

HOUSE OF LORDS

Select Committee on Communications

---

3rd Report of Session 2014–15

# **Press Regulation: where are we now?**

---

Ordered to be printed 10 March 2015 and published 23 March 2015

---

Published by the Authority of the House of Lords

*London* : The Stationery Office Limited  
£price

HL Paper 135

### *The Select Committee on Communications*

The Select Committee on Communications was appointed by the House of Lords on 12 June 2014 with the order of reference “to consider the media and the creative industries”.

### *Membership*

The Members of the Select Committee on Communications are:

<a href="#"><u>Baroness Bakewell</u></a>	<a href="#"><u>Baroness Healy of Primrose Hill</u></a>
<a href="#"><u>Lord Best</u></a> (Chairman)	<a href="#"><u>Lord Horam</u></a>
<a href="#"><u>Lord Clement-Jones</u></a>	<a href="#"><u>Bishop of Norwich</u></a>
<a href="#"><u>Baroness Deech</u></a>	<a href="#"><u>Lord Razzall</u></a>
<a href="#"><u>Lord Dubs</u></a>	<a href="#"><u>Baroness Scotland of Asthal</u></a>
<a href="#"><u>Baroness Fookes</u></a>	<a href="#"><u>Lord Sherbourne of Didsbury</u></a>
<a href="#"><u>Baroness Hanham</u></a>	

### *Declaration of interests*

See Appendix 1

A full list of Members’ interests can be found in the Register of Lords’ Interests:

<http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests>

### *Publications*

All publications of the Committee are available at:

<http://www.parliament.uk/hlcommunications>

### *Parliament Live*

Live coverage of debates and public sessions of the Committee’s meetings are available at:

<http://www.parliamentlive.tv>

### *Further information*

Further information about the House of Lords and its Committees, including guidance to witnesses, details of current inquiries and forthcoming meetings is available at:

<http://www.parliament.uk/business/lords>

### *Committee staff*

The staff who worked on this inquiry were Anna Murphy (Clerk), Nicole Mason (Second Clerk), Helena Peacock (Policy Analyst) and Rita Logan (Committee Assistant).

### *Contact details*

All correspondence should be addressed to the Communications Committee, Committee Office, House of Lords, London SW1A 0PW. Telephone 020 7219 6076/8662. Email

[holcommunications@parliament.uk](mailto:holcommunications@parliament.uk)

## CONTENTS

---

	<i>Page</i>
<b>Summary</b>	<b>5</b>
<b>Chapter 1: Introduction</b>	<b>7</b>
The immediate past	7
Why we carried out this inquiry	8
Structure of the report	8
Acknowledgments	9
<b>Chapter 2: History of Press Regulation in the UK</b>	<b>10</b>
Royal Commissions on the Press: 1947–1977	10
Calcutt Reports: 1990 and 1993	11
Editors’ Code of Practice	12
Box 1: Notable changes to the Editors’ Code of Practice	12
House of Commons Select Committees	12
National Heritage Select Committee: 1993–1995	12
Culture, Media and Sport Select Committee: Privacy and media intrusion: 2002–2003	13
Operation Motorman and What Price Privacy: 2006	13
Phone hacking	13
Joint Committee on Privacy and Injunctions: 2011–2012	14
Lead up to the Leveson Inquiry: Operation Weeting: 2011	14
Launch of the Leveson Inquiry: 2011	15
Leveson Report: 2012	15
Box 2: Key points of the Leveson Report	15
Box 3: The new self-regulatory body	16
Conclusion	17
<b>Chapter 3: Where are we now?</b>	<b>18</b>
Reaction to and implementation of the Leveson Report recommendations	18
Closure of the PCC	18
Parliamentary debate	18
Royal Charter	19
Press Recognition Panel	21
Box 4: Royal Charter provisions for the Press Recognition Panel	21
Appointment	21
Funding	22
Timescale of Work	23
Independent Press Standards Organisation (IPSO) and the Regulatory Funding Company	23
IPSO	23
IPSO’s Procedures and Regulations	24
Box 5: IPSO’s main functions	25
IPSO complaints procedure	26
Figure 1: Flowchart of IPSO’s complaints procedure	27
Regulatory Funding Company (RFC)	28
Editors’ Code of Practice	28
Relationship between IPSO and the RFC	29

Criticism of IPSO and the RFC	30
The Independent Monitor of the Press (IMPRESS)	32
Recognition	33
Distinction from IPSO	33
Other models of regulation	33
The Guardian	34
The Financial Times	35
<b>Chapter 4: Key issues requiring clarification</b>	<b>36</b>
Crime and Courts Act 2013	36
Relevant publisher	36
Exemplary damages and costs	38
Arbitration	40
Impact of multiplicity of regulators	41
Whistle-blowing hotline	42
Ownership of the Editors' Code of Practice	43
<b>Chapter 5: Key concerns</b>	<b>45</b>
Questions to the Press Recognition Panel	45
Questions to Independent Press Standards Organisation (IPSO) and the Regulatory Funding Company (RFC)	45
Question to The Independent Monitor of the Press (IMPRESS)	46
Questions to the Government	46
Conclusion	47
<b>Appendix 1: List of Members and declarations of interest</b>	<b>48</b>
<b>Appendix 2: List of witnesses</b>	<b>49</b>
<b>Appendix 3: Inquiry Announcement</b>	<b>51</b>
<b>Appendix 4: Press regulation in the UK—timeline</b>	<b>53</b>
<b>Appendix 5: IPSO measured against the 38 recommendations in the Leveson Report</b>	<b>55</b>
<b>Appendix 6: Glossary</b>	<b>62</b>

Evidence is published online at [www.parliament.uk/press-regulation-where-are-we-now](http://www.parliament.uk/press-regulation-where-are-we-now) and available for inspection at the Parliamentary Archives (020 7219 3074).

Q in footnotes refers to a question in oral evidence.

## SUMMARY

In 2011 there was widespread shock throughout the UK at the revelations of the phone hacking scandal. Accusations were made of extensive criminality in parts of the press and many people spoke publicly about their unfair treatment at the hands of the print media. This led to the Prime Minister setting up an inquiry into press ethics, chaired by the Rt Hon Lord Justice Leveson. The Leveson Report was published on 29 November 2012 and recommended significant reforms to the regulation of the press. For almost a year there followed parliamentary debate, political wrangling, numerous press articles and commentary on the Leveson Report.

### *What has happened since the Leveson Report was published?*

On 30 October 2013, a Royal Charter on press regulation was granted, which incorporated key recommendations from the Leveson Report, allowing for one or more independent self-regulatory bodies for the press to be established. Any such body would be recognised and overseen by a Recognition Panel—and those publishers who joined a recognised regulatory body might expect to receive more favourable treatment if action was taken against them in the courts. The Press Recognition Panel came into existence on 3 November 2014.

The Royal Charter was backed by Parliament through the Enterprise and Regulatory Reform Act 2013, which gave statutory backing to the new arrangements. It was endorsed by many victims of the phone hacking scandal but was rejected by the bulk of the British print media who claimed that this approach amounted to “government control of the press.”<sup>1</sup>

### *What is the current system of press regulation?*

Most national newspapers joined the Independent Press Standards Organisation (IPSO) which was set up on 8 September 2014, replacing the Press Complaints Commission (PCC). IPSO has confirmed on a number of occasions that it does not intend to seek recognition under the Royal Charter. In a further twist, The Independent Monitor of the Press (IMPRESS) project, first set up in mid-2013 as the development organisation for a second regulator, appointed a Chairman in November 2014, in anticipation of establishing a regulator. It has not yet declared whether the regulatory body it is forming will seek recognition. To date no publishers have decided to join it.

It is important to remember that the major catalyst for the Leveson Report and subsequent events was the appalling—and in some cases illegal—behaviour of certain sectors of the press. In 2011 there was near universal agreement that changes were needed to make it less likely that such behaviour would be repeated and that, if it were, to ensure quicker, cheaper and more straightforward redress for the victim.

### *Is the new system compliant with the recommendations made by the Leveson Report?*

At present no regulatory body exists for the press that complies with the strict requirements for independence from publishers set out by the Leveson Report.

<sup>1</sup> ‘Questions remain over new press regulator IPSO as it launches’, *The Drum* (8 September 2014): <http://www.thedrum.com/news/2014/09/08/questions-remain-over-new-press-regulator-ipso-it-launches> [accessed 10 March 2015]

The recommended steps have not been taken to establish satisfactory whistle-blowing arrangements for journalists to speak out, or to set up an arbitration system for early resolution. IPSO does not comply with the Leveson Report's independence requirements for the selection of board members or the requirements for detachment from its funding body (the Regulatory Funding Company) which retains ownership of the Editors' Code of Practice, against which press conduct is judged.

*Are changes to the current situation in the pipeline?*

It appears that under the leadership of Sir Alan Moses, IPSO intends to fulfil more of the main recommendations of the Leveson Report. IPSO has now incorporated some of the features of a regulator advocated by the Leveson Report. That said, the major publications are not, at present, willing to allow IPSO to become either fully 'Leveson compliant' or to seek recognition under the Royal Charter. This means that any statutory advantages<sup>2</sup> of being a member of a self-regulatory body accredited by the Press Recognition Panel, will not be enjoyed by IPSO members, or by those who are not a member of any regulator.

*What is the current process for a member of the public wishing to make a complaint against a publisher?*

Potential claimants today may be confused as to how they can make a complaint against a publication and what redress they can expect. We have had the benefit of hearing from experts on this topic, and readily understand the confusion. The current situation is that potential claimants should first seek to resolve their complaint with the publication directly. If this does not produce a result which is satisfactory to the complainant, they can take it up with the regulator of which the publication is a member. This will be IPSO in most cases (but there are separate arrangements for The Guardian, Financial Times and The Independent).

*In conclusion*

The system of press regulation allowed for by the Royal Charter is new and the arrangements put in place by the industry through IPSO do not meet all the criteria of the Leveson Report and the Royal Charter, although IPSO's Chairman told us he hoped to achieve further changes. We think that the progress of IPSO, and of the IMPRESS project, should be monitored.

At the end of our inquiry we were left with a number of questions. We set out these questions in detail in Chapter 5. They hinge on a central issue: whether the current situation, whereby the majority of the press refuse to submit to the Royal Charter, will be allowed to pertain indefinitely. We ask when the Government intends to assess whether its aims, and those of Parliament, have been met, and under what circumstances it would consider the situation unsatisfactory and take further action.

---

<sup>2</sup> See Chapter 4, paragraphs 121–146

# Press Regulation: where are we now?

## CHAPTER 1: INTRODUCTION

---

### The immediate past

1. The UK's system of press regulation, which seeks to balance freedom of expression with protection of privacy, has undergone fundamental change over the last few years.
2. In July 2011, news emerged that the murdered schoolgirl Milly Dowler's phone had been hacked by the News of the World newspaper, and that the Prime Minister had set up a public inquiry into press ethics, chaired by the Rt Hon Lord Justice Leveson.<sup>3</sup> The behaviour of the press and how it should be regulated became a major news story.
3. Lord Justice Leveson's report, *An inquiry into the culture, practices and ethics of the press* (hereafter the Leveson Report), was published on 29 November 2012. It found that, "There have been too many times when, chasing the story, parts of the press have acted as if its own code, which it wrote, simply did not exist. This has caused real hardship and, on occasion, wreaked havoc with the lives of innocent people whose rights and liberties have been disdained."<sup>4</sup>
4. On 30 October 2013, a Royal Charter on press self-regulation was granted. This was the culmination of almost a year of negotiations between political parties, the press and parliamentary debate on the best way forward following the publication of the Leveson Report.
5. The Royal Charter allowed for one or more independent self-regulatory bodies for the press to be established. Any such body would be recognised and overseen by a Press Recognition Panel. Such a Panel came into existence on 3 November 2014.
6. The Crime and Courts Act 2013 included provisions designed to provide a system of financial incentives for relevant publishers to sign up to the new regime.<sup>5</sup>
7. The Press Complaints Commission (PCC), which had been the voluntary regulatory body for the industry, closed in September 2014. It was replaced by the Independent Press Standards Organisation (IPSO). IPSO is funded by the Regulatory Funding Company (RFC)—the successor to the Press Board of

---

<sup>3</sup> 'David Cameron promises phone hacking inquiry', *BBC* (6 July 2011): <http://www.bbc.co.uk/news/uk-politics-14036673> (accessed 3 March 2015)

<sup>4</sup> The Leveson Inquiry, *An Inquiry Into the Culture, Practices and Ethics of the Press: Executive Summary* (2012) p 4: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/229039/0779.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/229039/0779.pdf) [accessed 6 February 2015]

<sup>5</sup> See Chapter 4, paragraphs 121–146

Finance (PressBof), which had funded the PCC.<sup>6</sup> In November 2014, The Independent Monitor of the Press (IMPRESS), the development organisation for a second regulatory body, appointed a Chairman in anticipation of the regulatory body it is forming being established. Neither IMPRESS nor IPSO has, as yet, sought recognition under the Royal Charter.

8. Many newspaper groups have signed up to IPSO. The Guardian, The Independent and Financial Times are notable exceptions.<sup>7</sup> Some victims of press intrusion and Hacked Off (a campaign group for victims of press intrusion) have claimed that IPSO “is as much a ‘sham regulator’ as its predecessor.”<sup>8</sup>

### Why we carried out this inquiry

9. It was against this background that the Committee decided to carry out a short inquiry into the current state of play regarding press regulation in the UK. The Committee noted that the public at large and even press industry experts were confused about the current state of play.
10. We wanted to gain an understanding of some of the intricacies of the current system and to set out the facts of press regulation in the UK for the information of the House and the wider public. Some of the key questions that we considered were:
  - What has happened since the Leveson Report was published?
  - What is the current system of press regulation?
  - Is the new system compliant with the recommendations of the Leveson Report?
  - What is the current process for a member of the public wishing to make a complaint against a publisher? Is this widely known and understood?
11. We have not made recommendations about the future of press regulation in the UK. We have neither sought nor received sufficient evidence to do this. Moreover, we do not consider this the right time to make such recommendations: the current arrangements are new and have not yet had time to demonstrate whether they are robust and effective. This will require effort on the part of the press, the regulators, the Press Recognition Panel, the Government and the political parties. We may therefore wish to return to the issue when the time is right for a full review.

### Structure of the report

12. Chapter 2 sets out the main events of the last 70 years relating to press regulation in the UK. We have also included a timeline of these events for ease

---

<sup>6</sup> The Press Standards Board of Finance (PressBof) was the funding organisation for the Press Complaints Commission (PCC) before it was disbanded. It did this by raising a levy on the newspaper and periodical industries, with the aim of securing financial support for the PCC, while maintaining the PCC's independence. PressBof was made up of six members (in addition to the Chair of the PCC) all of whom were industry representatives.

<sup>7</sup> Q 26

<sup>8</sup> ‘Victims of press intrusion brand new regulator Ipsos a sham’, *The Guardian* (7 September 2014): <http://www.theguardian.com/media/2014/sep/07/victims-press-regulator-ipsos-leveson> (accessed 10 February 2015)



of reference in Appendix 4. Chapter 3 explains the details of the current system, examines the relevant bodies in some detail and analyses the evidence that we have received about them and their relationship to each other. In Chapter 4 we examine a number of issues surrounding the current system of press regulation which are the subject of disagreement or confusion. In Chapter 5 we set out the questions that we have not been able to answer but which need to be addressed by those who have the knowledge or the responsibility to do so.

13. We look forward to the Government's response to the questions we pose in Chapter 5 and also invite any of the other key stakeholders in this debate to respond. We will publish these responses on our website.

### **Acknowledgments**

14. We would like to thank everyone who submitted evidence to us, both at oral evidence sessions, held in January 2015, and in writing. We are also grateful to Professor Stewart Purvis and Doctor Damian Tambini, who took part in a detailed briefing towards the start of the inquiry to enable the Committee to understand the current situation.

## CHAPTER 2: HISTORY OF PRESS REGULATION IN THE UK

---

15. During the last 70 years those concerned with the system of press regulation in the UK have struggled to balance freedom of expression with the citizen's right to privacy. In this Chapter we consider the key inquiries since the First Royal Commission on the Press in 1947. This is summarised in our timeline, set out in Appendix 4.

### Royal Commissions on the Press: 1947–1977

16. The First Royal Commission on the Press was set up in 1947 with “the object of furthering the free expression of opinion through the press and the greatest practicable accuracy in the presentation of the news”.<sup>9</sup> It was appointed following pressure from the National Union of Journalists (NUJ) and concentrated on allegations of inaccuracy, political bias and abuses of media ownership.
17. The Commission reported two years later in 1949. The report found “a progressive decline in the calibre of editors and in the quality of British journalism”.<sup>10</sup> The Commission recommended the creation of a General Council of the press with, as 20 per cent of its membership, “fair-minded, good citizens”<sup>11</sup> from outside the industry. The General Council was, however, not set up until 1953, when it was proposed in a Private Member's Bill against the background of a threat of political action to impose statutory regulation. The General Council was funded by newspaper owners.
18. The Second Royal Commission on the Press was appointed in 1962 in response to a perceived failure to implement the recommendations of the First Royal Commission. It criticised the General Council “for not including lay members, and proposed statutory regulation unless its performance improved”.<sup>12</sup>
19. The report stated, “If ... the press is not willing to invest the Council with the necessary authority and to contribute the necessary finance, the case for a statutory body with definite powers and the right to levy the industry is a clear one.”<sup>13</sup> The General Council became the Press Council and the recommendations from the First Royal Commission were implemented, including the introduction of a 20 per cent lay member quota and a lay Chairman.
20. The Younger Report on Privacy in 1972 criticised the Press Council for the lack of lay representation on its board. At the time of the report, lay representation comprised one sixth of the Press Council's total board membership. It also stated that “in future a critical adjudication by the Council

---

<sup>9</sup> John Jewell, ‘How Many Drinks in that ‘Last Chance Saloon’? The History of Official Inquiries Into the British Press’, *After Leveson, The future for British Journalism*, ed. John Mair (United Kingdom: Abramis academic publishing, 2013), p 39

<sup>10</sup> Hugh Tomlinson QC, ‘The New UK Model of Press Regulation’, *LSE Media Policy Brief 12*, (March 2014) p 7: <http://www.lse.ac.uk/media@lse/documents/MPP/LSE-MPP-Policy-Brief-12-The-New-UK-Model-of-Press-Regulation.pdf> [accessed 10 March 2015]

<sup>11</sup> John Jewell, *op. cit.*, p 39

<sup>12</sup> MediaWise, *PCC History and Procedural Reform* (October 1999) p 1: <http://www.mediawise.org.uk/wp-content/uploads/2011/05/PCC-History-and-Procedural-Reform.pdf> [accessed 2 March 2015]

<sup>13</sup> John Jewell, *op. cit.*, p 39

should be given similar prominence to that given to the original article, and that the Council should codify its adjudications on privacy”.<sup>14</sup>

21. A Third Royal Commission on the Press was appointed in 1974 to “inquire into the factors affecting the maintenance of the independence, diversity and editorial standards of newspapers and periodicals and the public freedom of choice of newspapers and periodicals, nationally, regionally and locally.”<sup>15</sup> Reporting in 1977, the Commission recommended a written code of practice for the first time. This was rejected by the Press Council.

### Calcutt Reports: 1990 and 1993

22. In 1989, following pressure from Parliament and “the era of tabloid expose”,<sup>16</sup> the Government commissioned Sir David Calcutt QC to chair a committee to look at press intrusion.
23. The Committee’s key objective was “to consider what measures (whether legislative or otherwise) are needed to give further protection to individual privacy from the activities of the press and improve recourse against the press for the individual citizen”.<sup>17</sup>
24. This resulted in *The Report of the Committee on Privacy and Related Matters*, published in June 1990. Its key recommendation was to replace the Press Council with a new Press Complaints Commission (PCC) governed by a new Code of Practice. The PCC’s remit was to adjudicate on complaints alleging breaches of the Code of Practice. The Code was to be drawn up by a committee of editors convened by PressBof.<sup>18</sup>
25. The PCC was accordingly set up in 1991. The report from the Committee on Privacy and Related Matters stated that the PCC should be given 18 months “to demonstrate that non-statutory self-regulation could be made to work effectively”<sup>19</sup> and that if this did not happen then a statutory tribunal should be established. Discussing the recommendations in a television interview for Channel 4, David Mellor MP, the Minister for the Arts, said, “I do believe the press—the popular press—is drinking in the last chance saloon.”<sup>20</sup>
26. Sir David Calcutt reported back its progress in his *Review of Press Self-Regulation*, published on 14 January 1993. He stated that:

“The Press Complaints Commission is not, in my view, an effective regulator of the press. It has not been set up in a way, and is not operating a code of practice, which enables it to command not only press but also public confidence...it is, in essence, a body set up by the industry,

---

<sup>14</sup> Media Standards Trust, Written evidence provided to the Leveson Inquiry (June 2012): <http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.levesoninquiry.org.uk/wp-content/uploads/2012/07/Submission-by-Media-Standards-Trust.pdf> [accessed 10 February 2015]

<sup>15</sup> Hugh Tomlinson QC, *op. cit.*, p 7

<sup>16</sup> John Jewell, *op. cit.*, p40

<sup>17</sup> Press Complaints Commission, ‘About the PCC’: <http://www.pcc.org.uk/about/history.html> [accessed 10 February 2015]

<sup>18</sup> See Footnote 5 for an outline of PressBof’s role and remit

<sup>19</sup> Press Complaints Commission, ‘About the PCC’, *op. cit.*

<sup>20</sup> Bob Franklin, Martin Hamer, Mark Hanna, Marie Kinsey, John E Richardson, *Key Concepts in Journalism Studies*, (London: SAGE, 19 May 2005), p 30

financed by the industry, dominated by the industry, and operating a code of practice devised by the industry and which is over-favourable to the industry”.<sup>21</sup>

27. He recommended that a statutory Press Complaints Tribunal be set up. The Government did not formally respond until 1995. In its response it said it would not introduce statutory controls.

### *Editors' Code of Practice*

28. The PCC stated that “The Code performs a dual function: it gives the industry a firm set of principles to guide it; and it gives the Commission a clear and consistent framework within which it can address complaints from members of the public.”<sup>22</sup>
29. Under the PCC regime the Code underwent a number of changes which are documented on their website. Some notable changes are laid out below.

### **Box 1: Notable changes to the Editors' Code of Practice**

1998: The death of Diana Princess of Wales led to some revisions of the Code, including, “a ban on information or pictures obtained through ‘persistent pursuit’ ... also made explicit an editor’s responsibility not to publish material that had been obtained in breach of this clause regardless of whether the material had been obtained by the newspaper’s staff or by freelancers.”

2012: “The Public Interest rules are amended so they now require editors who claim a breach of the Code was in the public interest to show not only that they had good reason to believe the public interest would be served, but how and with whom that was established at the time.”

Source: Press Complaints Commission, *Editors' Code of Practice*<sup>23</sup>

30. In 2004 an annual Code review was introduced, at the suggestion of the then PCC chairman Sir Christopher Meyer.

### **House of Commons Select Committees**

#### *National Heritage Select Committee: 1993–1995*

31. The Fourth Report of the National Heritage Select Committee on Privacy and Media Intrusion was published on 24 March 1993. It said:

“A balance is needed between the right of free speech and the right to privacy. The Committee’s view is that at present that necessary balance does not exist, and in this Report it recommends action to achieve it. The Committee does not believe that this balance can or should be achieved by legislation which imprisons the press in a cage of legal restraint, and for that reason rejects those proposals in the recent report by Sir David Calcutt which could create such a cage. The Committee would be deeply reluctant to see the creation of any system of legal restraints aimed solely

<sup>21</sup> John Jewell, *op. cit.*, p 41

<sup>22</sup> Press Complaints Commission, ‘Editors’ Code of Practice’: <http://www.pcc.org.uk/cop/intro.html> [accessed 5 February 2015]

<sup>23</sup> Press Complaints Commission, ‘Editors’ Code of Practice’, *op. cit.*

and specifically at the press or the broadcast media. It believes that self-restraint or, as the Committee prefers to call it, voluntary restraint, is by far the better way”.<sup>24</sup>

32. The Committee recommended the appointment of a new statutory press ombudsman.

*Culture, Media and Sport Select Committee: Privacy and media intrusion: 2002–2003*

33. This inquiry examined privacy and intrusion by all media, including broadcast and print. It was undertaken in the context of the reform of broadcasting regulation and defining of responsibilities for Ofcom, the communications regulator.
34. The Committee’s report was published on 16 June 2003. Its recommendations included updating the Code in light of technological developments such as the interception of phone calls, and the establishment of a pre-publication team.
35. The report stated that:

“... the measures we recommend are aimed at enhancing: the independence of the PCC and aspects of procedure, practice and openness; the Code of Conduct; the efficacy of available sanctions; and clarity over the protection that individuals can expect from unwarranted intrusion by anyone—not the media alone—into their private lives.”<sup>25</sup>

**Operation Motorman and What Price Privacy: 2006**

36. In 2003, the Information Commissioner’s Office (ICO) launched Operation Motorman, an investigation into alleged breaches of the Data Protection Act. This was in response to a search of premises in Surrey which concerned the suspected misuse of data from the Police National Computer (PNC) by serving and former police officers.
37. The report that followed the investigation, *What Price Privacy: the unlawful trade in confidential personal information*, was published on 10 May 2006.
38. The report found “evidence of systematic breaches in personal privacy that amount[ed] to an unlawful trade in confidential personal information.”<sup>26</sup> It discovered that, “Among the ‘buyers’ [were] many journalists looking for a story. In one major case investigated by the ICO, the evidence included records of information supplied to 305 named journalists working for a range of newspapers.”<sup>27</sup>

**Phone hacking**

39. In 2006 Clive Goodman, News of the World’s Royal Editor, and Glenn Mulcaire, a private investigator, were arrested on suspicion of intercepting the

---

<sup>24</sup> National Heritage Committee, *Privacy and Media Intrusion* (Fourth Report of Session 1992–1993) p 6

<sup>25</sup> Culture, Media and Sport Committee, *Privacy and Media Intrusion* (Fifth Report of Session 2002–03, HC458-I)

<sup>26</sup> Information Commissioner’s Office, *What Price Privacy* (2006) p 4: <https://ico.org.uk/media/about-the-ico/documents/1042393/what-price-privacy.pdf> [accessed 6 February 2015]

<sup>27</sup> *Ibid.*

voicemail messages of the Royal Family. They were found guilty and sentenced to jail. In court it was “revealed that Mulcaire received a total of 2,266 requests from News International journalists in the period covered by his paperwork, 2,142 of which were made by four employees.”<sup>28</sup>

40. In July 2009, The Guardian published allegations that the practice of phone hacking had been used to gain information about a number of people, in addition to the Royal Family.<sup>29</sup> It stated that it included politicians as well as others in the public eye, such as sportspeople. The police decided not to revisit the 2006 inquiry. As a result, some of the alleged victims began private legal proceedings against News International (the owner of the News of the World) and Glenn Mulcaire.

### **Joint Committee on Privacy and Injunctions: 2011–2012**

41. This inquiry examined the often conflicting issues of the right to privacy and the “evolution of the law on privacy”,<sup>30</sup> and the public interest and freedom of expression.
42. The Report of the Joint Committee, published on 12 March 2011, said that “the current system of self-regulation is broken and needs fixing.”<sup>31</sup> They found that the PCC “was not equipped to deal with systemic and illegal invasions of privacy”<sup>32</sup> and set out details for a reformed regulator.
43. In addressing the news media directly the report said:

“Whilst there is clearly demand for scandal and gossip, this should not stray into intrusion into people’s private lives without good reason. Chief executives and boards of holding companies should take responsibility for ensuring that news publishers uphold high standards, with processes for protecting privacy firmly adhered to.”<sup>33</sup>

### **Lead up to the Leveson Inquiry: Operation Weeting: 2011**

44. Further to evidence that had been heard in some of the private prosecutions following the conviction of Clive Goodman and Glenn Mulcaire in 2007, the police launched Operation Weeting in January 2011 into allegations of phone hacking. It was conducted alongside Operation Elveden, which looked into allegations of inappropriate payments to the police by those involved with phone hacking.

---

<sup>28</sup> ‘Leveson inquiry uncovers 28 NI staff linked to phone hacking’, *The Guardian* (14 November 2011): <http://www.theguardian.com/media/2011/nov/14/phone-hacking-news-international-staff-named> [accessed 17 February 2015]

<sup>29</sup> ‘Trail of hacking and deceit under nose of Tory PR chief’, *The Guardian* (8 July 2009): <http://www.theguardian.com/media/2009/jul/08/murdoch-newspapers-phone-hacking> [accessed 17 February 2015]

<sup>30</sup> Joint Committee on Privacy and Injunctions, *Privacy and injunctions* (Report of Session 2010–12, HC 1443, HL Paper 273)

<sup>31</sup> *Ibid.*

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

45. The outrage from this, and subsequent accusations including the hacking of the voicemail accounts belonging to deceased soldiers and victims of the 7/7 terror attacks,<sup>34</sup> led to the closure of the News of the World in July 2011.

### Launch of the Leveson Inquiry: 2011

46. Two days after the closure of the News of the World by News International, the Prime Minister announced the inquiry led by Lord Justice Leveson. He stated:

“Starting as soon as possible, Judge Leveson, assisted by a panel of senior independent figures, with relevant expertise in media, broadcasting, regulation and government, will inquire into: The culture, practices and ethics of the press; their relationship with the police; the failure of the current system of regulation; the contacts made, and discussions had, between national newspapers and politicians; why previous warnings about press misconduct were not heeded; and the issue of cross-media ownership. He will make recommendations for a new, more effective way of regulating the press. One that supports their freedom, plurality and independence from government ... but which also demands the highest ethical and professional standards. He will also make recommendations about the future conduct of relations between politicians and the press.”<sup>35</sup>

47. This was to be part one of a two-part inquiry and was intended to report within 12 months. Hearings started on 14 November 2011. At the launch of the inquiry, Lord Justice Leveson stated, “The press provides an essential check on all aspects of public life. That is why any failure within the media affects all of us. At the heart of this inquiry, therefore, may be one simple question: who guards the guardians?”<sup>36</sup>

### Leveson Report: 2012

48. Lord Justice Leveson’s report into the *Culture, Practices and Ethics of the Press* was published on 29 November 2012. Box 2 below shows the key points raised in the report.

#### Box 2: Key points of the Leveson Report

- New self-regulation body recommended
- Independent of serving editors, government and business
- No widespread corruption of police by the press found
- Politicians and press have been too close
- Press behaviour, at times, has been “outrageous”

Source: BBC, ‘Press “needs to act” after Leveson’<sup>37</sup>

<sup>34</sup> ‘News of the World: bereaved relatives of 7/7 victims ‘had phones hacked’ *The Daily Telegraph* (5 July 2011): <http://www.telegraph.co.uk/news/uknews/crime/8619373/News-of-the-World-bereaved-relatives-of-77-victims-had-phones-hacked.html> [accessed 10 February 2015]

<sup>35</sup> HC Deb, 13 July 2011, [col 312](#)

<sup>36</sup> The Leveson Inquiry, ‘An inquiry into the culture, practices and ethics of the press’: <http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.levesoninquiry.org.uk/> [accessed 26 January 2015]

<sup>37</sup> ‘Press “need to act” after Leveson’, *BBC* (29 November 2012): <http://www.bbc.co.uk/news/uk-20543133> [accessed 10 March 2015]

49. Lord Justice Leveson made several criticisms of the PCC's role as well as the funding it received. He stated that, "The fundamental problem is that the PCC, despite having held itself out as a regulator, and thereby raising expectations, is not actually a regulator at all. In reality it is a complaints handling body."<sup>38</sup> The report also pointed to the funding of the Commission and stated, "Financially, the PCC has been run on a tight budget and without the resources to do all that is needed."<sup>39</sup>
50. The Leveson Report also identified key failings within the Commission itself: "In practice, the PCC has proved itself to be aligned with the interests of the press, effectively championing its interests on issues such as ... [section]12 Human Rights Act 1998 and the penalty for breach of ... [section]55 Data Protection Act 1998. When it did investigate major issues it sought to head off or minimise criticism of the press."<sup>40</sup>
51. One of the main recommendations of the Leveson Report was the creation of a new self-regulatory body. The details of this body are summarised in Box 3 below.

### Box 3: The new self-regulatory body

- The new self-regulatory body should be **underpinned by a statute** which should provide for a process to recognise the new body and ensure that it meets certain requirements and enshrine in law a legal duty to protect the freedom of the press. Ofcom should act in a verification role to ensure independence and effectiveness.
- The **Chair and board members of the body should be independent of the press** and Government and should be appointed by an independent appointment panel. There should be no serving editor on the board.
- The **membership of the new body should be open to all publishers on fair, reasonable and non-discriminatory terms**, including making membership potentially available on different terms for different types of publisher.
- The new system should be **funded by the media industry** by agreement with the board of the new regulator.
- The new regulator should have the power to direct appropriate corrections and apologies and impose **sanctions of up to 1 per cent of turnover with a maximum of £1 million**.
- The new body should **establish its own code** with the aim of developing a clearer statement of the standards expected of editors and journalists.
- The new body should continue to **provide advice to the public** in relation to issues concerning the press and consider whether to provide an **advisory service to editors** in relation to the consideration of public interest.
- The new body should establish a **whistle-blowing hotline for journalists** who feel they are being asked to do things which are contrary to the Code.

<sup>38</sup> The Leveson Inquiry, Executive Summary, *op. cit.* p 10

<sup>39</sup> *Ibid.* p 12

<sup>40</sup> *Ibid.* p 12



- The new body should consider requiring that newspapers publish **compliance reports** in their own pages and that a **named senior individual** within each title should have responsibility for compliance and standards.

Source: Olswang, *The Leveson Report; a quick guide to the key recommendations for the media*<sup>41</sup>

### Conclusion

52. There are clear parallels which can be drawn between the issues raised in past inquiries on the press and those raised in the Leveson report. The important issues are still the freedom of the press, the concern of private individuals over privacy, the limited effectiveness of a self-regulatory body and the ideological importance of a self-regulatory system. In the following chapters we consider the action taken after the Leveson Inquiry and Report.

---

<sup>41</sup> Olswang, 'The Leveson Report: A Quick Guide to the Key Recommendations for the Media': <http://www.olswang.com/articles/2012/11/the-leveson-report-a-quick-guide-to-the-key-recommendations-for-the-media/> [accessed 10 March 2015]

### CHAPTER 3: WHERE ARE WE NOW?

---

53. In Chapter 2 we summarised the history of press regulation up until the publication of the Leveson Report. In this Chapter we analyse the changes following the Leveson Report and the present arrangements for the self-regulation of the press. We consider the adoption of the Royal Charter and the regulatory bodies and mechanisms that have been set up subsequently.
54. We received evidence about a number of issues which have been the subject of debate or disagreement between the regulatory bodies and other interested parties. Although we examine these, for reasons explained in Chapter 1, we do not make recommendations as to how these might be resolved.

#### Reaction to and implementation of the Leveson Report recommendations

##### *Closure of the PCC*

55. The PCC was closed on 8 September 2014 in response to the findings of the Leveson Report.

##### *Parliamentary debate*

56. The House of Commons debated the Leveson Report on 3 December 2012. It concluded that, “The Government will ensure that the central principles of Lord Justice Leveson’s report will be taken forward in cross-party talks as quickly and comprehensively as possible.”<sup>42</sup>
57. The House of Lords considered the Leveson Report on 11 January 2013 in a debate lasting over seven hours. Summing up for the opposition, Lord Stevenson of Balmacara said:

“let me end with a wish that was also expressed by many noble Lords: that the spirit of consensus which has been so evident across the parties on this issue continues and that we can, working together, solve this problem, but quickly”.<sup>43</sup>

On behalf of the Government, the Minister, Lord Taylor of Holbeach said:

“there is much common ground, which is why I am encouraged from this debate that a solution based on consensus is possible ... I suspect that this is not going to be a Moses-like event, with tablets of stone coming down. I think that we will work our way towards the truth.”<sup>44</sup>

A Liberal Democrat Member (Baroness Bonham-Carter of Yarnbury) said:

“The Liberal Democrats welcome the cross-party talks that are taking place ... We, along with Labour and the Conservatives, are considering all the different proposals. However, it is essential to get the outcome that

---

<sup>42</sup> HC Deb, 3 December 2012, [col 694](#)

<sup>43</sup> HL Deb, 11 January 2013, [col 458](#)

<sup>44</sup> HL Deb, 11 January 2013, [cols 462–464](#)

Lord Justice Leveson has recommended. The worst thing that could happen is for nothing to happen at all.”<sup>45</sup>

### *Royal Charter*

58. There was disagreement between the three main parties as to the way forward following the Leveson Report. The Prime Minister, The Rt Hon David Cameron MP, said he had “serious concerns and misgivings”<sup>46</sup> regarding statutory regulation of the press. The Labour and Liberal Democrat parties did not share this view. In December 2012, Oliver Letwin, the Cabinet Office Minister, proposed that a Royal Charter be used to establish formally the new independent press watchdog.<sup>47</sup>
59. A Royal Charter is a formal document issued by a monarch as letters patent, granting a right or power to an individual or a body corporate. They were, and are still, used to establish significant organisations such as cities or universities. Royal Charters are approved by the Privy Council, a formal body of advisers to the sovereign, which is mostly made up of current or former Members of Parliament.
60. Between December 2012 and February 2013, there were “extensive private negotiations between Conservative ministers and the press”<sup>48</sup> leading to the publication of a draft cross-party Royal Charter on 12 February 2013. It was reported that:
 

“The Conservatives, Liberal Democrats, Labour and pressure group Hacked Off agreed to introduce a Royal Charter that would create a ‘recognition panel’, which would in turn verify the work of a replacement for the Press Complaints Commission. It was a deal struck in the office of Ed Miliband in the early hours of 18 March, with Cabinet Office minister Oliver Letwin representing the Conservatives.”<sup>49</sup>
61. The Royal Charter on press regulation does not go into detail about the work of the regulator. Instead it sets out the work and structure of the Press Recognition Panel (see Box 4). We were told that the Press Recognition Panel does not regulate the press or have any role in relation to the content of newspapers and news websites. Rather, we heard that its duty is to assess whether a regulator that is established and put forward for recognition meets specified standards of effectiveness and independence.<sup>50</sup> Those standards are

---

<sup>45</sup> HL Deb, 11 January 2013, [cols 364–365](#)

<sup>46</sup> HC Deb, 29 November 2012, [col 449](#)

<sup>47</sup> ‘Great and the good lined up for new press regulator under Royal Charter’, *Daily Telegraph* (13 December 2012): <http://www.telegraph.co.uk/news/uknews/leveson-inquiry/9744042/Great-and-the-good-lined-up-for-new-press-regulator-under-Royal-Charter.html> [accessed 2 March 2015] and ‘Leveson Report: PM proposes third way to regulate the press’, *Daily Telegraph* (7 December 2012) <http://www.telegraph.co.uk/news/uknews/leveson-inquiry/9728849/Leveson-Report-PM-proposes-third-way-to-regulate-the-press.html> [accessed 2 March 2015]

<sup>48</sup> Hugh Tomlinson QC, *op. cit.* p 15

<sup>49</sup> ‘Parliament vs press: how rival royal charters are key to media reforms’, *The Guardian* (8 October 2013): <http://www.theguardian.com/media/2013/oct/07/parliament-press-regulation-royal-charter> [accessed 2 March 2015]

<sup>50</sup> Hacked Off, ‘The Royal Charter on Press Self-Regulation’: <http://hackinginquiry.org/the-campaign/the-royal-charter> [accessed 2 March 2015]

set out in Schedule 3 of the Royal Charter and they closely follow the terms of the Leveson recommendations.<sup>51</sup>

62. The use of a Royal Charter was an attempt by the major parties to achieve a compromise between those who favoured statutory regulation of the press and those who had serious misgivings about it. While an Act of Parliament can be amended with a simple parliamentary majority, it was possible to insert a clause in the Royal Charter requiring any changes to be approved by a two-thirds majority of both Houses of Parliament. This was backed up by a provision in the Enterprise and Regulatory Reform Act 2013 which provided that the Royal Charter could not be altered unless the changes are in accordance with the terms of the Royal Charter—in other words that there had been agreement by both Houses. This aims to provide a double safeguard to the Royal Charter, although it should be noted that there is nothing to prevent the Enterprise and Regulatory Reform Act 2013 itself being repealed by a simple majority of each House.
63. On 25 April 2013 PressBof, in consultation with the industry, published its own Charter, based on the terms of the version agreed between the press and Conservative Ministers in February 2013. This was submitted to the Privy Council on 30 April 2013.
64. PressBof's Charter was rejected by the Privy Council as being inconsistent with the recommendations in the Leveson Report.<sup>52</sup> On 11 October 2013, the leaders of the three main parties agreed and published a draft Royal Charter on the independent self-regulation of the press. The Royal Charter was granted by the Privy Council on 30 October 2013, after the failure of a last minute injunction by PressBof.
65. When asked about the Royal Charter, Lord Justice Leveson said, "You are absolutely right to say that the concept of a Royal Charter is not mentioned in my report. I did not think of it and, what is more, nobody suggested it. I received submissions from hundreds of people, from dozens of bodies, and it was not a concept that came to me then or at any stage during the course of my deliberations".<sup>53</sup> The recommendation from the Leveson Report was that the regulatory body should be overseen by Ofcom (which regulates broadcasters) or a statutory independent recognition commissioner.
66. Hacked Off stated that it was in favour of the Royal Charter. Hugh Tomlinson QC, media law expert and Chair of the Hacked Off board, said, "Although we would have preferred it to be done by statute, because Leveson made it clear that that is what he preferred, in the end we supported the royal charter route".<sup>54</sup>
67. The Royal Charter is supported by two sets of statutory provisions, sections 34 to 42 of the Crime and Courts Act 2013 (see paragraphs 121–146) and section 96 of the Enterprise and Regulatory Reform Act 2013 (see paragraph 62).

---

<sup>51</sup> *Ibid.*

<sup>52</sup> Hugh Tomlinson QC, *op. cit.* p 16

<sup>53</sup> Oral evidence taken before the Culture, Media and Sport Select Committee, 10 October 2013 (Session 2013–14), [Q 770](#) (Rt Hon Sir Brian Leveson)

<sup>54</sup> [Q 44](#)

### Press Recognition Panel

68. The Royal Charter provides for the establishment of a Panel with the responsibility of overseeing any organisation set up to regulate the print media. Its terms of incorporation and functions are set out in Box 4 below.

#### Box 4: Royal Charter provisions for the Press Recognition Panel

##### **Incorporation**

- 1.1. There shall be a body corporate known as the Recognition Panel.
- 1.2. There shall be a Board of the Recognition Panel which shall be responsible for the conduct and management of the Recognition Panel's business and affairs, in accordance with the further terms of this Charter.
- 1.3. The Members of the Board of the Recognition Panel shall be the only Members of the body corporate, but membership of the body corporate shall not enable any individual to act otherwise than through the Board to which he belongs.

##### **Term of Charter**

- 2.1. Articles 3.2 and 5 and Schedules 1 (*Appointments and Terms of Membership*) and 4 (*Interpretation*) shall take effect on the day following the date the Charter is sealed.
- 2.2. The remainder of this Charter shall take effect from the day after the last date that the Chair and the initial Members of the Board of the Recognition Panel are appointed, and the Panel shall be duly established on that day.

##### **Functions**

- 4.1. The Recognition Panel has the functions, in accordance with the terms of this Charter, of:
- (a) determining applications for recognition from Regulators;
  - (b) reviewing whether a Regulator which has been granted recognition shall continue to be recognised;
  - (c) withdrawing recognition from a Regulator where the Recognition Panel is satisfied that the Regulator ceases to be entitled to recognition; and
  - (d) reporting on any success or failure of the recognition system.

*Source: Royal Charter on Self-Regulation of the Press*<sup>55</sup>

69. The Press Recognition Panel came into existence as a legal entity under the Royal Charter on 3 November 2014, the day on which its board members were appointed, as provided for by paragraph 2.2 of the Royal Charter (see Box 4).

### Appointment

70. As required by the Royal Charter, the chair and members of the Press Recognition Panel's board were directly appointed by an independent appointments committee on the basis of criteria outlined in the Royal

<sup>55</sup> Royal Charter on Self-Regulation of the Press: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/254116/Final\\_Royal\\_Charter\\_25\\_October\\_2013\\_clean\\_Final\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/254116/Final_Royal_Charter_25_October_2013_clean_Final_.pdf) [date accessed 3 March 2015]

Charter.<sup>56</sup> The independent appointments committee was appointed by the Commissioner for Public Appointments.<sup>57</sup>

71. The Royal Charter provides for the Press Recognition Panel to employ staff in addition to those on the board. The Press Recognition Panel informed us by letter that it had appointed an Executive Director on 26 January.<sup>58</sup> It told us that it would embark on recruiting further members of staff after the appointment of an Executive Director.<sup>59</sup> Carolyn Regan, a board member, told us that the Panel was currently employing three “interim”<sup>60</sup> members of staff and that it anticipated that it would only have a small team.<sup>61</sup>

### *Funding*

72. The Royal Charter provides for the Press Recognition Panel to be funded by the Government for its first three years (from 3 November 2014 to 3 November 2017). Thereafter, the Press Recognition Panel is expected to cover its costs by charging fees to regulators. The Press Recognition Panel told us that its ability to raise funds in this way, “obviously depends on the extent to which there are applications”.<sup>62</sup> Dr David Wolfe QC, Chairman of the Press Recognition Panel, confirmed that the panel had received £900,000, but that:

“[the £900,000] has been front-loaded because of a recognition that we would do more work in the early period ... I do not envisage we will spend that much, but we are not in a position at the moment to tell you how much we will need.”<sup>63</sup>

Dr Wolfe QC said that, it was “very difficult to identify”<sup>64</sup> whether the Panel would be in a position in three years’ time to cover its costs through fees. Rather, he observed that the Royal Charter “provides for a mechanism ... to enable us to continue the activity in the event that there are no applications”.<sup>65</sup> The Royal Charter sets out the mechanism as follows:

“In the event that the Board considers that its income (from whatever source received) is likely to be insufficient to meet its expenditure relating to (a) legal or other expenses arising from litigation or threatened litigation, (b) ad hoc reviews or (c) wholly unforeseen events, it shall have the right to request further reasonable sums from the Exchequer. In response to such a request, the Exchequer shall grant such sums to the

---

<sup>56</sup> The Chair of the Recognition Panel was appointed first, and worked with the Appointments Committee to appoint the rest of the Recognition Panel.

<sup>57</sup> The Public Appointments Commissioner is the guardian of processes used by Ministers to make public appointments on merit. The current Commissioner is Sir David Normington. The Commissioner for Public Appointments, ‘The Commissioner for Public Appointments’ : <http://publicappointmentscommissioner.independent.gov.uk/> [accessed 2 March 2015]

<sup>58</sup> The letter was sent to a number of stakeholders, including the Committee, but does not constitute evidence to the inquiry

<sup>59</sup> Written evidence from the Press Recognition Panel ([PRG0008](#))

<sup>60</sup> [Q 5](#)

<sup>61</sup> *Ibid.*

<sup>62</sup> [Q 6](#)

<sup>63</sup> [Q 5](#)

<sup>64</sup> [Q 6](#)

<sup>65</sup> *Ibid.*

Recognition Panel as the Exchequer considers necessary to ensure that the Purpose of the Recognition Panel is not frustrated by a lack of funding.”<sup>66</sup>

This raises issues which are considered in Chapter 5, paragraph 172.

73. Dr Wolfe QC said that the guaranteed nature of the funds was fundamental to securing the Panel’s independence, as it meant it was, “not going to be going begging to anybody who might then be able to influence the way we behave”.<sup>67</sup>

#### *Timescale of Work*

74. Ms Regan and Dr Wolfe QC told us that the Press Recognition Panel was consulting on “organisational”<sup>68</sup> matters and the detail of the regulatory framework set out in the Royal Charter. It was not in a position to recognise a regulator, but told us that “if [a regulator] came to us now and said ‘we would like to make an application next week’ we would have to get our skates on to try to receive that”.<sup>69</sup> Dr Wolfe QC said that to achieve this, they would need to shortcut the “good process” they were undertaking through consultation.<sup>70</sup> Dr Wolfe QC and Ms Regan said that the Panel expected to be ready to accept applications “well ahead of November”.<sup>71</sup> Dr Wolfe QC explained that the Panel was still consulting on the process of making an application for recognition, but he anticipated that it would take “weeks and early months rather than any longer”<sup>72</sup> to process an application.
75. To date, there have been no applications to the Panel for recognition. Dr Wolfe QC explained that if it did not receive any applications, the requirements in the Royal Charter meant that it “could not shut up shop”.<sup>73</sup> Instead, it would have to assume a “holding pattern”<sup>74</sup> which would enable it to be in a position to receive applications. He said that if this were to happen, the Panel’s costs would drop “dramatically”.<sup>75</sup> However, he told us that he was “assuming and hoping that there will be applications”.<sup>76</sup>

### **Independent Press Standards Organisation (IPSO) and the Regulatory Funding Company**

#### *IPSO*

76. IPSO was established on 8 September 2014<sup>77</sup> following the disbanding of the PCC (see paragraph 55). It was set up to act as an independent regulator of

---

<sup>66</sup> Royal Charter on Self-Regulation of the Press, *op. cit.*

<sup>67</sup> [Q 4](#)

<sup>68</sup> [QQ 4-7](#)

<sup>69</sup> [Q 7](#)

<sup>70</sup> *Ibid.*

<sup>71</sup> [Q 9](#)

<sup>72</sup> *Ibid.*

<sup>73</sup> [Q 8](#)

<sup>74</sup> *Ibid.*

<sup>75</sup> *Ibid.*

<sup>76</sup> *Ibid.*

<sup>77</sup> [Q 22](#)

the newspaper and magazine industry.<sup>78</sup> It purports to carry this out mainly through ensuring that its members meet the standards outlined in the Editors' Code of Practice (see paragraphs 89–92 below).<sup>79</sup> At the time of publication, 69 publishers had signed up as members of IPSO.<sup>80</sup> Its members include all the national press apart from The Guardian, The Independent and Financial Times, and most of the regional press and large magazine groups.<sup>81</sup> IPSO told us that its members were “signed up on contracts that have effect in law, which was not the case under the Press Complaints Commission”.<sup>82</sup>

77. At the time of publication, IPSO had received nearly 3,906 inquiries. Of these, 2,827 did not lead to a complaint because the complaint fell outside of IPSO's remit, did not breach the Editors' code or the complainant was not eligible to make the complaint. Therefore, the number of complaints received by IPSO stood at 1,079. Of these complaints, 339 were on-going, 528 were not pursued at some point in the process by the complainant, 99 were resolved directly with the publication, and 14 were resolved with direct mediation by IPSO. 39 complaints received a ruling by IPSO's Complaints Committee (see paragraph 78), 8 of which were upheld.<sup>83</sup>
78. The Chairman of IPSO is Sir Alan Moses, a former Lord Justice of Appeal. Its board is made up of 12 Members including the Chairman, of which five represent the newspaper and magazine industry and seven are independent. IPSO has a Complaints Committee, which is also chaired by Sir Alan, and has 11 other Members. The Complaints Committee has the same proportion of independent and non-independent Members as IPSO's board. In addition, IPSO has an executive, led by Matt Tee. IPSO told us that its board and Complaints Committee were appointed by an appointments panel with a majority of lay members.<sup>84</sup> Mr Tee told us that the majority of IPSO's staff were “inherited” from the PCC's complaints handling team.<sup>85</sup>

### *IPSO's Procedures and Regulations*

79. IPSO's functions and the procedures it follows are governed by three key documents—its articles of association,<sup>86</sup> regulations,<sup>87</sup> and the scheme membership agreement.<sup>88</sup> IPSO's main functions (as outlined in its governing documents) are set out in Box 5.

<sup>78</sup> Independent Press Standards Organisation, 'Editors' Code of Practice': <https://www.ipso.co.uk/IPSO/cop.html> [accessed 2 March 2015]

<sup>79</sup> *Ibid.*

<sup>80</sup> [Q 26](#)

<sup>81</sup> [Q 53](#)

<sup>82</sup> [Q 24](#)

<sup>83</sup> Written evidence from the Independent Press Standards Organisation ([PRG0016](#)); IPSO told us that, “60 [complaints] were multiple complaints, where more than one complainant raised a complaint but only one ruling is made and will be covered elsewhere in these figures.”

<sup>84</sup> [Q 25](#)

<sup>85</sup> *Ibid.*

<sup>86</sup> Independent Press Standards Organisation, *Articles of Association*: [https://www.ipso.co.uk/assets/1/IPSO\\_Articles\\_of\\_Association.pdf](https://www.ipso.co.uk/assets/1/IPSO_Articles_of_Association.pdf) [accessed 2 March 2015]

<sup>87</sup> Independent Press Standards Organisation, *Regulations*: [https://www.ipso.co.uk/assets/1/REGULATIONS\\_PDF.PDF](https://www.ipso.co.uk/assets/1/REGULATIONS_PDF.PDF) [accessed 2 March 2015]

<sup>88</sup> Independent Press Standards Organisation, *Scheme Membership Agreement*, [https://www.ipso.co.uk/assets/1/SCHEME\\_MEMBERSHIP\\_AGREEMENT\\_PDF.PDF](https://www.ipso.co.uk/assets/1/SCHEME_MEMBERSHIP_AGREEMENT_PDF.PDF) [accessed 2 March 2015]



### Box 5: IPSO's main functions

- Offering a free-of-charge complaints handling service to the public where there is disagreement between a complainant and a publisher about whether the Editors' Code of Practice has been breached;
- Carrying out standards investigations in specific instances, such as where there have been "serious and systemic" breaches of the Editors' Code of Practice or a failure to comply with the requirements of the regulator's board;
- Publishing an annual report on the complaints and investigations it has handled, the effectiveness of publishers' compliance services and on the effectiveness of its arbitration service;
- Providing guidance to publishers;
- Providing a confidential whistle-blowing hotline for individuals who have been instructed by publishers to act in a way which would contravene the Editors' Code of Practice; and
- Providing an arbitration service (subject to the terms of the scheme membership agreements);

Source: *Independent Press Standards Organisation C.I.C, Regulations*<sup>89</sup>

80. Publishers that sign up to IPSO must have an in-house complaints handling mechanism to which complaints are directed in the first instance. IPSO's processes only come into effect when this does not result in an outcome satisfactory to the complainant, unless IPSO deems its earlier involvement to be essential.<sup>90</sup>
81. IPSO has demonstrated its intention to be both complaints handler (ombudsman) and regulator. In February 2015, Peter Osborne, formerly the Telegraph's chief political commentator, made allegations in his resignation letter that the Telegraph had allowed commercial interests to influence editorial decisions. In a subsequent appearance before the House of Commons Culture, Media and Sport Select Committee Sir Alan said that, "the regulator was seeking to get information from Mr Osborne, the Telegraph and others with the aim of creating a 'meaningful rule within a code' on editorial independence."<sup>91</sup> He said, "while IPSO had not received any official complaints in the wake of Mr Osborne's resignation, the potential blurring of lines between advertising and editorial content was an issue the regulator should look at."<sup>92</sup> The outcome of this case, which at the time of publication remains unresolved, will be particularly significant in assessing IPSO's effectiveness as a regulator.

<sup>89</sup> Independent Press Standards Organisation, *Regulations*, [https://www.ipso.co.uk/assets/1/REGULATIONS\\_PDF\\_PDF](https://www.ipso.co.uk/assets/1/REGULATIONS_PDF_PDF) [accessed 2 March 2015]

<sup>90</sup> Usually within a period of 28 days.

<sup>91</sup> 'Peter Osborne, 'Press regulator to investigate Daily Telegraph', *The Independent*, (24 February 2015) <http://www.independent.co.uk/news/media/press/peter-osborne-press-regulator-to-investigate-daily-telegraph-10067803.html> [accessed 2 March 2015]

<sup>92</sup> *Ibid.*

*IPSO complaints procedure*

82. On receiving a complaint IPSO first assesses whether it falls within its remit (as set out in its regulations)<sup>93</sup> and whether it raises a possible breach of the Editors' Code. It will only take forward a complaint which meets these two requirements. IPSO will take forward complaints from any individual or organisation where an inaccuracy has been published on a general point of fact. Where the complaint relates to an issue other than this, IPSO can take forward a complaint from anyone directly affected by the article or journalistic conduct, and from representative groups in some instances.<sup>94</sup>
83. The complaint is then passed to IPSO's Complaints Team, which investigates complaints by writing to the editor of the publication to request its response to the complaint, and seeks to mediate a satisfactory outcome to the complaint, if appropriate. If the complaint is not resolved, IPSO's Complaints Committee will decide whether there has been a breach of the Editors' Code. Remedies for a successful complaint include requiring the publication of the Complaints Committee's adjudication, or requiring a correction to be issued. If a complainant is unhappy with process by which the Complaints Committee's decision was made, it is open to them to appeal to the Complaints Reviewer.<sup>95</sup> Whether or not to refer the complaint to the Complaints Reviewer is at IPSO's discretion.
84. In the more serious and persistent cases where a standards investigation is necessary, IPSO's regulations provide for it to appoint an Investigation Panel. The Panel produces a confidential report which the publisher can comment on before the Investigation Panel reaches its decision. A publisher can apply for this decision to be reviewed before the decision is published. IPSO's board may impose sanctions following a decision by the Investigation Panel. The more severe sanctions are: the requirement to pay a fine (up to 1 per cent of the publisher's UK turnover or £1,000,000 per investigation);<sup>96</sup> the requirement to pay "reasonable costs" of the standards investigation; and termination of the publisher's membership of the regulator. A publisher can appeal to the Review Panel against the way in which a decision was made by the Investigation Panel. Whether or not to refer the appeal to the Review Panel is at IPSO's discretion.

---

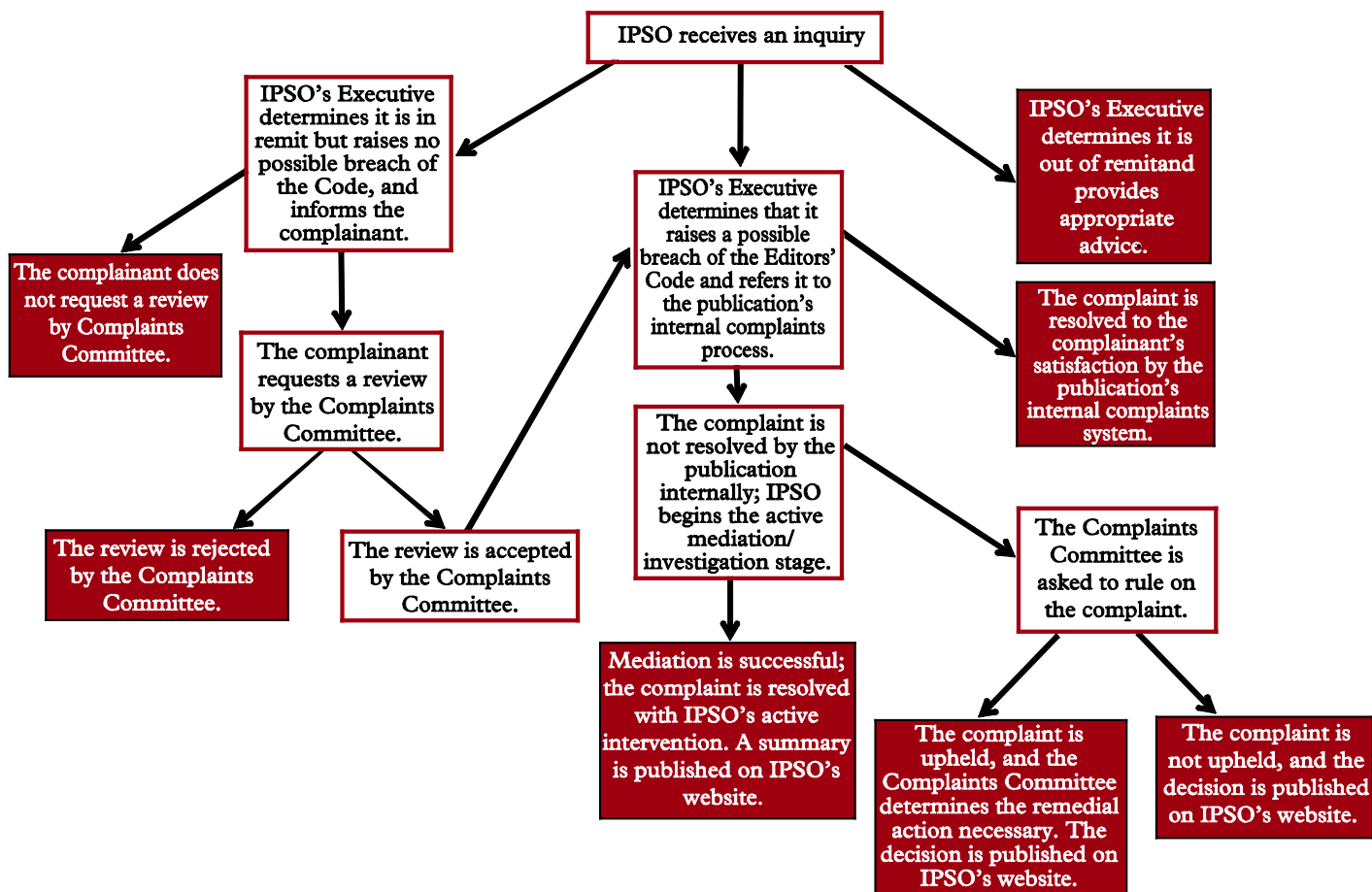
<sup>93</sup> Independent Press Standards Organisation, *Regulations*, [https://www.ipso.co.uk/assets/1/REGULATIONS\\_PDF\\_PDF](https://www.ipso.co.uk/assets/1/REGULATIONS_PDF_PDF) [accessed 2 March 2015]. Broadly framed, IPSO's remit relates to editorial material published by member publications. It also deals with complaints about the physical behaviour of journalists.

<sup>94</sup> Independent Press Standards Organisation, 'Making a complaint': <https://www.ipso.co.uk/IPSO/makingacomplaint.html#who> [accessed 3 March 2015]. IPSO says that it will take forward complaints from representative groups, where the alleged breach of the Code is significant and there is a public interest in doing so.

<sup>95</sup> IPSO's Regulations state that the Complaints Reviewer should be a member of IPSO's Board, who is not the Chair and that the Complaints Reviewer should not be involved in making the decision to either accept or reject the request for a review of the original Complaints Committee's decision. The current Complaints Reviewer is Richard Hill MBE, Chair of the General Consumer Council for Northern Ireland and owner and director of Titanic Gap Media Consultancy.

<sup>96</sup> Independent Press Standards Organisation, *Financial Sanctions Guidance*, [https://www.ipso.co.uk/assets/1/FINANCIAL\\_SANCTIONS\\_GUIDANCE\\_PDF\\_PDF](https://www.ipso.co.uk/assets/1/FINANCIAL_SANCTIONS_GUIDANCE_PDF_PDF) [accessed 2 March 2015]; Independent Press Standards Organisation, *Regulations*, [https://www.ipso.co.uk/assets/1/REGULATIONS\\_PDF\\_PDF](https://www.ipso.co.uk/assets/1/REGULATIONS_PDF_PDF) [accessed 2 March 2015]. IPSO's regulations state that: "The Regulator's Board will only impose fines or costs where the Regulated Entity's conduct is sufficiently serious. Any fines or costs will be flexible in amount and will be determined in accordance with the Financial Sanctions Guidance. No fine or costs will be imposed unless the Regulated Entity has first been given the opportunity to attend a hearing at which the potential imposition of a fine or requirement to pay costs will be considered."

**Figure 1: Flowchart of IPSO's complaints procedure**



Source: IPSO, written evidence<sup>97</sup>

<sup>97</sup> Written evidence from the Independent Press Standards Organisation (PRG0016)

*Regulatory Funding Company (RFC)*

85. IPSO is funded through the RFC. At the time we took evidence, its Chairman was Paul Vickers, former secretary and group legal director of Trinity Mirror and former director of PressBof. Mr Vickers resigned from his post as Chairman on 4 March 2015.<sup>98</sup> It has nine board members, including the Chairman, all of whom are representatives from the print media industry.
86. The RFC is a limited company. According to its website, it was set up to finance IPSO by raising a levy on the news media and magazine industries. Mr Vickers set out the relationship between the RFC and IPSO:

“RFC is put between IPSO and its individual members, but made up of those members, to collect the money from the members. So if someone was in default of payment, it would not be IPSO that pursued them but the RFC. We raise the money from the members of IPSO and pay it over.”<sup>99</sup>

87. The RFC told us that its budget is £2.5 million per annum. Its Chairman told us that most of this, around £2.4 million, will be paid to IPSO<sup>100</sup> and that the other £100,000 will cover the RFC’s administration costs. Sir Alan told us that this was IPSO’s total budget for 2015, in addition to around £0.5 million for “transition costs”—the cost of setting up a new organisation. Sir Alan highlighted that it was around £0.5 million more than had been the annual funding of the PCC.<sup>101</sup> We were told that later in 2015, IPSO and the RFC would negotiate and agree a multi-year budget for the following three or four years, in order to “remove the question of money from the discussions ... with the industry”.<sup>102</sup>
88. The RFC’s funding from 8 September 2015 onwards will be derived from subscriptions paid by IPSO’s 96 Members. Mr Vickers told us that the subscriptions were calculated on a “revenue share basis ... whereby companies can submit their unpublished revenue figures in confidence, add up the total and divide it appropriately.”<sup>103</sup> He said that this system was not currently being used but did not give any indication as to how the RFC’s current budget was calculated, and where its revenue came from.

*Editors’ Code of Practice*

89. The Editors’ Code of Practice<sup>104</sup> is used by IPSO as the basis for its regulation of the industry. It is based largely on the Code of Practice which was enforced by the now defunct PCC.

---

<sup>98</sup> Newsmedia Association, ‘Paul Vickers Resigns as RFC Chairman’ (5 March 2015): <http://www.newsmediauk.org/Latest/paul-vickers-resigns-as-rfc-chairman-> [accessed 6 March 2015]

<sup>99</sup> [Q 52](#)

<sup>100</sup> *Ibid.*

<sup>101</sup> [Q 23](#)

<sup>102</sup> *Ibid.*

<sup>103</sup> [Q 52](#)

<sup>104</sup> Independent Press Standards Organisation, *Editors’ Code of Practice*: [https://www.ipso.co.uk/assets/1/Code\\_A4\\_2014.pdf](https://www.ipso.co.uk/assets/1/Code_A4_2014.pdf) [accessed 2 March 2015]

90. Mr Tee told us that the Editors' Code of Practice was a product of the Editors' Code of Practice Committee, a sub-committee of the RFC. He said that IPSO did not have ownership or authority over the Code. Mr Vickers confirmed that the RFC owned the Editors' Code. We consider this further in paragraphs 164–168.
91. The Editors' Code Committee is chaired by Paul Dacre, editor of the Daily Mail. It is made up of 11 other Members, who are all print media editors save the Chairman and Chief Executive of IPSO.<sup>105</sup> IPSO told us that it was in the process of appointing three additional independent members to the Committee.<sup>106</sup>
92. IPSO made clear to us that it did not intend to seek recognition under the Royal Charter. Sir Alan was therefore unable to confirm whether IPSO complied with it.<sup>107</sup> He told us that IPSO's decision not to seek recognition was based on its members' "theological objection to the charter"<sup>108</sup>. Sir Alan said that this objection meant, "... there is no point, independently from our members, seeking the recognition that they have set their face against."<sup>109</sup> However, Sir Alan told us that he hoped that an assessment of IPSO's work over time would show that it was independent.

*Relationship between IPSO and the RFC*

93. IPSO told us that it was still in the process of negotiating some aspects of its relationship with the RFC. Sir Alan said that he had made some proposals to the RFC to alter the contractual "rules and regulations" in its governing documents, which he said were "opaque, sometimes self-contradictory, difficult to understand and sometimes difficult to find."<sup>110</sup> He suggested that as they stand, "eight or nine" of the rules could provide an opportunity to "obfuscate and resist an investigation"<sup>111</sup> and he accepted the Media Standards Trust's suggestion that there was very little chance of a fine being imposed under the current investigations process.<sup>112</sup> We do not yet know whether the RFC will accept Sir Alan's proposed changes.
94. Mr Vickers said the contractual nature of the relationship meant that, "when Sir Alan says that he is going to put a red line through a whole load of things, he cannot do that".<sup>113</sup> However, he said that the RFC was "open"<sup>114</sup> to the idea of discussing changes to the proposals if things were not working.
95. Sir Alan wrote to us to clarify that he had not, so far, proposed changes to the Editors' Code. IPSO told us that the Code was "generally felt to be fit for the

---

<sup>105</sup> Editors' Code of Practice Committee, 'About us': [http://www.editorcode.org.uk/about\\_us.php](http://www.editorcode.org.uk/about_us.php) [accessed 2 March 2015]

<sup>106</sup> [Q 30](#)

<sup>107</sup> [Q 26](#)

<sup>108</sup> *Ibid.*

<sup>109</sup> *Ibid.*

<sup>110</sup> [Q 24](#)

<sup>111</sup> *Ibid.*

<sup>112</sup> *Ibid.*

<sup>113</sup> [Q 53](#)

<sup>114</sup> *Ibid.*

purpose that we use it for”.<sup>115</sup> Sir Alan conceded that not having complete control over the Code was an area of weakness. Nevertheless, Mr Tee observed that IPSO had a “veto” over amendments to the Code, which Sir Alan said would prevent “any weakening of [the] rules”.<sup>116</sup> He also said that it was one of IPSO’s ambitions to change and take ownership of the Code.<sup>117</sup> The RFC made clear that changes to the Code could not be made by IPSO unilaterally, but would need to be made through the Code Committee.<sup>118</sup>

96. Witnesses did not raise concerns with the actual content of the Editors’ Code, with the exception of Hacked Off, who told us that, “When there are complaints, there are small online corrections”, and that neither the PCC nor IPSO accepted the concept of equivalence—that apologies should have the same prominence as the disputed item.<sup>119</sup> The Editors’ Code states that, “A significant inaccuracy, misleading statement or distortion once recognised must be corrected, promptly and with due prominence”.<sup>120</sup> However, it is unclear to us what is meant by “due prominence”.

#### *Criticism of IPSO and the RFC*

97. Much of the criticism surrounding IPSO and the RFC centred on their lack of compliance with the elements that the Leveson Report recommended were necessary for a regulator to be effective. Dr Martin Moore, Director of the Media Standards Trust, told us that the Trust had found that IPSO satisfied only 12 of the 38 recommendations on this subject, in the Leveson Report. It had failed 20, and there were six on which the Media Standards Trust could not make a judgment based on the information available (a chart outlining IPSO’s compliance with the Leveson recommendations is at Appendix 5).<sup>121</sup> Dr Moore told us that “the [recommendations] IPSO failed on were really fundamental, with regard to independence, arbitration and complaints”.<sup>122</sup> Dr Moore set out 10 changes that IPSO could make that would fundamentally improve its independence and effectiveness, many of which were to do with removing some of the constraints on IPSO set out in its articles of association. It is unclear whether the changes to its governing documents, which Sir Alan told us that he had proposed to the RFC, (see paragraph 93 above) would address the issues that Dr Moore highlighted.
98. Witnesses raised the issue of IPSO’s independence. We received evidence from Christopher Jeffries, a patron of Hacked Off, who wrote to us on behalf of a group of victims of “press abuse”.<sup>123</sup> He said that the structure and constitution of IPSO meant that it could not be seen as independent. Mr Jeffries noted that the Code Committee was chaired by the Editor-in-Chief “of the newspaper group which has been found to be the one most often in

---

<sup>115</sup> [Q 30](#)

<sup>116</sup> *Ibid.*

<sup>117</sup> [Q 30](#)

<sup>118</sup> [Q 54](#)

<sup>119</sup> [Q 44](#)

<sup>120</sup> Independent Press Standards Organisation, *Editors’ Code of Practice*: [https://www.ipso.co.uk/assets/1/Code\\_A4\\_2014.pdf](https://www.ipso.co.uk/assets/1/Code_A4_2014.pdf) [accessed 4 March 2015]

<sup>121</sup> [Q 60](#)

<sup>122</sup> *Ibid.*

<sup>123</sup> Written evidence from Christopher Jeffries ([PRG0009](#))

breach of its terms”.<sup>124</sup> He also told us that it was “astonishing” that “the executive at the Mirror Group Newspapers who was responsible for compliance with the law at the time of most of ... [its] breaches [of the Editors’ Code], and who told the Leveson Inquiry that he had found no evidence of hacking, has been made the chair of the ... RFC.”<sup>125</sup>

99. This concern was reinforced by other witnesses, who questioned the role that the industry-led RFC had over IPSO’s constitution, rules and procedures.<sup>126</sup> Hugh Tomlinson QC, media law expert and Chair of the Hacked Off board, pointed out that, “[IPSO’s] constitution is exactly what Sir Brian Leveson said should not be done; it is under the control of an industry-funding body that has a veto over the way in which it works”.<sup>127</sup> We heard the case that IPSO, rather than the RFC, should have control over its own governing documents.<sup>128</sup> We were also told that the Code Committee should be made up of a mix of the public, editors and journalists as opposed to its current constitution where eight out of 12 members are editors.<sup>129</sup>
100. There were some areas where there was a lack of clarity surrounding IPSO’s processes. Dr Moore said that newspapers were obliged to give IPSO an annual report on the complaints, but that:

“it is very unclear how they record them, in what detail and particularly how they distinguish between a formal and an informal complaint. If one goes to certain sites at the moment as a complainant, you are offered the opportunity to make either a formal or an informal complaint. I do not understand the distinction there, but nowhere does it say whether formal or informal complaints will be reported to the regulator, or whether making a formal complaint means that it is somehow cordoned off and not made known to the regulator. It is opaque.”<sup>130</sup>

Professor Chris Frost, Chair of the Ethics Council, National Union of Journalists (NUJ), was similarly unsure about the distinction between informal and formal complaints: “I would assume, but I may have got this wrong, that only if those [informal initial] talks broke down would it become a formal complaint, initially to the newspaper and then on to IPSO.”<sup>131</sup>

101. Muslim Engagement and Development (MEND), a group which seeks to enable the Muslim community to engage with the media, was uncertain as to what criteria are used to establish whether a complainant is a “representative group”,<sup>132</sup> for the purpose of IPSO’s complaints procedure.
102. Dr Moore said that the process for escalating a complaint needed clarification. He said that IPSO’s regulations suggested that after the complaint was

---

<sup>124</sup> *Ibid.*

<sup>125</sup> *Ibid.*; and [Q 61](#) (Dr Martin Moore)

<sup>126</sup> Written evidence from Hacked Off ([PRG0011](#))

<sup>127</sup> [Q 46](#) and [Q 61](#) (Dr Martin Moore)

<sup>128</sup> Written evidence from Christopher Jeffries ([PRG0009](#)) and [Q46](#) (Dr Evan Harris)

<sup>129</sup> Written evidence from the NUJ ([PRG0002](#)), and [Q 62](#)

<sup>130</sup> [Q 65](#)

<sup>131</sup> *Ibid.*

<sup>132</sup> Written evidence from Muslim Engagement & Development (MEND) ([PRG0004](#))

escalated, IPSO started the “process of mediation—the exchange of letters et cetera—all over again”.<sup>133</sup> He pointed out that the Leveson Report had criticised the PCC for designing its processes in this way.

### **The Independent Monitor of the Press (IMPRESS)**

103. The IMPRESS project was established in mid-2013 in response to developments after the Leveson Report. Jonathan Heawood, its founding Director, told us that it was set up as the “development organisation”<sup>134</sup> for a new regulator of the press, to be called IMPRESS. Mr Heawood made clear that the aim of the IMPRESS project was to develop a regulator which was compliant with the Royal Charter.
104. At the time this report was published, IMPRESS was not yet fully set up. Mr Merricks CBE, former Chief Ombudsman of the Financial Ombudsman Service, had been appointed as the Chair of IMPRESS, and the six other members of its board were in place. We were told that the board was recruited with the intention of complying with the Royal Charter’s requirements. Mr Merricks told us that the IMPRESS board had yet to adopt its constitution and articles of association, and was currently considering a draft.<sup>135</sup> Therefore, it is not yet clear what IMPRESS’s procedures and key functions will be, although Mr Heawood did say that under IMPRESS’s proposal publishers will be expected to resolve complaints themselves in the first instance. He emphasised that anybody signing up to IMPRESS would have to sign up in full to its terms.<sup>136</sup>
105. The IMPRESS project is an independent non-profit company, which receives grants and donations from trusts, foundations and individuals.<sup>137</sup> Mr Merricks told us that although it did not have a guaranteed source of funding at present, he hoped the donations would be enough to enable it to establish itself as regulator and “open for business”.<sup>138</sup> He anticipated that IMPRESS would eventually fund itself by charging regulatory fees to its member publishers, but conceded that it would need enough members to be financially viable, or it would “have to close.”<sup>139</sup>
106. IMPRESS confirmed that, since it was not yet established, it did not have any publishers signed up to it. Mr Merricks suggested that it might be set up in around three months, and Mr Heawood said that he had spoken to “smaller, local, hyperlocal and ... specialist publications”<sup>140</sup> about the possibility of signing up to IMPRESS.

---

<sup>133</sup> [Q 66](#)

<sup>134</sup> [Q 12](#)

<sup>135</sup> [Q 14](#)

<sup>136</sup> [Q 15](#)

<sup>137</sup> The Impress Project, ‘Funding’: <http://impressproject.org/funding> [accessed 2 March 2015]. Donors include: the Joseph Rowntree Trust, The Alexander Mosley Charitable Trust and JK Rowling and David Sainsbury

<sup>138</sup> [Q 14](#)

<sup>139</sup> [Q 19](#)

<sup>140</sup> [Q 16](#)



*Recognition*

107. IMPRESS is distinct from IPSO in that compliance with the Royal Charter is one of its central aims. Nevertheless, it has not yet confirmed that it will seek recognition from the Press Recognition Panel. Mr Heawood told us that he did “not see any barriers to IMPRESS seeking recognition”<sup>141</sup> when it was fully set up, but that it would want to consult on concerns surrounding the Royal Charter first. He said:

“I think it would be perverse of us to go out there saying, ‘Here we are signing up to the charter come what may, take it or leave it’. There is much more benefit in ... seeking to understand people’s objections and concerns ... If, at the end of that, there is some way of achieving the objectives of the charter framework in terms of the principles but without signing up to the charter, that is an option the board might consider.”<sup>142</sup>

However, Mr Heawood made clear that the commercial concerns of any IMPRESS members would not influence its decision as to whether to seek recognition.

*Distinction from IPSO*

108. In addition to its intention to comply with the Royal Charter (and potentially to seek recognition), IMPRESS’s model of regulation is also distinct from that of IPSO because it has definite plans to establish an arbitration scheme, with the aim of reducing costs for those involved in libel litigation and breaches to professional standards. Mr Heawood said that IMPRESS was working with the Chartered Institute of Arbitrators to draft a suitable scheme.<sup>143</sup>
109. IPSO does not currently offer an arbitration service. Sir Alan, when asked whether IPSO was working towards setting up a compulsory arbitration system, told us that IPSO had “appointed somebody to research that, and we hope within the next few months to have reached a resolution as to how that might be done.”<sup>144</sup>
110. Another distinction is that it is currently unclear whether IMPRESS will use the same Code of Practice as IPSO (the Editors’ Code), given that the Code is owned by the RFC. Mr Merricks told us that in his view, “it would be very sensible for us to use the Editors’ Code as the code of practice that most professional journalists who have been trained in the training schools have been used to.”<sup>145</sup> However, he told us that IMPRESS had not requested permission to use the Code, and did not confirm whether or not it intended to.

*Other models of regulation*

111. As set out in paragraph 76, most of the major national newspapers are signed up to IPSO. The exceptions to this are The Guardian, the Financial Times and The Independent. We heard oral evidence from Alan Rusbridger, Editor of The Guardian and received a written submission from the Financial Times.

---

<sup>141</sup> *Ibid.*

<sup>142</sup> *Ibid.*

<sup>143</sup> [Q 17](#)

<sup>144</sup> [Q 30](#)

<sup>145</sup> [Q 20](#)

We set out to understand why these publishers had not joined IPSO, and how they were currently being regulated.

*The Guardian*

112. The Guardian told us that it was regulated through its own internal system of regulation. Alan Rusbridger, its Editor, said that it had recently “boosted” its internal system, by adding a “separate review panel”.<sup>146</sup> He explained that The Guardian’s complaints are handled through an office run by an “independent readers’ editor”<sup>147</sup> who is employed by The Scott Trust and has a guaranteed column once a week in The Guardian.<sup>148</sup>
113. Mr Rusbridger said he had no power as editor to alter what the independent readers’ editor wrote or to dismiss him, since that power was vested in The Scott Trust. In addition, the newly established review panel<sup>149</sup> meets once a month to look at complaints which it believes have not been resolved satisfactorily by the readers’ editor. On its website, The Guardian says that the review panel will only look at complaints which fall within the clauses set out within the “PCC Code”<sup>150</sup>. It is unclear whether the Code, which seems to be identical to the Editors’ Code copyrighted by the RFC, has been licenced to The Guardian. Commenting on the overall system, Mr Rusbridger acknowledged that it did not comply with the Royal Charter but said it was “robust and independent”.<sup>151</sup>
114. Mr Rusbridger said that The Guardian had not joined IPSO because it was not “satisfied ... that IPSO was entirely independent in the way we would hope.”<sup>152</sup> He pointed out that, “The majority of the titles of what used to be called the broadsheet press are not in IPSO at the moment”.<sup>153</sup> However, he did not dismiss joining IPSO in future, saying that The Guardian was, “waiting to see the progress that Sir Alan makes ... before considering whether we should join IPSO.”<sup>154</sup>
115. With respect to IMPRESS, Mr Rusbridger said that it was “remarkably similar”<sup>155</sup> to IPSO, but that the main difference was that IMPRESS “started with the idea of a Charter”.<sup>156</sup> He said that one of the reasons The Guardian

---

<sup>146</sup> [Q 32](#)

<sup>147</sup> [Q 34](#)

<sup>148</sup> The Scott Trust is the sole shareholder in Guardian Media Group, owner of The Guardian. The Trust was created in 1936 to safeguard the journalistic freedom and values of the Guardian. In 2008 it became a limited company, with the same protections for the Guardian enshrined in its constitution.

<sup>149</sup> [Q 34](#) and The Guardian: ‘The review panel’: <http://www.theguardian.com/info/2014/nov/20/review-panel> [accessed 2 March 2015]. The Guardian website says, “The chair of the review panel is John Willis, the existing Guardian News & Media external ombudsman, Bafta deputy chairman and chief executive of Mentorn Media. John is joined on the panel by: Geraldine Proudler, partner at Olswang and board member of the Guardian Foundation, and Elinor Goodman, former political editor of Channel 4 News, and one of six panel members at the Leveson inquiry.”

<sup>150</sup> *Ibid.*

<sup>151</sup> [Q 40](#)

<sup>152</sup> [Q 33](#)

<sup>153</sup> *Ibid.*

<sup>154</sup> [Q 32](#)

<sup>155</sup> [Q 33](#)

<sup>156</sup> *Ibid.*

did not want to join IMPRESS at this stage was that to do so would be, “tying [itself] to the Royal Charter”. He outlined that The Guardian’s concerns with the Royal Charter related to its lack of independence from the government of the day, and the specific drafting of the incentives in the Royal Charter itself.

*The Financial Times*

116. The Financial Times outlined its current regulatory arrangements. It told us that readers’ complaints were managed by an independent Editorial Complaints Commissioner, which was governed by an independent Appointments and Oversight Board.<sup>157</sup> It told us that its Complaints Commissioner provided an alternative dispute resolution service “in the rare cases that it might be appropriate”.<sup>158</sup>
117. The Financial Times said that its current regulatory approach, and decision not to join a regulator, was based on “its standing as an increasingly digital news operation with a global footprint”.<sup>159</sup> In an article explaining its decision the Financial Times said, “Our main competitors are global news organisations, each of which applies its own system of independent regulation. There is no industry standard.”<sup>160</sup>
118. We received no evidence on the effectiveness of The Guardian or Financial Times’s internal systems. It is clear that they would not be deemed compliant under the Royal Charter’s recognition system.
119. It remains to be seen whether, in addition to IPSO and IMPRESS, other regulatory bodies will be set up. Mr Heawood told us that he thought it was unlikely that there would be more than two regulators “for the foreseeable future”.<sup>161</sup>

---

<sup>157</sup> Written evidence from the Financial Times ([PRG0010](#))

<sup>158</sup> *Ibid.*

<sup>159</sup> *Ibid.*

<sup>160</sup> *Ibid.*

<sup>161</sup> [Q 18](#)

## CHAPTER 4: KEY ISSUES REQUIRING CLARIFICATION

---

120. In the previous Chapter we set out the identifying features of the regulatory bodies and mechanisms that have been set up following the adoption of the Royal Charter. We received evidence about a number of issues surrounding the current system of press regulation which are the subject of disagreement or confusion. We examine these in this Chapter.

### Crime and Courts Act 2013

121. As we highlighted in Chapter 3, the Government, with cross-party consensus, put forward legislative measures to accompany the Royal Charter, in order to encourage relevant publisher[s] of news-related material to sign up to the system set out in the Royal Charter.

122. The provisions in the Crime and Courts Act 2013 relating to publishers of news-related material:

“are designed to provide a system of financial incentives for ‘relevant publishers’ to sign up to the new regime in the Royal Charter. They do that by offering protection from legal costs in certain civil litigation claims to those ‘relevant publishers’ that do sign up to the new model (the carrot), and making exemplary damages available in those claims—beyond ordinary compensatory damages—for the courts to award as a punitive measure against ‘relevant publishers’ who refuse to sign up to the new framework (the stick).”<sup>162</sup>

123. In the following paragraphs we consider the evidence we received regarding the definition of relevant publisher within the Crime and Courts Act 2013 and the system of legal costs and exemplary damages contained therein.

### *Relevant publisher*

124. The Leveson Report gave some guidance as to which publishers should submit themselves to regulation. It said the new system:

“must involve all the major players in the industry, that is to say, all national newspaper publishers and their online activities, and as many regional and local newspaper publishers, and magazine publishers, as possible. This is not meant to be prescriptive at the very small end of the market: I would not necessarily expect very small publishers to join the body, though it should be open to them to do so on appropriate terms”.<sup>163</sup>

125. Section 41 of the Crime and Courts Act 2013 sets out the categories of relevant publisher[s] who are expected to join the regulator.

126. There are four cumulative criteria which must be met to satisfy the definition. To be considered a relevant publisher, a person or organisation must:

- Publish news related material;

---

<sup>162</sup> Charlie Potter, ‘Press regulation: all you need to know’, *British Journalism Review*, vol. 24, no. 32, (2013): [http://www.bjr.org.uk/data/2013/no2\\_potter](http://www.bjr.org.uk/data/2013/no2_potter) [accessed 10 March 2015]

<sup>163</sup> The Leveson Report, Volume IV, Part K, Chapter 7, Para 4.11 (2012): [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/270943/0780\\_iv.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/270943/0780_iv.pdf) [accessed 6 February 2012]

- Publish material in the course of a business (whether or not carried out with a view to profit);
- Produce material written by different authors; and
- Produce material which is subject to editorial control (over the content of material, presentation and the decision to publish).

127. There are, however, specific exemptions for certain publishers—some by name, some by description—from the operation of the system of financial incentives. These are set out in Schedule 15 to the Act and include the BBC, public bodies and charities, company news publications and scientific or academic journals.<sup>164</sup>

128. Dr David Wolfe QC, Chairman of the Press Recognition Panel, told us that the definition was slightly complicated but that, “it captures anybody who produces something that has news content produced by different authors and there is an editor. That can be online or newsprint”.<sup>165</sup>

129. Professor Chris Frost, Chair of the Ethics Council, National Union of Journalists (NUJ), said that it seemed to be a good working definition but that, “until we start working with the system, it will be difficult to tell”.<sup>166</sup> Dr Martin Moore, Director of the Media Standards Trust, said that whilst “there are elements of it that are clear” that there were parts of it which he found “ambiguous and difficult to interpret.”<sup>167</sup>

130. English PEN, an organisation which promotes freedom of expression and literature, published a Report in November 2014, entitled *Who joins the regulator? A report on the impact of the Crime and Courts Act on publishers*.<sup>168</sup> The report claimed that:

- Its analysis of a range of publications, according to the terms in the legislation, indicated widespread inconsistency across the media landscape regarding which publications are exempt and which qualify for regulation.
- publishers that are expected to be exempt from regulation appeared to fall into the category of relevant publisher, including campaigning organisations, political parties and think tanks;
- terms in the legislation were poorly defined, leading to uncertainty for publishers and the risk of a chill on free speech; and
- a lack of clarity in the legislation would result in anomalies within categories of publication expected to be excluded from regulation, including blogs and specialist publications.<sup>169</sup>

---

<sup>164</sup> Crime and Courts Act 2013, [Schedule 15](#)

<sup>165</sup> [Q 9](#)

<sup>166</sup> [Q 65](#)

<sup>167</sup> *Ibid.*

<sup>168</sup> English PEN, *Who joins the regulator? A report on the impact of the Crime and Courts Act on publishers* (November 2014): [http://www.englishpen.org/wp-content/uploads/2014/11/Who\\_joins\\_the\\_regulator\\_5\\_Nov\\_2014\\_English\\_PEN1.pdf](http://www.englishpen.org/wp-content/uploads/2014/11/Who_joins_the_regulator_5_Nov_2014_English_PEN1.pdf) [accessed 3 February 2015]

<sup>169</sup> *Ibid.*, p 3

131. We did not test these claims by seeking a specific view on them from our witnesses and therefore have not come to a conclusion on their accuracy. Nonetheless it appears that, the term relevant publisher, as used in the Crime and Courts Act 2013, is ambiguous.

*Exemplary damages and costs*

132. Section 34 of the Crime and Courts Act 2013 deals with awards of exemplary damages. Exemplary damages (sometimes called punitive damages) are damages intended to reform or deter the defendant and others from engaging in conduct similar to that which formed the basis of the lawsuit, rather than simply reflecting the loss suffered by the claimant.

133. Sub-section 61(7) of the Crime and Courts Act 2013 states that:

“sections 34 to 39 come into force at the end of the period of one year beginning with the day on which a body is established by Royal Charter with the purpose of carrying on activities relating to the recognition of independent regulators of relevant publishers (as defined by section 41).”<sup>170</sup>

134. The provisions relating to exemplary damages come into force on 3 November 2015 (the anniversary of the establishment of the Press Recognition Panel) whether or not a regulator has been approved by the Recognition Panel. Sub-section 35(3)(a) of the Crime and Courts Act 2013 is concerned with whether it is appropriate for exemplary damages to be awarded. It provides that the court must take into account “whether membership of an approved regulator was available to the defendant at the material time”. This might therefore provide a defence against the awards of exemplary damages under section 34 if no regulator has been approved by the Recognition Panel at the material time.

135. Section 40 of the Crime and Courts Act 2013 deals with the award of costs. Sub-section 1 provides that the section applies when a relevant claim is made against a publisher relating to the publication of news-related material. Sub-sections 40 (2) and (3) set out considerations the court must take into account when deciding whether to award costs against the defendant (a publisher).<sup>171</sup> If the defendant was a member of an approved regulator at the material time (or was unable to be a member) then the court must not award costs against the defendant unless certain circumstances pertain (set out in section 40). If the defendant was not a member of an approved regulator at the material time (but was able to be a member) then the court must award costs against the defendant unless certain circumstances pertain (set out in section 40).

136. Sub-section 40 (6) states that, “This section does not apply until such time as a body is first recognised as an approved regulator.”<sup>172</sup>

137. The provisions on costs do not therefore come into force on a particular date. They come into force only once a regulator (whose membership includes a

---

<sup>170</sup> Crime and Courts Act 2013, [sub-section 61 \(7\)](#)

<sup>171</sup> Crime and Courts Act 2013, [section 40](#)

<sup>172</sup> Crime and Courts Act 2013, [sub-section 40\(6\)](#)

relevant publisher as set out in section 41 of the Crime and Courts Act 2013) is approved by the Press Recognition Panel.

138. Hugh Tomlinson QC, media law expert and Chair of the board of Hacked Off, a campaign group for victims of press intrusion, told us that this system was: “potentially effective. Of course, if a newspaper wants to take the costs hit and stay outside the system it could do that—but if those incentives are in place, once an independent regulator is set up, it is potentially effective.”<sup>173</sup>
139. Dr Moore was more sceptical about the likely effectiveness of this system:
- “[I]t is very hard to judge the degree to which there will be financial incentives. We know from what many publishers have said that the reasons for not signing up to the charter are not simply financial. Some of them are ideological... We went back and tried to do an evaluation of the potential savings that publishers would make or not make, which is extremely difficult to do. It is very rare that publishers are subject to legal action on a regular basis and particularly legal action by large corporations or otherwise... so you cannot figure on an annual basis how much you are likely to save or not save.”<sup>174</sup>
140. Mr Rusbridger, Editor of *The Guardian*, explained that there was uncertainty about how the system would work. He said, “A large part of it is at the discretion of the courts, and the carrots [the incentives] seem to favour claimants more than defendants ... The media lawyers feel that they were not given a chance to advise. The carrots that Leveson imagined were better than the carrots that we have ended up with.”<sup>175</sup>
141. Sir Alan Moses, Chairman of the Independent Press Standards Organisation (IPSO), said “I am reluctant to get into the legal complexities. I do not think they are clear. It will take some considerable time to see whether they will work as a carrot and stick, as they were designed to work ... their effectiveness is not clear”<sup>176</sup>
142. It has been claimed by industry lawyers that the provisions of the Crime and Courts Act 2013 relating to exemplary damages potentially constitute a breach of Article 10 of the European Convention of Human Rights.<sup>177</sup>
143. We asked Dr Wolfe QC whether this issue might form the object of complaints to the European Court of Human Rights. He said that this would “no doubt be an issue in any litigation in which exemplary damages were awarded following November 2015. You can have a lawyer’s view on whether a claim to the European Court would succeed, but that is not the role of the panel to provide that sort of thing.”<sup>178</sup>

---

<sup>173</sup> [Q 47](#)

<sup>174</sup> [Q 63](#)

<sup>175</sup> [Q 39](#)

<sup>176</sup> [Q 29](#)

<sup>177</sup> ‘Tory and Leveson plans for exemplary privacy damages may be unlawful’, *The Guardian* (21 February 2013): <http://www.theguardian.com/media/2013/feb/21/tory-leveson-exemplary-privacy-damages> [accessed 11 February 2015]

<sup>178</sup> [Q 9](#)

144. In a recent blog, Gill Phillips, the Director of Editorial Legal Services for The Guardian, wrote: “What is regarded as particularly objectionable is the fact that [the provisions on exemplary damages] single out for punishment a particular category of defendant, rather than a particular kind of conduct, all the more so where the category of defendant singled out includes the press.”<sup>179</sup>
145. Similarly, Bob Satchwell, Executive Director of the Society of Editors, told us:
- “I thought that we were all supposed to be equal under the law but this would create an unequal legal regime. People who for whatever reason had not joined the approved regulator would be treated differently; they could commit the same ‘offence’, as it were, and it would cost an awful lot more.”<sup>180</sup>
146. Mr Tomlinson QC refuted claims that the system might be unlawful. He said:
- “I have absolutely no doubt that they are lawful. The exemplary damages provisions were designed by the Law Commission in effect to be compliant with Article 10, and are very carefully calibrated. I have no doubt either that the costs provisions, and that kind of incentive, are the proper way in which to encourage people to subject themselves to regulation.”<sup>181</sup>

### Arbitration

147. Arbitration is a form of alternative dispute resolution (ADR). It is a method for the resolution of disputes outside the courts. Arbitration generally works by the parties involved in a dispute referring it to arbitration by one or more persons and agreeing to be bound by the arbitration decision (the “award”). A third party reviews the evidence in the case and imposes a decision on both sides.
148. A central theme of the Leveson Report was the importance of access to justice. The report proposed that any new regulator should establish an arbitration scheme, which would give all claimants, whatever their financial means, a route to pursue claims against the press:
- “The need for incentives, however, coupled with the equally important imperative of providing an improved route to justice for individuals, has led me to recommend the provision of an arbitration service that is recognised and could be taken into account by the courts as an essential component of the system, not ... simply something that could be added at a later date.”<sup>182</sup>
149. Arbitration is often favoured over court proceedings because it is generally quicker and costs less. Mr Tomlinson QC explained: “lawyers are ridiculously expensive and litigation takes a long time ... Leveson’s idea was to have a

---

<sup>179</sup> The International Forum for Responsible Media Blog, Gill Phillips, ‘Briefing Note on Exemplary Damages and Costs’: <https://inform.wordpress.com/2013/03/22/briefing-note-on-exemplary-damages-and-costs-gill-phillips> [accessed 3 February 2015]

<sup>180</sup> [Q 39](#)

<sup>181</sup> [Q 47](#)

<sup>182</sup> The Leveson Inquiry, Executive Summary, *op. cit.* paragraph 66.



system of arbitration that could be cheaper, quicker and more effective and would help both victims and poor publishers.”<sup>183</sup>

150. The regulator’s provision of an arbitration scheme is key to publishers being able to take advantage of the potential protections against the award of exemplary damages and/or costs. Jonathan Heawood, Founding Director of The Independent Monitor for the Press (IMPRESS) project, explained the advantages of an arbitration scheme:

“It would largely come down to mitigating the risk of costs awards in libel or privacy actions. If a relevant publisher was regulated ... [by] an approved regulator, and one of those publishers was sued ... and they found themselves in court, having offered the litigant the opportunity to go to arbitration and the litigant having refused that opportunity ... the court would be expected to rule against the claimant on costs. In other words, the defendant, the publisher or the newspaper would be protected. They would be immune from paying the other side’s costs even if they lost a libel or privacy action, which is clearly a considerable financial incentive and should remove a huge part of the chilling effect of the current costs regime in libel.”<sup>184</sup>

151. As we mentioned in Chapter 3, IMPRESS plans to offer an arbitration scheme to its members<sup>185</sup> and IPSO is carrying out work to see how an arbitration scheme might work.<sup>186</sup>

152. There are other companies which are planning to provide this service. We received evidence from Early Resolution CIC, a not-for-profit company established to assist litigants in media cases. Early Resolution CIC said it hopes its “Pilot Arbitration Service will effectively be ‘Recognition Ready’, so that any Regulatory Body which takes it on will know that it is workable and Leveson compliant ...”<sup>187</sup>

153. Other witnesses were less convinced that arbitration was the best means of offering cheap redress. Professor Frost told us that the regional press were concerned that, “an arbitration system, as suggested by Leveson, would be very expensive for them because they would end up funding a system that would spend most of its time, effort and energy looking at claims that have gone to the national newspapers.”<sup>188</sup> Similarly, Mr Satchwell explained that, “if you have a compulsory arbitration system, it may not sound that expensive but it would be an extra cost to them [the local press] ... They are looking at very tight, relatively small budgets where the slightest hiccup could make the difference between a paper living and dying.”<sup>189</sup>

### **Impact of multiplicity of regulators**

154. As outlined in Chapter 3, there are currently two major press regulators in existence: IPSO which has 69 publishers as members, and IMPRESS which

<sup>183</sup> [Q 45](#)

<sup>184</sup> [Q 16](#)

<sup>185</sup> [Q 17](#)

<sup>186</sup> [Q 30](#)

<sup>187</sup> Written evidence from Early Resolution CIC ([PRG0015](#))

<sup>188</sup> [Q 64](#)

<sup>189</sup> [Q 38](#)

as yet has no members. The Guardian, the Financial Times and The Independent are the only national daily newspapers which have not signed up to IPSO and instead offer their own, internal system of regulation (see paragraphs 111–119).

155. One of the questions that we set out to answer at the start of this inquiry was the likely effect of more than one regulator on the consumer and on the industry.
156. Sir Alan said that the existence of more than one regulator was “highly confusing to those who matter most: namely, the public.”<sup>190</sup> Mr Rusbridger told us that it would be better for the “press all to be together in one body.”<sup>191</sup>
157. Dr Moore, whilst acknowledging that there were potential disadvantages of having more than one regulator, thought there were benefits, “particularly in a digital environment” to allowing for a multiplicity of regulators.<sup>192</sup>
158. Perhaps unsurprisingly, Mr Heawood, the Founding Director of IMPRESS, (the second press regulator to come into existence after the Royal Charter) pointed out that in other countries there were multiple regulators and so the current system in the UK was not entirely unheard of. He explained that:

“As a member of the public with a problem with a newspaper or website, the first thing you would be doing would be going to that publisher, and they should have in place a system. You should not at that point be worrying too much about who is the next stop regulator.”<sup>193</sup>

Professor Frost told us that there were “good reasons for having more than one regulator.”<sup>194</sup> In its written evidence the NUJ supplied us with figures which showed that the vast majority of the complaints dealt with by the PCC had been against national daily newspapers. The NUJ explained that having more than one regulator would be:

“a good solution for the provincial press who do not want a regulator with an arbitrator they would be obliged to share with the national press. They clearly fear that the burden of funding such an arbitrator that would largely be there to limit civil actions taken against national newspapers would be excessive. The same is also true of normal complaints.”<sup>195</sup>

### Whistle-blowing hotline

159. In the executive summary to his report, Lord Justice Leveson wrote:

“I was struck by the evidence of journalists who felt that they might be put under pressure to do things that were unethical or against the code. I

---

<sup>190</sup> [Q 31](#)

<sup>191</sup> [Q 41](#)

<sup>192</sup> [Q 64](#)

<sup>193</sup> [Q 18](#)

<sup>194</sup> [Q 64](#)

<sup>195</sup> Written evidence from the National Union of Journalists ([PRG0002](#))

therefore suggest that the new independent self-regulatory body should establish a whistle-blowing hotline.”<sup>196</sup>

160. Professor Frost explained that the NUJ welcomed this recommendation “so that journalists could say when they believed that something breached the code of practice and that therefore they did not want to do it.”<sup>197</sup>
161. Mr Tomlinson QC told us that “IPSO is supposed to have a hotline, but it does not. It says in its founding documents that it will have one, but it does not.”<sup>198</sup> Dr Evan Harris, Associate Director of Hacked Off, said that setting up a hotline service was not difficult: “You can buy a hotline service from Public Concern at Work ... Yet four months after IPSO was formed, a journalist whom I spoke to yesterday said that he tried to get confidential advice from IPSO and that there was no one there who could provide that”.<sup>199</sup>
162. We asked Mr Vickers, Chairman of the Regulatory Funding Company (RFC) which funds IPSO, why this hotline had not been set up. He said, “It should be there ... If I have the right to be cross, I am very cross that that is not there ... I do not know why it is not.”<sup>200</sup> He told us that its non-existence was not as a result of the constraint of the financial arrangements.<sup>201</sup>
163. IPSO has since set-up a whistle-blowing hotline, to which there is a link on its website.

### Ownership of the Editors’ Code of Practice

164. As we explained in Chapter 3, paragraphs 89–92, the Editors’ Code of Practice<sup>202</sup> is a set of standards used by IPSO to regulate the industry. It is also used by The Guardian. It is based largely on the Code of Practice which was enforced by the now defunct PCC. It was framed by the Editors’ Code of Practice Committee and is enshrined in the contractual agreement between IPSO and its member publishers.<sup>203</sup>
165. The Leveson Report said that the principles under which the press industry should operate were “to a large degree reflected in the Editors’ Code of Practice.”<sup>204</sup> Mr Tee, Chief Executive of IPSO, told us that, “the Editors’ Code is generally felt to be fit for the purpose that we use it for. Even critics of IPSO, I think, would say that the Editors’ Code was a pretty good code for the things that we might judge complaints against.”<sup>205</sup>

---

<sup>196</sup> The Leveson Inquiry, Executive Summary, *op. cit.* paragraph 64.

<sup>197</sup> [Q 60](#)

<sup>198</sup> [Q 45](#)

<sup>199</sup> *Ibid.*

<sup>200</sup> [Q 58](#)

<sup>201</sup> *Ibid.*

<sup>202</sup> Independent Press Standards Organisation, ‘Editors’ Code of Practice’: <https://www.ipso.co.uk/IPSO/cop.html> [accessed 4 February 2015]

<sup>203</sup> *Ibid.*

<sup>204</sup> The Leveson Inquiry, Executive Summary, *op. cit.*, paragraph 6

<sup>205</sup> [Q 30](#)

166. We were surprised to learn from IMPRESS and IPSO that the Editors' Code had been copyrighted by the RFC and that IPSO did not have authority over it.<sup>206</sup>
167. Mr Vickers told us that, "The Code Committee was convened by the Regulatory Funding Company—that has been our last involvement in it—and we own the copyright on the code."<sup>207</sup>
168. He said that the RFC had already "licensed"<sup>208</sup> the Code to the Financial Times "on the strict terms that if they want to use the code, they use the code as its stands".<sup>209</sup> Mr Vickers told us that the RFC had not been asked to share the Code with other regulators and that it would not be his decision whether to allow them to use it, but that the RFC would "consider"<sup>210</sup> doing so. He explained that they would "question why, if people were so keen on the code, they did not join IPSO. It is not something that we currently propose to use as some sort of weapon or tool."<sup>211</sup>

---

<sup>206</sup> [Q 29](#)

<sup>207</sup> [Q 54](#)

<sup>208</sup> [Q 55](#)

<sup>209</sup> *Ibid.*

<sup>210</sup> *Ibid.*

<sup>211</sup> *Ibid.*

## CHAPTER 5: KEY CONCERNS

---

169. In the executive summary to his report Lord Justice Leveson stated, “This is the seventh time in less than 70 years that the issues [of press regulation], which have occupied my life since I was appointed in July 2011, have been addressed. No-one can think it makes any sense to contemplate an eighth.”<sup>212</sup> It is more than two years since the Leveson Report was published.
170. Chapters 1–4 of our report show that the system for the regulation of the press is now even more complex than it was before Lord Justice Leveson began his inquiry. Although it may be that the system is necessarily complex, this does give us cause for concern, both over its effectiveness and over the public’s understanding of how they can take forward any complaint.
171. We explained at the start of this report why we have not made recommendations. However, our analysis raises a number of questions relating to the current system of press regulation which we would like to see addressed by the Government and the press itself.

### Questions to the Press Recognition Panel

172. In Chapter 3 we discussed the Press Recognition Panel, its current structure and funding, and the timescales to which it is working. We noted that the Panel has been allocated £900,000 for its work from the public purse, but has not yet received any applications for recognition. If it does not receive any applications, the requirements in the Royal Charter mean that it would have to remain open, even if only in a “holding pattern”.<sup>213</sup> We pose the following questions to the Press Recognition Panel:
- If there are no applications, and the Press Recognition Panel assumes a ‘holding pattern’, for how long would it be allowed to remain in this configuration? Would it continue to receive Government funding, and at what level?
  - Who could make the decision to dissolve the Press Recognition Panel?

### Questions to Independent Press Standards Organisation (IPSO) and the Regulatory Funding Company (RFC)

173. IPSO has 96 publishers signed up as members. This includes most national daily newspapers and over 99 per cent of the regional press.<sup>214</sup> It has no plans to seek recognition from the Press Recognition Panel. In any case, it is not compliant with the recommendations made in the Leveson Report or the criteria in the Royal Charter which would be used by the Panel to judge whether or not to grant recognition to a regulator. IPSO appears to have the confidence of the press but lacks the confidence of, amongst others, those who represent the victims of press intrusion. We pose the following questions to IPSO and the RFC:
- Can IPSO, whilst maintaining the confidence of the press, make the necessary changes to gain the confidence of its current critics? Can it

---

<sup>212</sup> The Leveson Inquiry, Executive Summary, *op. cit.*, paragraph 146

<sup>213</sup> [Q 8](#)

<sup>214</sup> [Q 53](#) (Paul Vickers)

balance freedom of expression on the one hand with the individual's right to privacy on the other?

- Is the current balance of responsibility and power between IPSO and the RFC appropriate?
- Would it be more appropriate for IPSO, as an independent regulator, to have sole control over its regulations?
- Is it appropriate that the RFC owns the copyright to, and exercises editorial control over the Editors' Code of Practice? Should the RFC limit use of the Code to those to whom it grants a licence or should this code be made freely-available to all regulators who wish to use it?
- What consultation processes are in place regarding any changes to the Code, and are they sufficient?
- The Editors' Code states that corrections must receive "due prominence"<sup>215</sup> (see Chapter 3, paragraph 96). What does this concept mean in practice, and how is it enforced by IPSO?
- Will IPSO establish an arbitration service for the early resolution of disputes and if so, when will it be established?
- Does IPSO intend to assess how well the public understand the current system and know to whom they should address their concerns? Who is responsible for ensuring that the system is understood?

### **Question to The Independent Monitor of the Press (IMPRESS)**

174. We ask IMPRESS:

- Will IMPRESS, in the event of gaining a member who is a relevant publisher, seek recognition from the Press Recognition Panel? If so is it confident that it would thereby achieve the difficult balancing act between the press's freedom of expression on the one hand and the individual's right to privacy on the other?

### **Questions to the Government**

175. We consider that the following questions should be addressed by the Government:

- When does the Government plan to evaluate the new measures taken by the press and others to assess whether its aims have been met and the system is better for complainants, the public, journalists and the press industry as a whole?
- Under what circumstances would the Government take further action? Or will the current situation, whereby the majority of the press refuse to submit to the Royal Charter, be allowed to pertain indefinitely?

---

<sup>215</sup> Independent Press Standards Organisation, *Editors' Code of Practice*: [https://www.ipso.co.uk/assets/1/Code\\_A4\\_2014.pdf](https://www.ipso.co.uk/assets/1/Code_A4_2014.pdf) [accessed 4 March 2015]

## Conclusion

176. In 2011, the issue of Press Regulation was a major news story in itself. For now the issue has become less prominent. However, unless the UK has a system of press regulation which adequately balances the right to privacy with freedom of expression, and which has the confidence of potential claimants and the press itself, it is likely that this issue will come back again to haunt the public and the press.

## APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

---

### Members

Baroness Bakewell  
Lord Best (Chairman)  
Lord Clement-Jones  
Baroness Deech  
Lord Dubs  
Baroness Fookes  
Baroness Hanham  
Baroness Healy of Primrose Hill  
Lord Horam  
Bishop of Norwich  
Lord Razzall  
Baroness Scotland of Asthal  
Lord Sherbourne of Didsbury

### Declarations of Interest

Baroness Bakewell  
*Freelance journalist*

Lord Best (Chairman)  
*No relevant interests declared*

Lord Clement-Jones  
*No relevant interests declared*

Baroness Deech  
*No relevant interests declared*

Lord Dubs  
*No relevant interests declared*

Baroness Fookes  
*No relevant interests declared*

Baroness Hanham  
*No relevant interests declared*

Baroness Healy of Primrose Hill  
*No relevant interests declared*

Lord Horam  
*No relevant interests declared*

Bishop of Norwich  
*No relevant interests declared*

Lord Razzall  
*No relevant interests declared*

Baroness Scotland of Asthal  
*Attorney General from 28 June 2007 to 11 May 2010 and Shadow Attorney General from 11 May 2010 to 7 October 2011*

Lord Sherbourne of Didsbury  
*No relevant interests declared*

A full list of Members' interests can be found in the Register of Lords' Interests: <http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests>



## APPENDIX 2: LIST OF WITNESSES

---

Evidence is published online at [www.parliament.uk/press-regulation-where-are-we-now](http://www.parliament.uk/press-regulation-where-are-we-now) and available for inspection at the Parliamentary Archives (020 7219 3074).

Evidence received by the Committee is listed below in chronological order of oral evidence session and in alphabetical order. Those witnesses marked with \*\* gave both oral evidence and written evidence. Those marked with \* gave oral evidence and did not submit any written evidence. All other witnesses submitted written evidence only.

### Oral evidence in chronological order

**	Carolyn Regan, board Member, the Press Recognition Panel	<a href="#">QQ 1–11</a>
**	Dr David Wolfe QC, Chairman, Press Recognition Panel	
**	Jonathan Heawood, Director, the IMPRESS Project	<a href="#">QQ 12–21</a>
**	Walter Merricks CBE, Chairman, IMPRESS	
**	Sir Alan Moses, Chairman, Independent Press Standards Organisation	<a href="#">QQ 22–31</a>
**	Matt Tee, Chief Executive, Independent Press Standards Organisation	
**	Alan Rusbridger, Editor, The Guardian	<a href="#">QQ 32–41</a>
**	Bob Satchwell, Executive Director, the Society of Editors	
**	Dr Evan Harris, Associate Director, Hacked Off	<a href="#">QQ 42–50</a>
**	Joan Smith, Executive Director, Hacked Off	
**	Hugh Tomlinson QC, media law expert and Chair of the Hacked Off board	
*	Paul Vickers, Chairman, Regulatory Funding Company	<a href="#">QQ 51–58</a>
**	Professor Chris Frost, Chair of Ethics Council, National Union of Journalists	<a href="#">QQ 59–67</a>
**	Dr Martin Moore, Director, Media Standards Trust	

### Alphabetical list of all witnesses

	Early Resolution CIC	<a href="#">PRG0015</a>
	Financial Times	<a href="#">PRG0010</a>
**	The Guardian (QQ 32–41)	<a href="#">PRG0007</a>
**	Hacked Off (QQ 42–50)	<a href="#">PRG0011</a>
**	IMPRESS (QQ 12–21)	<a href="#">PRG0003</a>
**	Independent Press Standards Organisation (IPSO) (QQ 22–31)	<a href="#">PRG0014</a> <a href="#">PRG0016</a>
	Christopher Jefferies et al	<a href="#">PRG0009</a>

	Media Reform Coalition	<a href="#"><u>PRG0012</u></a>
**	Media Standards Trust (QQ 59–67)	<a href="#"><u>PRG0006</u></a>
	The MediaWise Trust	<a href="#"><u>PRG0013</u></a>
	Muslim Engagement & Development	<a href="#"><u>PRG0004</u></a>
**	National Union of Journalists (QQ 59–67)	<a href="#"><u>PRG0002</u></a>
**	Press Recognition Panel (QQ 1–11)	<a href="#"><u>PRG0001</u></a> <a href="#"><u>PRG0008</u></a>
*	Regulatory Funding Company (QQ 51–58)	
**	Society of Editors (QQ 32–41)	<a href="#"><u>PRG0005</u></a>

## APPENDIX 3: INQUIRY ANNOUNCEMENT

---

The House of Lords Communications Committee, chaired by Lord Best, will conduct a short inquiry to find out where things stand on press regulation.

### Background

On 29 November 2012 Lord Justice Leveson published his report into the “culture, practices and ethics of the press”. The report found that, “There have been too many times when, chasing the story, parts of the press have acted as if its own code, which it wrote, simply did not exist. This has caused real hardship and, on occasion, wreaked havoc with the lives of innocent people whose rights and liberties have been disdained.”<sup>216</sup>

In response to the Leveson report, on 30 October 2013, a Royal Charter on press regulation was granted. This allowed for one or more independent self-regulatory bodies for the press to be established. Any such body would be recognised and overseen by a Recognition Panel. This Panel came into existence on 3 November 2014.

The Press Complaints Commission, which had been the voluntary regulatory body for the industry, closed in September 2014. It was replaced by The Independent Press Standards Organisation (IPSO). In November 2014 a second body, The Independent Monitor for the Press (IMPRESS) was set up. Neither of these bodies has, as yet, sought recognition under the Royal Charter.

Many newspaper groups have signed up to IPSO. The Guardian, The Independent and the Financial Times are notable exceptions.<sup>217</sup>

The Committee will be holding oral evidence sessions in January 2015. These will look at the developments in press regulation since the Leveson report in 2012. It will seek to understand the current state of play and set out what is the policy of the Government and others in relation to the future.

### Oral evidence

The Committee’s first evidence session is expected be held on Tuesday 13<sup>th</sup> January at 3:30 pm in Committee Room 2, Palace of Westminster.

### Witnesses

Oral evidence will be sought from a cross-section of interested parties including: academics, the Press Recognition Panel, IPSO, IMPRESS, Hacked Off and representatives of newspapers and other publishers.

The Committee intends to conclude its evidence sessions towards the end of January 2015 to allow it to report before the end of the current Parliament.

Issues the Committee will consider within the course of this inquiry, include:

---

<sup>216</sup> The Leveson Inquiry, An inquiry in the culture, practices and ethics of the press, report, Executive Summary (November 2012): [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/229039/0779.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/229039/0779.pdf)

<sup>217</sup> ‘Press watchdog Ipsos will ‘damn’ deliberate rule-breakers’, *BBC* (9 November 2014): <http://www.bbc.co.uk/news/uk-29980886> [accessed 14 December 2014]

- What is the current process for someone wishing to make a complaint against a newspaper?
- How do the public know to whom to complain?
- Is it clear what conduct merits a complaint?
- What are the differences between the various bodies such as IPSO and IMPRESS, including the differences in the criteria for accepting and evaluating complaints?
- How important are the terms for membership; are these a deterrent to membership of a regulatory body?
- What is likely to be the effect of more than one regulator on a) the industry and b) the consumer? Does the current situation provide an adequate balance between consumer protection and press freedom?
- Will the funding mechanisms in place for the replacement organisation/s ensure effective regulation?
- Do any of the new regulators intend to seek recognition? If so, or if not, is there agreement as to the consequences and next steps?
- What variety of publications are covered by the current/intended regulations?
- What are the similarities and differences between the regulations for press and other forms of media?
- Who is taking an overall view of the system of press regulation in the UK?

We are not soliciting written evidence for this inquiry because it is intended to set out the current position rather than make recommendations about the future of press regulation. If, however, any individual or organisation would like to make a written submission they should, in the first instance, contact the Clerk.

15 December 2014

#### APPENDIX 4: PRESS REGULATION IN THE UK—TIMELINE

---

- 1947–49 First Royal Commission on the Press looks at press ethics and recommends a self-regulatory body of the press.
- 1953 The General Council of the Press is created by the press.
- 1962 Second Royal Commission on the Press looks at media ownership and economic issues. The General Council of the Press is replaced by the new Press Council.
- 1972 The Younger Committee report on privacy is critical of the Press Council.
- 1974–77 Third Royal Commission on the Press looks at editorial standards and freedom of choice for consumers. It suggests a new written Code of Practice. The Press Council rejects this.
- 1990 The Government commissions Sir David Calcutt to Chair a Privacy Committee looking into press intrusion. The Privacy Committee recommends replacing the Press Council with a new Press Complaints Committee (PCC) underpinned by a new Code of Practice. The press is given 18 months to implement an improved self-regulatory regime.
- 1991 PCC is set up with a Code of Practice.
- 1993 Sir David Calcutt reports on the progress of the PCC. Though progress is made, he does not think it sufficiently in line with his original recommendations and recommends the introduction of a Statutory Press Complaints Tribunal. The Government does not act on this recommendation.
- 1993–95 The House of Commons National Heritage Select Committee publishes a report on privacy and press intrusion. It makes recommendations on a new Statutory Press Ombudsman. The Government rejects these.
- 1997 The death of Princess Diana leads to a substantial re-writing of the Code of Practice.
- 2003 The House of Commons Culture, Media and Sport Select Committee publishes a report on privacy and media intrusion. It acknowledges on-going improvements at the PCC, but makes some suggested changes to the Code on new technology and subterfuge, as well as more transparency on appointments.
- The Information Commissioner's Office (ICO) launches *Operation Motorman* looking into data protection offences. The press are found to be recipients of illegally obtained information.
- 2006 The ICO publishes *What Price Privacy?* and *What Price Privacy Now?*, the latter listing the newspaper titles implicated in *Operation Motorman*.
- 2007 Clive Goodman/Glenn Mulcaire are convicted with respect to the phone hacking scandal. The PCC publishes a report on the issue: *Subterfuge and Newsgathering*.

- 2009 The Guardian phone hacking investigation takes place. The PCC publishes a further report in response: *Phone Message Tapping Allegations* (this is subsequently withdrawn on 6th July 2011).
- Jan 2011 *Operating Weeting* is launched.
- July 2011 Leveson Inquiry is announced. News of the World closes.
- Oct 2011 Baroness Buscombe resigns as Chair of the PCC.
- Jan 2012 During the Leveson Inquiry evidence is heard from the PCC and previous PCC staff, commissioners and chairs. Lord Hunt presents his proposals for a reformed PCC.
- Mar 2012 Lord Hunt announces the PCC is disbanding and its Director, Stephen Abell, departs.

Source: *The Leveson Inquiry, Submission from the Department for Culture, Media and Sport.*<sup>218</sup>

---

<sup>218</sup> The Leveson Inquiry, An inquiry in the culture, practices and ethics of the press, Submission from the Department for Culture, Media and Sport, 'Narrative on Press Regulation', [http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.levesoninquiry.org.uk/wp-content/uploads/2012/07/DCMS-submission\\_Narrative-on-press-regulation.pdf](http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.levesoninquiry.org.uk/wp-content/uploads/2012/07/DCMS-submission_Narrative-on-press-regulation.pdf)

## APPENDIX 5: IPSO MEASURED AGAINST THE 38 RECOMMENDATIONS IN THE LEVESON REPORT

Leveson Recommendation	Status
1. An independent self-regulatory body should be government by an independent Board. In order to ensure the independence of the body, the Chair and members of the Board must be appointed in a genuinely open, transparent and independent way, without any influence from industry or Government.	Not satisfied
2. The appointment of the Chair of the Board should be made by an appointment panel. The selection of that panel must itself be conducted in an appropriately independent way and must, itself, be independent of the industry and of Government.	Not satisfied
3. The appointment panel: <ul style="list-style-type: none"> <li>(a) Should be appointed in an independent, fair and open way;</li> <li>(b) Should contain a substantial majority of members who are demonstrably independent of the press;</li> <li>(c) Should include at least one person with a current understanding and experience of the press;</li> <li>(d) Should include no more than one current editor of a publication that could be a member of the body.</li> </ul>	Not satisfied
4. The appointment of the Board should also be an independent process, and the composition of the Board should include people with relevant expertise. The requirement for independence means that there should be no serving editors on the Board.	Not satisfied
5. The members of the Board should be appointed by the same appointment panel that appoints the Chair, together with the Chair (once appointed), and should: <ul style="list-style-type: none"> <li>(a) Be appointed by a fair and open process;</li> <li>(b) Comprise a majority of people who are independent of the press;</li> <li>(c) Include a sufficient number of people who are independent of the press;</li> <li>(d) Not include any serving editor; and</li> <li>(e) Not include any serving member of the House of Commons or any member of the Government</li> </ul>	Not satisfied

Leveson Recommendation	Status
<p>6. Funding for the system should be settled in agreement between the industry and the Board, taking into account the cost of fulfilling the obligations of the regulator and the commercial pressures on the industry. There should be an indicative budget which the Board certifies is adequate for the purpose. Funding settlements should cover a four or five year period and should be negotiated well in advance.</p>	Not satisfied
<p>7. The standards code must ultimately be the responsibility of, and adopted by, the Board, advised by a Code Committee which may comprise both independent members of the Board and serving editors.</p>	Not satisfied
<p>8. The code must take into account the importance of freedom of speech, the interests of the public (including the public interest in detecting or exposing crime or serious impropriety, protecting public health and safety and preventing the public from being seriously misled) and the rights of individuals. Specifically, it must cover standards of:</p> <ul style="list-style-type: none"> <li>(a) Conduct, especially in relation to the treatment of other people in the process of obtaining material;</li> <li>(b) Appropriate respect for privacy where there is no sufficient public interest justification for breach and</li> <li>(c) Accuracy, and the need to avoid misrepresentation</li> </ul>	Not satisfied
<p>9. The Board should require, of those who subscribe, appropriate internal governance processes, transparency on what governance processes they have in place, and notice of any failures in compliance, together with details of steps taken to deal with failures in compliance.</p>	Satisfied
<p>10. The Board should require all those who subscribe to have an adequate and speedy complaint handling mechanism; it should encourage those who wish to complain to do so through that mechanism and should not receive complaints directly unless or until the complaints system has been engaged without the complaint being resolved in an appropriate time.</p>	Satisfied



Leveson Recommendation	Status
11. The Board should have the power to hear and decide on complaints about breach of the standards code by those who subscribe. The Board should have the power (but not necessarily in all circumstances the duty) to hear complaints whoever they come from, whether personally and directly affected by the alleged breach, or a third party seeking to ensure accuracy of published information. In the case of third party complaints the views of the party most closely involved should be taken into account.	Not satisfied
12. Decisions on complaints should be the ultimate responsibility of the Board, advised by complaints handling officials to whom appropriate delegations may be made.	Satisfied
13. Serving editors should not be members of any Committee advising the Board on complaints and any such Committee should have a composition broadly reflecting that of the main Board, with a majority of people who are independent of the press.	Not satisfied
14. It should continue to be the case that complainants are able to bring complaints free of charge.	Satisfied
15. In relation to complaints, the Board should have the power to direct appropriate remedial action for breach of standards and the publication of corrections and apologies. Although remedies are essentially about correcting the record for individuals, the power to require a correction and an apology must apply equally in relation to individual standards breaches (which the Board has accepted) and to groups of people (or matters of fact) where there is no single identifiable individual who has been affected.	Not satisfied
16. The power to direct the nature, extent and placement of apologies should lie with the Board.	Not satisfied
17. The Board should <b>not</b> have the power to prevent publication of any material, by anyone, at any time although (in its discretion) it should be able to offer a service of advice to editors of subscribing publications relating to code compliance which editors, in their discretion, can deploy in civil proceedings arising out of publication.	Satisfied
18. The Board, being an independent self-regulatory body, should have authority to examine issues on its own initiative and have sufficient powers to carry out investigations both into suspected serious or systemic breaches of the code and failures to comply with directions of the Board. Those who subscribe must be required to cooperate with any such investigation.	Not satisfied

Leveson Recommendation	Status
<p>19. The Board should have the power to impose appropriate and proportionate sanctions, (including financial sanctions up to 1% turnover with a maximum of £1m), on any subscriber found to be responsible for serious or systemic breaches of the standards code or governance requirements of the body, The sanctions that should be available should include power to require publication of corrections, if the breaches relate to accuracy, or apologies if the breaches relate to other provisions of the code.</p>	Unclear/insufficient information to date
<p>20. The Board should have both the power and a duty to ensure that all breaches of the standards code that it considers are recorded as such and that proper data is kept that records the extent to which complaints have been made and their outcome; this information should be made available to the public in a way that allows understanding of the compliance record of each title.</p>	Not satisfied
<p>21. The Board should publish an Annual Report identifying:</p> <ul style="list-style-type: none"> <li>(a) The body's subscribers, identifying any significant changes in subscriber numbers;</li> <li>(b) The number of complaints it has handled and the outcomes reached, both in aggregate for all subscribers and individually in relation to each subscriber;</li> <li>(c) A summary of any investigations carried out and the result of them;</li> <li>(d) A report on the adequacy and effectiveness of compliance processes and procedures adopted by subscribers;</li> <li>(e) Information about the extent to which the arbitration service has been used</li> </ul>	Not satisfied
<p>22. The Board should provide an arbitral process in relation to civil legal claims against subscribers, drawing on independent legal experts of high reputation and ability on a cost-only basis to the subscribing member. The process should be fair, quick and inexpensive, inquisitorial and free for complainants to use (save for a power to make an adverse order for the costs of the arbitrator are frivolous or vexatious). The arbitrator must have the power to hold hearings where necessary but, equally, to dispense with them where it is not necessary. The process must have a system to allow frivolous or vexatious claims to be struck out at an early stage.</p>	Not satisfied

Leveson Recommendation	Status
23. A new system of regulation should not be considered sufficiently effective if it does not cover all significant news publishers.	Satisfied
24. The membership of a regulatory body should be open to all publishers on fair, reasonable and non-discriminatory terms, including making membership potentially available on different terms for different types of publisher.	Unclear/insufficient information to date
25. Recommendation 25 relates to the powers of the Information Commissioner.	Relates to the Information Commissioner—not relevant here
26. Recommendation 26 relates to the issue of costs subject to Recommendation 22 on Arbitration.	Relates to court costs—not relevant here
27. Leveson Recommendations 27–33 all relate to the formation and functions of an independent recognition body. The IPSO scheme does not contain any reference to a recognition body.	Relates to the Recognition Panel—not relevant here
28. See above	Relates to the Recognition Panel—not relevant here
29. See above	Relates to the Recognition Panel—not relevant here
30. See above	Relates to the Recognition Panel—not relevant here
31. See above	Relates to the Recognition Panel—not relevant here
32. See above	Relates to the Recognition Panel—not relevant here
33. See above	Relates to the Recognition Panel—not relevant here
34. In addition to Recommendation 10 above, a new regulatory body should consider requiring: <ul style="list-style-type: none"> <li data-bbox="309 1816 1045 1928">(a) That newspapers publish compliance reports in their own pages to ensure that their readers have easy access to the information, and</li> <li data-bbox="309 1944 1045 2058">(b) As proposed by Lord Black, that a named senior individual within each title should have responsibility for compliance and standards</li> </ul>	Unclear/insufficient information to date

Leveson Recommendation	Status
35. A new regulatory body should consider establishing a kite mark for use by members to establish a recognised brand of trusted journalism.	Satisfied
36. A regulatory body should consider engaging in an early thorough review of the Code (on which the public should be engaged and consulted) with the aim of developing a clearer statement of the standards expected of editors and journalists.	Not satisfied
37. A regulatory body should be prepared to allow a complaint to be brought prior to commencing legal proceedings if so advised. Challenges to that approach (and applications to stay) can be decided on the merits.	Satisfied
38. In conjunction with Recommendation 11 above, consideration should also be given to Code amendments which, while fully protecting freedom of speech and the freedom of the press, would equip that body with the power to intervene in cases of allegedly discriminatory reporting, and in so doing reflect the spirit of equalities legislation.	Not satisfied
39. A new regulatory body should establish a ring-fenced enforcement fund, into which receipts from fines could be paid, for the purpose of funding investigations.	Unclear/insufficient information to date
40. A new regulatory body should continue to provide advice to the public in relation to issues concerning the press and the Code along with a service to warn the press, and other relevant parties such as broadcasters and press photographers, when an individual has made it clear that they do not welcome press intrusion.	Not satisfied
41. A new regulatory body should make it clear that newspapers will be held strictly accountable, under their standards code, for any material that they publish, including photographs (however sourced).	Satisfied
42. A regulatory body should provide guidance on the interpretation of the public interest that justifies what would otherwise constitute a breach of the Code. This must be framed in the context of the different provisions of the Code relating to the public interest, so as to make it easier to justify what might otherwise be considered as contrary to standards of propriety.	Not satisfied
43. A new regulatory body should consider being explicit that where a public interest justification is to be relied upon, a record should be available of the factors weighing against and in favour of publication, along with a record of the reasons for the conclusion reached.	Unclear/insufficient information to date

Leveson Recommendation	Status
44. A new regulatory body should consider whether it might provide an advisory service to editors in relation to consideration of the public interest in taking particular actions.	Satisfied
45. A new regulatory body should consider encouraging the press to be as transparent as possible in relation to the sources used for stories, including providing any information that would help readers to assess the reliability of information from a source and providing easy access such as web links, to publicly available sources of information such as scientific studies or poll results. This should include putting the names of photographers alongside images. This is not in any way intended to undermine the existing provisions on protecting journalists' sources, only to encourage transparency where it is both possible and appropriate to do so.	Unclear/insufficient information to date
46. A regulatory body should establish a whistle-blowing hotline for those who feel they are being asked to do things which are contrary to the code.	Satisfied
47. The industry generally and a regulatory body in particular should consider requiring its members to include in the employment or service contracts with journalists a clause to the effect that no disciplinary action would be taken against a journalist as a result of a refusal to act in a manner which is contrary to the code of practice.	Satisfied

Source: Media Standards Trust, *The Independent Press Standards Organisation (IPSO): An assessment* <sup>219</sup>

<sup>219</sup> Media Standards Trust, *The Independent Press Standards Organisation (IPSO): An assessment* (2013) <http://mediastandardstrust.org/wp-content/uploads/downloads/2013/11/MST-IPSO-Analysis-15-11-13.pdf>

**APPENDIX 6: GLOSSARY**

---

Adjudication	A procedure for resolving disputes without resorting to lengthy and expensive court procedure
Arbitration	A procedure that requires a neutral third party to hear a dispute between parties
ICO	Information Commissioner's Office
IMPRESS	Independent Monitor for the Press
IPSO	Independent Press Standards Organisation—a body for the self-regulation of the press.
Ofcom	Office of Communications
Ombudsman	Appointed to investigate complaints against maladministration by a particular category of organization or in a particular area of public life, such as local authorities, hospitals, or pensions. A person who handles complaints, a mediator; a spokesperson for the rights of a particular individual or group.
Operation Elveden	Investigation into allegations of inappropriate payments to police
Operation Weeting	Police investigation into allegations of phone hacking
PCC	Press Complaints Commission—closed in September 2014
PNC	Police National Computer
PressBof	Press Board of Finance
Press Recognition Panel	The Press Recognition Panel came into existence on 3 November 2014. The Royal Charter provided that its function was to carry out activities relating to the recognition of press regulators.
RFC	Regulatory Funding Company
Royal Charter	The Royal Charter on self-regulation of the press is a UK Royal Charter approved in 2013.
Watchdog	A group or organisation which monitors (and often regulates) the practices of companies, agencies, etc., operating in the specified field.
Whistle-blowing hotline	The Leveson Report recommended the setting up of a confidential whistle-blowing hotline for journalists who feel they are being asked to do things which are contrary to the Code.