

## Implementing Leveson: how national newspaper groups use local press as “human shields”



*Four years after the publication of the Leveson report, and shortly after the recognition of IMPRESS as an approved regulator, the UK government launched a new consultation into two issues of press regulation, closing on 10 January. The consultation invites views both on section 40 of the Crime and Courts Act 2013, and on whether Part 2 of the Leveson Inquiry, which would address the relationship between the press and the police, is still “appropriate, proportionate and in the public interest.” Hugh Tomlinson QC,*

*Chair of Hacked Off, argues that the local press are being used by national newspaper groups as a shield to avoid regulation.*

The local press has, over the past few weeks, been running an anti-Leveson campaign in response to the Government’s unfair and unbalanced consultation on the implementation of Leveson. The themes are familiar: local newspapers are the life blood of democracy, they didn’t do phone hacking but they will be financially ruined if section 40 is implemented.

The first two points are true but the third is not. The innocent and popular local press is being used by its guilty and unpopular national big brothers to defend the indefensible – as a “human shield” against proper regulation.

Let’s take the example of **the response of the Nottingham Post**. This is a **daily newspaper** with a circulation of 18,000 in Nottingham and the surrounding area. It provides a valuable service to the local community and is, indeed, essential to local democracy. But it is not a plucky little independent paper struggling to survive. It is owned by Trinity Mirror, a profitable newspaper group with an annual turnover of around £200 million.

It should be remembered that although there are over 1,000 distinct daily and weekly newspapers in the UK, five publishers own 80% of these titles. In other words, the typical local newspaper is not a struggling small business, but part of a larger media corporation. Many of these local newspaper owning groups are profitable, despite the severe pressures on the local press resulting from the decline in classified advertising.

Back to the Nottingham Post. This local newspaper – along with all the others owned by Trinity Mirror – has refused to submit itself to independent regulation but, instead, has joined the body created by the national newspapers, IPSO. This has, of course, not carried out meaningful regulation of any kind.

So why will the Nottingham Post not join an independent regulator? After all, it is something that **opinion poll evidence** shows is overwhelming favoured by the public.

The Nottingham Post gives its readers two reasons.

First, it says that if it had to sign up to a recognised regulator such as Impress it would be forced to:

*“commit to a potentially expensive compulsory arbitration process They could well have to find thousands of pounds to contest every case heard, as complainants queued up to cash in on minor errors when a swift apology would suffice”.*

So, it is said, “potentially” a local newspaper “could well” face additional expenditure under the arbitration system offered by Impress to readers. This is, of course, not an argument available to the big national newspaper groups. An arbitration system would save them large sums in court costs – their concern is not low cost arbitration but avoiding independent and effective regulation.

The local press is being used to advance an argument against section 40 to shield the national press from the full operation of the balanced Leveson for audited self-regulation. But the argument does not work, even for the local press. There are four reasons for this:

- As the use of the word “potentially” shows, there is no evidence whatever that the arbitration process will be expensive for the local press. The claim is pure scaremongering. Of the 140 IPSO complaints brought against local newspapers over the past 2 years only 14 could even theoretically give rise to a legal claim – at most there are likely to be a handful of arbitration claims against the local press. Bad claims would be weeded out by the arbitrator at an early stage. The likely additional cost to local newspapers would be negligible.
- The suggestion that “minor errors” would give rise to arbitration claims is a deliberate misrepresentation – an arbitration claim can only be brought if there is a legal “cause of action” such as defamation or privacy. “Minor errors” do not give rise to legal claims.
- Arbitration is cheap. That is its most obvious virtue. At Impress a claimant will pay less than £100, while a newspaper’s costs need not rise above a few thousand – a tiny fraction of court costs.
- The Royal Charter contains specific provision to protect local newspapers against even the costs of arbitration – where they have been caused serious financial harm the PRP can allow a recognised regulator to proceed on the basis that that the local and regional press need not participate in the arbitration system. This provision was inserted into the Royal Charter specifically to assist the local press – but they never mention it.

Second it is said, that IPSO has refused to seek recognition by the PRP:

*“for the simple reason that it believes it would be submitting to state regulation”.*

This is nonsense. The PRP is not a “regulator” at all – it is simply a body that audits regulators to determine whether they come up to proper standards. Seeking recognition from the PRP is not, in any sense, “*submitting to state regulation*”. What is more, the national press (who control IPSO) have no principled objection to “state recognition”. As Lord Justice Leveson **pointed out**, the Irish Press Council is underpinned by statute and has “*been accepted without demur*” by the leading UK newspaper publishers, including Trinity Mirror. There is no “objection of principle”

The Nottingham Post, dancing to the tune of its Trinity Mirror masters, has no proper arguments against the implementation of section 40. Although the Post did not engage in phone hacking and the wholesale abuse of victims, its ultimate owners did. The Post is one of many local and regional papers acting as “human shields” – providing the excuses to justify a last-ditch attempt by the national newspaper groups to avoid participating in a proper system of regulation.

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