

## Information note on the draft Royal Charter

12 February 2013

This note provides factual commentary on the draft Royal Charter, including some explanation of the process involved in forming a Royal Charter. It is intended to be read alongside the draft provisions for a Royal Charter published today.

### 1. Context

1.1 Lord Justice Leveson published his report into the culture, practices and ethics of the press on 29<sup>th</sup> November 2012<sup>1</sup>. In the report, Lord Justice Leveson makes a range of recommendations to reform the regulatory framework for the press, creating a new system for press regulation in the UK. Press self-regulation continues to sit at the heart of this new system, but with a number of additional features sitting within the broader architecture. This includes a new press recognition body, responsible for recognising that press self-regulators fulfil a range of criteria, as set out in Lord Justice Leveson's report.

1.2 These criteria include provisions which aim to help guarantee the independence of press self-regulators. Lord Justice Leveson also proposed incentives in relation to the treatment by the courts of certain types of civil claims against the press, relating to costs and the award of exemplary damages, in order that the courts would take account of a publisher's membership of a regulator in such cases. Legislation would be necessary to put those incentives in place, and clauses to give effect to that have been published alongside the draft Royal Charter.

1.3 Lord Justice Leveson also recommends that the press self-regulator provides a new arbitral service, with the aim of offering complainants a cheaper and quicker alternative to the courts. The recognition criteria require a press self-regulator to continue to offer a complaints conciliation service, in line with a standards code.

### 2. A Royal Charter for the Press

2.1 The purpose of the attached draft provisions for a Royal Charter, if granted by Her Majesty The Queen, would be to create the new "Recognition Body" responsible for recognising press self-regulator(s), implementing recommendation 27 of the Leveson Report:

*"In order to meet the public concern that the organisation by the press of its regulation is by a body which is independent of the press, independent of Parliament and independent of Government, that fulfils the legitimate requirements of such a body and can provide, by way of benefits to its subscribers, recognition of involvement in the maintenance of high standards of journalism, the law must identify those legitimate requirements and provide a mechanism to recognise and certify that a new body meets them".*

2.2 Lord Justice Leveson has suggested that to achieve this, the new system of press regulation needs to be supported by a permanent process of recognition, which the courts can rely upon when dealing with litigation involving the press. One way to provide this is

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<sup>1</sup> An Inquiry Into The Culture, Practices And Ethics Of The Press (HC779)

through the creation of a Royal Chartered body. The attached draft operative provisions for a Royal Charter specify the purpose, functions, powers and funding of the recognition body, together with a process for appointing people to serve on it. Schedule 3 of the Charter sets out the proposed Recognition Criteria which must be met by press self-regulator(s) in order to be recognised.

### **3. Devolved Administrations**

3.1 The body set up by the Royal Charter is capable of acting throughout the whole of the United Kingdom. Whether it operates in any of the Devolved Administrations will follow full Ministerial and official level discussions with the Devolved Administrations.

### **4. Royal Charters**

4.1 Royal Charters are granted by Her Majesty The Queen using Royal prerogative powers, and are one way of forming a legal, incorporated, body. The Queen grants a Royal Charter based on advice from the Privy Council. Those appointed to the Privy Council mostly comprise Ministers, other parliamentarians and members of the judiciary, although only serving Government ministers are involved in Privy Council matters for the purpose of recommending and granting a Charter. The current Lord President of the Privy Council is the Deputy Prime Minister, the Rt Hon Nick Clegg MP.

4.2 Royal Charters, because they create a legal entity, become legally binding documents, but unlike a Bill, do not need to be voted on by Parliament. Royal Chartered bodies can be formed to carry out many different purposes, and the initiation of a Royal Charter can take place in different ways. In most cases, an existing organisation can seek to acquire chartered status, and make an application to the Privy Council. Another example is a State sponsored Charter, whereby a body is created for the first time, at the initiation of the Government. If the option of a Royal Charter was used to create the new press recognition body, it would be a State sponsored Charter.

### **5. The Process**

5.1 A number of processes would need to be completed before a State sponsored Royal Charter could be granted:

- Government must approve the presentation of the Charter via its Home Affairs Committee
- The Privy Council must then meet and recommend to Her Majesty that the Charter is granted
- It is then 'sealed' by the Crown Office and will take effect from the date specified in the Charter itself

5.2 It is also desirable for the Government to have conducted a public consultation before a State sponsored Charter is recommended to the Queen.

## 6. Bodies Constituted by Royal Charter

6.1 There are hundreds of bodies in the UK that are incorporated via Royal Charter, representing a broad spectrum of entities with very different purposes and privileges. Some Charters were originally granted centuries ago, others are modern. As a reflection of this, the Charters themselves vary from the simple, establishing a body with minimum rules and requirements, to the complex, where detailed provisions are set out for the operation of that body. These include:

- Public Bodies (and thus created through a State sponsored Charter) – for example, the British Council and various sports and research councils
- Charities – for example, the Royal Society for the Protection of Birds (RSPB), the Royal Horticultural Society, the Scout Association
- Universities and Colleges – for example, the Universities of Cambridge and Oxford, King's College, Imperial College
- Professional Institutions – for example, the Royal Institute of British Architects (RIBA), the Chartered Institute of Marketing (CIM), Chartered Accountancy bodies (CIPFA, ICAEW, and CIMA)