

NO MORE EXCUSES

**For government inaction
on failed press regulation**

A Hacked Off report



This autumn, the Press Recognition Panel (“PRP”) – the independent body set up following the Leveson Report to decide whether press regulators meet standards of independence and effectiveness – will report to Parliament on the ‘state of press recognition’.

Under the Royal Charter agreed by all parties in Parliament, the PRP was tasked with submitting this report, once newspapers had been given a year to set up their own self-regulator and submit it for scrutiny (or “recognition”) to the PRP.

This system of recognition for new press regulators was proposed by Sir Brian Leveson after his 15-month Inquiry into the culture, practices and ethics of the press. It followed almost universal agreement that the self-regulatory system run, controlled and then operated by the press – the Press Complaints Commission (“PCC”) – had repeatedly and demonstrably failed to uphold standards.

The Leveson system was endorsed by victims of press abuse, the public, the National Union of Journalists, free speech advocates and all major parties in Parliament, with overwhelming majorities in both Houses.

Once again, the big newspaper groups are refusing to listen. They have instead set up their own fake regulator – the so-called “Independent Press Standards Organisation” (IPSO). IPSO is no better than the old failed PCC, and has refused to submit itself for recognition.

Yet again, as it has done on every previous occasion when it has been called to account over the last 70 years, the national press is seeking to avoid any independent scrutiny. IPSO has even commissioned, funded and appointed its own phoney ‘external review’ in an attempt to convince the public that it is “making progress”.

Now, as before, it is grasping at excuses to try to persuade Parliament and the public that press industry regulation should be left entirely to the press.

LEVESON SAID:

“A backstop regulator would only be required if either the whole of the press industry had failed to accept the principle of independent regulation and thus failed to organise an independent body meeting the proposed statutory requirements or a significant proportion of the press (and, in particular, any of the national press) had refused to engage with an independent regulator. This would be a serious indictment of the ability and willingness of the industry to engage with standards regulation by any means short of direct compulsion and, as I have said, would undeniably reinforce the need for some statutory system of standards to be put in place.”

“In my opinion it would be better that some statutory backstop regulator be given the powers to enforce standards, including powers to require publication of apologies and corrections, the power to investigate concerns of serious standards breach and the power to impose fines (proportionate to the gravity of any breach and the means to pay) in respect of serious or systemic breaches of standards (or failure to publish a required apology or correction).”

After decades of failed press self-regulation and Parliamentary inaction, history is repeating itself just as Leveson said it would. This will not do. Recognition is the only test of whether a regulator is independent and effective. Here we explain why the newspapers’ excuses don’t stack up and why Parliament must act to prevent yet another cycle of press abuse.

EXCUSE 1

'But the press has improved'

"How we are operating now, and how newsrooms are operating, is radically different from the past... they think far more seriously about what they are doing than they did before"

Sir Alan Moses, 17 June 2016, Press Gazette interview

EXACTLY THE SAME CLAIMS WERE MADE AFTER THE 1990 CALCUTT INQUIRY:

The press and the PCC tried to fool politicians into thinking that no more action was needed. The supporters of IPSO are again saying that the papers have cleaned up their act, but do not provide a shred of objective evidence to back up that self-serving claim. Press abuse and failed regulation continue.

THE FACTS:

2014 - 2015

During IPSO's first year:

- A young man was falsely accused by the papers of murder. IPSO did nothing. After winning a libel case his family secured only a tiny apology.
- A traveller was wrongly blamed for two deaths. A complaint to IPSO resulted in a tiny correction printed months after the original story and after destroying her life.
- Victims of sexual abuse and rape were identified without consent. IPSO did nothing.
- A blind woman was discriminated against for her disability and identity and was then victimised for making a complaint. IPSO has done nothing to prevent it happening again.

Many more examples feature in Hacked Off's 2015 dossier of ongoing press abuse, "The Failure of IPSO".

2015 - 2016

During IPSO's second year:

- The Sun and the Daily Mail published a picture of the alleged 'Talk Talk' hacker (a child) on their front pages with only a thin black strip covering his eyes. The Sun also printed a photo of his mother and named him. The suspect was clearly identifiable but IPSO did nothing. The family was left to sue the papers for breach of privacy and had to move house following the publicity.
- A Mail on Sunday journalist duped a grieving mother into giving an 'exclusive interview' after infiltrating the wake at her family home and posing as a well-wisher. IPSO did nothing and didn't launch an investigation.
- The Daily Star and Sun claimed that a "bridesmaid killed herself after four pals wed" breaking the Samaritans' Media Guidelines for the Reporting of Suicide which warns against speculating about causes.

IPSO did nothing to correct

these false EU referendum stories:

- "Migration 'has created 900 no-go areas in EU': Devastating reports shows order breaking down – including in London" (April 2, Daily Mail); in fact, no such report existed.
- "Migrants' surge 'will raise toll of UK terror cells'" (April 6, Daily Express): in fact, the report cited only suggested that migration 'could be exploited by terrorists' and by contrast, noted the toll of those literally dying to enter Europe.
- "Great Migrant Swindle" (May 13, The Sun): in fact, the claim that 800,000 migrants arrived in the UK from the EU last year included 'short term migrants' such as those that might be in the UK for just a few weeks.
- "Brexit or die and be raped (April 30, Daily Star) was a story about a speech made by Mr Farage: in fact, Mr Farage never used the phrase or even used the word 'rape'. The headline was completely misleading.

**PRESS ABUSE CONTINUES AND THE BIG NEWSPAPERS
CONTINUE TO REJECT INDEPENDENT PRESS SELF-REGULATION
THAT WOULD PROVIDE 'AFTER THE EVENT' REDRESS.**

EXCUSE 2

‘But IPSO is independent of the press industry’

“IPSO is actually getting on with providing a service to the public of independent regulation”

Sir Alan Moses 29 September 2015, Media Lawyers Resource Centre Conference

THE FACTS:

IPSO is funded and controlled by the Regulatory Funding Company (RFC), which is run by the big national newspapers groups. The RFC’s Board consists only of press executives, and meets in secret.

- The RFC has extensive powers, of a kind which were explicitly rejected by Leveson. It has complete power over IPSO’s constitution, its contract with newspapers and its regulations.
- The RFC (run by the big newspaper groups) decides on the rules that the press must follow, through its own sub-committee, the Editors’ Code Committee. This is chaired by the editor of the Daily Mail, Paul Dacre, and has repeatedly failed to consult the public or journalists on what those rules should be. The newspapers write their own rule-book.
- The four year funding deal does nothing to change the underlying grip held by the industry over its regulation, which is tighter than the grip it had over the PCC.

IPSO’s appointments panel was selected in secret, and the published rules for their selection were covertly amended so as to allow an appointments process that breached the Nolan principles on appointments to public office.

- The panel was chosen in a secret process by a group appointed by former PCC Chair Lord Hunt. Amongst those who selected the appointments panel was the Sun’s Trevor Kavanagh who admitted that he helped to write that paper’s infamous and discredited Sun Hillsborough “Truth” story, which smeared dozens of innocent deceased Liverpool supporters.

IPSO’s board of 11 includes five industry representatives (whose appointments must be agreed by the newspapers), and another six whose appointments can be vetoed by the press members of the appointment panel.

- Among those industry representatives is the Sun’s Trevor Kavanagh – who helped select his own appointment panel!

Having a retired Judge as the Chair does NOT make IPSO independent.

- IPSO’s chair Sir Alan Moses is paid £150,000 per year for a three-day week by the RFC. He immediately promised to deliver major changes to the RFC’s “awful collection of rules and regulations”. After more than a year of secret talks, no significant changes were made. In fact, in some areas industry control has tightened.
- The Chair of IPSO has refused to debate with IPSO’s critics and has told the press they will never be fined.
- Former chairman of the RFC Paul Vickers explicitly told the House of Lords Select Committee on Communications “When Sir Alan says he’s going to put a red line through a whole load of things, he can’t.”

IPSO IS NOT INDEPENDENT – IT IS STILL WHOLLY CONTROLLED BY THE MAJOR NEWSPAPER GROUPS.

EXCUSE 3

‘But Leveson is not ‘holy writ’

“But no-one with any experience of regulation believes that it can be effective by a process of ticking boxes...have we got the 38 distinctions between what we do and what Leveson recommended down to 35, 34 or 5? Success requires the continuing dynamic of dialogue and of persuasion.”

Sir Alan Moses 12 March 2015, Speech at London School of Economics

THE FACTS:

The Leveson Inquiry:

- Was a wholly independent process, led by a senior independent judge, with carefully defined and transparent terms of reference.
- Took evidence from hundreds of individuals and organisations over a 15-month period.
- Produced recommendations that were supported by every party in Parliament.
- Resulted in a new framework for audited self-regulation that included several concessions to the press from the original recommendations.
- Culminated in a Royal Charter system that was supported by the National Union of Journalists, more than 70% of the public, victims of press abuse, and the vast majority of media academics, and that was then passed by an overwhelming majority in Parliament.
- Reached the clear and unequivocal conclusion that self-regulators must be ‘recognised’, and that responsibility for this must rest with a body that is itself entirely independent of the press and of politicians.

Leveson warned us about the very manoeuvres IPSO is pursuing:

- During the Inquiry, Leveson invited the industry to submit their plan for a new self-regulator – what he described as the “model proposed by PCC and PressBof”. After careful consideration he firmly rejected this plan as being neither independent nor effective.
- IPSO and its industry master, the RFC, are modelled almost exactly on the PCC/PressBof plan which Sir Brian Leveson rejected.
- Leveson warned about attempts by the press to sabotage the recommendations of a public inquiry whilst pretending to abide by them. This is precisely what happened after the Calcutt Inquiry in 1990 and what the press is trying to achieve today.
- Leveson criticised the practice of the PCC establishing reviews of its own performance, which turned out to be a sham: exactly as IPSO is doing now.

**A SELF-REGULATOR WHICH IS RECOGNISED BY THE PRP –
A BODY INDEPENDENT OF PRESS AND POLITICIANS -
IS THE ONLY WAY OF SECURING REAL CHANGE.**

EXCUSE 4

‘But IPSO is better than the PCC and improving’

“Of course we will disappoint from time to time, we will make mistakes and fail to achieve as much as we ought to be achieving... but we are trying and we’re much, much better than nothing and much, much better than before.”

Sir Alan Moses 29 September 2015, Media Lawyers Resource Centre Conference

THE FACTS:

Changes to the Editors’ Code have been minor and mostly cosmetic.

Announced in Feb 2016, these ‘changes’ took 15 months. Neither the Code Committee (an industry body) nor IPSO consulted the public. The changes were decided in secret by the industry itself.

- The clause on accuracy was promoted as being ‘new’ because it included specific reference to unsupported headlines, but headlines have always been included in accuracy requirements (as set out in the Editors Codebook 2014 Edition, p.26).
- The ‘new clause on suicide’ was not new, just renumbered (from 5(ii) to a stand-alone 5).
- The ‘new reference’ to gender identity in the discrimination clause was not new. It had always been covered, as the Code Committee of the old PCC had announced back in 2005.

- The Code preamble now states that “a publication subject to an adverse adjudication must publish it in full and with due prominence, as required by IPSO”. This was already in the Code. But IPSO, like the newspapers, does not consider that “due” prominence means “equal” prominence and IPSO has never required that corrections or adjudications be corrected with equal prominence. So newspapers have simply continued their practice of ‘burying’ corrections and adjudications at the bottom of inside pages. In some cases, IPSO has failed to enforce even what it has ‘required’.

IPSO has not launched a single investigation nor issued a single fine.

The much-vaunted claim that it can levy “million pound fines” was baseless propaganda. This is because any fine can be vetoed by the same newspapers that IPSO supposedly regulates. After two years of operation and despite repeated abuses, there has been no hint of any fine or any investigation.

IPSO’s “pilot arbitration scheme” is a cosmetic operation.

Affordable, mandatory arbitration is an integral element of the Leveson framework, allowing access to justice for ordinary victims of press abuse when facing the enormous power and wealth of newspaper publishers. IPSO’s scheme:

- Allows participating publishers to opt out on a case by case basis, meaning publishers can ‘cherry-pick’ which cases to take.
- Charges the public £2,800 + VAT to get a final ruling – a fee that is out of reach for most ordinary people.
- Is heavily biased towards the press at every juncture, including an arbitrary cap on damages, and multiple press vetoes for example over whether the arbitrator can hold an oral hearing.

IPSO is not the “toughest regulator in the world”

- A tough regulator would bolster standards to give protection to the public. It would act on its own initiative; draw attention to patterns of bad behaviour; bear down on repeat offenders; and protect complainants from being victimised by newspapers. However, like the PCC before it, IPSO does none of these things.

IPSO’S “IMPROVEMENTS” ARE NON-EXISTENT.

EXCUSE 5

‘But Parliament left it to the press to decide what to do’

“It is incoherent to talk of defying the will of Parliament when Parliament has left them to make their own choice.”

Sir Alan Moses 12 March 2015, Speech at London School of Economics

THE FACTS:

- This is a deliberate distortion of Sir Brian Leveson's carefully considered recommendations.
- Leveson's proposed new system of press regulation was designed to give the press time to set up or reform its own self-regulator. It was devised explicitly to demonstrate that – unlike the PCC – it was independent of the industry and effective in protecting both the general public and working journalists.
- To ensure that there would be no industry control, a self-regulator would need to be “recognised” as meeting the necessary criteria by an independent body – this is the Press Recognition Panel (PRP).
- To encourage the press to join this recognition system, Leveson recommended incentives that would guarantee access to justice for members of the public who were victims of illegal behaviour by newspapers who did not join a recognised regulator.
- Leveson anticipated that the major publishers might reject the incentivised system. He proposed that, if they did, Parliament would need to act by setting up a ‘back stop’ option which would provide sufficient protection for members of the public.
- The independent PRP will present a report to Parliament in autumn 2016 that will formally report on whether all significant news publishers have joined an independent regulator.
- Leveson said that if such a report found that the industry had failed to accept his recommendations, then Parliament must act, to protect the public, good journalism, and all those affected by press abuse.

AFTER 70+ YEARS OF FAILED PRESS REGULATION, PARLIAMENT MUST ACT.

During the Leveson Inquiry, former Prime Minister John Major warned:

“20-odd years ago – 23 years ago, I think – a senior minister said the press were drinking in the last- chance saloon. I think on this occasion it’s the politicians who are in the last-chance saloon. If, at the end of this Inquiry, with the recommendations that may be made – and I don’t seek to forecast what they may be, but if the recommendations that are made are not enacted and nothing is done, it is difficult to see how this matter could be returned to in any reasonable period of time, and those parts of the press which have behaved badly will continue to behave badly and put at a disadvantage those parts of the press that do not behave badly.”

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