

REVISED MEMORANDUM OF UNDERSTANDING - BBC CHARTER REVIEW/ WELSH GOVERNMENT

Preamble

Following the Memorandum of Understanding between the UK Government, Welsh Government and the BBC published on 21 October 2015, the UK Government is hereby seeking to establish parity across the devolved Governments in relation to annual reports and accounts, and appearing before committees.

Parties

- The Department for Culture, Media and Sport (DCMS) ('The Department')
- The Secretary of State for Culture, Media and Sport ('The Secretary of State')
- The BBC¹
- The Welsh Government
- The National Assembly for Wales

Commitments:

1. Charter Review

The BBC is established by Royal Charter. The Charter sets out how the BBC is constituted, its public purposes, and the respective roles and composition of the BBC Trust and the BBC Executive Board. The current Royal Charter expires on the 31st December 2016.

The terms of the formal consultative role for the Welsh Government and the National Assembly for Wales in the process of reviewing the BBC's Charter shall be as follows:

- The Department will consult the Welsh Government on the draft terms of reference for the Charter Review in advance of their publication.

¹ In this Memorandum of Understanding - "the BBC" means the British Broadcasting Corporation; "the Executive" means the Executive Board of the BBC; and "the Trust" means the BBC Trust.

- The Welsh Government will lay the final terms of reference for the Charter Review before the National Assembly for Wales.
- The Department will consult the Welsh Government through the process of reviewing the Charter.
- The Welsh Government will lay the draft Charter and Framework Agreement before the National Assembly for Wales, and should the Assembly deem it appropriate, schedule a ‘take note’ debate on the content of the draft Charter and Framework Agreement².
- The Department will consult the Welsh Government before recommending to Her Majesty in Council that the draft Charter is granted.

2. Annual report and accounts

Under Article 45 of the Royal Charter, the BBC is required to prepare an annual report and the audited statement of accounts that complies with the requirements of that article and with any directions given (after consulting the BBC) by the Secretary of State or the Foreign Secretary as to the information to be given in the report about the finance, administration and work of the BBC, and in the statement of accounts. The completed report and audited accounts must be sent to the Secretary of State who must lay them before the UK Parliament; and once that has been done the BBC must publish them.

The BBC will send the completed report and the audited accounts to the Welsh Government at the same time they are sent to the Secretary of State.

As part of ‘Powers for a Purpose: Towards a lasting devolution settlement for Wales’ in February 2015³, the UK Government indicated that it would ‘...seek a commitment from the BBC and S4C that they should send their annual reports and accounts for laying in the Assembly’. Therefore, the BBC will lay the completed report and audited accounts before the National Assembly for Wales on the next day on which the office of the clerk is open after they have been sent to the Secretary of State.

² This would ensure parity with the processes in the UK Parliament for the last Charter Review in 2006. See the ‘take note’ debate in the House of Lords, 30 June 2006: <http://www.publications.parliament.uk/pa/ld200506/ldhansrd/vo060616/text/60616-01.htm>; and the Commons debate on 3 July (see: <http://www.parliament.the-stationery-office.co.uk/pa/cm/cmvote/60710v01.htm>).

³https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/408587/47683_CM9020_ENGLISH.pdf

3. Reports to, and appearing before, the National Assembly for Wales

The BBC regularly receives invitations to provide evidence to Committees of the UK Parliament (both through witnesses and by the production of documentary evidence). The BBC approaches such invitations from committees of the UK Parliament with due regard to its duty to maintain the BBC's editorial and operational independence.

The BBC will submit reports to, and appear before, committees of the National Assembly for Wales in relation to matters relating to Wales on the same basis as it does in the UK Parliament.

4. Next Charter

Subject to a Royal Charter for the continuation of the BBC being granted, the consultative processes relating to Charter Review set out above, and the commitments set out above in relation to the BBC's Annual Reports and Accounts and appearing before committees, will be enshrined in that Charter and in all subsequent Charters unless otherwise set in statute elsewhere.

5. Signatures

<p>[For and on behalf of the Department]</p>	<p>[For and on behalf of the Welsh Government]</p>
<p>[For and on behalf of the BBC Executive]</p>	<p>[For and on behalf of the BBC Trust]</p>

6. Background

Following the referendum on the independence of Scotland on 18 September 2014, the Smith Commission Agreement, published on 27 November 2014⁴, made several proposals specific to the British Broadcasting Corporation (BBC). As set out in paragraph 36 of the Agreement:

There will be a formal consultative role for the Scottish Government and the Scottish Parliament in the process of reviewing the BBC's Charter.

The UK Government's Command paper, 'Scotland in the United Kingdom: An enduring settlement'⁵, published in January 2015, set out at paragraphs 5.2.1 – 5.2.3 how paragraph 36 of the Smith Commission Agreement would be enacted by a Memorandum of Understanding (MoU), stating;

5.2.1 Paragraph 36 of the Smith Commission Agreement, which relates to the relationship between the British Broadcasting Corporation (BBC) and the Scottish Government and Scottish Parliament, will be enacted by Memorandum of Understanding (MoU). This MoU, entered into by the UK Government, Scottish Government, Scottish Parliament and the BBC, will fulfil the Agreement's proposal by setting out commitments that guarantee a full consultative role for the Scottish Government and Scottish Parliament in the review of the Royal Charter and the ongoing scrutiny of the BBC.

5.2.2 The commitments outlined in the MoU will be:

- A commitment on the UK Government to consult with the Scottish Government and Scottish Parliament before recommending that any Royal Charter on the BBC is granted, and detail concerning the terms of engagement throughout the review process;*

- A commitment from the BBC to send its annual report and accounts to the Scottish Government and a commitment from the Scottish Government to lay these before the Scottish Parliament;*

⁴ <https://www.smith-commission.scot/smith-commission-report/>

⁵ <https://www.gov.uk/government/publications/scotland-in-the-united-kingdom-an-enduring-settlement>

- *A commitment from the BBC to appear before Scottish Parliament committees on matters relating to Scotland; and*

- *A commitment to enshrine all the above in the next Charter.*

5.2.3 Setting this out in an MoU, rather than draft clauses, ensures that the BBC's integrity and independence is secured by keeping its governance and constitutional arrangements off the statute books. Importantly, delivering this commitment by MoU will ensure that the Scottish Government and Scottish Parliament are able to have a consultative role in time for the next Charter Review, which is due to commence after the 2015 General Election; any draft clauses in this respect, setting out a formal role for the Scottish Government, would necessarily come into force too late to guarantee such an involvement. Furthermore, the process, timing and scope of the review of the BBC's Charter are not set out in statute.

This Memorandum of Understanding carries forward the parity for the Welsh Government, in respect of a formal consultative role in the process of Charter Review, that was established in the initial Memorandum of Understanding between the UK Government, Welsh Government and the BBC published on 21 October 2015. Additionally, it enshrines parity for the Welsh Government and the National Assembly for Wales in respect of the ongoing scrutiny of the BBC.