

IPSO ON TRIAL

What is IPSO going to do about Sophie? That is the question facing the newly empowered Independent Press Standards Organisation, which was launched on September 8 and has already been presented with its first major test. “Sophie” was Sophie Wittams, the mythical Tory PR blonde created by a freelance reporter working for the Guido Fawkes blog who posted chatty tweets about herself to some seven MPs and drew replies from Brooks Newmark, the MP for Braintree and Minister for Civil Society. After an exchange of pleasantries, the correspondence became rather more intimate and culminated with Mr Newmark sending a graphic sexual image of himself to his new friend. He duly tendered his resignation as a minister on September 26 when his actions were revealed in a story which was sold to and published by the *Sunday Mirror*.

One of the other MPs approached by Sophie has made a formal complaint to the new regulator alleging entrapment, and the Newmark “sting” has been described by IPSO chairman Sir Alan Moses as being “a matter of urgent public concern.” The Guido Fawkes blog has denied that its operation was a fishing expedition, maintaining that it was a “narrowly targeted effort” aimed at uncovering evidence that an MP was exploiting his position for carnal purposes. The blog’s stance has been weakened by its action in sending Mr Newmark a bikini-clad composite picture of “Sophie Wittams” assembled from the images of two women who had not given their permission and indeed were unaware of what was going on. Two other newspapers – the *Sun* and the *Mail on Sunday* – were offered the story before the *Sunday Mirror*, but they chose to exercise caution and declined to use it.

The Sophie complaint would appear to fall squarely within clause 10 (Clandestine images and subterfuge) of the IPSO Editors’ Code of Practice. Inherited from the Press Complaints Commission (PCC), the clause provides (in cl 10(ii)) that: “Engaging in misrepresentation or subterfuge, including by agents or intermediaries, can generally be justified only in the public interest and then only when the material cannot be obtained by other means.” The *Sunday Mirror* will doubtless claim that it was acting in the public interest in publishing the story, but the PCC rejected a similar argument not long ago in the case of two female *Telegraph* reporters who made clandestine approaches to Liberal Democrat MPs (including Deputy Leader Vince Cable) and attempted to entice them into making disloyal statements about the coalition. Furthermore, the *Sunday Mirror* did not initiate or exert any control over the third party operation, contenting itself with purchasing and displaying the final results.

There is also the issue of the composite picture sent to Mr Newmark in the course of his exchanges with the mythical Sophie. Clause 10(i) of the Editors’ Code states: “The press must not seek to obtain or publish material acquired by

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using hidden cameras or clandestine listening devices; or by intercepting private or mobile telephone calls or messages; or by the unauthorised removal of documents or photographs; or by accessing digitally-held private information without consent.”

In the circumstances IPSO may not have much difficulty in dismissing public interest arguments put forward by the *Sunday Mirror* based around the premise that the ends justified the means. If a breach of the Editors’ Code is adjudged to have taken place, IPSO will be under pressure to establish its credentials in the eyes of the public as an effective post-Leveson press regulator by handing down a punishment reflecting the severity of the newspaper’s misconduct. A range of sanctions is available; IPSO can require publication of a correction and/or adjudication, and impose costs and/or a fine of up to 1 per cent of the annual turnover of the publication concerned to a maximum of £1 million. However, Sir Alan promised on IPSO’s first day of working that his organisation would be “rigorous, fair and transparent”. It will be made aware that while Brooks Newman may have been the victim of subterfuge, his activities breached the ministerial code of conduct and forced his immediate resignation. He has taken full responsibility for his conduct, claiming that it was attributable to stress and mental health issues rather than any press intrusion. Further sexting activity by Mr Newman involving a second woman has been revealed in another newspaper, and he has decided to resign his Parliamentary seat at the next election.

IPSO has to strike a balance between press freedom and the rights of individuals. The *Guardian*, the *Observer*, the *Financial Times* and the *Independent* titles have so far refused to sign up to IPSO, adopting a wait and see approach to what they regard as a flawed regulatory system. IPSO must prove itself to all newspaper publishers, dissenting and supportive, because without broad industry backing it faces an impossible task.

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