

Dear Press Recognition Panel,

I am a member of the public, a supporter of the Royal Charter and have a longstanding interest in ensuring that the Leveson Report is delivered fully and effectively. I have considered the consultation and read Hacked Off's submission to the PRP consultation, a copy of which is [here](#). I am writing firstly to say that I back Hacked Off's submission, prepared with the input of victims of press abuse. I hope you will take note of this.

One issue which I am passionate about in a press regulator is independence, and in response to the Consultation I would like to draw your attention to my views (which I share with Hacked Off) on how the PRP should apply the Charter criteria in respect of this particular matter below.

Criteria relating to independence of appointments and links to industry and politics

Criteria 1-5

*1. An independent self-regulatory body should be governed by an independent Board. In order to ensure the independence of the body, the Chair and members of the Board **must be appointed in a genuinely open, transparent and independent way, without any influence from industry or Government.***

For the avoidance of doubt, the industry's activities in establishing a self-regulatory body, and its participation in making appointments to the Board in accordance with criteria 2 to 5; or its financing of the self-regulatory body, shall not constitute influence by the industry in breach of this criterion.

*2. The Chair of the Board (who is subject to the restrictions of criterion 5(d), (e) and (f)) can only be appointed if nominated by an appointment panel. **The selection of that panel must itself be conducted in an appropriately independent way and must, itself, be independent of the industry and of Government.***

3. The appointment panel:

*a) **should be appointed in an independent, fair and open way;***

b) should contain a substantial majority of members who are demonstrably independent of the press;

c) should include at least one person with a current understanding and experience

of the press;

d) should include no more than one current editor of a publication that could be a member of the body.

4. The nomination process for the appointment of the Board should also be an independent process, and the composition of the Board should include people with relevant expertise. The appointment panel may only nominate as many people as there are vacancies on the Board (including the Chair), and the Board shall accept all nominations. The requirement for independence means that there should be no serving editors on the Board.

5. The members of the Board should be appointed only following nomination by the same appointment panel that nominates the Chair, together with the Chair (once appointed), and should:

a) be nominated by a process which is fair and open;

b) comprise a majority of people who are independent of the press;

c) include a sufficient number of people with experience of the industry (throughout 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.

Comments

The first 5 criteria all deal with the independence of the appointments process as shown in bold below. The wording is slightly different in each case but the intention is the same.

The PRP needs to include these points as guidance for regulators when seeking recognition, because these matters are crucial to whole Leveson system:

- To satisfy the PRP that the appointment processes are genuinely independent (as required by criteria 1), applicant regulators will need provide positive evidence of the independence of their processes of appointment. Mere assertion of independence is not sufficient.

- The same applies to the requirements of genuine openness and transparency

It would be a strategy of weak regulators to "assert" these features in their regulators, without providing evidence. They are so crucial to the correct functioning of the regulator that it should be compulsory for applicants to provide evidence how their regulator meets them.

- Independent does not mean merely a majority of independent members since this is clear from Leveson K7/4 (figure K7.1) "independent board with a majority of independent members" not "independent board as a result of having a majority of independent members". It means that all members are independent of vested interests and none are called or considered "industry" members or representatives merely because they have experience of expertise. Experience of the industry and expertise are what the criteria call for in terms of the proposed minority of individuals connected to the press. They do not call for "representatives" of the press. Such a position is clearly ruled out by the explicit rejection of serving editors on the Board. The naming of some board members as "industry members" or "industry representatives" is further ruled out by criteria 5 (f) which requires that Board members should be able to act fairly and impartially. Therefore it is not appropriate to split Board members between "industry representatives" and independents. All Board members should be seen as independent, with a minority of them drawing on some experience of the industry.
- The overlapping criteria use slightly different terms to describe what is required in the same process - in that some use fairness while others do not and some use transparent when some do not. For the avoidance of doubt appointments will need to be demonstrated to be open, fair, transparent and independent.
- Independence – in respect of the appointments process – means independence from party politicians and Parliament, not just Industry and Government because Leveson, Part K Chapter 7 section 4 also states that the appointment panel be "free of political influence" in how it is appointed and how it appoints.
- The PRP should indicate that it will have regard to the most recent edition of the principles of public appointments published by the CPA. These cover merit, fairness and openness. This will add transparency to the work of the PRP (who were themselves appointed by a process under the control of the CPA) and guide applicants.
- Evidence to demonstrate fairness, transparency, openness and independence should include
 - (a) no vetoes,
 - (b) no "special" votes and
 - (c) no restricted nomination rules.

These are all provisions which, if written into regulator rules, can would compromise the transparency, openness and independence of the board, making it in breach of the criteria.

Criteria 3(b) requires that the appointment panel should contain a **substantial majority** of members who are demonstrably independent of the press; the PRP need to say what they would consider substantial for these purposes. For example 1 “lay” majority of 1 would not pass muster, since that is the smallest possible majority.

Criteria 4 and 5 refer to serving editors (as does criteria 7). This needs definition. In order to keep the spirit of and not frustrate the intention of the Leveson proposals this should include:

Those exerting editorial control at desk level or above including deputy editors, news/features/picture editors, associate editors, assistant editors or executive editors.

Criteria 6 – Funding

This states:

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 PRP are correct to identify that this criteria is about preventing the funders of the regulator being able to influence the conduct of the regulator by under-funding it or by making payments conditional on “performance” by funding only on a year to year basis.

This is NOT about sustainability of funding which would be influenced as much by mass resignations as by agreed budgets for 4 or 5 years.

It is for the Board, not the regulator, to certify that the indicative budget is adequate.

There is no basis in this recognition criteria for the PRP to make judgements on sustainability of a regulator at the point of recognition. If a regulator runs in to problems relating to viability that will be a matter for an ad hoc review.

Members with contracts will need to ensure that the regulator is sustainable as otherwise they lose the benefits of belonging to a recognised regulator.

The PRP should stipulate that, commercial confidentiality aside (which relates to individual subscription costs) the nature and timing of negotiation by the Regulator with the funders/subscribers must be transparent. The process of negotiation must be laid out clearly by applicants for recognition.