the application process and our assessment of the application.

Funding (criterion 6)

92. Several respondents from the media questioned the wording of the proposed indicators for criterion 6 (funding). Some queried whether its requirements could be fulfilled by a regulator with no members, and how that might impact on its funding arrangements.

> *"Schedule 3 (6) of the Royal Charter recognition criteria requires that: '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'.*
>
> *If a regulator has no members, then how can such conditions be fulfilled? How can it be shown to be formed either by relevant publishers, for the purpose of conducting regulatory activities in relation to their publications, or on behalf of such publishers, if they are not members? And how, without members, can any funding settlement be negotiated between the industry and the Board, well in advance, for a four or five year period and settled in agreement, (taking into account the specified factors) with an indicative budget certified as adequate for the purpose by the Board?"* (News Media Association)

93. Several respondents pointed out that the term 'industry' is not defined in the Charter, including in relation to funding settlements. Some equated 'industry' with members/ subscribers, referring to the term 'self-regulation' in the Charter to support this definition. Some respondents suggested that the definition of 'industry' should be taken to mean a significant number of 'industry members'.

> *"And would it not be against the terms of the Royal Charter recognition criteria for the regulator to be funded by anyone other than the regulated industry (and might not that also create difficulties for Press Recognition Panel funding, aside from the specific provision for Exchequer funding)?"* (News Media Association)
>
> *"Criteria 6 requires that funding for such a self-regulatory system should be settled in agreement between "the industry" and the Board, taking into account the regulator's obligations and the commercial pressures on the industry. However, the relevant indicators make no mention of a requirement for the Board to agree funding with significant news publishers such that the Board could be said to have agreed sustainable funding with "the industry". The inappropriate indicators might enable an applicant to gain approved status even though (i) it has no, or only very few or insignificant "industry" members, and (ii) it would not be reasonable in the circumstances for individual national or international media organisations to join it."* (The Financial Times)

"It would be a deeply unsatisfactory situation if the punitive clauses of the Crime & Courts Act impacted on the vast majority of local, regional and national commercial news organisations as a result of the PRP taking such a broad reading of 'the industry', as to allow a regulatory body, funded by charities or rich donors, representing the hyper local sector, to become a recognised regulator." (Guardian News & Media Ltd)

94. Some respondents (including both small and large publishers) questioned whether or not a regulator could meet the requirements of criterion 6 if the fees it charged subscribers/members were too great.

"We particularly worry we will be priced out of the market in future. For example, what provision will be in place to avoid a single monopoly regulator evolving some years down the line if competing regulators cannot sustain their funding? A monopoly regulator could charge almost any fee for membership, potentially leaving many relevant publishers exposed." (Port Talbot Magnet)

"For one thing, such isolated media organisations would risk having to fund its operations disproportionately themselves; for another, this could not be said to be a system of independent self-regulation for the industry as envisaged by Leveson or the Charter." (The Financial Times)

Our response

95. Schedule 2 of the Charter requires the PRP Board to consider concepts including 'reliable funding' when considering compliance with the Schedule 3 conditions. In our judgement, criterion 6 (particularly when seen alongside criterion 23) aims to ensure that approved regulators have an appropriate level of funding, sufficient to carry out the tasks required of them but only charging fees which take into account the commercial pressures on members/subscribers and potential members/subscribers (large and small), without overcharging them. The independence of the regulator must be maintained, irrespective of where those funds come from.

96. Contrary to what some respondents said, there is nothing in the Charter that means a regulator must be funded entirely by its members/subscribers and there is no Charter prohibition on a regulator receiving third party funding. In relation to the definition of 'industry', the Charter refers to the concepts of 'press', 'members' and 'subscribers', so we consider 'industry' to be a wider concept.

97. We believe the proposed indicators together with criterion 6 itself sufficiently capture these points.

98. Whilst we have received no quantitative evidence to suggest that the Charter requirements are overly onerous, we would welcome data from prospective regulators considering recognition on the likely costs of setting up and maintaining a sustainable operation. This information will help inform our future consultation on fee charging.

Standards (criterion 8)

99. Several respondents said that the proposed indicators for criterion 8 (standards code) were likely to encourage a positive impact both in terms of protecting the press from victimisation and the public from press intrusion. The Information Commissioner's Office (ICO), which has a relevant interest in the emergence of any new standards codes (criterion 8), welcomed "the explicit requirement that notwithstanding public interest justification, a press regulator's standards code must give appropriate respect for privacy." It points out that:

> *"Section 32(3) of the DPA states that the ICO may take into account compliance with any relevant code of practice (as designated by the Secretary of State) when considering whether a data controller's view that publication would be in the public interest was reasonable. Currently there are three specified codes: the Editors' Code; the BBC's Editorial Guidelines; the Ofcom Code. Therefore a new standards code for the press would not immediately be covered by this clause of the DPA. The designation of any new press standards code under section 32(3) of the DPA would be a matter for the government rather than the Commissioner. However as a matter of good regulatory practice, when investigating concerns about the media the ICO is likely to give regard to the extent to which a data controller has complied with a press standards code used by a PRP-recognised self-regulator, even if that code has not yet been formally designated by ministerial order."*

Our response

100. We expect regulators to have 'demonstrably considered relevant legislation, codes, rules and/or guidance' when developing a standards code. We appreciate the ICO's comments on this. The PRP will engage with the ICO when we receive an application and also at the point of recognition.

Arbitration (criterion 22)

101. We received several detailed responses in relation to criterion 22 (arbitral process): including from IMPRESS, Hacked Off (with 21 of the public respondents replicating the Hacked Off response), Early Resolution CIC and the Port Talbot Magnet; together with more general comments from Guardian News and Media Ltd.

102. Responses commented on the impact of criterion 22's requirements and on some broader points that we believe are best discussed here including:

- Whether or not membership of a regulator's criterion 22 arbitration scheme is mandatory for all its subscribers (including local and regional publishers);

> *"The PRP should clarify that participation in the arbitration scheme is mandatory for all other subscribers, and for subscribers who publish only on a local or regional basis and do not demonstrably suffer serious financial harm as a result."* (IMPRESS)

- Whether or not the use of the scheme is mandatory for all disputes (i.e. subscribers are not able to "pick and choose" which disputes to deal with through the arbitration scheme);
- Whether or not there should be a single arbitration scheme for all regulators/disputes;

  "In short there should be one specifically tailor-made Arbitration Scheme for this complex area of the law, just as there is a statutory adjudication procedure in the field of construction." (Early Resolution)

- How the fee for arbitration should be determined;

  "...affordability will [be] key for hyperlocals, and we welcome pricing guidelines or greater transparency on potential costs for members - the 'carrot' may not turn out to be much of a carrot for small publishers if these costs are too high." (Port Talbot Magnet)

- Whether or not the PRP would take a view on the setting of caps on a claimant's recoverable costs and expenses;

  "The way that recoverable claimant costs are limited is going to be critical for the workability and fairness of the arbitration scheme and access to justice for claimants on the one hand and cost-savings for publishers on the other. It is accepted that for the latter purpose there may well need to be cost-capping on recoverable costs for successful claimants but this must not be done at the expense of fairness." (Hacked Off)

- Whether or not requiring the mandatory use of the regulator's arbitral process contravenes Article 6 of the European Convention on Human Rights (ECHR) – the right to a fair trial.

  "In relation to a system of arbitration, these are complex issues relating to individuals signing away their rights to a fair trial (Article 6, European Convention on Human Rights)." (Guardian News and Media Ltd)

Our response

103. When developing the proposed indicators we considered it clear that members/subscribers would be bound by the regulator's arbitral scheme. The criterion 22 obligation is to provide an arbitration route for members of the public, which would not be the case if publishers could opt out generally or on a case by case basis. That result is reinforced by the cost shifting provisions in section 40 of the Crime and Courts Act 2013 which sit alongside the Charter. Those provisions link the use of a PRP-recognised regulator's arbitration scheme to the award of costs against a publisher and could only operate properly if the regulator's arbitration scheme was mandatory.

104. We have considered the proposal that there should be a single arbitration scheme but believe there is no basis for this in the Charter. The criterion requires the Board of the regulator to provide an arbitral process, it does not require regulators to use the same process. It would therefore be beyond our powers to limit regulators to a single arbitral process.

105. In relation to 'fees', we have removed the proposed indicator: "The administration fee is small and genuinely related to the costs of administration." This is because some respondents felt it created a potential source of confusion between the requirement in criterion 22 (e), footnote (1), (costs to complainants) and that in criterion 22 (g) (costs of arbitration as a whole). It will be for the regulator to determine the fee in the first instance, to be approved by the PRP Board if and when an application is made.

106. Criteria 22 (e), (f) and (g) set out the costing framework for the process. Nothing in these provisions allows us to set caps on a claimant's recoverable costs and expenses. We therefore view the setting of caps as being beyond our remit.

107. There is nothing in the criteria or the recognition system as a whole that removes the individual's right to pursue a claim in court.

Membership (criterion 23)

108. Several respondents questioned whether or not recognition of a regulator for small or 'hyperlocal'[6] publishers (if that were to come about) would satisfy the Leveson Report recommendation that 'for an effective system of self-regulation to be established, all those parts of the press that are significant news publishers should become members of an independent regulatory body'. Some expressed wider concerns about the impact of doing so, which one respondent described would:

> *"...kick-start a process that will have a huge impact on the press's ability to report and investigate."* (News UK)

Our response

109. Our role is to consider whether or not a regulator meets (and continues to meet) all of the 29 recognition criteria in the Charter; we cannot refuse recognition if they do (just as we cannot recognise them if they do not).

110. Criterion 23 requires that 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". Publishers would therefore be able to choose to join a recognised regulator and so gain the benefits (and avoid any negative impacts) which flow from the Crime and Courts Act 2013.

[6] The term "hyperlocal" has been defined as "Online news or content services pertaining to a town, village, single postcode or other small, geographically defined community." See Radcliffe, Damian, Here and now: UK Hyperlocal media today, Nesta Report, March 2012, http://www.nesta.org.uk/sites/default/files/here_and_now_uk_hyperlocal_media_today.pdf

111. We will report to Parliament, the Scottish Parliament and the public in September 2016 if there is no recognised regulator or if in our view the system of regulation does not cover all significant relevant publishers.[7]

Public Sector Equality Duty Impact Assessment

112. As the Charter makes clear that the PRP exercises public functions we will comply with the Public Sector Equality Duty (PSED) as required by the Equality Act 2010. In establishing the process for press self-regulator recognition we have given what the law calls 'due regard' to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not;
- foster good relations between people who share a protected characteristic and those who do not; as they apply to the protected characteristics of: disability; gender reassignment; gender; age; pregnancy and maternity (which includes breastfeeding); race; religion or belief; sex; and sexual orientation.

113. Throughout our consultation we tried to ensure that all those who are interested in our work can inform how we operate. We considered ways to gain extensive input from those groups with limited resources and no formal structures through which to reach them. We held a series of events throughout the UK, selected to provide a geographical spread and for good transport links, which were advertised in the local press.

[7] The Charter requires the Board to:

"inform Parliament, the Scottish Parliament, and the public as soon as practicable if, on the first anniversary of the date the Recognition Panel is first in a position to accept applications for recognition and thereafter annually if:

i. there is no recognised regulator; or

ii. in the opinion of the Recognition Panel, the system of regulation does not cover all significant relevant publishers" (Schedule 2, 10 (B))

We will also inform the Welsh Assembly following a request earlier this year. We have not received a request from the Northern Ireland Assembly, but would be pleased to make a similar arrangement.

114. We used our Twitter account to promote the consultation, issuing a series of tweets at key points throughout the consultation period. We held a live webinar, where participants were able to submit questions to our Chair. A copy of the webinar is published on our website (www.pressrecognitionpanel.org.uk). This opened up the consultation to a wider audience. We published a Welsh version of our consultation document on our website and provided for consultation responses in Welsh. We made clear in our consultation that we would consider requests for consultation materials in languages other than English and Welsh and in accessible formats (Braille, large print, BSL, audio, Easy read). We did not receive any such requests.

115. We were also open to requests from people wanting to give feedback in a way that met their needs, for example in a face to face meeting or by telephone as well as in writing or online, although we did not receive any such requests from individual members of the public. We asked respondents to indicate whether they were responding as an individual or as an organisation. Individual respondents were categorised into six groups: academic; member of the public; journalist or media employee; politician; student; or other (to be specified). In addition we asked those responding as an individual to complete a separate diversity monitoring form solely for compliance with the PSED purposes.

116. When determining whether or not an application meets the requirements of the recognition scheme, the Charter requires us to consider the concepts of: effectiveness, fairness and objectivity of standards; independence and transparency of enforcement and compliance; credible powers and remedies; and reliable funding and effective accountability, as articulated in the Leveson Report (Part K, chapter 7, section 4 ("Voluntary independent self-regulation")). We may also, but need not, take into account any of the recommendations 34 to 36 inclusive, 38, 43, 44 to 45 (inclusive) and 47 in the Summary of Recommendations of the Leveson Report. In relation to a regulator's role in hearing and deciding on complaints around Code amendments, recommendation 38 relates to "having the power to intervene in cases of allegedly discriminatory reporting, and in so doing to reflect the spirit of equalities legislation."

117. We do not believe that the Charter gives us a role in setting and monitoring the performance of recognised regulators (beyond the circumstances of an ad hoc review and a cyclical review) in respect of any compliance by them with the PSED. Rather our focus should be on ensuring that the outcomes of recognition are based on our discharge of the PSED. In general respondents agreed with this approach, particularly as the process sets the scene for a change of culture and that it appears to foster a high standard of inclusivity.

Section Three: Comments outside the scope of consultation

118. We received and have noted a large number of comments that fall outside of the scope of this consultation. The major points are highlighted below.

Charter mechanism

119. A number of respondents commented on the appropriateness of the mechanism for recognition under the Charter, and the potential recognition of multiple regulators. Respondents commented that this was not in the interests of industry or public, and that the Charter was not accepted by publishers.

> *"GNM does not believe that the creation of multiple press regulators is in the best interests of the media industry or the public, especially within a system that permits a regulator to be approved that does not represent the main body of news publishers."* (Guardian News & Media Ltd)

> *"It [the consultation document] also describes the Royal Charter as a 'compromise' (para 4). It was not a compromise with the newspaper industry. It was agreed by politicians and the Hacked Off lobby group without input from news publishers. No publisher has accepted the terms of the Royal Charter."* (Associated Newspapers)

Crime and Courts Act 2013

120. A number of respondents stated that they had received legal advice, or had themselves considered, that the relevant sections of the Crime and Courts Act 2013 are in breach of Article 10 of the European Convention on Human Rights.

> *"The NMA considers that the regulatory framework comprised of the Royal Charter for Self-Regulation of the Press, Enterprise and Regulatory Reform Act 2013 and Crime and Courts Act 2013, is incompatible with freedom of expression and press freedom."* (The News Media Association)

> *"More specifically, we have legal advice that sections 34-42 of the Crime and Courts Act 2013, which enforce the Royal Charter, and which discriminate against and penalise certain groups of news publishers, are in breach of Article 10 of the European Convention of Human Rights"* (Associated Newspapers)

121. Associated Newspapers provided a copy of the legal advice referenced in their response. The advice notes that, if smaller publishers could not afford a regulator's membership fees, the Crime and Courts Act would be discriminatory and lead to a breach of Article 10 of the European Convention on Human Rights. The issue of affordability is discussed in the previous section.

122. Two respondents commented on the 'chilling effect' the relevant legislation would have on those not signed up to a recognised regulator.

> *"Further, we submit that the PRP should consider the equally disturbing chilling effect on freedom of speech that would occur if a financially vulnerable publisher was forced to join an approved regulator about which it had concerns for the sole reason of avoiding the devastating effect of exemplary damages and costs sanctions."* (Trinity Mirror)

123. Port Talbot Magnet said they remained "...concerned that regulation may not be tailored adequately to the [hyperlocal] sector." However they broadly agreed "...that the incentives of regulation are positive for the hyperlocal sector, and are keen to sign up to a code of standards that makes our work transparent and trustworthy."

Educational role

124. A number of respondents said that the PRP should have an educational role around the legislation and the system of regulation. Some also suggested organisations and groups we could work with to ensure information is disseminated effectively.

> *"We are also concerned that many news producers who will qualify as relevant publishers have not had sufficient information about the new legislation and system of regulation. We would welcome information from the PRP regarding how the legislation and the new regulation system will be communicated to relevant publishers to help them avoid falling foul of the law. We suggest the PRP could work effectively with Trade Unions and other professional associations and networks to ensure this information reaches relevant publishers."* (National Union of Journalists, Welsh Executive Council)

IMPRESS

125. We received a large number of comments asking how we would recognise an application from IMPRESS, which we will not speculate on.

Section Four: Responses to criteria and amended matrix

126. In our consultation we set out our proposals for a recognition matrix. The recognition matrix is the tool that we proposed to demonstrate the types of indicators and evidence that we will consider when determining whether or not a regulator meets the criteria set out in Schedule 3 of the Charter.

127. The first column, and its associated footnotes, are the criteria as articulated in the Charter. They were therefore not for consultation. The second and third columns proposed the examples of how the criteria could be achieved through possible indicators and the types of evidence an applicant could submit. These were the columns that we welcomed comments on.

128. We have considered all the responses submitted against the criteria and highlighted in 'tracked changes' where we have made amendments. In some cases we considered that the suggestions put forward went beyond the criterion. In others we believe the criterion, indicators or examples of evidence proposed are already clear. We were grateful for the detailed responses we received and have made a number of changes to the matrix as a result.

Charter Criteria		~~Examples of proposed indicators~~ Indicators	Examples of ~~possible~~ evidence	Our response
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.	• ~~No elaboration proposed~~ Indicators clearly included in the criterion.	• Evidence to demonstrate fairness, transparency, openness and independence, including: • Appointments process, governance structure and supporting documents. • Board members' biographies and conflict of interest declarations from each Board member. • Any other supporting information to demonstrate independence. ~~from industry and/or Government.~~	Schedule 2 of the Charter requires the Board to 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 when making a decision. We received one response that suggested we include these concepts for criteria 1-4. We agree and have amended the evidence accordingly.
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.	• Indicators clearly included in the criterion. ~~No elaboration proposed.~~	• Evidence to demonstrate fairness, transparency, openness and independence, including: • Process used to select members of the appointments panel. • Process used by the appointment panel to appoint the Chair.	Schedule 2 of the Charter requires the Board to 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 when making a decision. We received one response that suggested we include these concepts for criteria 1-4. We agree and have amended the evidence accordingly.

Charter Criteria		~~Examples of proposed indicators~~ Indicators	Examples of ~~possible~~ evidence	Our response
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.	• Indicators clearly included in the criterion. ~~No elaboration proposed~~	• Evidence to demonstrate fairness, transparency, openness and independence, including: • Process used to select members of the appointment panel. • Composition of the appointment panel, clearly identifying those members that are persons with a current understanding and experience of the press; are serving editors; and those considered independent of the press.	Schedule 2 of the Charter requires the Board to 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 when making a decision. We received one response that suggested we include these concepts for criteria 1-4. We agree and have amended the evidence accordingly. We received other comments suggesting the need to clarify certain aspects of the criterion. After consideration, we did not believe the indicators needed further expansion.
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.	• Indicators clearly included in the criterion. ~~No elaboration proposed.~~	• Evidence to demonstrate fairness, transparency, openness and independence, including: • Process for selecting Board members and the selection criteria used. • Board members' biographies and conflict of interest declarations from each Board member. • Governance arrangements and supporting documentation.	Schedule 2 of the Charter requires the Board to 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 when making a decision. We received one response that suggested we include these concepts for criteria 1-4. We agree and have amended the evidence accordingly.

Charter Criteria		~~Examples of proposed indicators~~ Indicators	Examples of ~~possible~~ evidence	Our response
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 the United Kingdom) 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.	• Indicators clearly included in the criterion. ~~No elaboration proposed~~	• Composition of appointments panel complies with criteria 1 and 3. • Process used by the appointments panel to nominate and appoint Board members. • Board members' biographies, evidence of compliance with criteria 5(a) to (f), and conflicts of interest declarations.	Some respondents queried whether the criteria set out in 5 (d) and (e) also applied to the appointments panel. For clarification this is not the case for serving editors as the Charter allows for "not more than one" current editor to be on the Appointments Panel. Regarding 5(e) criterion 3 is silent on this. However criterion 1 makes clear that this is indeed the case as it requires that the Board be appointed in a genuinely open, transparent and independent way "without any influence from industry or Government". We have added an example of evidence to show the link between criteria 5, 3 and 1. One respondent suggested we define "serving editor". We note that a number of the criteria refer to "editor(s)" but without that being defined in the Charter and that the Defamation Act definition is not directly applicable. We do not propose to suggest an exhaustive definition but we do consider that the definition goes beyond just the single main editor of a publication, while at the same time is not so wide as to embrace everyone with any degree of editorial decision-making, however small; a person is an "editor" for the purposes of all recognised regulators even those of which their publication is not a member. It will be for applicants to demonstrate to the satisfaction of the PRP Board how the requirements of the individual criteria are met.

Charter Criteria		~~Examples of proposed indicators~~ Indicators	Examples of ~~possible~~ evidence	Our response
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.	• The regulator is funded adequately to fulfil its Charter obligations. • The regulator adopts policies and mechanisms to ensure that funding arrangements cover the prescribed period and undertakes reviews in an appropriate time. • The timing for negotiating funding settlements is not such as to create a concern that the negotiation would impact on the independence or perceived independence of the Board.	• Contract/Articles of Association/Agreements between the regulator and subscribers and/or any other funders on existing and/or planned funding arrangements, including subscription rates agreed. • Audited accounts and statement of going concern. • Annual budget, including income and expenditure forecasts. • Statement/assurance/minutes from regulator's Board to certify that the indicative budget is adequate for the purpose. • Indicative timescales and processes for negotiating the funding settlement.	Our consideration of this criterion is explained in paragraphs 92 – 98, in section two of this document.

Charter Criteria		~~Examples of proposed indicators~~ Indicators	Examples of ~~possible~~ evidence	Our response
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.	• Indicators clearly included in the criterion. ~~No elaboration proposed~~	• Terms of reference and agreements between the Board and a ~~the~~ Code Committee ~~regarding decisions on the content of the code and compliance with the code.~~ • Minutes of relevant meetings or other documentation ~~of the Board or~~ between the Board and a ~~the~~ Committee to validate the Board's responsibility for the code and its compliance with criterion 8. ~~, showing a sufficient and proper process of scrutiny and consideration of the content of the standards code~~. • Information on the composition of the Code Committee, including ~~the role~~ their experience and expertise, and the number of, and role played by, serving editors.	One respondent queried whether a Code Committee could advise multiple Boards. The criterion requires the Board to be advised by "a Code Committee". This could be by a Code Committee which advises multiple regulators, or a single regulator. As long as the criterion is met, we consider this a matter for the applicant to decide. The Information Commissioner's Office (ICO) noted that it would welcome discussions with regulators to cover privacy aspects that overlap with Data Protection Act issues, and with the PRP over any standards code used by a recognised regulator. We expect regulators to comply with the law, including the DPA and we appreciate the ICO's comments with regards to this. The PRP will engage with the ICO if we receive an application and also at the point of recognition. One respondent noted the importance of having input into the code from those with expertise and experience of the current publishing industry, and suggested that an indicator be included to cover this. We believe that the criterion covers this, but have amended our types of evidence to include expertise and experience of serving editors on the Code Committee. Another submission suggested that we should also ask for the number of serving editors on the Code Committee as evidence, which we have also included. We received a number of comments to remove "and compliance with the code" from the list of examples of evidence, as compliance is not a matter for the Code Committee. We agree with these suggestions and have amended the evidence accordingly.

Charter Criteria		~~Examples of proposed indicators~~ Indicators	Examples of ~~possible~~ evidence	Our response
				One individual commented that it was beyond our powers to review minutes of meetings in order to 'test the process of scrutiny adopted by the Committee and/or Board of the regulator'. The criterion states that: "The standards code must ultimately be the responsibility of, and adopted by, the Board..." We believe that minutes, or other documentation, are a good way of demonstrating this. However, we have amended the wording to make this clear and provided a link to criterion 8. One respondent suggested we define "serving editor". We note that a number of the criteria refer to "editor(s)" but without a definition in the Charter and that the Defamation Act definition is not directly applicable. We do not propose to suggest an exhaustive definition but we do consider that the definition goes beyond just the single main editor of a publication but at the same time is not so wide as to embrace everyone with any degree of editorial decision-making, however small; a person is an "editor" for the purposes of all recognised regulators even those of which their publication is not a member. It will be for applicants to demonstrate to the satisfaction of the PRP Board how the requirements of the individual criteria are met.

Charter Criteria		~~Examples of proposed indicators~~ Indicators	Examples of ~~possible~~ evidence	Our response
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.	• The regulator has demonstrably considered relevant legislation, codes, rules and/or guidance in developing the code. • The regulator meets the requirements set out in the criterion including in 8 (a), (b) and (c). ~~in a way that is proportionate to its subscribers.~~ • ~~The code is reasonable in its terms.~~ • The code is framed in a manner consistent with the potential for complaints to be heard and decided upon by the regulator under criterion 11 (a) to (c).	• A copy of the code with an explanatory note of how the code takes into account the requirements of the criterion. ~~in the context of its subscribers.~~ • ~~Description of the Board's approach to the interests of the public and freedom of speech, and how they have been incorporated into the code.~~ • ~~Information, if any, to show how feedback from interested parties is taken into account.~~	A number of respondents queried whether or not the use of "proportionate" as an indicator meant that the PRP would make a judgement over what was proportionate and what was not. Similarly, some respondents asked if the use of "reasonable" as an indicator meant that the PRP intended to make decisions about the contents of a code which extended beyond the wording in the criterion. This was not our intention. On reflection we recognise that the wording of criterion 8 is sufficiently clear. We have similarly removed 'in the context of its subscribers' from the examples of evidence list, as well as the final two points in the examples of evidence.

Charter Criteria		~~Examples of proposed indicators~~ Indicators	Examples of ~~possible~~ evidence	Our response
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.	• General and specific advice to the public is provided in a way which makes it easily accessible. ~~and available to anyone who might reasonably want to access it.~~ • The service to warn the press is easily accessible and available. ~~to anyone who might reasonably want to access it.~~ • The regulator identifies appropriate tools and mechanisms to notify relevant parties on timescales which ensure that the recipients of it can respond promptly.	• Information on provision of advice to the public in relation to the code, including information on how it operates for vulnerable individuals and those who need additional support. • Information on how the service to warn the press operates, including information on how it operates for vulnerable individuals and those who need additional support. • Contacts, if any, with individuals, broadcasters and other parties, and actions taken where relevant.	One respondent highlighted that it was not clear whether the 'advice' mentioned referred to general advice to the general public or specific advice (in response to a specific request from the public). We believe it is both, and have amended the indicator accordingly. Several respondents queried the use of the words "and available to anyone who might reasonably want to access it" in relation to the first and second proposed indicators. We included these words to make it clear that we do not expect regulators to comply with the criterion in a way that would be overly onerous. We have removed these words to avoid misunderstanding.
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.	• Approach taken to defining advertising content takes account of the Advertising Standards Authority's definition to ensure that regulatory gaps do not emerge.	• Approach to defining advertising content. • Contract/terms and conditions between the regulator and subscribers demonstrating accountability and enforcement powers of the regulator. • Guidance issued to subscribers regarding compliance with the code (including how 'advertising content' is defined).	One respondent requested that we define what advertising should be in consultation with the Advertising Standards Authority (ASA). The ASA responded to this consultation and supported our reference in criterion 8B, to 'guard against regulatory gaps'. We therefore propose no further amendment.

Charter Criteria		~~Examples of proposed indicators~~ Indicators	Examples of ~~possible~~ evidence	Our response
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.	• Guidance is provided in a way which makes it easily accessible ~~and available to anyone who might reasonably want to access it..~~	• Examples of ~~written and verbal~~ guidance, demonstrating how it relates to the provisions in the code. • ~~Information on how the guidance will operate.~~ • ~~Information on how guidance is accessible, including for vulnerable individuals and those who need additional support.~~	Several respondents queried the use of the words "and available to anyone who might reasonably want to access it" in relation to the guidance. We included these words to make it clear that we do not expect regulators to comply with the criterion in a way that would be overly onerous. We have removed this wording to avoid misunderstanding. A number of responses suggested that we provide further guidance on defining the public interest and the definition used by the courts. We consider this to be beyond our remit. Concerns were also raised that requiring examples of 'written and verbal' guidance went beyond the criterion. We agree that 'and' suggests both should be included, and have therefore removed the word. Similarly, the suggestion that information on how the guidance might operate and how it would be made accessible (including to vulnerable individuals) was considered to be beyond what the Charter requires. We have removed these last two bullets from the list of examples of evidence.

Charter Criteria		~~Examples of proposed indicators~~ Indicators	Examples of ~~possible~~ evidence	Our response
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.	• Concerns are welcomed, valued and treated seriously. • Individuals are not victimised for contacting the hotline. • Safeguards ~~and monitoring~~ are in ~~to ensure that it does not happen~~ place to prevent victimisation. • The regulator ensures that the hotline is easily accessible and available to anyone who might reasonably want to access it. • ~~Malpractice is identified and~~ Concerns identified through the hotline are dealt with appropriately and effectively through mechanisms available to the regulator. • Confidentiality and anonymity are assured at all times, where requested. • The regulator demonstrates clear leadership and commitment to whistleblowing. • The regulator monitors and records data arising from any use of the hotline and learns from and acts appropriately on: concerns raised; action taken; and outcomes. • The regulator has appropriate tools to support individuals who raise concerns.	• Details of how the policy was developed and the review process. • Details of hotline operation, process and budget. • Published guidance on whistleblowing policy. • Data on its use and conclusions of whistleblowing. • Details of senior person(s) in the regulator responsible for leadership/ sponsorship of hotline.	A number of respondents felt that the reference to "malpractice" should be removed; either because it was not relevant to this criterion, and/ or that the ability to identify malpractice through the whistleblowing hotline would be beyond the regulator's control; and/or that the mechanisms for dealing with malpractice are covered elsewhere. We have amended the indicators to reflect these points where appropriate. One respondent noted that it was not clear whether it was the regulator or the publisher that should ensure individuals are not victimised. To clarify, we believe the responsibility falls on both. Some respondents commented that it was not clear who the 'senior person(s)' in the final example of evidence is. We have clarified this example, but believe it is for the applicant to decide who the senior person(s) should be. The details could include, for example, name, job title and/or reason for appointment. Several respondents questioned whether the proposed indicators for (a) non-victimisation and (b) confidentiality and anonymity were consistent and whether our intention was to prevent victimisation by the regulator or by the subscriber. It was felt that the risk of confidentiality/anonymity being compromised would be likely to increase should there be active monitoring of victimisation. The safeguards and monitoring are intended to ensure that victimisation does not happen, or if it does to make provision for the regulator to be made aware of it, they are not meant to be investigative.

Charter Criteria		~~Examples of proposed indicators~~ Indicators	Examples of ~~possible~~ evidence	Our response
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.	• The regulator requires subscribers to have procedures in place for dealing with complaints and standards compliance, recording and reviewing of compliance failures (whether escalated or not ~~provided~~) and remedial actions taken/reports made. • The regulator requires the subscriber to nominate a senior individual to take responsibility for dealing and ~~compliance~~ complying with the standards code. • The regulator requires subscribers to be transparent in their ~~its~~ processes. • The regulator ensures that the subscriber's complaints mechanism manages conflicts of interest.	• Contract/terms and conditions/Articles of Association between regulator and subscriber demonstrating requirements in criterion 9. • Associated practices and procedures.	A number of respondents requested that we should define 'appropriate' in a way that has regard for potential victimisation. Respondents also asked us to clarify whether a regulator would record and review all compliance failures, regardless of whether they are escalated or not. We have clarified this in the relevant indicator.

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.	• The complaints procedure is easily accessible. ~~and available to anyone who might reasonably want to access it.~~
		• The regulator requires subscribers to have a mechanism for dealing with complaints which is adequate and speedy including that it should:
		  • be publicised in a way which ensures that people who might wish to take advantage of it would know of its existence and how to use it;
		  • identify when a complaint is being made; ~~and understand the reason for that complaint;~~
			• Complaints handling policy and process.
			• Written agreements between the regulator and subscribers regarding the handling and escalation of complaints, including performance indicators.
			• Data on volume and type of complaints received by (a) subscribers and (b) the regulator; time taken to handle each stage of the complaint and total time
				Concern was raised that the indicators in criteria 9 and 10 would be onerous for small publishers, and their regulators. We believe that the indicators are important, and that their application need not be overly onerous.
				A number of respondents suggested that we should define what 'speedy' means. While we understand the arguments for including a definition, we do not believe it would be appropriate to be this prescriptive. We have

Charter Criteria	~~Examples of proposed indicators~~ Indicators	Examples of ~~possible~~ evidence	Our response
	• facilitate the complainant's understanding of how the complaint relates to the code; • acknowledge receipt of the complaint and notify the complainant how the complaint will be handled in an appropriate timeframe; • share findings of investigations and conclusions with the complainant; and ~~provide notice of any failures in compliance information on the steps taken to deal with such failures;~~ • if the complaint is not resolved, provide details on how the complaint can be referred to the regulator. • ~~The Regulator ensures that the subscriber's complaints mechanism has regard to conflicts of interests.~~ • The regulator has in place mechanisms which ensure that subscribers deal with complaints in a timeframe that is effective and proportionate for the subscriber and type of complaint, in accordance with performance indicators. • The regulator requires subscribers to have an accessible complaints mechanism that considers vulnerable individuals and those who need additional support.	taken to resolve (including measured from the point of first contact). Analysis provided of such data • Data on volume of complaints escalated to regulator and/or arbitration etc.	however included 'performance indicators' as an indicator. A large number of respondents suggested that we include a new indicator to state that the complaints mechanism should not require complainants to cite the clause of the complaint where it is obvious from the complaint. We believe that this is already covered, but have included the following under the second indicator: "facilitate the complainant's understanding of how the complaint relates to the code". We made a series of other changes to the indicators as a result of comments. In these cases we agreed that they were either repeating the criterion or were more suitably placed in another criterion.

Charter Criteria		~~Examples of proposed indicators~~ Indicators	Examples of ~~possible~~ evidence	Our response
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.	The complaints and escalation procedure: • Is publicised and explained in a way which makes it easily accessible. ~~and available to anyone who might reasonably want to access it.~~ • Operates in a manner and on a timescale which ensures complaint adjudications are effective. • Facilitates the complainant's understanding of how the complaint relates to the code.	• Contract, terms and conditions or Articles of Association between the regulator and the subscriber demonstrating the power to hear and decide on complaints. • Policy and procedures for dealing with complaints. • Criteria for dismissing complaints and examples of documentation/ publications to demonstrate the process is clearly available to the public and subscribers. • Documentation/guidance on the handling of public interest and third party complaints (including published policies).	We have removed the wording "and available to anyone who might reasonably want to access it" in the first indicator as it appears to have created the wrong impression that a regulator would be able to discriminate against members of the public. The intention was to make clear that regulators were not required to comply in a way that was overly onerous. Having reviewed the consultation responses, we have added an indicator to reflect concerns that a complainant may not fully understand which aspect of the code has been breached.

Charter Criteria		~~Examples of proposed indicators~~ Indicators	Examples of ~~possible~~ evidence	Our response
12	Decisions on complaints should be the ultimate responsibility of the Board, advised by complaints handling officials to whom appropriate delegations may be made.	• Indicators are clearly included in the criterion. ~~No elaboration proposed.~~	• Organisation structure and details of scheme of delegations to committees and/or individual staff members for handling complaints. • Terms of reference/minutes demonstrating delegation powers and terms and the approach to conflicts of interest. • Process ~~used~~ to investigate complaints and present findings to Board for decision.	We have added a reference to the examples of evidence to reflect the criterion that decisions are ultimately the Board's responsibility.
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.	• Indicators are clearly included in the criterion. ~~No elaboration proposed.~~	• Policy on complaints handling, including process for considering challenges.	

Charter Criteria		~~Examples of proposed indicators~~ Indicators	Examples of ~~possible~~ evidence	Our response
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.	• The regulator takes appropriate governance steps to ensure that serving editors do not advise on complaints, or determine their outcome.	• Composition of ~~Complaints~~ Committee (or Panel) responsible for advising Board on complaints demonstrating independence from the press, and its approach to conflicts of interest.	We have amended the wording of the type of evidence required to reflect the fact that the Charter refers to "any" Committee and have added a reference to "its approach to conflicts of interest" to reflect the criterion requirement that serving editors should not play any role in determining the outcome of an individual complaint. One respondent suggested we define "serving editor" - we note that a number of the criteria refer to "editor(s)" but without that being defined in the Charter; and that the Defamation Act definition is not directly applicable. We do not propose to suggest an exhaustive definition but we do consider that the definition goes beyond just the single main editor of a publication but at the same time is not so wide as to embrace everyone with any degree of editorial decision-making, however small; a person is an "editor" for the purposes of all recognised regulators even those of which their publication is not a member. It will be for applicants to demonstrate to the satisfaction of the PRP Board how the requirements of the individual criteria are met.
14	It should continue to be the case that complainants are able to bring complaints free of charge.	• Indicators are clearly included in the criterion. ~~No elaboration proposed.~~	• Regulator's complaints policy and procedure.	

Charter Criteria		~~Examples of proposed indicators~~ Indicators	Examples of ~~possible~~ evidence	Our response
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.	• ~~The Regulator's approach to appropriate remedial action is a reasonable one.~~ • The mechanisms for achieving appropriate remedial action ~~that~~ are designed to be credible and effective (including sufficiently fast) and operate in that way.	• Contract/Articles of Association/terms and conditions between the regulator and subscribers demonstrating the regulator's power to direct appropriate remedies including corrections and apologies. • Information on the power to direct the press, including as seen in instances when it has and has not been applied. • Information on handling breaches in criterion (a), (b) and (c) where no significant identifiable individual has been affected. • Instances of remedies directed and evidence of actions taken by the subscriber. • Information on the operation of remedies, including information about the instances of its use and non-use.	Having reviewed the consultation responses, we have removed the first indicator and amended the second indicator to focus on the mechanisms that are in place. When considering this criterion, we will be minded of the Charter Schedule 2 requirements for us to consider the concepts, in particular, the concepts of effectiveness and credible powers and funding; including how the regulator has taken into account the scale of and commercial pressures on a subscriber. Having reviewed the responses we would like to clarify that the nature, extent and placement of apologies should be the subject of discussion between the complainant and the subscriber, but ultimately the power rests with the Board (see Leveson conclusions and recommendations, Part K, Chapter 7, page 1767).
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.	• Indicators are clearly included in the criterion. ~~No elaboration proposed.~~	• Process and procedures to direct apologies and corrections. • Contracts and agreements to demonstrate that subscribers agree to adhere to directions.	

Charter Criteria		~~Examples of proposed indicators~~ Indicators	Examples of ~~possible~~ evidence	Our response
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.	• Indicators are clearly included in the criterion. ~~No elaboration proposed.~~	• Contract/Articles of Association/ terms and conditions between the regulator and subscribers making clear that the regulator does not have the power to prevent publication. • Guidance provided to editors on code compliance.	The guidance for applicants explains that drafts of guidance would also be considered as relevant evidence for a nascent regulator.
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.	• Indicators are clearly included in the criterion. ~~The Regulator has a reasonable approach to deciding what are serious or systemic breaches of the code is reasonable.~~	• Articles of Association/ agreements with subscribers confirming the regulator's authority to examine issues on its own initiative, including disclosure of information, and giving it the powers to carry out investigations. • Information on the approach taken to deciding what amounts to serious or systemic breaches of the code. • The investigation process. • Approved budget for independent investigations. • Internal/external reviews of compliance procedures.	Having reviewed the consultation responses, we agree that it would extend beyond the PRP's remit to take a view as to whether the regulator's approach to deciding what are systemic breaches of the code are 'reasonable.' We note, however, that Schedule 2 of the Charter requires the Board to consider concepts including effectiveness, credible powers and remedies, as articulated in the Leveson Report, Part K, Chapter 7, Section 4 when making a decision. Reference to the powers to require disclosure of information has been added to the example of evidence to demonstrate that the process is both sufficient and credible

Charter Criteria		~~Examples of proposed indicators~~ Indicators	Examples of ~~possible~~ evidence	Our response
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.	• ~~The Regulator's approach to imposing sanctions is a reasonable one.~~ Indicators are clearly included in the criterion.	• Contractual agreements between the regulator and subscriber on enforcement of directions and agreement to comply. • Data on where the power has been applied and/or reasons why sanctions have not been applied and action taken. • Information on how the Board will approach sanctions including deciding on what is appropriate and on proportionality • Information on how the Board will approach decisions on calculating fines. • Information demonstrating powers to gather turnover information in a manner and timescale which ensures that the overall process remains effective. • Information on, and approach to, the requirement to publish corrections.	Having reviewed the consultation responses, we conclude that no further indicators are required. When considering compliance with this criterion, we will bear in mind the Charter Schedule 2 concepts of effectiveness and credible powers and funding; including how the regulator has taken into account the scale of and commercial pressures on a subscriber.
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.	• Indicators are clearly included in the criterion. ~~No elaboration proposed.~~	• Information on how the Board has established the ~~a sufficient~~ enforcement fund, and how the fund is separated for the purpose of funding investigations. ~~Information on how the Board has satisfied itself as to the sufficiency of the enforcement fund.~~	Having reviewed the consultation responses, we agree that it would go beyond the PRP's remit to say anything about the sufficiency of the fund.

Charter Criteria		~~Examples of proposed indicators~~ Indicators	Examples of ~~possible~~ evidence	Our response
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.	• Indicators are clearly included in the criterion. ~~No elaboration proposed.~~	• Agreements between the regulator and subscribers demonstrating the power specified in criterion 20. • Evidence of manner in which breaches are found and complaints have been recorded, including those complaints not escalated to the regulator. • Information on how the information is made available to the public to ensure the public understands the compliance record of each title.	Having considered the consultation responses, we agree that in order to ensure that the public can understand the compliance record of each title, records should be kept of complaints that are resolved by the subscriber and those that are escalated to the regulator.
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.	• Annual Report is easily accessible. ~~and available to anyone who might reasonably want to access it.~~ • Annual Report is published annually.	• Information about format and timescales for publication of Annual Report.	A number of respondents queried why we had included the indicator: "the annual report should be published annually". We believe this is needed to ensure the report appears at regular 12 monthly intervals. For example, the 2015-16 report might otherwise be published in August 2016 and the 2016-17 report in January 2018.

Charter Criteria		~~Examples of proposed indicators~~ Indicators	Examples of ~~possible~~ evidence	Our response
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); 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;[1] 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[2] of the 1996 Act or Rule 63 of the Scottish Arbitration Rules[3] and any applicable caps on recoverable costs or expenses); and g) overall, is inexpensive for all parties.	• The regulator either itself provides, or has in place arrangements to ensure that someone else will on its behalf provide, the arbitral process. • ~~The administration fee is small and genuinely related to the costs of administration.~~	• Information as to how the arbitral process operates in practice and a description of how it complies with criteria 22 (a) to (g). • Contracts/agreements between the regulator and its subscribers setting out arrangements for the arbitration of civil legal disputes. • Guidance for the public on the arbitral process.	We have removed the proposed indicator "The administration fee is small and genuinely related to the costs of administration" as this was considered a potential source of confusion between the distinction in Criterion 22(e), footnote (1) that relates to the costs to complainants and the requirement in Criterion 22(g), which relates to the costs of arbitration as a whole. It will be for the regulator to determine the fee in the first instance, which the PRP Board will be required to approve if and when an application is made. A discussion on the further feedback received on this criterion can be found in paragraphs 101 to 107, in section two of the document.

[1] 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).

[2] 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.

[3] 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.

Charter Criteria		~~Examples of proposed indicators~~ Indicators	Examples of ~~possible~~ evidence	Our response
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.	• Any variation in terms for different types of publisher needs to be such as to facilitate membership on fair, reasonable and non-discriminatory terms. • Those terms need properly to take into account matters such as the financial position of a publisher.	• Eligibility criteria and details of policy and process for joining the regulator. • List of current subscribers by type of membership. • Anonymised sample of decision for successful and unsuccessful membership applications.	The first indicator must also be read with criterion 6 which (as we explain in paragraphs 92-98) means that the regulator takes into account the commercial pressures on its members/subscribers and does not overcharge them. We have amended the first example of evidence to cover the different scenarios that may arise.

Acknowledgments

129. We would like to thank everyone who responded to our consultation, particularly those who made detailed comments. We are also grateful to those organisations that hosted us without charge during our consultation events:

- BBC Birmingham
- Cardiff University
- Durham Law School
- London School Economics

Next steps

130. We are opening for applications and publishing our guidance on 10 September 2015. We intend to consult on our approach to ad hoc and cyclical reviews and on charging in early 2016.

Annex 1 List of respondents

Of the 200 responses we received, seven respondents asked us not to publish their response, of which six were members of the public and one was a publisher. These respondents did not have their names published either. 28 respondents asked us not to publish their names, all were members of the public.

Barry Anderson
Derrick Anstee
Advertising Standards Authority
Kevin Ashton
Associated Newspapers
Ian Badcoe
John Baruch
Mike Berger
Michae Bernard
Graham Bland
Professor Boswell
Cam Bowie
Nicholas Braithwaite
B S Britzman
Stewart Brooker
Amanda Burton
Michael Butterfield
Alan Cairns
Martin Callaghan
Peter Carew
Simon Carne
Corry Cashman
Elizabeth Cawood
Hilary Ann Chadwick
Robert Clarke
Claire Clews
John Coombs
Neville Cramer
Andrew Cree
Phil Crofts
Elaine Dicampo
Sean Donohoe
Early Resolution CIC
Barry Edwards
Tim Fenton
Janet Forbes
Chris Francis
Paul Fullwood
Norman Furnell
Mike Grayton
Guardian News & Media Ltd
Hacked Off
Fred Hall
Alan Hancock
Peter Harris
Derek Hart
Jimmy Hartley
John Harvey
Jim Hawkins
Richard Hawkins
Vincent Hayes
N. Henderson
Ray Hendriksen
Dan Hetherington
Geoff Higgs
Derek Hipkins
Tom Holdich
Simon Holdsworth
Annette Hope
Richard Horobin
Robin Horton
Dr Ken Houston
Ms V. Howard
Bill Howlett
Barbara Hughes
James Hutchings
IMPRESS
Information Commissioner's Office
Mark Inskip
Jamie J
I.C. Jackson
Jibse
Lyndon Jones
Jane Kelly
John Kelly
Martin Kemp
T.A. Krishnan
Howard Lake
Patrick Lane
Richard Lee
Nick Lee
Les Lees
Louis Lillywhite
A.P. Mackay
Ken Mackenzie

Ken MacLennan
Make Public
Kate Mariat
Freddy Marks
Phil Martin
Gerald McCarthy
Alan McFadden
Media Reform Coalition
Mel Moore
Elizabeth Moss
Patrick Mulleady
Timothy I and Edna Mullen
Les Munn
Ken Munn
News Media Association
News UK
Peter Nicholson
National Union of Journalists, Welsh Executive Council
Richard O'Grady
Ombudsman Services
David and Jenny Parish/ Bassett
Mike Parker
Christopher Penney
Gavin Phillipson
David Pollock
Port Talbot Magnet
Malcolm S Powell
Public Concern at Work
Howard Richards
Irene Ridgeon
John Ritchings
Andy Roberts
Dr James Robertson
Alan Roff
Paul Rowe
David Rumsey
Dr Sargood
John Saunders
Max Scianna
David Selzer
Alan Sharland
Juliet Shaw
David and Diane Shevels
Dave Shurlock
Philip Sinclair
Natasha Sivanandan
Steve Smith
G. Stocker
Lord Strasburger
Roddy Stuart
Michael Surplice
Damian Tambini
Alan Taylor
Telegraph Media Group
The Financial Times
Alan Thomas
Andrew Thomson
Nick Travaglia
Sheila Tremlett
Trinity Mirror
Hugh Turnbull
Frank Turner
Brian Viercant
Andrew Wallace
Kevin Walsh
Nick Waters
Sheila Ware
L. Warren
Ruth Whalley
John Whittle
Danny Wigley
Claire Willerton
Kevin Williamson
Andy Wilson
Keith Wilson
Jane Winter
Graham Winyard
Peter Worley
Allan Wright
Bethan Wyn Jones

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