

CHARTERS FOR CONFUSION

The post-Leveson search for a system of press regulation acceptable to politicians, press and public continues, but although there have been a number of developments the overall picture is unclear. The original Royal Charter backed by the Prime Minister has been succeeded by a Parliamentary version which commands cross-party support. A technical legal review of the Parliamentary Royal Charter has been undertaken, and an updated version will be published by the government in due course. The Privy Council has also received an alternative Royal Charter submitted by the Press Standards Board of Finance Ltd (Presbof) on behalf of the industry. The press has come up with a new regulator, the Independent Press Standards Organisation (IPSO), which is derived from the Presbof charter but, its creators have said, does not depend on that Royal Charter's approval.

In order to secure cross party support for the Parliamentary Royal Charter, a means had to be established of putting pressure on the news media to cooperate with the regulator and protecting the charter itself from future interference by government. The appropriate legislation has been delivered. Section 34 of the Crime and Courts Act 2013 stipulates that where a successful claim is made against a publisher of news-related material a court cannot award exemplary damages if the defendant belongs to an approved regulator. Section 96 of the Enterprise and Regulatory Reform Act 2013 provides that where a Royal Charter created after March 1, 2013 contains a requirement that Parliament must approve amendments to it or the dissolution of the body the charter establishes. This requirement must be satisfied before the Privy Council can recommend any action.

The Newspaper Publishers' Association, representing national newspapers, the Newspaper Society (regional newspapers) and the Professional Publishers Association (magazines) have been joined by the Scottish Newspaper Society in lobbying some 200 publishers to sign up to IPSO. The organisation aims to meet Leveson standards – for example by including a majority of independent members and exerting the power to impose £1 million fines for serious wrongdoing – and publishers would be contracted-in to their industry regulator. The Press Complaints Commission suffered a serious blow to its authority when Express Newspapers decided to ignore its rulings, and the requirement to contract-in to IPSO is designed to prevent this happening again.

Unfortunately history already shows signs of repeating itself, as the *The Guardian* believes that the big publishers would have too much control over IPSO and has refused to sign up. A number of titles, including *The Guardian*, have also rejected the Presbof Royal Charter. Discussions between publishers are continuing, but the industry is uneasy about what it is being asked to do, and has not forgiven the Coalition for involving the Hacked Off campaign early in the consultation process without inviting a parallel contribution from press bodies.

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The government's attitude towards attempts by the press to come up with a regulatory regime is somewhat ambivalent. The Prime Minister said in early July that in his view the Presbof Royal Charter had "serious shortcomings", but shortly afterwards Culture Secretary Maria Miller issued a statement on July 9 welcoming the progress being made by the newspaper industry in setting up a new regulator while reminding all involved that the principles of the Leveson Report must be implemented. No such welcome was forthcoming from Hacked Off, which claimed that IPSO does not conform to Lord Leveson's standards and will be rejected by a public which "wants the system set out in the cross-party Royal Charter and will settle for nothing less." The Media Standards Trust – the organisation from which Hacked Off emerged – has quoted a YouGov/MST poll which showed that the public supported the Parliamentary Royal Charter over the press version by a factor of almost 4-1 (50% to 13%). According to the poll over six out of 10 people believe that newspaper publishers should accept the new system agreed by the politicians whether they like it or not.

Not everyone is enthusiastic about the use of a Royal Charter as an instrument for creating a new system of press regulation. Professor Robert Hazell, Director of the Constitution Unit at UCL, told *PressGazette* that the Privy Council "has no autonomy separate from government" and described the Royal Charter process as a back door means of legislation.

The process of creating a new system of press regulation is currently in a state of indecision. Press organisations are struggling to reach a consensus on the way forward, and the principal parties involved display a lack of trust in each other which is hampering the prospect of constructive round-table discussions – something that will need to happen if some form of agreement is to be reached. Meanwhile all sides await the verdict of the Privy Council on the relative merits of the two Royal Charters, which is expected in the autumn.

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