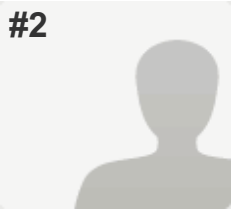

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PAGE 2

Q1: About you

Name	Brigit Morris
Name of organisation (if applicable)	IMPRESS: Independent Monitor for the Press
Your email address	brigit@impress.press

Q2: Confidentiality	*Respondent skipped this question*
Q3: Please specify	*Respondent skipped this question*

PAGE 3: More about you

Q4: Responding as an individual	*Respondent skipped this question*
Q5: Responding for an organisation	Regulator

PAGE 4

Q6: Question 1. To what extent, if any, should the PRP actively monitor the sector?

IMPRESS supports the PRP taking reasonable and clear measures to ensure that approved regulators continue to comply with the recognition criteria. A clear and structured process for conducting ad hoc and cyclical reviews will provide public confidence in the Royal Charter, the work of the PRP and an approved regulator.
The PRP is a public body, whose role, enshrined in the Royal Charter, is to assess whether regulators meet the recognition criteria. Any review conducted by the PRP should be proportionate, recognising the need for reliable information on which to launch an ad hoc review, and allowing for reasonable processes by which an approved regulator may respond to concerns. Applying the principle of proportionality to the way reviews are conducted recognises the cost to the PRP and an approved regulator of undertaking such reviews.
It is important that the PRP have the power to conduct ad hoc reviews however only in exceptional circumstances and where there is a significant public interest in doing so, as set out in the Charter.
IMPRESS understands that in order to conduct cyclical or ad hoc reviews, the PRP will need to gather information about whether an approved regulator continues to meet the recognition criteria.
We consider it appropriate for the PRP to create mechanisms to gather information reactively from third parties, from any recognised regulator or regulators, as well as from publishers subscribing to such regulators, as set out in the PRP's consultation paper (see our response to question 2, below).
We also appreciate that the PRP will, from time to time, seek to more actively solicit information. It may be appropriate, for instance, for the PRP to subscribe to relevant publications, email alerts and news feeds in order to 'keep an active awareness of issues that might affect the regulator's compliance with the recognition criteria', as suggested in the consultation paper. It may also be appropriate for the PRP to communicate with any recognised regulator or regulators, providing certain protocols are in place to protect the independence of both the PRP and the regulator (see our answer to question 4, below, for a suggested approach to such communications
However, the process for actively soliciting information should be, as far as possible, formal and structured to ensure transparency in PRP processes and to avoid reliance on vexatious or frivolous complaints.
We believe that there are some ways of actively soliciting information that would be inappropriate. For instance, we do not believe that it would be appropriate for the PRP to undertake covert surveillance of a regulator, third parties or publishers.
IMPRESS would welcome further guidance on the meaning of actively monitor the sector.

PAGE 5

Q7: Question 2. Do you agree with our methods for gathering information? Yes

Q8: Please state your reasons.

The PRP propose to gather information directly from third parties, regulators and publishers subscribing to regulators, and indirectly by monitoring the sector. We have noted our concerns about the PRP's proposal to actively monitor the sector (see our response to question 1, above). Otherwise, we support the PRP's proposals in relation to gathering information reactively.
We strongly endorse the suggestion in the consultation paper that the PRP would expect to share such information with the relevant regulator. In practice, we believe that this should enable the regulator to address any concerns raised, either by taking steps to modify its operations or by explaining its reasons for following a certain course of action – to the extent that the concerns raised clearly engage the Charter criteria (see our response to question 4, below).

PAGE 6

Q9: Question 3. Do you agree with our approach to assessing and categorising information? No

Q10: **Please state your reasons.**

The PRP propose to assess information in terms of (a) the level of the information's seriousness; and (b) the likelihood that the information shows whether a regulator is still Charter-compliant. Having assessed information against these criteria, the PRP will then categorise the situation as 'red', 'amber', 'yellow' or 'green'. If they assess the information received as 'red' (or highly serious), insofar as it reveals a very low likelihood that the regulator is still Charter-compliant, they would conclude that 'there is significant public interest in conducting an ad hoc review.'
Whilst we support the graded, risk-based nature of this approach, we question certain elements of the approach. Firstly, we believe that the PRP are wrong to collapse the distinction between 'exceptional circumstances' and the 'public interest' as set out in the Charter (Schedule 2.8). These criteria are separated in the Charter for a reason. Whilst there may be 'exceptional circumstances' that might trigger an ad hoc review (for example, if the PRP received allegations of serious breaches of the recognition criteria), it might not be in the 'public interest' to launch an ad hoc review if there were other ways in which the PRP could address such allegations. It would only be if these other ways had been exhausted or were inappropriate, for reasons of urgency, that it might be in the public interest to conduct an ad hoc review.
Secondly, we find the PRP's proposed approach to assessing information slightly confusing. 'Seriousness' and 'likelihood of compliance' appear to be overlapping categories. We suggest that the PRP should instead assess information in terms of (a) the extent to which it engages the recognition criteria (and therefore the extent to which it constitutes 'exceptional circumstances'); and (b) the extent to which an ad hoc review is a proportionate response to any concerns raised (and therefore the extent to which an ad hoc review is in the public interest). Putting these criteria together in a risk matrix would help to determine whether this is indeed the occasion for an ad hoc review.

Q11: **Question 4. Do you agree with our proposed trigger points for undertaking certain actions, including ad hoc reviews?**	No

Q12: Please state your reasons.

We agree that it is important to set out clear and transparent thresholds or 'trigger points' for undertaking certain actions. As outlined in the Royal Charter and the PRP's consultation paper, we believe that an ad hoc review should only take place where:
There are exceptional circumstances that make it necessary so to do; and
there is a significant public interest in a review of the Regulator's recognition being undertaken.
However, as set out previously (see our response to question 3, above), we believe that, even where there are 'exceptional circumstances' in which an ad hoc review might be contemplated, it will only be in the 'public interest' to launch such a review if other avenues through which these concerns may be addressed have been exhausted.
So it is important to consider what other avenues for compliance monitoring may be available to the PRP, short of a full-scale ad hoc review. In our response to the PRP's consultation on the recognition process, we noted that the PRP 'has no mandate […] to conduct informal reviews of a self-regulatory body'. We reiterate this point. However, we also note that the Charter requires the PRP to manage its assets 'efficiently and effectively' (4.2(b)). Clearly, a balance must be struck. The PRP should not conduct informal reviews (by which we mean reviews which lack transparency or fairness), but nor should it be obliged to conduct a full-scale ad hoc review unless this is clearly the most efficient and effective regulatory intervention at its disposal.
We believe, therefore, that the PRP should undertake formal compliance monitoring, short of a full-scale ad hoc review. In our view, such formal compliance monitoring is an important aspect of the PRP's work. However, it should be undertaken exclusively by the PRP executive, in order not to compromise the Board's ability to undertake a subsequent ad hoc or cyclical review. We endorse the PRP's intention to be 'transparent, independent, proportionate and fair in the actions we take' (as set out in the consultation paper, paragraph 16) and we recommend the following, staged approach to formal compliance monitoring:
• All information received by the PRP should be forwarded to the regulator (subject to appropriate provisions for anonymity and confidentiality) accompanied by a letter from the PRP executive identifying whether, in their view (and without prejudice to any subsequent decision by the PRP Board), the recognition criteria are engaged by this information.
• If, in their view, the recognition criteria are not engaged by this information, the PRP executive should make clear in this letter that they are forwarding the information for the regulator's reference and expect no response.
• If, in their view, the recognition criteria are engaged by this information, the PRP executive should identify in this letter whether, in their view (and without prejudice to any subsequent decision by the PRP Board), there is reason to fear a breach of the recognition criteria. These reasons will be particularly important where the breach is a serious one.
• Having identified whether the recognition criteria are engaged, and whether there is reason to fear a serious breach of those criteria, the PRP executive should invite the regulator to respond to specific concerns, clearly set out in the letter. They may invite the regulator to attend a meeting to discuss these concerns, but must make clear that in any event they expect the regulator to respond formally, in writing. If necessary, they might propose a reasonable time limit for the regulator's written response.
• The PRP executive should then consider the regulator's response and decide whether it is satisfactory. If it is, the PRP executive should write to the regulator and explain their decision – again, without prejudice to any subsequent decision by the PRP Board.
• If the PRP executive find the regulator's response unsatisfactory, they should write again to the regulator inviting the regulator to respond again.
• Only after two unsatisfactory responses from the regulator should the PRP executive consider whether it is in the public interest to recommend an ad hoc review.

Q13: Question 5. Do you agree with our approach to conducting cyclical reviews? Yes

Q14: Please state your reasons.

The PRP propose to take an approach to cyclical reviews which is similar to the approach taken in the initial recognition process. We agree that this is appropriate. We note only that the proposed period of 15 working days for third parties to provide their responses to the PRP's call for information is shorter than the period of 20 working days in the initial recognition process. We suggest that this period should be extended to 20 days to bring it in line with the initial recognition process.

Q15: Question 6. Do you agree that it is helpful for regulators to self-assess and for us to publish this self-assessment as part of a call for information? Yes

Q16: Please state your reasons.

The PRP propose to ask relevant regulators at the outset of a cyclical review to assess themselves against the recognition matrix and to submit evidence that they are continuing to meet the Charter criteria. We agree that this is appropriate.

Q17: Question 7. Do you agree we should publish the fact that an ad hoc review is taking place?	Yes

Q18: Please state your reasons.

We believe this is an important way to ensure transparency.

PAGE 8

Q19: Question 8. Do you agree with our approach to conducting ad hoc reviews?	Yes

Q20: Please state your reasons.

Yes, subject to the caveats outlined above in relation to the threshold for conducting an ad hoc review.

Q21: Question 9. Do you agree with our proposal to make informal recommendations following a review?	No

Q22: Please state your reasons.

An ad hoc review can only lead to one of two outcomes: continued recognition or withdrawal of recognition. As outlined above (see our response to question 4), we believe that there are other ways in which the PRP executive should be capable of raising concerns with the regulator, short of a full-scale review. These may include the issuance of guidance by the PRP or suggestions to an approved regulator. As to the role of the PRP Board, it seems inappropriate, unnecessary and possibly confusing for the Board to make 'informal' recommendations following a review which has led to continued recognition. However, if the PRP concludes, following this consultation, to proceed with 'informal recommendations' from the Board, following an ad hoc review, we would welcome guidance on the nature of these recommendations.

PAGE 9

Q23: Question 10. Do you think our proposals will have any negative impacts, including disadvantaging any specific group of people?	No
Q24: Please state your reasons.	*Respondent skipped this question*