

# IPSO: REGULATOR OR COMPLAINTS HANDLER?

HOW UK NEWS  
PUBLISHERS  
SET UP THEIR  
OWN REGULATOR  
TO AVOID SCRUTINY

## **SUMMARY REPORT**



**GORDON RAMSAY  
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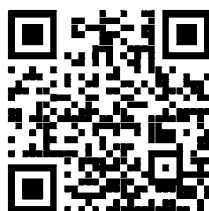
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## WHY THIS REPORT MATTERS

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Virtually every major trade or industry – from plumbing to policing, from banking to broadcasting – is subject to some form of regulatory framework. Effective regulation stands alongside the law as an essential means of upholding professional standards, promoting confidence in practitioners, and holding individuals and powerful corporations to account for negligence or wrongdoing.

This study examines the background, structure and performance of the Independent Press Standards Organisation (IPSO), which since 2014 has been presented by large parts of the press industry as the principal regulator of print and online journalism in the UK. It concludes that IPSO is deliberately constrained by the newspaper industry from acting as an effective, independent regulator that can uphold professional standards and command public respect.

In fact, this report shows, for the first time, how the IPSO structure was essentially created by the industry *in advance of* – and not in response to – the Leveson Report. It was designed to perform the function of a complaints handler rather than a genuine industry regulator, much like its discredited predecessor the Press Complaints Commission (PCC). It was therefore never intended, nor is it able, to operate according to the clear principles for effective and independent self-regulation laid down by Lord Justice Leveson.

For journalism, the consequences of absent or ineffectual regulation can be profound. It is unfair to the public who see injustices go unchallenged. It is unfair to the vast majority of working journalists who care about standards and follow agreed professional codes, but see poor practices ignored and misconduct go unpunished. And crucially, it undermines trust in a vital democratic institution at a time that professional newsgathering and accurate reporting is under huge pressure from social media platforms.

There are further consequences of this deficient regulation for imminent legislative initiatives around online harm and digital markets. In attempting to differentiate between social media platforms and news publishers, these initiatives will seek to protect certain journalistic privileges by reference to regulatory bodies that purport to implement codes of practice. **Those bodies will effectively be interpreted as guarantors of professional journalistic standards.** It is clear from this study that IPSO is not in a position to fulfil this regulatory responsibility.

Parliament has legislated for an independent process of press self-regulation, as recommended by Lord Justice Leveson in his landmark report. The Press Recognition Panel was established precisely to act as a guarantor of regulatory standards in which the public and journalists can have faith, and has since recognised IMPRESS as a self-regulator that meets those standards. As long as IPSO chooses to remain outside the framework of independent scrutiny, there can be no assurance that it acts as a genuinely independent arbiter of professional standards.

**Both the British public and working journalists deserve regulation that is effective without inhibiting a free press, is genuinely independent, and commands public respect; future public policy interventions must take account of the continuing determination of the industry to avoid proper scrutiny and accountability.**

**Gordon Ramsay & Steven Barnett**  
**21 May 2021**

# KEY POINTS

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## Part 1 – Independence and Effectiveness: The Creation of IPSO

- IPSO was largely created from draft proposals submitted by the newspaper industry to the Leveson Inquiry in July 2012. It was rejected as an effective plan by Sir Brian Leveson.
- Of 84 components of the draft industry proposal, three-quarters were incorporated into the governance documents of IPSO, despite Leveson's explicit rejection.
- In some areas, the industry actually weakened its own Leveson proposals when transferring them to IPSO. These dilutions included the definition of a 'systemic failure' necessary for IPSO to launch a standards investigation and levy fines on members.
- IPSO bypassed the vast majority of Leveson's recommendations, but its creation was accompanied by a comprehensive lobbying operation from news publishers designed to create the opposite impression.

## Part 2 – Enforcement: Standards Investigations and Sanctions

- A last-minute wording change inserted by the newspaper industry ensures that IPSO has almost no ability to launch a standards investigation or impose financial sanctions.
- IPSO's inability to deploy a credible enforcement function essentially reduces its regulatory powers to that of a complaints-handling body. It does not satisfy the definition of a regulator.
- A series of case studies – on IPSO's response to clear examples of discrimination, inaccuracy and journalistic subterfuge – illustrate its lack of power in enforcing journalistic standards.

## Part 3 – Monitoring, Complaints-Handling and Transparency

- IPSO does not record code breaches in members' internal complaints processes; it therefore cannot effectively monitor compliance with the Editors' Code.
- There are significant problems in how IPSO's complaints-handling balances interests of members against those of complainants.
- IPSO's annual reports do not fully satisfy their own regulations: they fail to include information on the adequacy and effectiveness of members' compliance processes.
- Several IPSO members – including one of the largest local publishers – do not supply sufficient information on their websites for members of the public to make an informed complaint.
- Published annual statements by IPSO members fail to satisfy regulatory obligations, despite IPSO acknowledging that reform in this area was needed.

# SUMMARY

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## REPEATING THE CYCLE BY EVADING REFORM

The newspaper industry's response to the Leveson Inquiry was not – as with previous public inquiries into systemic failures of press regulation – an exercise in cherry-picking and selective reform. Instead, the industry itself produced a new system in July 2012, months before any public recommendations. It then effectively ignored the recommendations of a judicial inquiry in favour of its own system.

IPSO and the industry's July 2012 draft plan are not exact matches, but the adoption of three-quarters of its proposals into the IPSO documentation demonstrates a clear lineage between the two, as does replication of some passages word for word. Furthermore, some elements of the industry plan were accepted by Leveson, only then to be weakened or effectively removed when IPSO's documents were finalised.

This refusal to take notice of a year-long judicial inquiry in response to a collapse in professional standards is compounded by the industry's behaviour in acting as lobbyist and propagandist to further its own self-interest through the columns of its newspapers. In the event of further public interventions in this area – which history suggests are almost inevitable – any subsequent inquiry should consider this analysis when engaging with the industry.

It is perfectly possible that IPSO will perform all of its duties and functions impeccably (though Parts 2 and 3 of this report demonstrate clear deficiencies), and that its staff are diligent in fulfilling their responsibilities. But IPSO's regulatory powers are determined by the governance documents that set out its articles, its rules and regulations, and its contractual agreement with its members. As this report shows, the key components of this framework were produced by the industry in advance of Leveson's report and retain industry influence over its own regulation.

Without major structural reform – as advocated by Leveson in his comprehensive rejection of the industry's proposed plan – IPSO cannot be anything other than a body that is, as the second Calcutt Report eloquently described the Press Complaints Commission in 1993, 'set up by the industry, 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>1</sup>

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<sup>1</sup> Department of National Heritage (1993), *Review of Press Self-Regulation*, London: HMSO, Para 5.26, p. 41.

## COSMETIC CHANGE WITH SERIOUS IMPLICATIONS

Vital components of Leveson's framework were the new regulator's powers of investigation and the ability to impose meaningful sanctions on miscreant publishers. These would ensure that the public had recourse to a genuine regulator rather than simply a complaints-handling regime of the kind operated by the old PCC.

Ostensibly, the IPSO framework provides for such powers. However, on proper examination, it is clear that the Regulatory Articles are drafted in such a way as to render those powers virtually worthless. Crucially, the 'serious and systemic failure' formulation – inserted at the last minute into IPSO's regulations by industry representatives – significantly raises the bar by which an investigation may be proactively launched, and thus weakens a core regulatory function. It remains unclear why representatives of IPSO, in public statements that in many ways echo those of the PCC, defend those parts of its constitutional documents that significantly limit its own powers.<sup>2</sup>

It is still possible for the 'serious and systemic' definition to be tested but – as the case studies outlined here demonstrate – even in very high-profile cases IPSO either lacks the ability to intervene (as with discrimination) or has elected not to do so, even when presented with significant evidence of potential wrongdoing. Whether such inaction is due to an intentionally high bar imposed by the industry when drafting IPSO's regulations, or to institutional resistance by IPSO itself, a power that remains unused whatever the circumstances is as redundant as a power that cannot be invoked. Both outcomes suggest that IPSO in its current form cannot call itself 'a regulator as that term is commonly understood.'<sup>3</sup> It is in that respect virtually no different from the discredited PCC.

## BLIND SPOTS IN MONITORING AND OPACITY IN TRANSPARENCY

Documentary and empirical evidence demonstrates that IPSO is structurally unable to fulfil a comprehensive monitoring role via its recording and handling of complaints, and fails to satisfy the transparency commitments laid down in its own governance documents.

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2. IPSO (2019) 'Response to the Media Standards Trust report', ipso.co.uk: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/270943/0780\\_iv.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/270943/0780_iv.pdf)

3. Leveson Inquiry (2012) *An Inquiry into the Culture, Practices and Ethics of the Press: Report, Volume IV*: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/270943/0780\\_iv.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/270943/0780_iv.pdf) (p. 1541).



Shortcomings in IPSO's complaints-handling functions demonstrate the system's inability to monitor effectively the industry it is supposed to hold to account. Moreover, its failure to obtain or publish any information about the extent of code breaches handled in members' own internal complaints processes – a problem noted and criticised by its own internal review in 2016 – further diminishes IPSO's ability to assess compliance of its members with the standards it purports to be policing. It is also hampered by its own regulations which specify various circumstances where code breaches cannot be recorded. In terms of IPSO's own transparency – publication of annual reports summarising its own activities and those of its members – IPSO does not provide all the information called for in its own regulations. In particular, the absence of information on the 'adequacy and effectiveness of the compliance processes and procedures' of publishers, as required by IPSO's governing documents, severely limits a proper assessment of whether the regulatory regime is working even within its own narrow terms.

Just as IPSO itself fails to fulfil its transparency commitments, so do its members. While the websites of most national newspapers contain relevant information and links for potential complainants, this material is less readily available across the hundreds of local newspapers published by the UK's largest regional publishers. A lack of relevant information on some members' mobile apps is an additional oversight. IPSO members are also inconsistent in the extent to which their annual statements fulfil information obligations.

Leveson specified that enforcement of standards was integral to effective regulation and that 'compliance ... should be transparent and demonstrable to the public.' The analysis in Part 3 suggests that the IPSO system is not equipped to monitor industry compliance with the Editors' Code, and does not fully satisfy its own commitments to transparency. Perhaps more importantly, the absence of adequate monitoring powers demonstrates that IPSO, like the PCC before it, cannot satisfy the definition of a regulator.