

## A CHARTER FOR THE PRESS?

The political game being played out over the future of press regulation has intensified with the publication of a draft Royal Charter showing how a model based on the Leveson report might be created without using an Act of Parliament. Backed by the Prime Minister, the charter was announced on February 12 by the Department of Culture, Media and Sport. It cannot be said to constitute coalition policy, as so far the Conservative and Liberal Democrat parties have been unable to agree a joint response to Lord Justice Leveson's proposals.

The charter creates a "recognition panel" which would decide whether any new independent self-regulatory body proposed by the press conformed to the requirements laid down by the Leveson report. This panel would be governed by an independent board comprising a majority of people independent of the press but with experience of it, such as former editors and senior or academic journalists. Serving editors and serving members of the government or House of Commons are specifically excluded from board membership. The charter requires the board to adopt an editorial standards code written by a code committee comprised of both independent members and serving editors.

Under the charter the board has the power (but not necessarily the duty) to hear complaints about breaches of the standards code, can initiate inquiries into alleged wrongdoing, and offer an arbitral process in relation to civil claims made against press organisations. In the event of a breach it can require remedial action to be taken where negotiations between the parties have failed, and can also impose "appropriate and proportionate" sanctions up to 1 per cent of the turnover of the publication concerned to a maximum of £1 million. The board would not have the power to prevent publication of any material by anyone at any time, although it could offer an advice service to editors on issues relating to code compliance.

Membership of the new regulatory body will be voluntary, but those who refuse to sign up – including on-line bloggers and on-line publishers of news as well as traditional newspaper and magazine titles – face the prospect of paying much larger damages for any unacceptable conduct. The Royal Charter proposals must be agreed by all three main party leaders before they can be recommended for approval by the Privy Council and passed on for final approval by the Queen.

The Labour party has voiced concerns that the Royal Charter as drafted does not comply with Leveson because it fails in two particular respects to create a system independent of politicians and the press. Harriet Harman, Labour's Deputy Leader and shadow Culture, Media and Sport Secretary, observed in her party's written response that there was nothing to stop the Privy Council (which consists of ministers) from amending the Charter at any time and changing the regulatory framework it creates. Second, Leveson recommended that if Ofcom did not become the designated recognition body, the appointment process for that body should be independent of the press. Labour maintains the draft Charter fails in that respect

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because it provides that of the four people designated to carry out the appointment process, one would represent the interests of the press.

Ms Harman's letter on February 12 to Oliver Letwin, the Cabinet Office Minister overseeing the Charter, raised other issues, such the failure of the draft Charter to include Leveson's recommendation that "a new system of regulation should not be considered sufficiently effective if it does not cover all significant news publishers." However, although her response referred to "substantive concerns" over the Royal Charter as drafted, the tone of the letter did not seem to imply that Labour would find it impossible to agree a compromise at cross-party talks. The Liberal Democrats' cautious initial response echoed Labour's approach by welcoming the Charter proposals as a starting point for discussion while remaining unconvinced that they met Leveson's requirements.

A guarded welcome has been given to the Royal Charter proposals by the newspaper industry on the basis that they avoid the statutory underpinning which formed the basis of Leveson and allow editors to shape the newspaper industry's code of conduct. The sentiment expressed by the *Times* leading article on February 13 – that "the press should support this measure for fear of something worse" – probably captured the prevailing mood.

Shortly before publication of the Royal Charter, the House of Lords sprung a surprise by voting to include a "Leveson amendment" in the Defamation Bill. Put down by Lord Puttnam late in the report stage, the amendment establishes a Defamation Recognition Commission set up by the Lord Chief Justice which in turn would recognise an Independent Regulatory Board providing an arbitration service for defamation and related civil claims. This attempt to introduce a form of statutory press regulation has put the Bill on a collision course with the Conservative party, which is unlikely to accept the Puttnam amendment.

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