



PRESS RECOGNITION PANEL

Consultation on fees

April 2017

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About the PRP

1. The Press Recognition Panel (PRP) is the independent body set up following the Leveson Inquiry into press standards to ensure that any organisation that regulates the press is independent, properly funded and able to protect the public, while recognising the important role carried out by the press.

Our purpose

2. Our role is to consider whether independent press self-regulators meet, and continue to meet, the recognition criteria in our Royal Charter. Our specific functions are to:
 - grant recognition to regulators that meet the requirements set out in the Charter's recognition criteria;
 - undertake reviews of those regulators;
 - withdraw recognition if a regulator no longer meets the recognition criteria; and,
 - report on the successes or failures of the recognition system.
3. We do not regulate the press and we cannot compel any regulator to apply for recognition.

Background

4. On 30 October 2013, the Royal Charter on self-regulation of the press (the Charter) was granted and on 3 November 2014, the PRP came into formal existence.
5. Fundamental to how we discharge our obligations under the Charter is our independence from external influences such as Government and Press. Independence and transparency are absolutely fundamental to the way in which we operate.
6. In June of 2015, we consulted on our approach to recognising press self-regulators. We published our decision document and opened for applications from potential regulators on 10 September 2015.
7. In February 2016, we consulted on our proposals for ensuring that recognised regulators continue to meet the Charter's recognition criteria. We sought views on the types of information we might use to help us undertake reviews; the factors that might contribute to a decision to undertake an ad hoc review, and how we would conduct and report on reviews. We published our decision and process for conducting reviews in August 2016.

8. In January 2017, we published a consultation on our process for considering variations to the way a regulator meets the recognition criteria, and we will be publishing our conclusions shortly.

Background to this consultation

9. As set out in the Charter, the PRP's initial funding was provided by a grant of £3,000,000 from the Exchequer. The Charter requires the PRP Board to prepare, consult publicly upon, and publish a scheme for charging fees in relation to the functions of recognition and cyclical review of a recognised regulator. The scheme is to become effective on 3 November 2017, three years after the Charter came into effect.
10. The initial grant has enabled the PRP to commence its operations and to fulfil its purpose in its early years. The PRP's set-up phase is now almost complete, and the organisation's actual and planned budget expenditure is decreasing year-on-year. This trend is expected to continue until the PRP reaches a business as usual scenario as an oversight body. Grant expenditure will continue over this transition phase, after which costs will be entirely covered by chargeable fees. As required by the Charter, we will manage the grant expenditure in accordance with the general principles of Managing Public Money.
11. The Charter requires the PRP to introduce a scheme for charging fees for recognition and cyclical reviews with the aim of recovering the full costs of these functions. These costs need to reflect the PRP's expected costs as an oversight body, rather than costs incurred during the PRP's set-up phase when there have been additional overheads.
12. This consultation document fulfils the PRP's responsibility in respect of our obligation to consult on a fee charging scheme.
13. The PRP's first Annual Report on the Recognition System, published in October 2016, highlighted a linkage between the lack of implementation of the incentives for recognition, as set out in section 40 of the Crime and Courts Act 2013 (CCA 2013), and the limited interest in recognition across the sector. The outcome of the Government's consultation on the implementation of section 40 may give greater certainty as to the potential interest in recognition going forward. But until we know the outcome, it is not possible to make any assumptions that the future regulatory landscape will be any different from the current state.
14. We had delayed this consultation pending the government's decision on the implementation of section 40. We understand that this may now not be determined until the middle of the year, at the earliest. To ensure we have the charging regime in place by 3 November 2017, as required, we are therefore consulting now. However, this consultation necessarily reflects the current circumstances and uncertainty over future interest in recognition.

About this document

15. This document explains the context for the PRP's fee charging regime, and poses nine questions to help shape our approach.
16. Your response to this consultation will be considered by the PRP Board before final proposals are adopted.

How to respond

17. The consultation runs from 4 April 2017 – 17 May 2017.
18. You can respond by emailing consultation@pressrecognitionpanel.org.uk. You can also answer the consultation questions online at <https://www.surveymonkey.co.uk/r/LHQWQ8P>
19. We will also consider requests from people who prefer to provide feedback in a manner that suits them, for example, by means of face-to-face meetings or by telephone.

Confidentiality and data protection

20. We encourage named responses where possible and particularly from representative organisations so that we can identify the different interests reflected in the responses. If you do not wish us to publish all or part of your response because you regard the information you have provided as confidential, please indicate so.

What happens next?

21. After the consultation closes, we will review the responses received, together with feedback received from anyone who wishes to meet us. We will publish a summary of the responses and explain how they have shaped our final proposals for charging fees.

Requirements for the fee charging scheme

22. In respect of the requirement for consultation on the PRP's fee charging scheme, Article 11 of the Charter states:

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

11.2. The Board shall prepare annual budgets for each financial year, and in doing so shall have regard to the need to ensure it achieves value for money. For the first three years after the date upon which this Charter becomes effective, the Board shall provide the Lord Chancellor, upon request, with such budgets, once

prepared, and with such other information as he requires, in order to estimate the on-going costs of the Recognition Panel from time to time.

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

23. Article 11.4 sets out the constraints within which the PRP's fee charging arrangements must be defined, as follows:

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

- a) in the case of a fee payable by a Regulator relating to an application for recognition, the fee may not exceed an amount equal to £300,000 per year for each of the first three years of recognition;*
- b) in the case of a fee payable by a Regulator relating to a cyclical review, the fee may not exceed an amount equal to £220,000 per year for each year prior to the next cyclical review;*
- c) in each case the amount specified shall be revised, annually, according to the indexation formula specified at Article 11.5; and*
- d) the Board may aggregate the specified annual amounts payable by a Regulator where necessary to carry out its functions of determining an application for recognition or conducting a cyclical review.*

24. Article 11.6 states:

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

The regulatory landscape and the PRP's fee scheme

25. IMPRESS was approved as a recognised regulator on 25 October 2016.

26. The PRP's first Annual Report on the Recognition System, published in October 2016 (before IMPRESS was recognised), concluded that the majority of significant relevant publishers would be outside the recognition system regardless of the outcome of IMPRESS' application. This remains the case and there is currently only one recognised regulator.

27. Our report highlighted a linkage between the lack of implementation of the intended incentives for recognition, as set out in section 40 of CCA 2013, and the limited interest in recognition across the sector. We are currently awaiting the outcome of the government's consultation on the options for implementation of section 40. Unless there is a decision to implement section 40 in full, it seems

unlikely that the landscape of regulators seeking recognition will change in the foreseeable future.

- 28.** If the government decides to implement section 40 in full, this may prompt other regulators to come forward, and may also prompt an increase in IMPRESS' membership. However, for now, we must assume that the PRP's fee scheme will be limited to the current regulatory landscape.
- 29.** The PRP has indicated in a public statement¹ that it will not charge fees in respect of an application for recognition for any regulator that applied before the date at which the fee scheme would be introduced. IMPRESS applied for recognition before the introduction of the fee charging scheme, and so the PRP will not charge any application fee to this regulator. The PRP would be able to charge an annual fee in relation to the ongoing responsibility for conducting cyclical reviews for as long as this regulator remains recognised.
- 30.** Should another regulator apply for recognition after 2 November 2017, the Charter permits the PRP to charge a fee in respect of the application process, regardless of the outcome of the application². If the application is successful, the Charter permits the PRP to charge a fee in respect of the application process of up to £300,000 per year for each of the first three years of recognition. In addition, the Charter permits the PRP to charge a fee of up to £220,000 per year in respect of costs associated with the ongoing requirement for cyclical reviews, for as long as the regulator remains recognised.

Principles of the fee scheme

- 31.** Article 11.3 of the Charter requires the aim of the charging scheme to be recovery of the PRP's full costs in determining applications for recognition and for conducting cyclical reviews. Deciding an appropriate fee charging scheme requires consideration of the costs we need to recover.
- 32.** In addition to our responsibility for assessing applications for recognition and for reviewing ongoing compliance, the PRP also has ongoing functions as set out in the Charter. These include responsibility for reporting and for managing assets. Our guidance on cyclical and ad hoc reviews, which we consulted publicly on, clarifies that we need to maintain some element of proportionate active awareness of the industry and recognised regulators, to ensure the effective conduct of cyclical reviews and to help inform when an ad hoc review might be appropriate.

¹ Notes from David Wolfe's presentation Tuesday, 9 June 2015 event at LSE London: "Regulators effectively had a 'free pass' for the first three years which could be an incentive for making an early application. Only cyclical reviews would fall within the charging regime."

<http://pressrecognitionpanel.org.uk/wp-content/uploads/2015/09/Summary-of-LSE-event-FINAL.pdf>

² Article 11.6 of the Charter requires that fees should become payable regardless of the outcome of an application for recognition or a cyclical review.

33. Other than in the exceptional circumstances set out in Article 11.7 of the Charter³, the PRP's only means of generating future income is charging regulators fees. These fees must therefore aim to cover the PRP's full costs, not just the direct costs of determining applications for recognition and for conducting cyclical reviews.
34. Restricting the PRP's income to fees charged to regulators⁴ is a fundamental principle which helps ensure the PRP maintains its independence from government.
35. This also means that PRP's income is limited to the fee limits set by the Charter, which effectively sets a financial limit on the PRP's budget once it achieves business as usual as an oversight body.
36. The Charter allows the PRP discretion to set different fees for different circumstances. This could mean setting different fee levels for different sizes of regulator, for example on the basis of income or membership numbers.
37. The Charter prescribes the PRP's role as a recognition and oversight body, and in this respect the PRP's functions are largely irrespective of the size of a regulator or its membership. Therefore, incorporating a differential element in our fee scheme would be inconsistent with the Charter's requirement that the fee scheme should aim for cost recovery. It would also be of little practical value given the current regulatory landscape of limited take up of recognition and no certainty whether or when this situation will change.
38. A principle of our fee charging regime is therefore that it does not differentiate between different sizes of regulator. For the time being, our consultation proposes a flat charging scheme that would apply to any size of regulator.
39. Should the PRP receive one or more further successful applications for recognition, our costs for ongoing oversight of each of these may be lower than those proposed in this consultation, given that some of our overhead costs would be shared across more than one regulator. Rather than consulting on this possibility now, we will of course review our fees if it becomes appropriate to do so.

Fees for cyclical reviews

40. Article 11.4(b) allows the PRP to charge fees relating to cyclical reviews (and implicitly, the ongoing responsibilities as an oversight body), for each year a regulator remains recognised. The Charter sets a maximum allowable fee of £220,000 per annum but allows the PRP to "determine to set different fees for

³ Article 11.7 of the Charter states: "In the event that the Board considers that its income (from whatever source received) is likely to be insufficient to meet its expenditure relating to (a) legal or other expenses arising from litigation or threatened litigation, (b) ad hoc reviews or (c) wholly unforeseen events, it shall have the right to request further reasonable sums from the Exchequer. In response to such a request, the Exchequer shall grant such sums to the Recognition Panel as the Exchequer considers necessary to ensure that the Purpose of the Recognition Panel is not frustrated by lack of funding".

⁴ Other than in the exceptional circumstances permitted in Article 11.7 of the Charter

different circumstances”. As explained above, we are currently not proposing a scheme which differentiates in this way.

41. The PRP must aim, as far as possible, to recover its costs from fees. The PRP currently has oversight of one recognised regulator and there is no indication that this number will increase in the foreseeable future. The maximum the PRP anticipates being able to receive annually from fee income would therefore be £220,000 for as long as the regulator remains recognised.
42. The PRP’s business plan and budget sets the PRP’s likely operating budget for 2017-18 at £550,000. During this period, the PRP will still be carrying out some start up activity, so this budget will exceed the PRP’s projected business as usual costs as an oversight body once start up is fully complete. However, it is anticipated that the actual costs as a business as usual oversight body will be no less than the maximum permissible annual fee for cyclical reviews. In order to meet the Charter’s requirement for cost recovery, we see no alternative other than to charge the maximum permissible fee.

Question 1

Do you agree that the PRP should charge the Charter’s maximum permissible fee of £220,000⁵ per year⁶ for cyclical reviews?

Question 2

If you do not agree with the proposal in question 1, what do you believe the PRP’s fee charging basis should be?

Fees for future applications for recognition

43. As explained above, the PRP will not charge the existing recognised regulator for its application as the assessment was conducted during the PRP’s first three years when a grant from the Exchequer covered our costs. If one or more regulators apply after the introduction of the fee scheme, the PRP would be able to charge each one an application fee. Article 11.4(a) of the Charter allows the PRP to charge a fee not exceeding “*an amount equal to £300,000 per year for each of the first three years of recognition*”. Article 11.4 allows that “*the Board may determine to set different fees for different circumstances*”. As explained above in paragraph 37, we do not believe that circumstances warrant us designing a differential charging model, and therefore propose that any fee levied for a future application for recognition should be a flat amount regardless of the size of the regulator or the outcome of the application.
44. The PRP’s operational costs would be likely to increase significantly if the PRP received a further application. The assessment process is complex and requires detailed consideration of the application against the 29 Criteria set out in the Charter. As explained above, the PRP’s income from fees must aim to cover the

⁵ Article 11.4(c) of the Charter specifies an indexation formula for annually reviewing of the fees, so this consultation only concerns the fee level for the first year of introduction.

⁶ The PRP is currently seeking to clarify whether VAT will be chargeable on fees.

full costs of the organisation. Our budget for 2017-18 is £550,000, which assumes we will not be assessing a further application for recognition during this period. We can get an indication of the additional costs to the PRP of conducting a recognition assessment (on top of other ongoing costs) based on the organisation's operating costs for 2016-17: our assessment of IMPRESS' application largely fell within this period. Our expenditure for this year was approximately £880,000.

45. On the basis of the Charter's requirement that our fees should aim to cover our full costs, and in the light of the PRPs actual budget requirements and costs incurred when assessing IMPRESS' application during 2016, we see no alternative other than to charge the maximum permissible fee of £300,000 for a future application for recognition. On the basis of our previous experience, we anticipate that a single charge of £300,000 should be sufficient to cover the PRP's costs of assessing a future application. This charge would be levied when the regulator makes an application for recognition. It is possible that the costs of assessing a future application may exceed £300,000, in which case, the PRP would recoup the extra costs in the following one or two years.

Question 3

Do you agree that the PRP should charge a fee of £300,000⁷ for any future regulators that apply for recognition after the fee charging scheme is introduced, and, if the PRP's costs exceed this amount, that the PRP should charge the excess in the following one or two years (up to the Charter's annual cap of £300,000 in each year, and therefore not exceeding a total application fee of £900,000)?

Question 4

If you do not agree with the proposed basis of charging as set out in question 3, please explain your alternative proposal.

Aggregation of fees

46. Article 11.4(d) of the Charter allows the PRP to aggregate the annual fees chargeable. However, we do not consider this would be beneficial. The organisation's costs are projected to be fairly consistent year on year, assuming no unforeseen changes. If the PRP receives another application for recognition, the costs associated with the assessment process are likely to be incurred during a period of no more than 12 months, and are not expected to exceed the maximum permissible charge per year.

Timing of fees

47. In addition to determining the level of fees, we also need to decide the timing when fees for cyclical reviews will become due. One option would be to align the

⁷ Article 11.4(c) of the Charter specifies an indexation formula for annually reviewing of the fees, so this consultation only concerns the fee level for the first year of introduction

due date of the annual charge for cyclical reviews with the PRP's fee charging year, which would run from 3 November to 2 November the following year. An alternative would be to align the timing of fees for cyclical reviews with the anniversary of a regulator's recognition. The PRP is required to publish its annual budget in advance. The most straightforward approach would be for fees to become due at the start of the PRP's charging year, i.e. on 3 November each year. This would mean that the same date would apply to any recognised regulator, regardless of when the application was approved. The first fee for cyclical reviews would become due on 3 November 2017.

- 48.** Fees for any future applications for recognition would be charged when the application is made.

Question 5

Do you agree that annual fees for cyclical review should be levied at the start of the PRP's fee charging year, i.e. 3 November?

Question 6

If you do not agree, when do you believe the fees should be levied?

Question 7

Do you agree that the application fee of £300,000 should be charged when the application is made?

Question 8

In the event that the cost of assessing an application exceeds the initial application charge of £300,000, do you agree that the excess should be levied at the start of the next one or two fee charging years, i.e. 3 November?

Question 9

If you do not agree with the proposed timings in questions 7 and 8, when do you believe these fees should be levied?

- 49.** At this stage, the PRP only needs to set the initial fee charging scheme, as Article 11.4(c) of the Charter specifies an indexation formula for annually reviewing of the fees.
- 50.** The PRP is currently seeking to clarify whether VAT is chargeable on application and cyclical review fees.

Summary of consultation questions

Question 1

Do you agree that the PRP should charge the Charter's maximum permissible fee of £220,000⁸ per year for cyclical reviews⁹

Question 2

If you do not agree with the proposal in question 1, what do you believe the PRP's fee charging basis should be?

Question 3

Do you agree that the PRP should charge a fee of £300,000¹⁰ for any future regulators that apply for recognition after the fee charging scheme is introduced, and, if the PRP's costs exceed this amount, that the PRP should charge the excess in the following one or two years (up to the Charter's annual cap of £300,000 in each year, and therefore not exceeding a total application fee of £900,000)?

Question 4

If you do not agree with the proposed basis of charging as set out in question 3, please explain your alternative proposal.

Question 5

Do you agree that annual fees for cyclical review should be levied at the start of the PRP's fee charging year, i.e. 3 November?

Question 6

If you do not agree, when do you believe the fees should be levied?

Question 7

Do you agree that the application fee of £300,000 should be charged when the application is made?

⁸ Article 11.4(c) of the Charter specifies an indexation formula for annually reviewing of the fees, so this consultation only concerns the fee level for the first year of introduction.

⁹ The PRP is currently seeking to clarify whether VAT will be chargeable on fees.

¹⁰ Article 11.4(c) of the Charter specifies an indexation formula for annually reviewing of the fees, so this consultation only concerns the fee level for the first year of introduction

Question 8

In the event that the cost of assessing an application exceeds the initial application charge of £300,000, do you agree that the excess should be levied at the start of the next one or two fee charging years, i.e. 3 November?

Question 9

If you do not agree with the proposed timings in questions 7 and 8, when do you believe these fees should be levied?