

IN THE MATTER OF  
THE USE OF A ROYAL CHARTER  
TO ESTABLISH THE RECOGNITION BODY  
RECOMMENDED BY THE LEVESON REPORT

OPINION

1 The Government is proposing that a Royal Charter should establish the Recognition Body recommended by the Leveson Report for Press regulation. The fundamental defect of such a scheme would be that, in practice, Ministers would have power to amend the Charter as and when they see fit and so there would be no protection against political interference in the future. To avoid that risk, the Recognition Body should be established by a charitable trust.

2 A Royal Charter is granted by Her Majesty on the advice of the Privy Council. The modern Privy Council does not itself perform a deliberative and consultative function. It now meets principally to confer formal approval on documents, the content of which has already been agreed and decided by the Cabinet, committees of the Privy Council, or Ministers and Government departments.<sup>1</sup>

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1 Halsbury's Laws, 4th edition, volume 8(2), paragraph 525.

3 In practical terms, therefore, the content of a Royal Charter establishing a Recognition Body would be drawn up and agreed by Ministers, after consultation with relevant persons, and then placed before the Queen in Council for official approval.

4 A Royal Charter may be amended only with the consent of Her Majesty in Council. In practice, that means with the consent of Ministers.

5 Whether a Charter is granted for a fixed period or is of indefinite duration, Her Majesty in Council (that is on the advice of Ministers) may revoke a Charter at any time.

6 The Privy Council website therefore accurately states that,

"once incorporated by Royal Charter, a body surrenders significant aspects of the control of its internal affairs to the Privy Council".

That means to Ministers.

7 Although in principle Ministers' exercise of such powers would be subject to challenge by way of judicial review, it is difficult in practice to envisage a court intervening were Ministers to decide to change the substantive arrangements.

8 For the reasons set out above, it is plain that the use of a Royal Charter to establish the Recognition Body would confer considerable power on Ministers and provide no protection against future political intervention in this context.

9 To avoid that risk, the Press have proposed that the Recognition Body should be established by a charitable trust. The Opinion for Associated Newspapers Ltd by Peter Crampin QC and Francesca Quint, dated 16 January 2013, advises that such a purpose would be charitable. For the reasons explained in that Opinion, a charitable trust (supervision of which would be by the Charity Commission and the High Court) would provide much greater protection against political interference in the future than a Royal Charter.

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