

PRP

INDEPENDENTLY
OVERSEEING
PRESS REGULATION

PRESS RECOGNITION PANEL

**Consultation on undertaking
cyclical and ad hoc reviews**

February 2016

Foreword

Last year we published a consultation on how we intended to receive and consider applications for recognition from press self-regulators. The consultation attracted 200 written responses from publishers of various sizes, campaign groups, members of the public and others. We used these responses to refine our approach to recognising press self-regulators, which we published on 10 September 2015.

This consultation introduces a further stage of our development, and sets out our proposals for how we would review approved regulators.

Background

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 (the 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 and we are not a regulator. We assess and review 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.

The Charter requires us to undertake cyclical reviews at set points after recognition, and ad hoc reviews, when we consider that there are exceptional circumstances and a significant public interest in doing so. This consultation puts forward our proposals for reviewing approved regulators.

Consultation

In this document we set out our proposals for how we intend to gather information leading up to both cyclical and ad hoc reviews, how we will make judgements on the seriousness of the information we receive, and the likelihood of the regulator continuing to comply with the Charter through a risk matrix. This assessment will allow us to make a transparent decision on whether or not the exceptional circumstances and significant public interest required for an ad hoc review have been met and will also identify areas of focus when undertaking cyclical reviews.

This consultation also looks in detail at how we will undertake ad hoc and cyclical reviews, and how we intend to report the outcomes.

These proposals are important to how we operate and ensure that the public and press are suitably protected. I look forward to hearing your views.



Dr David Wolfe
Chair, Press Recognition Panel

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Background to the PRP

1. Following the exposure of alleged criminal activity and growing complaints by the public about the behaviour of the press in the UK in 2011, the Leveson Inquiry into press standards made recommendations for a new, more effective regulatory system.
2. On 30 October 2013 the Royal Charter on Self-Regulation of the Press (the Charter) was granted and, on 3 November 2014, the independent Press Recognition Panel (PRP) came into formal existence.
3. The PRP's role is to consider whether or not independent press self-regulators (regulators) meet, and continue to meet, the 29 recognition criteria in the Charter. The PRP will:
 - grant recognition to regulators that meet the recognition criteria;
 - review those regulators;
 - withdraw recognition if a regulator no longer meets the recognition criteria; and
 - report on the successes or failures of the recognition system.
4. The PRP is independent of the government, Parliament, and the press. Independence and transparency are fundamental to the way in which we operate.
5. The recognition system is voluntary. We do not regulate the press and we cannot compel any regulator to apply for recognition.
6. In June 2015 we consulted on our approach to recognising press regulators. We received 200 responses to the consultation and, after careful consideration, we published our decision document and opened for applications from potential regulators on 10 September 2015.
7. You can find out more about the PRP, our Board and governance arrangements on our website: www.pressrecognitionpanel.org.uk.

About this consultation

Introduction

8. This consultation sets out the PRP's proposals for how we will ensure that approved regulators continue to meet the Charter's recognition criteria. We are seeking views on the types of information and factors we might use to decide whether or not to undertake an ad hoc review and on our proposals for how we will conduct, and report on, cyclical and ad hoc reviews.
9. The findings from this consultation will help ensure that the review processes are effective, open and transparent.

Charter requirements

10. Schedule 2 (paragraphs 5-9) of the Charter sets out the PRP's functions in respect of carrying out and reporting on cyclical and ad hoc reviews.
11. The Charter requires us to carry out cyclical reviews as soon as reasonably practicable two years after a regulator has been recognised and three-yearly thereafter. The Charter also requires the PRP to undertake ad hoc reviews when there are 'exceptional circumstances' (having regard in particular to 'serious breaches of the recognition criteria') and where there is a 'significant public interest' in undertaking a review.
12. As part of the cyclical review process, paragraph 6 notes that the PRP Board may undertake a call for evidence from the regulator on the 'fairness, effectiveness and sustainability' of the regulator's arbitral process and its complaints handling process. Paragraph 6 also allows us to seek evidence on the matter from third parties.
13. The Charter requires the Board to consider this evidence and publish its conclusions on the 'fairness, effectiveness and sustainability' of the regulator's arbitral process, and provides a list of what conclusions may be included. These suggestions include: recommendations about, or revisions to, the guidance and operation of criterion 22 (arbitration); directions to amend any small administration fee; and the financial impact of the arbitral process on local and regional subscribers – with the power to allow recognition to continue on the basis that such subscribers can opt in, or out, of the regulator's arbitral process.

14. Following either a cyclical or an ad hoc review, paragraph 10 requires us to publish a report, and paragraph 11 allows the Board to withdraw recognition, if:
- a) the regulator is not meeting the recognition criteria; or
 - b) the Board has insufficient information to determine whether or to what extent the Regulator is meeting those criteria.

Our approach

15. The PRP is not a regulator, but our work is consistent with the principles of good regulation¹. In the interest of good public administration, we therefore intend, when undertaking both cyclical and ad hoc reviews, to have regard to the *Better Regulation Principles* of transparency, accountability, proportionality, consistency and to target activities only at cases in which action is needed.
16. In undertaking our work, we will:
- help to ensure that the recognition criteria are met;
 - be transparent, independent, proportionate and fair in the actions that we take; and
 - use insight from those who have an interest in our work to inform what we do.

¹Better Regulation Taskforce, *Principles of Good Regulation*, <http://webarchive.nationalarchives.gov.uk/20100407162704/http://archive.cabinetoffice.gov.uk/brc/upload/assets/www.brc.gov.uk/principlesleaflet.pdf>

Responding to this consultation

How this document works

17. This document is split into four sections and poses questions at the close of relevant sections. For convenience, the questions are repeated at the end of the document. When responding to the consultation, please ensure that you address the questions that have been posed. We would also welcome feedback on the impact of our proposals, including cost estimates where these are supported by evidence.

How to respond

18. The consultation runs for eight weeks from 16 February 2016 to 11 April 2016. We will consider all consultation responses received during this time before we publish our decision in June 2016.
19. We want to give all those who are affected by our work the opportunity to have a say in how we operate.
20. You can respond in writing by using the separate response form, or via our website www.pressrecognitionpanel.org.uk.
21. We will consider requests for information to be translated in languages other than English and also in Easy Read.
22. In addition, we will accept requests from people who prefer to provide feedback in a manner that suits them, for example through a face-to-face meeting or by telephone, as well as in writing or online. We will also hold a webinar.

Confidentiality and data protection

23. We are not currently listed within the Schedule to the Freedom of Information Act 2000 and so the PRP is not a body to which its provisions apply. We have nevertheless taken a decision to operate as if the provisions of the Act apply, including the provisions relating to considering and responding to information requests.

24. Unless you state otherwise (and an automatic disclaimer generated by your IT system will not be taken as such) we will assume that you are content for us to publish your response to this consultation, including your name and any other information provided.
25. We would encourage named responses where possible, particularly from organisations, so that we can identify the different interests reflected in the responses. If you do not wish us to publish any of your response because you regard the information you have provided as confidential, please indicate so.

What happens next?

26. After the consultation closes, we will review the responses received, together with feedback received from anyone who met us. We will publish a summary of the responses and explain how they have shaped our final proposals for undertaking reviews.

Section 1

Gathering information

27. In order to undertake a cyclical or ad hoc review, we will need up-to-date information to help identify whether or not an approved regulator continues to meet the recognition criteria.
28. In gathering information, we intend to be approachable and to present an 'open-door policy' to stakeholders and to the general public. There are four ways in which we propose to gather the required relevant information:
 - from third parties;
 - from regulators;
 - from publishers subscribing to regulators; and
 - through monitoring the sector.

Third party information

29. After recognising a regulator, we will provide a means for third parties to raise concerns about that regulator's ability to continue to meet the criteria. While we intend to listen to any issues brought to our attention, we will make clear that we are not a complaints service and we will not hear complaints about particular publishers - this is the role of regulators and the publishers who subscribe to them. Concerns should therefore only be raised if they relate to at least one of the recognition criteria.
30. Complaints regarding a regulator should be taken up with that regulator in the first instance; however, we will listen to concerns from third parties regarding failures to meet the criteria.
31. Our system for handling information from third parties will be accessible and open to anyone who has a legitimate reason for raising a concern in respect of relevant recognition criteria. We propose that issues can be raised by phone, email, post or in person. When raising an issue, it is important that we receive as full a picture of the issue as possible. We propose therefore that, where possible, information should be submitted in a structured format. To facilitate this information gathering process, we will create a form that can be used online or as a script when receiving information verbally.

Anonymous information

32. We do not intend to publish the names or the information submitted by respondents who want to remain anonymous. However, we suggest that this information may need to be shared with the regulator in an appropriate form in order for them to comment and for their internal audit purposes. If a respondent does not wish to have their identity disclosed when their information is shared with the regulator, we propose that they should let us know why. We will then assess whether or not the information can be conveyed to the regulator in a suitably redacted form. The respondent will then have the opportunity to amend/withdraw the information if it is to be shared.
33. We envisage that information submitted by an anonymous party, or by a party who does not wish their information to be shared with the applicant, may be valuable depending on: a) the relevance of the information; and b) whether or not we are able to validate the information. This type of information may inform our assessment of the eligibility of a regulator for an ad hoc review or contribute to discussions during a cyclical review. We expect that following a review, any published report may include reference to issues raised by anonymous informants.
34. We will store all the information that we receive, anonymously or otherwise, securely and in accordance with our information governance and retention policies, which are available on our website www.pressrecognitionpanel.org.uk. Regulators and third parties should be aware that as a result of our commitment to comply with the Freedom of Information Act 2000, any information provided to us is disclosable unless it falls within one or more of the exemptions set out in that statute. We will consider requests for non-disclosure (including anonymous information) on merit and in accordance with legal advice.

Whistleblowing

35. We will treat seriously any disclosure received from a whistleblower in respect of a regulator not meeting the Charter recognition criteria. Our whistleblowing helpline will be compliant with the indicators that we have developed in our recognition matrix for criterion 8D, which, while applicable only to the regulators, provides a source of administrative good practice for the PRP.
36. The PRP is not a prescribed person under Public Information Disclosure Act 1998 (PIDA). This means that people approaching us with information will not be afforded the same statutory protections that they would have received if they had gone to a regulator listed under PIDA or to their employer. We will make this clear to individuals who come forward with information and recommend that all whistleblowers seek advice on implications in advance of formally blowing the whistle.

Voluntary disclosures by regulators

37. In our guidance for applicants, we note that the Board recognises regulators on the basis of their readiness for recognition entitlement demonstrated at the point of recognition. Following recognition, regulators may want to modify aspects of their regulatory arrangements or to take on new publishers. When this occurs, we recommend that they provide this updated information to us voluntarily.
38. We propose that this type of communication will help ensure that regulators continue to meet the recognition criteria while they make necessary changes to adapt to their sector landscape, and ultimately these exchanges may help to forestall an ad hoc review.

Disclosures from publishers subscribed to regulators

39. We do not regulate the publishers who subscribe to approved regulators, but we will welcome information from them in relation to a regulator's compliance with the criteria. We know that publishers are in a unique position to provide information in relation to certain criteria. To facilitate this information gathering process, we will create a form that can be used online or as a script when receiving information verbally.

Other sources of information

40. In order to inform our approach to reviews, specifically ad hoc reviews, we consider that it may be appropriate to keep an active awareness of issues that might affect the regulator's compliance with the recognition criteria through information gathering.
41. We would welcome your views on the extent to which we should engage in such information gathering.
42. We also consider that there may be occasions where we wish to share information with other organisations that have an interest in certain recognition criteria; for example, in respect to criterion 8B, establishing an agreement with the Advertising Standards Authority (ASA) to ensure that data is shared in order to manage the risk of regulatory gaps emerging on "advertorial" issues.

Source reliability

43. When we receive information, we will assess the reliability of the source of that information. Factors influencing reliability will include: whether or not the information is frivolous or vexatious; whether or not the source suffered personal loss or damage as a result of the reported issue; and whether or not the information is corroborated by information from another unrelated source.
44. We propose that the reliability of the source is split into three categories: reliable, unreliable, or unidentifiable. The reliability of the source will feed into how we assess the information received, as discussed in the next section.

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

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

Section 2

Assessing information

- 45. In the previous section we discussed how information gathered forms the evidential basis for both our cyclical and ad hoc review considerations. Before this information can become useful intelligence, it will have to be categorised, validated and then assessed. Assessment of the intelligence will determine the appropriate actions we take.
- 46. Our assessment is particularly important in respect of ad hoc reviews, where under Schedule 2, paragraph 8, we are required to consider whether or not there are 'exceptional circumstances' that could trigger an ad hoc review (in particular, whether or not there are any 'serious breaches of the recognition criteria'); and determine whether or not there would be a 'significant public interest' in undertaking such a review. Our categorisation and assessment will also allow us to build a useful profile of a regulator that will help inform our approach to cyclical reviews.
- 47. In terms of ad hoc reviews, we consider that exceptional circumstances are such actions that, if they persisted unchecked, would be likely to jeopardise the safeguards established by the Charter.
- 48. We consider that the public interest is served by the Charter recognition criteria being met by press regulators. So, in our view, in cases where there may be a serious breach of the recognition criteria leading to an exceptional circumstance, there will be significant public interest in undertaking an ad hoc review.

Risk matrix

- 49. After validating the information we have received or gathered, we intend to categorise it based on the relevant Charter criteria. After identifying the relevant criteria, we need to effectively assess the information. This is particularly important in relation to understanding whether or not the threshold for an ad hoc review has been met. Our proposed method for doing this is by means of a risk matrix.

50. Our proposed matrix is based on good practice and research from organisations such as the Better Regulation Delivery Office, the Organisation for Economic Co-operation and Development, and other oversight and regulatory bodies. The matrix measures the level of seriousness of the information gathered against the likelihood of the regulator complying with the Charter criteria. This allows us to assess the information and provide indicators (with thresholds of escalating severity) that lead ultimately to the exceptional circumstance/significant public interest trigger to undertake an ad hoc review.
51. The steps comprising the proposed approach can be summarised as follows:
- identify the level of seriousness;
 - identify the likelihood of compliance; and
 - apply the likelihood of compliance to the level of seriousness to determine the appropriate threshold and the consequential regulatory response.

Proposed risk matrix

		Likelihood of compliance				
Seriousness		Very high	High	Medium	Low	Very low
	Low					
	Lower medium					
	Upper medium					
	High					

Identifying the level of seriousness

52. The first stage of assessing information is to identify the level of seriousness of the information that we receive. As stated earlier, the level of seriousness alone will not determine our regulatory response because seriousness will be looked at in conjunction with the likelihood of compliance to determine the severity threshold within which the issue falls.

53. In considering the degree of seriousness of any information gathered, the PRP will have regard to the nature of the alleged breach. The factors that may influence the level of seriousness include (but are not limited to):
- extent to which the alleged breach could damage public confidence in the regulatory mechanisms;
 - potential impact likely to be suffered by the public or the press;
 - extent to which the alleged breach was caused deliberately or recklessly;
 - extent to which the alleged breach would have been apparent to a regulator acting diligently;
 - circumstances from which the alleged breach arose were, or should have been, within the control of the regulator;
 - extent to which the alleged breach revealed serious or systemic weaknesses in the regulator's management or compliance procedures;
 - extent to which senior management was aware or should have been aware of the alleged breach; and
 - source reliability.

Identifying the likelihood of compliance

54. The second stage of this process involves identifying the likelihood of the regulator no longer meeting the recognition criteria.
55. When considering the likelihood of compliance, we will have regard to the nature of the regulator and other information we have gathered. Broadly, we will have regard to the following non-exhaustive list of indicators to show how likely it will be that a regulator continues to meet the recognition criteria:
- information gathered highlighting an issue or failure in that area;
 - findings from previous cyclical and ad hoc reviews;
 - relevant communication between the regulator and PRP;
 - information supplied by the regulator in response to information received; and
 - whether or not the regulator has undertaken an external review of their compliance with the criteria.
56. We have developed these indicators with some regard to the risk management principles adopted by consumer and public protection bodies such as The Office of Gas and Electricity Markets (Ofgem), Trading Standards and the Human Tissue Authority. Although these are regulatory bodies, some of their approaches have relevance and we have adapted them only insofar as their methods apply to our activities and are appropriate to this area of oversight.

Our response

57. Once we have assessed the information and determined that a threshold has been reached, we will provide a proportionate response that corresponds to the level of severity of the alleged breach. For example, in cases where there is significant public interest because serious breaches of the criteria may have occurred with little likelihood of compliance, it may be necessary to initiate an ad hoc review immediately. Conversely, in cases where it is unlikely that there are serious breaches of the criteria, but information acquired over time causes concern, a letter could be sent to alert the regulator to the intelligence. This approach would allow the regulator to address the concerns and avoid the need for an ad hoc review. An overview of our proposed thresholds is provided below:

Proposed thresholds

Red	There is likely to be a serious breach of the criteria or a serious breach may be imminent and the likelihood of compliance is low. This is an exceptional circumstance and there is significant public interest in conducting an ad hoc review. An ad hoc review is recommended to the PRP Board on the basis of the intelligence gathered.
Amber	A serious breach of the criteria may have occurred/be occurring or may be imminent and there may be significant public interest in conducting a review. If there has already been correspondence about the matter and undertakings given, another letter is written to the regulator about the relevant intelligence and asking for revised estimated timescales for when further action will be taken to reduce the risk further. In this letter, the PRP will inform the Regulator that an ad hoc review may be required, if further information or action is not forthcoming.
Yellow	Although there is potentially a serious breach of the criteria, there is limited public interest in conducting a review at this time. A letter is sent to the regulator detailing the significance of the intelligence gathered. If the response from the regulator is not adequate, the risk may move to amber. The issue/s can also be raised with the regulator during the next cyclical review.
Green	It is very unlikely there is a serious breach of the criteria and there is no significant public interest in undertaking an ad hoc review. The issue/s can be raised with the regulator during the next cyclical review.

58. The table above sets out how the PRP executive team will assess information gathered or received. The final decision about whether or not to undertake an ad hoc review will be taken by the Board, in accordance with the Scheme of Recognition. The Board’s approach will be informed by the executive’s assessment.

Question 3: Do you agree with our approach to assessing and categorising information?

Question 4: Do you agree with our proposed trigger points for undertaking certain actions, including ad hoc reviews?

Section 3

Undertaking reviews

Cyclical reviews

59. Cyclical reviews provide an opportunity for the PRP to revalidate regulators against the recognition criteria. They take place two years after the date of recognition and then every three years after that.
60. Our proposals for undertaking cyclical reviews are similar to those outlined in our recognition process; this provides for consistency between the initial recognition process and the revalidation stage.

Self-assessment

61. Prior to a cyclical review, we propose to ask relevant regulators to assess themselves against the recognition matrix and to submit evidence to demonstrate that they are continuing to meet the Charter criteria. Specifically, regulators will need to identify areas of their arrangements that have changed since their original application for recognition, and provide new data to demonstrate that the new arrangements are compliant with the Charter criteria.
62. This proposed course of action for initiating cyclical reviews was supported by a number of responses to our recognition consultation. Responses also drew attention to the usefulness of evidencing successful operation of the regulator by reference to the recognition matrix.

Call for information

63. A number of respondents to our consultation on recognition commented on the benefits of undertaking a call for information at the point of a cyclical review.
64. We believe the opportunity to provide focussed feedback during a cyclical review could provide additional facts/evidence to allow us to undertake an effective review. We also consider that the evidence received during a call for information could allow the Board to more effectively evaluate the fairness, effectiveness and sustainability of the regulator's arbitral process, as required under Schedule 2, paragraph 7, of the Charter.

65. In order for the call for information to be effective, we propose that publishing a regulator's self-assessment would allow third parties to compare policies and processes established at the point of recognition to those in place at the time of the review, and to comment upon whether or not there are particular challenges to meeting the Charter's recognition criteria.
66. After publication of the self-assessment, we will allow 15 working days for third parties to provide their responses to us on the points raised. The regulator will then also have 15 working days to respond to third party information. A summary of the responses and of the points raised will be submitted by the PRP executive team to the PRP Board.

Initial assessment

67. The PRP executive team will assess the documentation and information acquired against the criteria in the Charter. We propose that an initial documentary review should be conducted. If clarification or additional evidence are needed, a set of questions or a list of required evidence could be sent to the regulator and they will be given a reasonable time within which to respond. Their response will be assessed by the PRP executive team who will then decide whether or not it has all the information necessary to publish the 'call for information'.
68. In addition to information sent by the regulator and third parties during the call for information, we propose that other information acquired should also be used. We consider that, even if intelligence about a regulator's performance has not been of sufficient concern to trigger an ad hoc review, the information can still be used effectively as part of the review process, to develop corrective actions/mechanisms designed to mitigate against the same issues arising in future.

Validation and verification of the process

69. The PRP executive team will meet the regulator to verify information acquired and to validate evidence. The meeting will take place after the call for information has closed, so that relevant evidence submitted by third parties can also be verified as required. After validating and verifying the information submitted, the PRP executive team will finalise its cyclical review report with a recommendation to the PRP Board about what action, if any, might be appropriate. The PRP executive team's assessment will be sent to the regulator for comments before it is sent to the PRP Board for decision.

70. The regulator will be asked to comment on factual accuracy within 15 working days. Where necessary, the team will amend inaccurate information. If the applicant disagrees with the assessment, the PRP executive team will express this in the cyclical review report to be considered by the PRP Board and explain the substance of the disagreement.

PRP Board's review and outcome

71. The PRP Board will meet to consider the information and the PRP executive team's cyclical review report along with any comments on it from the regulator. The PRP Board alone will assess and decide whether or not the regulator continues to meet the criteria in the Charter.
72. In addition to assessing whether or not the regulator meets the criteria, paragraph 7 of the Charter requires the Board to publish findings on the fairness, effectiveness and sustainability of the regulator's arbitral process. The Charter allows the Board to publish conclusions, including:
- recommendations about or revisions to the Recognition Panel's policies and guidance on the operation of criterion 22 (published in accordance with paragraph 13 of Schedule 2);
 - directions to the regulator to amend any small administration fee; or
 - that where it determines the requirement to provide an arbitral process causes serious financial harm to subscribers who publish only on a local or regional basis, the Recognition Panel may allow recognition to continue on the basis that such subscribers may, but need not, participate in the regulator's arbitral process. Criterion 22 shall be interpreted accordingly.
73. We therefore propose that our outcome report will include a specific section addressing our responsibility in respect of criterion 22, drawing from evidence gathered in the call for information to form our conclusions.

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

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?

Ad hoc reviews

74. Ad hoc reviews provide a means for the PRP to review recognition if there are exceptional circumstances and a significant public interest in us doing so. Unlike cyclical reviews, ad hoc reviews are not date-related and can be initiated at any point after recognition.
75. In Section 2 we discussed how we would assess information received or gathered and use it to inform a proportionate response, including for an ad hoc review. This section discusses how we would undertake that review.

Notification

76. If the Board decides to undertake an ad hoc review, the Charter requires us to 'give reasonable notice in writing' of its proposal, and that such notice should specify the reasons for undertaking an ad hoc review.
77. We propose that, in the context of ad hoc reviews, reasonable notice should be appropriate to the seriousness of the circumstances that led to the review. For example, if a regulator meets the 'amber' threshold, they would ordinarily have already received correspondence from the PRP detailing concerns and notifying them that an ad hoc review may be required. In such a case, we may wish to give several days' notice once the decision to undertake an ad hoc review has been reached. However, if information received is so serious, and there is a high likelihood of non-compliance, then there is significant public interest in undertaking the review more swiftly. For example, in cases where there is imminent damage or threat to public confidence in the regulatory mechanisms, a shorter timescale could be reasonable.
78. After notifying the regulator, we intend to publicise more broadly the fact that an ad hoc review will take place, and to state which recognition criteria are relevant to the review. We will not prejudge the outcome of the review and it will be made clear that the regulator is still recognised until the Board has completed the ad hoc review process. A regulator's recognition entitlement remains until it is withdrawn by the PRP.

Evaluation

79. When undertaking an ad hoc review, the PRP executive team proposes to assess the evidence relating to the relevant criteria. This highlights therefore the importance of regulators submitting all policies, processes and procedures relating to the relevant criteria, and also data samples where appropriate. The PRP executive may decide that additional information is required in order to complete the ad hoc review and in such instances will provide the regulator with a request for that information. The Charter allows the Board to withdraw recognition if it has insufficient information to determine to what extent the regulator is meeting the criteria.
80. We recognise that gathering information for the purpose of review can be resource intensive, and we will be mindful of this when making requests. At the point of notifying a regulator of our intention to undertake an ad hoc review, we also intend to submit a list of required information to the regulator under consideration. The permitted timescales for a regulator submitting a response to our requests will necessarily vary depending on the severity of the circumstances.
81. We have previously explained our view that many of the criteria are interlinked and, where this is the case, the ad hoc review will have to take those relevant criteria into account. Further, while undertaking reviews, more systemic breaches of criteria may be uncovered, at which point the PRP executive team may need to request additional information from the regulator.

Validation and verification

82. While we envisage that most of the review will be desk-based, where appropriate, members of the PRP executive may meet directly with members of the regulator's staff in order to validate and verify certain information. The meeting may involve a preliminary discussion, a document review and interviews. The agenda of the meeting and any other relevant information will be shared with the regulator in advance.

83. Following an evaluation, the PRP executive team will prepare an ad hoc review report. The report will include details of the subject matter under review, the methods used and a recommendation as to a course of action in response. We are minded to allow regulators under review to see the ad hoc review report prior to formal submission to the Board, and to allow them an opportunity to comment on the findings. Any comments made by the regulator under review will be included in the final report submitted to the Board for decision.

Board decision

84. After the ad hoc review report is finalised, the Board will meet to consider the ad hoc review report and to make a decision on whether or not to withdraw recognition from the regulator, or to make a recommendation.

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

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

Section 4

After a review

Withdrawing recognition

85. Schedule 2 (Paragraph 11) of the Charter allows the PRP to withdraw recognition either at the regulator's request or where, following a review, the PRP Board is satisfied that either:
- the regulator is not meeting the recognition criteria; or
 - the Board has insufficient information to determine whether or to what extent the regulator is meeting those criteria.
86. Paragraph 12 states that recognition can only be withdrawn if the PRP Board has given the regulator at least three months' notice in writing of its proposal to do so. The Charter provides that this notice can be cancelled during that period.
87. Where a regulator has not had its recognition entitlement withdrawn, but concerns remain, we suggest it would be helpful to make recommendations about the areas in which that regulator could improve. This would allow the regulator to develop so as to remove the risk of recognition entitlement being withdrawn following the next cyclical review, or the risk of an ad hoc review. These recommendations would not be published, as this would be an informal recommendation, and not part of our Charter reporting functions.

Question 9: Do you agree with our proposal to make informal recommendations following a review?

Reporting

88. The Charter requires the PRP Board to 'prepare and publish a report of any review it conducts'. We consider that the content of such a review will be determined by the nature of the review and the findings, although in the case of cyclical reviews we will report on the effectiveness, fairness and sustainability of the arbitral process.

Question 10: Do you think our proposals will have any negative impacts, including disadvantaging any specific groups of people?

Future consultations

89. We announced previously that we will consult on the PRP's fee charging structure during the first half of this year. Our work on the cyclical and ad hoc reviews consultation has made it clear to us that our proposals for fee charging are dependent on the outcome of this consultation. The consultation on fee charging will therefore not begin until the final decision on cyclical and ad hoc reviews has been published.

90. We will seek views later this year on matters relating to our report on the success or failure of the recognition system, as required under the Charter.

Consultation questions

- 1. To what extent, if any, should the PRP actively monitor the sector?**
- 2. Do you agree with our methods for gathering information?**
- 3. Do you agree with our approach to assessing and categorising information?**
- 4. Do you agree with our proposed trigger points for undertaking certain actions, including ad hoc reviews?**
- 5. Do you agree with our approach to conducting cyclical reviews?**
- 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?**
- 7. Do you agree that we should publish the fact that an ad hoc review is taking place?**
- 8. Do you agree with our approach to conducting ad hoc reviews?**
- 9. Do you agree with our proposal to make informal recommendations following a review?**
- 10. Do you think our proposals will have any negative impacts, including disadvantaging any specific groups of people?**

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