

POLITICS AND PRESS FREEDOM

The replacement of Maria Miller with Sajid Javid as Culture Secretary was initially met with approval by the newspaper industry, drawing the comment “At last, a minister who values press freedom” in the *Daily Mail*, no less, on April 29. Journalism’s own publication, the online *PressGazette*, ran a front page article which reiterated the previous assertion by Mr Javid that the press industry must now decide how to proceed with regulation.

However, hostilities in the post-Leveson press regulation debate were soon resumed when the latest attempt by the Press Standards Board of Finance (“PressBoF”) to appeal against the Privy Council’s rejection of its charter was dismissed by the Court of Appeal. Giving judgment on May 1, Lord Justice Maurice Kay described the arguments put forward by PressBoF when seeking permission to appeal against the dismissal of their previous judicial review application as “fanciful.” This would appear to mark the end of PressBoF’s attempts to contest the Royal Charter granted by the Privy Council last October and backed by the three main political parties.

Meanwhile the Independent Press Standards Organisation (IPSO), which is supported by a number of the major newspaper publishers but not as yet the Guardian or Independent groups, has announced the appointment of Sir Alan Moses, a Lord Justice of Appeal, as its first chairman. IPSO plans to start work in June, but in its present form is not yet considered fully compliant with the requirements of the Royal Charter. As matters stand its members could face the prospect of courts imposing exemplary damages in libel and privacy cases, and having to pay costs even if they win. A further *PressGazette* article on May 1 commented that “Javid is right that the government need do nothing more because the damage has already been done”.

The behaviour of some sections of Fleet Street must make many people wonder whether the freedom of the press is worth protecting. A quick review of just some of the campaigns being waged and issues championed by the national and local media is reassuring on that score. For example, *The Times* has recently won a significant Supreme Court victory in its long battle to access Charity Commission files about George Galloway’s Mariam Appeal (*Kennedy v The Charity Commission* [2014] UKSC 20). A Freedom of Information Act request for information from a Times journalist, Dominic Kennedy, was refused by the Charity Commission on the grounds that the organisation was subject to a specific exemption under the FOI, but the Supreme Court ruled in March that the Commission has the power to publish information to the public concerning inquiries on which it has published reports. Three inquiries were carried out by the Commission between 2003 and 2005 into the activities of the Mariam Appeal campaign in relation to sanctions imposed on Iraq following the first Gulf War. The Supreme Court judgment appears to have extended the FOI by opening up a legal right in specific circumstances for journalists to request information from public authorities exempted from the Act.

Articles

Judicial titles and dress in the Supreme Court and below	2
Of Cubist paintings and legal story telling: historicising criminal responsibility	6
Eco threats as security threats and the protection of the environment during hostilities	10
Institute News	14
Articles (cont’d)	
The coalition and constitutional reform revisited	16
The intersection of commercial corruption and money laundering: a look at international responses and the adequacy of regulations	19

Over the last few years newspapers have voiced their concerns over what they have perceived to be the culture of secrecy which surrounds the Court of Protection. Sir James Munby, President of both the Court of Protection and Family Court, has responded by acknowledging the “pressing need” for greater transparency and issued new guidance in January which addressed the publication of judgments in both courts.

A victory for press freedom against reporting restrictions imposed by a section 11 order was recorded in January by the *Express & Star* in Wolverhampton. Section 11 of the Contempt of Court Act 1981 permits a court to withhold a name or other matter from the public in connection with proceedings if it appears to the court “to be necessary for the purpose for which it was so withheld”. The newspaper’s lawyers succeeded in overturning a ban on the publication of the address of a man convicted of posting videos of himself addressed in a Klu Klux Klan uniform. The judge ruled that there was no material evidence to support the man’s claims that his family would be attacked if the name of his road was revealed.

Another case involving section 11 concerned an order by the Court of Session Inner House protecting the anonymity of a Jamaican immigrant who was deported after serving a four year prison sentence following his conviction in 1996 for indecent assault on a woman and gross indecency with a child. The order, which prevented the man’s name and photograph being published, was imposed by the Court of Session after the man claimed he could be at risk of life-threatening violence in his home country. The Court of Session’s ruling was disputed by the BBC, but on this occasion the order was upheld by the Supreme Court (*A v British Broadcasting Corporation* [2014] UKSC 25, judgment delivered on May 8) and the BBC’s appeal was dismissed. The use of section 11 appears to be on the increase, and challenges by the media to its use constitute a proper exercise of press freedom.

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