



HOUSE OF LORDS

Revised transcript of evidence taken before

The Select Committee on Communications

Inquiry on

PRESS REGULATION - WHERE ARE WE NOW?

Evidence Session No. 2

Heard in Public

Questions 22 - 41

TUESDAY 20 JANUARY 2015

3.30 pm

Witnesses: Sir Alan Moses and Matt Tee

Alan Rusbridger and Bob Satchwell

USE OF THE TRANSCRIPT

1. This is a corrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.

Members present

Lord Best (Chairman)
 Baroness Bakewell
 Lord Clement-Jones
 Baroness Deech
 Lord Dubs
 Baroness Fookes
 Baroness Hanham
 Baroness Healy of Primrose Hill
 Lord Horam
 Lord Razzall
 Baroness Scotland of Asthal
 Lord Sherbourne of Didsbury

Examination of Witnesses

Sir Alan Moses, Chairman, Independent Press Standards Organisation, and **Matt Tee**, Chief Executive, Independent Press Standards Organisation

Q22 The Chairman: Sir Alan, Matt, thank you very much for joining us. We are delighted that you are willing to come before us. You gather that we are not trying to do another Leveson here; we are just trying to discover what is going on with the current state of play. It would be more than helpful, bearing in mind that we are being broadcast, if you could just put your biographical details on the record—we have them but the rest of the world does not. Please tell us who you are, if you would, and if there is any opening statement that you would like to make, please feel free to do so.

Sir Alan Moses: Thank you very much. I am Alan Moses. I was a High Court judge for nearly nine years and a Court of Appeal judge for nine years. I was appointed the first chairman of IPSO in May last year. IPSO started on 8 September.

Matt Tee: I am Matt Tee. I am the chief executive of IPSO. I started slightly after Alan. I was appointed in the summer and started work at the end of September. Before I came to IPSO, I held senior roles in the NHS and the Civil Service.

Sir Alan Moses: I wonder if it would be helpful, Chairman, if I took the opportunity to make a short opening statement before you ask questions? It will just be to tell you my ambition and the ambition of my board, which I have said before—I hope it is worth repeating. It is to establish, for the first time, and maintain an independent regulator to provide a voice and redress for those who feel they are without a voice and are defenceless against abuse and intrusion by the press. We are committed to achieving that. To that end, at the very first meeting of the board in September last year, we set out some seven principles, designed to demonstrate our independence, against which our actions, procedures and the way we reach decisions should be measured. Without reading them all—they can be read on our website—they are designed to give clarity, simplicity and effectiveness, and above all to demonstrate our independence. That means freedom from the control of others.

We believe that it is not just those who have been, and fear that they will be, victims of the press who will benefit from that, but the press themselves, who have signed up and who will benefit from gaining the trust that can be attained only by effective, independent monitoring of the standards to which they have signed up and which they have set themselves in the Editors' Code. As you may know, 69 publications have committed themselves by means of a contract, the first time the press has ever done so. Sir Hartley Shawcross wanted that to happen in the early 1960s; it never did. The disputes and debates have gone on and on. So here we are, the first press regulator that is going to try independently to regulate the 69 publications that have committed themselves by contract to that form of regulation. That is some 1,400 publication and some 1,000 websites.

The press have given an assurance that they want independent regulation post-Leveson. We are going to hold them—or at least attempt to hold them—to that assurance. We want to gain the trust of the press and of those who distrust us and who fear abuse. We are in the first stages of that, having started only on 18 September. While the debate goes on, and dare I say on and on, about whether we are truly independent and whether we will achieve anything, we are getting on with it. We are already providing important services to the public and have been since 8 September.

The Chairman: Thank you very much. Matt Tee, do you want to add anything?

Matt Tee: I saw a slightly perplexed look on some of the Committee members' faces. In the figures of people signed up to us, Sir Alan was referring to 69 publishers with considerably more publications underneath them.

The Chairman: Absolutely.

Q23 Baroness Fookes: We are particularly interested in your funding. Could you tell us about that and how you would keep solvent, as it were, to do your job?

Matt Tee: The funding for our organisation comes to us from the people who are signed up to be regulated by IPSO, through a body called the Regulatory Funding Company. One of the things that we began when I started in post in September was a discussion about the budget for 2015. We have now reached a resolution on that budget. The budget for the running costs of IPSO for 2015 will be £2.4 million, which is around £0.5 million more than the Press Complaints Commission was funded for. We have also agreed funding of around £0.5 million in what we call transition costs: the costs of setting up a new organisation, getting a new office and fitting it out, having a new website and those sorts of things. It is important to say that that is agreed funding for the year. It is not, as I think it was at times for the Press Complaints Commission, "let's see how it goes" funding. It is guaranteed funding, which will be paid to us in set-out instalments by the Regulatory Funding Company. We have also reached an agreement with them that later in 2015 we will negotiate and agree a multi-year budget with them for the following years to cover three or four years. Our objective in doing that is to remove the question of money from the discussions that we have with the industry to agree as long as a period of funding as seems appropriate.

Baroness Fookes: And you are satisfied that the budget is adequate so far?

Matt Tee: Yes

Baroness Fookes: Obviously setting up is always a bit tricky.

Matt Tee: It is. We have made what we think are prudent estimates about the costs for both initial set-up and the first year. One of the reasons why we did not want to agree a multi-year budget to begin with was because we felt that it was right that we would establish some of the new functions in the first year, which I am sure Sir Alan will come on to talk about. We do not yet know exactly what resource we will need for a standards function, for example. We have made an estimate for establishment costs for that function. As we go through this year we will have a much better idea for the future, which is why we feel more confident about asking for multi-year funding later this year.

Baroness Fookes: “Multi-year” could be quite a lot of years, could it not, from two to 10?

Matt Tee: The figure that we have in mind is three to four years. The initial contracts that publications have signed up to are for five or six years. That would take us through the first period of IPSO as we begin to approach re-contracting for a number of the publishers who have signed up.

Sir Alan Moses: Might I just add to that? It is interesting to observe that the process of agreeing the budget required us first to identify our functions. We were most anxious to make clear that that was not limited merely to complaints handling and the resolution of complaints, but also a proper monitoring and compliance function—a function for investigating, with a view not just to fining but to investigating those issues of public concern either where there was no complaint or where a complaint had been withdrawn. There is also funding to research the whole question of redress—in other words, how those who wished to obtain redress for intrusion into privacy or for defamation could obtain financial compensation without having to go to court. It also provides a resource, for the public and for the press, for our views on, for example, what the public interest dictated on any particular question. All those functions were identified. We then sought, and have now obtained, the funds to pay for them.

Baroness Fookes: It is ambitious, is it not?

Sir Alan Moses: Of course. There is no point in starting this without serious ambitions in view.

Q24 Lord Horam: Let us go straight to the issue of independence, on which you waxed eloquently, Sir Alan, in your opening remarks. As we know, the Leveson inquiry said that your predecessor, the PCC, had proved itself to be aligned with the interests of the press. It was condemned on those grounds. You set out in your opening statement seven principles designed to demonstrate your independence. Could you give us the key element? What is the fundamental way in which you demonstrate your independence?

Sir Alan Moses: The key element is to have a structure and rules that demonstrate that our procedures—how we monitor, investigate and reach decisions—are free from control by other people, and free from that hallmark of power and control, secrecy. They have to be transparent; transparency is key. People who are suspicious have to know what we are doing, how we are doing it and our approach. Many of the rules—this awful collection of rules and regulations—are opaque, sometimes self-contradictory, difficult to understand and sometimes difficult to find. You need about five different versions open in front of you to see where they are going. From the outset one of our main tasks has been to identify the rules and regulations that we say we need amending or cutting out to demonstrate an effective and robust simplicity and directness. That is how we will demonstrate our independence,

and only time will tell whether we can successfully persuade and convince others. But the moment anyone tries to control us by any means, either by opaque rules or by difficulties in any other way, would be highly damaging to independence. I quite agree with the implication: we can wave the banner of independence—there has been far too much banner waving in the whole issue in my view—but it can be demonstrated only on the ground.

Lord Horam: Indeed it can. Looking at you now, the Media Standards Trust has said that your proposed “investigations process ... is so lengthy, and provides so many opportunities for the publisher to object, that there is very little chance a fine will ever be imposed”. How do you react to that?

Sir Alan Moses: I entirely agree. Indeed, my words and comments on those passages in relation to standards of investigation were far more rude than the Media Standards Trust.

Lord Horam: Right, good. So you will have to change it?

Sir Alan Moses: We have gone to them with our proposals, which require a large amount of red pencil through a large amount of those rules, getting rid, as we propose, of eight or nine opportunities to obfuscate and resist an investigation, and to have a simple and understandable means by which we can investigate deliberate or repeated breaches of the code.

Lord Horam: So this is the proposal so far?

Sir Alan Moses: No, we have been to them. One of the things that we have been doing since September is to redraft the sections of the rules that we either cannot understand or think are contradictory or opaque. We have now gone to them with our reasons for requesting change—and, indeed, a redraft, because there is no point just debating the words—and we had a very useful meeting with their representatives a week ago.

Lord Horam: Have they accepted it?

Sir Alan Moses: No, they are considering it. They have not yet accepted it.

Lord Horam: Right. That was my question; it is still at this stage.

Sir Alan Moses: It is still a proposal. Whatever system you put in place, you have to consult those you are going to regulate, although there will obviously be debates about who has the final word.

I wonder I might add—I am sorry, I am talking rather too much—that we regard it as really important that we have something in place that is comprehensible. One of our main criticisms here is that it is sometimes very difficult to understand what is going on.

Matt Tee: Might I return to the question of independence and some of the ways structurally in which we are more independent? I would point to the fact that publishers who are signed up to us are signed up on contracts that have effect in law, which was not the case under the Press Complaints Commission. Our board and our complaints committee—

Lord Horam: These contracts are designed by you, presumably.

Matt Tee: Actually, they were designed on behalf of the industry before we came in, but they are—

Lord Horam: But they are satisfactory from your point of view, and are different from the PCC's?

Matt Tee: Yes. The PCC was based on an entirely voluntary agreement. Our board and our complaints committee are appointed by an appointments panel, which has a majority on it of lay members, not industry representatives. We have no serving editors on our board or our complaints committee, in contrast to the Press Complaints Commission, and we look at potential breaches of the Editors' Code using a set of rules, which was not the case with the Press Complaints Commission either. Partly because there are contracts and rules, partly because the press has less involvement in the workings of the organisation, and partly because of how we behave, I think we demonstrate considerable independence.

Q25 Lord Dubs: I think my question is probably more for Matt Tee. When you are setting up an organisation, you frequently have to appoint people quickly and you cannot give it the same scope as when you appoint one later on. Are you satisfied that all the people working for you, either on the board or at other levels, are not conflicted in any way as regards their previous jobs? Some of them are, of course, journalists.

Matt Tee: The board and the complaints committee were appointed newly to IPSO by an appointments panel with a majority of lay members. Certainly under our rules, having been a journalist would not be considered a conflict that would prevent you from serving on the board or the complaints committee. Our experience and our view would be that it is of benefit, when considering on the complaints committee, for example, to have people with experience of journalism, albeit that they are not currently serving editors. The majority of the complaints committee is lay, but it has that experience around the table.

In terms of the staff of IPSO, we inherited most of the people who currently work for IPSO from the Press Complaints Commission. They were largely the complaints handling team. That has been of benefit to us, because it has meant that the complaints function has been able to get off the ground very quickly. There was never a moment when IPSO had to say to a potential complainant, "I'm sorry, we don't have a method of investigating your complaint". We have received over 3,000 queries from the public about potential complaints since we set up.

I do not think they are conflicted. Working in a new organisation means that you have to understand that there are different ways of approaching things, and we have a different complaints process from that of the Press Complaints Commission. The complaints team are terribly bright, terribly hard working and terribly committed to the people who are complaining.

Lord Dubs: I was not arguing against journalists per se; I was arguing that there might be particular journalists who have had involvement with newspapers and played a controversial role in those newspapers, so they might not fit so happily into your organisation. That is my question.

Sir Alan Moses: I wonder if I could take that up in relation to the board, for which I, with others like Sir Hayden Phillips, were responsible for appointing. There is on the board a minority of those who have worked in the press in the past, although they are not current editors, but I can tell you, having sat on the board with them, that they are as fiercely committed to independence as anybody else on the board, so the division between what are loosely and inaccurately called industry members and lay members is false, save as a description of their background. They are also fully committed to the principles to which I have already referred and are already demonstrating it. The same is true of those who are

members of the complaints committee—the separate committee that considers complaints and has already been sitting once a month.

Lord Dubs: Thank you. I do not want to pursue this unduly; it is just that it is possible that people in your organisation are behaving in the most exemplary manner possible but in the past had associations with particular newspapers that might be perceived by outsiders to put them in a more difficult position.

Sir Alan Moses: I am sure that is right. There are two members of our board at whom that accusation could be levelled, but all I can assure you is that in their commitment to what we are seeking to achieve they yield to none of the others.

Q26 Baroness Healy of Primrose Hill: You have made it clear that IPSO will not seek recognition under the royal charter. Can you explain the reasons for this, and is it your understanding that IPSO could be considered Leveson-compliant without seeking recognition?

Sir Alan Moses: On the first question, seeking recognition from IPSO's point of view is irrelevant, because no members of the press who have signed up contractually want to belong to a regulator that seeks recognition, so for us the question does not arise. Nor does it arise in relation to the publications that have not yet signed up, since they have also announced, in so far as they have admitted to being a newspaper—I think the *Financial Times* said that it was not a newspaper, or at least was not a UK newspaper—that they are against the charter. The other two, the *Independent* and the *Guardian*, have also set their face against the charter.

As for being compliant with any rules that the recognition body put in place following Leveson, I saw with—how shall I put it politely?—a little dismay that David Wolfe was thinking of drafting some more rules about complaints, so there will be another body of rules with which we have to comply. But we do hope that in relation to independence, to putting in place and supervising a method of obtaining redress, to monitoring and reporting, and to what we are going to set up this year, namely an independent assessor to see how we have done over the year and beyond, we would be compliant with any set of rules and criteria which the recognition body put into place.

Obviously, if one talks about this broadly, there is no difference in the aims of all of us, whether IMPRESS or Hacked Off. We are all after the same thing. The quarrel, unfortunately, has been all about the method, and of course the time that it has taken, since Leveson reported.

Baroness Bakewell: You are not seeking recognition, because your members do not want it, so your members are instructing you on how to conduct the evolution of your structures.

Sir Alan Moses: No, they are not instructing us on the evolution of our structures. It is just that they have had a theological objection to the charter, so there is no point, independently from our members, seeking the recognition that they have set their face against. I quite accept the underlying implication, “How can you say you are free from control if you are not making your own decision about applying for recognition?”, but I do not regard the structures admitting of the possibility of our independently seeking recognition, because they would then all leave us.

Baroness Bakewell: But that is the theological belief on your part.

Sir Alan Moses: I do not have that theological belief; they do.

Matt Tee: What we would ask to be judged on, given a suitable period, is whether we have demonstrated that we are an independent and effective regulator. If you were to look at the Leveson criteria, as various people have done in various analyses, and the charter criteria, you would find that they are similar but slightly different. I would like us to be in a place, the next time we come before this Committee, where we can set out why we think that we have achieved being an independent and effective regulator and that the conversation has moved on from whether we are, point by point, compliant with the charter or with Leveson's criteria, because we would be doing the job that we said we would do.

Baroness Bakewell: Just to clarify things, was the decision by the publishers not to be registered and not to comply with the charter made before your appointment?

Sir Alan Moses: Long before.

Baroness Bakewell: And was there a robust discussion about that issue, or did you simply take that as your brief?

Sir Alan Moses: That was the condition on which IPSO was set up. You raise one of the not problems but features of this: that we took no part in setting up the rules that they put in place, which is why I made it clear when I became a candidate for chair, and ever since then, that I wanted to see changes so that the regulator was not in existence and took no part in the devising of the rules by which the standards were going to be monitored and policed.

The Chairman: Is it possible to answer the question: to whom is IPSO accountable, or am I getting into the realms of theology there?

Sir Alan Moses: No, no. I would like to say in answer, although I am not convinced that it is a very helpful answer, is that we are answerable to the public. If we do our job properly, clearly and transparently, they will see what we are doing and will be able to say, I hope vociferously through you or through MPs and broadcasters, whether we are failing. The one difficulty with accountability is asking the mirror question, "What is success?", because we will never be able to demonstrate success. Success to some people will be fining newspapers £1 million on a daily basis for their bad taste and lack of balance. Success to others will be doing absolutely nothing and letting them go on their own free way under the banner of freedom of expression. We will never please both sides, and we will never be able to demonstrate success. In other words, I am saying in a rather roundabout way that the difficulty of accountability, in answering your question, Chairman, is by what criteria you measure success. We will probably be successful if neither side is particularly pleased with the outcome of our decisions. If we are unpopular, we are probably doing the best we can.

Matt Tee: Chairman, going slightly to the theology of your question, because we have said that we will not apply to be recognised by the charter, clearly we are not accountable to the Recognition Panel. In the absence of a single body to which we are directly accountable within a set of rules, it seems to me that our accountabilities are more complex and more diffuse in the way Sir Alan has just described. Unquestionably we are accountable to the public, but we also have an accountability to those who have signed up to be regulated by us. So we have resolved to commission each year an external study into our operation and effectiveness, which we will publish. One of the things that we will do before the summer is to have commissioned that piece of work and to have set a date for publication. It will be commissioned from a recognisably external body. That may be from the university sector, or

from a consultancy. It might be from a regulator in some other area, but it will be a recognisably independent body to carry out that effectiveness study.

Lord Dubs: When you say “carry out a study”—both of you also said that you are accountable to the public in some way—will that study seek the views of the public?

Matt Tee: It absolutely has to. I cannot see any way in which you could measure the effectiveness of this organisation without asking those who have sought to complain about the behaviour of the press, but also those who have a wider public interest in this matter.

Baroness Deech: Sir Alan, are you expecting your decisions to be susceptible to judicial review?

Sir Alan Moses: Yes.

Baroness Deech: Would that be a form of accountability or a constraint?

Sir Alan Moses: It will not be a form of constraint. Judicial reviews are usually rather good processes to affirm decisions, rather than to show that they are unlawful. The Government win, what is it, 80% of judicial review, contrary to their fears. While one might have had a legal argument as to whether IPSO is a public body susceptible to judicial review, I cannot see that argument being had and I certainly would not want it to be advanced.

Q27 Baroness Hanham: I think the Chairman has thrown a very big stone into the middle of a pond, which is obviously going to keep rippling. If I may, I want to drag you back to the royal charter. You have given a very clear explanation of why you are not signing up to it. In the world of theory, where there might have been an organisation that signed up to all the terms of the charter, how would you be different from that organisation? In other words, what does a charter bring to a regulator such as yours that you are not going to provide?

Sir Alan Moses: I hope nothing.

Baroness Hanham: So you reckon that, although you will not sign up to the royal charter, you will be compliant with what is anticipated within it?

Sir Alan Moses: I am being cautious because we are not wholly clear precisely what the requirements are, because the statute and the charter are drawn in broad terms. It ought to be our ambition. I cannot see why there should be any difference.

Matt Tee: Baroness Hanham, the one difference I would point out is that we will regulate a far greater part of the published press than a regulator signed up to the charter will for the reason that we are not signed up to it.

Baroness Hanham: Is that because you are so far in advance of everyone else?

Matt Tee: No. There are two factors to that, one of which is that those who are signed up to us—and, as my chairman says, the *Guardian* and the *Independent*—would on principle not sign up to a regulator that would be recognised by the charter. However, we do have a head start on everybody else. We have received inquiries about complaints from more than 3,000 members of the public. We have adjudicated on a lot of complaints. We have an established process with publications about handling complaints. We have a set of rules that enable us to do our business. As I think you heard from IMPRESS last week, it is not in a position to do those things yet.

Q28 Lord Clement-Jones: On compliance with the broad criteria—not with the individual rules, which I accept are not fully there yet—you used the phrase “time will tell” in relation to some of the activities such as independence. Do you think that you already comply in certain respects with the criteria, whether they are from Leveson or the royal charter, if there is any difference between those two?

Sir Alan Moses: Yes, I think we do in relation to our complaints handling. Where there has been a failure to reach agreement between the particular publication and the member of the public—the complainant—the complaint comes to us. Through the complaints committee we reach an independent decision, which we will publish on our website, starring those that have precedential value, and dictate what the remedy should be—in other words, not only where in the paper the correction should be, but the terms in which that correction should be phrased.

Lord Clement-Jones: And time will tell as far as anything else then, is that right?

Sir Alan Moses: Yes, because we have not recruited and started those other functions yet.

Lord Clement-Jones: And that applies to independence as well, and so on and so forth. So at what point should we come back to you and see whether you are compliant?

Sir Alan Moses: I am very reluctant to give a date, but our hope is by the summer.

Matt Tee: Lord Clement-Jones, I fear I might labour this point, but I hope that at the point when you call us back, the question you will put to us will be, “Can you demonstrate that you are an independent, effective regulator?”, not, “Can you demonstrate that you satisfy Clause 6(3)(ii) of the Leveson recommendations?”.

Lord Clement-Jones: I appreciate that, but we are looking at the follow-up to Leveson, which includes the royal charter. One of the key areas of interest is, of course, the principles set out in both of those.

Sir Alan Moses: Those who applied to be, and have signed up as, members of the board and those who are members of the complaints committee are fully committed to our principles and understand that their reputations are on the line. The moment that someone can say with foundation, “You are not acting independently and free from the control of those you purport to regulate”, it is their reputations that will suffer. We chose the members of the board and of the complaints committee who satisfied us that they would do that.

Q29 Lord Sherbourne of Didsbury: One of the reasons for this inquiry is to try to shed some light on what for many people, including me, is a very murky and complicated area to understand. Are the provisions in the Crime and Courts Act 2013 that relate to this overall regime clear to you?

Sir Alan Moses: It is some months since I was a lawyer. Therefore, I am reluctant to get into the legal complexities. I do not think they are clear. It will take some considerable time to see whether they will work as a carrot and stick, as they were designed to work. There are going to be debates and disputes among lawyers, possibly in the courts, as to their effectiveness. In the meantime, a service and a protection has to be provided to the public. One of the things I was intent on doing, and really the reason why I applied to be chairman of IPSO, was to provide that service while this debate goes on. My answer is no, their effectiveness is not clear.

Lord Sherbourne of Didsbury: I ask the question because if there was a regulatory body that was approved—I accept that there is not at the moment—the publications or publishers that belonged to such a body would possibly be treated differently in law from the way that your members might be treated. Do your members have a view?

Sir Alan Moses: I think you would have to ask them. After all, that does not affect IPSO; it would only affect them, their owners and their shareholders. I would like to duck that question—

Lord Sherbourne of Didsbury: Why would you like to duck it?

Sir Alan Moses: Because I think it is a legal question as to whether it will be effective as to the imposition of costs. Hugh Tomlinson has already said that he does not regard exemplary damages as being an effective stick or carrot. It remains a matter for the judgment of the court in any case; it is very difficult to see that a court would award exemplary damages in a case where they would not otherwise. It will not work in Scotland, where no such thing exists.

Lord Sherbourne of Didsbury: In a way, that is what I was trying to get at. You helped to answer the question. You understand it sufficiently to give me that point of view.

Sir Alan Moses: I was told not to give a legal view in answer to those questions—

Lord Sherbourne of Didsbury: Thank you very much for having done so.

Sir Alan Moses: That is why I was being obfuscatory. There are difficult questions—I understand what they mean; you can read them—as to whether they will work in law. The splendid paradox and irony about this debate is that the more the newspapers chafe and rant at the European Convention on Human Rights and Strasbourg, the more they are attacking probably one of their greatest safeguards, namely the final port of call if they wish to demonstrate a breach of Article 12.

Matt Tee: All I would say, Lord Sherbourne, is that, from IPSO's point of view, were there to be an approved regulator and those elements of the Crime and Courts Act were to come in, it would not have an impact on IPSO because we are not subject to it. As you say, those who are signed up to IPSO might be affected by it. They are the people to ask. I know that you have the Society of Editors in your next evidence session. They might be very good people to ask. But from an IPSO point of view, the provisions would not affect the way that we did our work.

Sir Alan Moses: One has to posit—I am doing what I was told not to do—a judge finding in favour, with or without a jury, of a newspaper that has proved that a complainant has lied in order to claim damages for defamation, and which nevertheless awarded costs in favour of the proved liar. At the moment it is difficult to imagine a judge doing that, or, if a judge did that there would be a series of appeals that will take year after year to resolve. We are talking about another four to five years before we see whether the stick has worked. I hope that IPSO will work effectively in the mean time.

Lord Sherbourne of Didsbury: That is very helpful. Thank you very much.

Q30 Lord Clement-Jones: Perhaps we could talk about the differences between you and IMPRESS, who we have heard from. I do not know whether you have read any of the transcripts.

Sir Alan Moses: Yes, I have.

Lord Clement-Jones: In particular, one of the areas that interests us is the question of arbitration. Sir Alan, you have been reported in the press as saying that your current budget will not allow for an arbitration service, but from what we have heard about the budget that may not be the case. IMPRESS, on the other hand, plans to offer an arbitration service. Where are these differences?

Sir Alan Moses: I do not think there are any. What I said—or what I would like to have said, without accusing anybody of misreporting me—was that I was not convinced that arbitration—

Lord Clement-Jones: I just wonder whether you might hear a complaint in those circumstances.

Sir Alan Moses: No, I might stand down. I am anxious as to whether arbitration is the best means of providing cheap redress for those who cannot afford it. I have talked to Jonathan Heawood about this. I am interested in his scheme. We have discussed it and I am talking to other people about arbitration. What they have not solved is the problem of compulsory arbitration, by which I mean persuading publications to commit to arbitration in advance, irrespective of the particular case. The problem identified by Leveson and others is the prospect of a newspaper being able to frighten off a comparatively impoverished claimant from bringing a case to court. You want some simple, cheap means of obtaining financial redress. It is no good putting in place a system of arbitration such as that which will be offered by IMPRESS—indeed, the *Guardian* discussed it in their proposals for their own system—unless it is compulsory. If it is optional, you are merely revisiting the same problems that existed in the past. I am interested in a system whereby the publication is committed to offering financial redress in appropriate cases of intrusion or defamation without the expense of having to go to court. It might not be arbitration. When I appeared before the all-party committee in the Lords, I remember Lord Mackay of Clashfern reminding us that at some time in the past he had proposed some form of ombudsman system, which might be an alternative. That is my only caution: how you grapple with the fact of preventing a publication from opting out in a case where they think they can frighten off the claimant.

Lord Clement-Jones: But your current activity, therefore, is geared towards setting up a compulsory arbitration system.

Sir Alan Moses: Yes. We have appointed somebody to research that, and we hope within the next few months to have reached a resolution as to how that might be done.

Lord Clement-Jones: Is there any other major difference with IMPRESS?

Sir Alan Moses: We have discussed this in public together, as well as in private. Our aims are identical.

Matt Tee: The difference is that we have been running a full complaints function for nearly four months now and have a body of experience of doing that. We have a set of rules by which we do that, and we are clear that we will not seek recognition under the charter, so we are not distracted by those sorts of set-up conversations that I think they are currently going through.

Sir Alan Moses: We are very keen to get away from the idea of rivals and “I’m better, stronger and bigger than you are”. We talk perhaps not publicly, but we talk, and we know

each other—I certainly know and respect Heawood and Merricks and others involved—and anything we can do, as they struggle to the very thing that has already happened in our case to find a set of rules and regulations to which people are prepared to sign up, the more we can do to talk together and to help, the better.

Lord Razzall: On that point, we understand that you are reluctant to allow IMPRESS to use the Editors' Code of Practice. Is that true, and if so what is the reason?

Matt Tee: That is absolutely not true. The Editors' Code of Practice is not ours to let IMPRESS use. My and Alan's position is that if it was ours, we would be quite happy for IMPRESS to use it.

Lord Razzall: So who is stopping them using it?

Matt Tee: I do not know that anybody is stopping them using it, but the Editors' Code is a product of the Editors' Code of Practice Committee, and the Editors' Code of Practice is a sub-committee of the Regulatory Funding Company, which I think you are hearing evidence from next week. The Regulatory Funding Company are the people to ask the question of.

Sir Alan Moses: I think you should ask, and if the underlying implication is that it is absurd to have this sort of argument, I would wholly agree with you.

The Chairman: It is nonetheless the case, though, that the code of practice is the basis upon which you will be making judgments.

Matt Tee: Yes.

Sir Alan Moses: That is the standard that has been set.

The Chairman: Yes, so the code is pretty fundamental. In terms of the independence of IPSO, although your complaints committee and your board are clearly independent, that code committee is chaired by an editor and belongs very much to the editors and not to you.

Sir Alan Moses: Exactly, yes.

The Chairman: Is that a weak link in the argument about independence?

Sir Alan Moses: It is certainly an argument that is deployed against us to challenge our independence, and the Editors' Code of Practice Committee is already committed to having both the chief executive and me on it, and IPSO's appointments panel is in the process of appointing three other independent members for the Editors' Code of Practice Committee. So there will be five of us. If you do the mathematics, that is not a majority. One of our aims—again, it is on our website, and we said it when we set out our principles—having sat on the Editors' Code of Practice Committee, is having far greater opportunity to create flexibility, should the terms of the standards require changing.

One assurance that I can give you is that under our rules and the rules of the Editors' Code of Practice Committee, those standards cannot be weakened unless IPSO independently sanctions the amendment. IPSO would clearly not sanction any weakening of those rules.

Matt Tee: Just to be clear, the IPSO board has a veto over amendments to the Editors' Code, and I think it would be fair to say that the Editors' Code is generally felt to be fit for the purpose that we use it for. Even critics of IPSO, I think, would say that the Editors' Code was a pretty good code for the things that we might judge complaints against.

Lord Dubs: Nevertheless, in your day-to-day work, looking ahead, you may well find respects in which the code is not quite as useful to you as it could be. It must be quite unusual for a regulator not to be in charge of the code under which they operate. Usually regulators have a code—

Sir Alan Moses: It is their own standard, yes.

Lord Dubs: —and consult those stakeholders and others and amend the code at intervals. So it puts you in a rather weaker position than you would like to be in.

Sir Alan Moses: Yes, it does.

Lord Dubs: Would you be able to take the Editors' Code and change it so that it becomes your code, and use that?

Sir Alan Moses: We have said that publicly, and that is one of our ambitions. Can I give a weaker answer to that? It takes time. The accusation from the editors might be, "You haven't even been present at an Editors' Code of Practice Committee yet, so be careful how you attack and challenge us". I think it will take a period of persuasion. But in the end, the standards ought to be the standards devised and imposed by the regulator, in consultation with others, and not those of the regulator. So I repeat again: yes, to your question.

The ideal might be not just the regulator. I would like to see, at least at the first stage, no constituency having a majority on the Editors' Code of Practice Committee. It would be editors and members of the public, as represented by IPSO and the independent people it appoints, and journalists. One of the things that is lacking in this system—and I know that Joan Smith, the director of Hacked Off, feels this—is that not enough journalists themselves are involved, and I would like to get them more involved more as well.

Lord Razzall: Do you have a view that the chair might be different? I do not mean the individual but someone of a different description.

Sir Alan Moses: I think it would be good if it changed from time to time.

Matt Tee: I would just follow up Lord Dubs' question by saying that were we to find that the code did not cover something that we particularly felt was bad behaviour by the press, it would be in the nature of IPSO that we would make that public. It would also be in the nature of IPSO if the Editors' Code of Practice Committee was reluctant to change the code to meet that.

Baroness Bakewell: You speak about your ambition to have more journalists, and that sounds very fine, but is it more than just an abstract ambition? Do you see the pathway to getting a majority on the committee? Do you envisage a strategy that will bring that about?

Sir Alan Moses: I have not devised a strategy yet, but I would have thought that it would be possible to get momentum going so that the journalists themselves said, "We ought to be present". The unions, or at least the NUJ, to which I have spoken at lectures and other things that I have given, are being quite quiet about it at the moment.

The Chairman: We are seeing them next week, so we may get a view from them.

Sir Alan Moses: Good, so you can see them up.

Q31 Baroness Deech: Sir Alan, you have given us quite a lot on your vision and aims for the next year or so, but in relation to press regulation in the round—all of it—what do you expect the position to be a year from now?

Sir Alan Moses: In the round, I am afraid I am unable to say. I can only speak for us. In a year's time, I would be more than disappointed if we did not have all the functions that I have identified up and running and working.

Baroness Deech: For example, might you join forces with IMPRESS, or do you think that more potential regulators will come on the scene?

Sir Alan Moses: I think that more potential regulators are unlikely. Jonathan Heawood gave a very interesting lecture that I went to at the LSE—I am not sure whether it was under Chatham House rules or not, so I had better be careful—in which he spoke of IMPRESS's ambitions. I do not know whether that is what joining forces means, but I would hope that in the end we would co-operate either as one body or together as a regulator, bearing in mind that our aims are the same.

Baroness Deech: Another couple of points, looking to the future. Do you think there is any chance that the *Guardian* will join one or other of the bodies?

Sir Alan Moses: I think you have the editor-in-chief in front of you later on today. I speak to him frequently. He has been a very useful source of advice and help to me. We talk from time to time, and he knows that I am not going to go to them on bended knee saying, "We can't work without you", but they will take their own counsel. I believe that if we are able to demonstrate the independence that we have discussed here—and the questions that you have aimed at me are designed to tease out whether we are going to be able to or not—they would have no reason not to. Part of the problem is the lack of clarity and lack of simplicity. If there are a number of regulators, and some members of the national press are in and others are out, it is highly confusing to those who matter most: namely, the public.

The Chairman: If there is anything that has not been said that should have been said, please feel free to offer any final thoughts to us.

Matt Tee: My final thought—it is not a final thought from me—is a piece of work, which they have kindly shared with me, by Tom Rowland and Mike Jempson of the MediaWise Trust, who did a comparison of the complaints that went to the Press Complaints Commission in November and December 2013 and the complaints that came to IPSO in 2014 in a similar period. They found that complaints were being responded to much more quickly and that newspapers were reaching resolution with complainants more quickly under the IPSO system than they were under the PCC. I am not claiming that two months is anything like representative, and I would like to look at this over a much longer period, but under the new system and in the way we are prosecuting it, there are early very positive signs that the people for whom it is most important that we work—those who feel that they have been maligned or badly treated by the press—are getting a better service and a better means of achieving resolution of those complaints than they were in the past. If that is the case, that is a very good early period for us at IPSO.

Sir Alan Moses: I wonder if I could just add, and I hope it does not sound too fawning, that this sort of debate seems to me to be really valuable, because ever since Leveson there has been far too much noise, far too much shouting, far too much banner waving. On the one hand, there are those who, I quite understand, are infuriated at the time they have had to

wait for regulation to be put in place and treat us with suspicion. That, I repeat, I wholly understand. On the other hand, there is the press, which describes them, without entering into the debate, in highly pejorative and derogatory terms. So there is an awful lot of banner waving, shouting and noise without anything very much being done. We are concerned to get on with it and provide a service to those who matter. I believe that with quieter tones and more positive arguments, which in fact do go on—I speak to Hacked Off, I speak to the Media Standards Trust, I speak to everybody who is prepared to talk to me about this—far better progress can be made.

The Chairman: Sir Alan, Matt, thank you very much indeed. That was extremely helpful for us. Thank you for coming.

Examination of Witnesses

Alan Rusbridger, Editor, the *Guardian* and **Bob Satchwell**, Executive Director, the Society of Editors

Q32 The Chairman: I welcome Bob Satchwell and Alan Rusbridger. Thank you both very much for joining us. The session will be broadcast, so you will be on the public record. We are going to handle today's session slightly differently; instead of directing questions equally to both of you, we are going to divide the questions between you, if we may. Different questions will come from my colleagues to each of you. Perhaps you can begin by introducing yourselves for the record and saying where you are coming from on this big issue of press regulation.

Alan Rusbridger: I am Alan Rusbridger. I am editor-in-chief of the *Guardian*. So far we have been on the sidelines of this. We have not joined IPSO. We have had our own system of independent regulation at the *Guardian* for 17 or 18 years and have recently boosted it with a separate review panel, so I think we have a pretty robust system—probably the most independent system that any newspaper offers at the moment. We are waiting to see the progress that Sir Alan makes, which he talked about in the previous session, before considering whether we should join IPSO.

Bob Satchwell: I am Bob Satchwell. I am executive director of the Society of Editors, a former editor of a regional paper and a senior executive in Fleet Street before that. The Society of Editors has about 400 members from all parts of the media, not just newspapers and magazines but digital and broadcasting. We are the servants of the industry, in the sense that our membership has probably as many different views from all parts of life as there are publications. Quite frequently they do not agree. In fact, earlier this week we managed to get virtually the whole of Fleet Street and a lot of other papers to agree on one subject, but it was highly unusual to get unanimity in that way. Basically, where we come from on IPSO is that by far the majority of our members have signed contracts with it. Therefore I guess we support the idea of IPSO, but we are totally independent of it and play no formal part in it—or in any other kind of regulation, for that matter.

The Chairman: Our first two questions are exclusively for Alan Rusbridger.

Q33 Lord Horam: Above all, we are trying to get clarity about the present situation, which seems to have become rather opaque over the past few months. What is the *Guardian's* position, post-Leveson, on press regulation in general terms?

Alan Rusbridger: We think that Leveson got many things right, but that the period after Leveson was a pretty unhappy one in terms of how the structuring of the discussions about what should happen happened. We disagreed with the mechanism of the royal charter to try to get around the enforcement of the carrots and sticks.

Lord Horam: Why was that?

Alan Rusbridger: Why did we disagree? I did not like the idea of the royal charter.

Lord Horam: Why?

Alan Rusbridger: Because it seemed to be an unusually opaque bit of constitutional nonsense that did not sit well with press freedom. As far as anyone could explain how a royal charter worked, it was essentially the Privy Council, which is the Government of the day—

Lord Horam: Your view was fairly general, was it not?

Alan Rusbridger: It was fairly general. We did not like the royal charter, nor were we satisfied, for the reasons Sir Alan Moses has just described to you, that IPSO was entirely independent in the way we would hope. The majority of the titles of what used to be called the broadsheet press are not in IPSO at the moment, but they wish Alan Moses well in trying to get the things through that he just talked about.

Lord Horam: As you may have heard him just say, he thought it would be good from the public's point of view if there were one regulator.

Alan Rusbridger: I agree with that.

Lord Horam: If he proved with a case that he was genuinely independent and established a good track record, would you join IPSO?

Alan Rusbridger: If he came to me or to you and said that he thought he had solved the problems that really worried us, I or my successor would sit down with the Scott Trust and say, "Should we now join?". I would not want to give that commitment here and now.

Lord Horam: What about IMPRESS? Is that an alternative? Do you see the point of it?

Alan Rusbridger: In many respects they are remarkably similar.

Lord Horam: IMPRESS and IPSO?

Alan Rusbridger: Yes. The idea of how you structure a regulator and what it does—it has a code, a committee, mediation, arbitration and investigatory powers—is broadly similar in both cases. The main difference to my mind is that IMPRESS started with the idea of a charter. I notice that Jonathan Heawood is now a bit more ambivalent about that. At the moment I do not want to join IMPRESS alone, because by doing so you would trigger a lot of carrots and sticks that most people are pretty unhappy about. At the moment you would also be tying yourself to the royal charter, so it is a better position for us, the *FT* and the *Independent* to wait and see what Alan Moses can do with IPSO.

Baroness Deech: Do you object to all royal charters or just the way this particular one was formulated? In your evidence to Leveson, I think that you were in favour of financial incentives. I wondered if you had changed your mind.

Alan Rusbridger: The problem is that what Leveson was trying to solve was what became known as the Desmond problem; everyone was terribly worried that Richard Desmond

would not join in, so we were trying to jointly think of a system whereby with particular regard to the law of libel, the costs of which can be horrendous, there would be advantages the people who were in and disadvantages of people who were out. I still think that that was a good idea in principle. It got complicated in two respects. First, how do you embed that and give it legal force? The charter was one way of trying to do that. Secondly, I do not think it was drafted very well. Something went wrong and the thing that was supposed to be the great incentive, which would make them want to join, most members of the International Media Lawyers Association do not see as particularly attractive. It failed both in the grand idea of how you would enforce it and in the drafting of the carrots and sticks.

Baroness Deech: I take it from what you said that it is this particular Royal Charter that you dislike, or is it royal charters in general?

Alan Rusbridger: In the autumn I become principal of Lady Margaret Hall in Oxford, which is governed by royal charter, and I think that is a wonderful thing. However, I am not sure that the press, which is supposed to be independent of power, sits very easily with the idea of a royal charter, which is essentially the Privy Council of the day. I have had arguments with lawyers saying that this is no different from statute, and I have read the arguments about the two-thirds majority. Nevertheless, it seems to be a foot in the door with which politicians were trying to exert some form of control over the press, which I did not like.

Q34 Baroness Healy of Primrose Hill: My question is also to the *Guardian*. You have mentioned your panel. Can you explain to us how you handle complaints from readers? If they are unhappy about your initial response to their complaint, to whom can they appeal? What did you think about Sir Alan's idea of compulsory arbitration?

Alan Rusbridger: The way that the system works at the moment is that there is an office that is open five days a week, run by an independent readers' editor. I cannot alter a word that he writes. I cannot appoint him or sack him—all that is done by the Scott Trust—so I have no control over him. He has guaranteed space in the paper every day and can write a column once a week that, again, I cannot touch. That seems to me to be a very open, robust and independent system, which does not exist on any other paper apart from the *Observer*. We have bolted on to that a review panel chaired by John Willis, the distinguished TV director, with Geraldine Proudler, a lawyer, and Elinor Goodman, a former political journalist who sat on the Leveson committee. They will meet once a month and review. So if anyone is unhappy with Chris Elliott's findings, they can go to him. They will get space in the paper and we would have to print any of their findings. So the sorts of things that IPSO would be able to do, such as compelling us to report an adverse adjudication or a finding of the review panel, would fall to the review panel itself.

Q35 Baroness Fookes: This question is to you Mr Satchwell, as the representative of the Society of Editors. The Leveson report made a number of recommendations. What would you regard as the most significant?

Bob Satchwell: For me, the most important was that he said that the best solution to the problems he had been looking at was that the industry should set up a body itself. That is what it has in fact done and you have just heard from Sir Alan about how it is working now, for most of the press. Obviously, Leveson ideally wanted to have one regulator. That is probably what everybody would like, but one advantage of our press in this country is its diversity in every way. It has diversity of opinion; that is at the heart of press freedom. I do

not have a problem with the fact that some newspapers may not be in it. I hope that they might join into one body in the end, but it is their right, as editors and publishers, to join or not.

That is a slight aside, but another point that Leveson was getting at was to try to achieve—I think everyone agreed that it needed to be achieved—a change in culture and, to some extent, practice. Bear in mind that an awful lot of editors and publishers across the country felt that they were being dragged unfairly into what was a fairly narrow area of serious complaint. A lot of regional paper editors, but not just them, were certainly concerned that they had been tarred with a brush.

On the other hand, what Leveson quite clearly exposed was a need for greater governance within some newspapers and within the regulatory system, as it was, given the problems of the PCC. It was obviously significant that he was suggesting the expansion of the work of the PCC into a wider area. In fact, he was very clear that he was not making adverse comment on the work of the PCC as a complaints handler; it was the need to have ability to investigate serious and repeat problems that needed to be addressed. That is being addressed by IPSO, within the governance arrangements which the IPSO contract has on how newspapers must record everything they do in the way of complaints handling and be audited by IPSO. That goes right up to the top of each newspaper group by having a very senior person being responsible for reporting back on their work. Those points were important and have been accepted, but more importantly this should be looked at in terms of that cultural change. Already, just the Leveson process and what has happened since—and, I might say, all the debates about the setting up of IPSO—have had a significant effect on the culture within newspapers in terms of management and newsrooms.

Baroness Fookes: Do you think that change in culture will hold over a period of years?

Bob Satchwell: Yes, I do, as there has been that history. Leveson made his famous comment that he did not want his report to gather dust on some academic's shelf. I had some disagreement with that, given the fact that if you look back at all the inquiries that have happened over 60 or 70 years, none of them wanted to go any further than setting up what was in the end the PCC. That was the furthest it got, but none of them wanted to go into what some people have described as crossing the Rubicon of having a compulsory regulator, or indeed any involvement of the state. He was trying to suggest that that could be solved, but it remains a very dangerous issue in the industry.

Alan just said that there were issues with the way the solution—the Royal Charter—was suggested. It was suggested as a way out for everybody, but I had always thought that a Royal Charter was something that people applied for. Whether it was people wanting to protect animals or children, or even to set up an Oxford college, I thought that they asked for a Royal Charter to protect that organisation. This Royal Charter was imposed on the press without their involvement.

Baroness Fookes: So from your point of view that was the intervention of government, which was anathema?

Bob Satchwell: It was the beginning of the intervention of government. More worryingly, people have argued that there is the safeguard of the two-thirds majority of both Houses of Parliament, but I could see that as being not a safeguard but a real danger. It is not without possibility that one day in the future, some much less benign form of Parliament and

Government could easily change the whole process of press regulation to make it very harsh and statutory indeed. That is where the danger came. It is about getting those sorts of fingers into it. Part of it is that our constitution is balanced in so many different ways, and that would put an extra imbalance into it.

The Chairman: Can I just remind colleagues to declare any interests that they might wish to before they speak?

Q36 Baroness Scotland of Asthal: I declare an interest that I was the former Attorney-General, and then the shadow Attorney-General, who was responsible for this area for some four or five years. Taking up the last point, do you therefore argue that IPSO is Leveson-compliant?

Bob Satchwell: That is for IPSO to say, rather than me. I am not formally involved in it. It is for the people who drew up the very complicated contract. It is certainly compliant in the sense that people might look at all the different angles of Leveson to say whether it is compliant or not, and just because you have had a lot of recommendations from Leveson does not mean that every last dot and comma of his recommendations should be taken on board.

Baroness Scotland of Asthal: I am just trying to better understand because, as you know, this Committee is seeking to inquire into this issue so that we can better understand it and the public can have it illuminated for them. I know that you have read Leveson in some detail in relation to your responsibilities, so I am sure that you absolutely understand the principles that he set out in order for IPSO or any other regulator to comply with the independence that he argued was fundamental to a proper regulatory system.

Bob Satchwell: Thank you for your confidence.

Baroness Scotland of Asthal: What I want to understand from you, speaking on behalf of editors, is whether you contend that, in terms of those principles of independence, you would argue on behalf of those editors that IPSO complies with the fundamental independent principles enunciated by Leveson or not.

Bob Satchwell: I think it is independent, yes. [The industry is represented but it is in a minority at all levels. Other members are independent minded, strong individuals. The industry knows that it has to listen to Sir Alan and it is.]

Q37 Lord Clement-Jones: I think you have made it pretty clear that you support IPSO and the reasons why. In a nutshell, whether it is the detail of Leveson or the essence of Leveson, you are saying that it meets the criticisms that Leveson made, broadly, and therefore you support it. Of course, the issue for many people is the fact that it does not have any link to the question of recognition. Through the Royal Charter, you have explained, in a sense, why. Why is the Royal Charter something that IPSO will shy away from in seeking recognition?

Bob Satchwell: Again, that is a matter for IPSO and its board.

Lord Clement-Jones: Except that it is responding to its members, is it not? I think Sir Alan made it clear that this was theology that he was not really concerned with expounding; it was the members who were more interested in that.

Bob Satchwell: Put it this way: if you look at it from the other direction, if IPSO were to go down that route, unless there were some major changes in thinking, it could fail. As I said,

my first concern was that loophole about statutory intervention. The second idea, which I find very strange, is [the difficulty of] finding, if you can, someone of an independent mind and the character and standing of Sir Alan—I had no involvement in that process either, but he has already shown in these very early days his independence of thought and strength of character—and his having to be examined once every three years by people who perhaps do not have his standing and certainly do not have his experience. There is a danger that you cannot get people of that independent character to sit if they have to be re-examined.

Lord Clement-Jones: What baffles some of us is that when we look across the Irish Sea, we see that all your members who publish in Ireland are members of the Irish press council. They are all subject to recognition by the Minister of Justice in Ireland, which is political recognition, essentially. But here all your members are complaining about a system of a Royal Charter, which is far more benign, potentially.

Bob Satchwell: Many of us on this side of the water have difficulties with the Irish system for that very reason.

Lord Clement-Jones: Yet so many of your members have signed up to it.

Bob Satchwell: Only in the sense that that is the only way they can operate in that part of the British Isles. [There was also in the background potential punitive sanctions regarding libel etc if they did not join the system.]

Lord Clement-Jones: So the politicians here should have been rather tougher with you and your members at the time? Is that really what you are saying?

Bob Satchwell: It may be a fault of some parts of the Irish press to have allowed that to happen.

Lord Clement-Jones: We have all been far too soft over here compared to the Irish?

Bob Satchwell: No, the Irish press may have been far too soft [in their resistance to political or government involvement].

Alan Rusbridger: Can I say something about the objection to the royal charter? It has been described by Sir Alan Moses as theological, and I think that that is not a bad word. If you believe that the press is an independent realm, institution and organisation, and that there has been a 300-year fight to establish that, there is a kind of theological objection to Westminster, Whitehall or anyone else imagining that they have or should have any power over the press.

I will give you two little examples that have cemented my view over the past couple of months. There is a Home Office consultation document about the sanctity of sources. There are various professions, institutes and organisations that have relationships: doctors with patients, clients with lawyers, priests with communicants and journalists with sources. Those things are considered sacred by those professions and have been for decades, if not centuries. There is a paragraph in a Home Office consultation document today, to which the possibility of objection is in about five minutes time, in which a Home Office official has decided to waive those privileges. In future, the police, on the authority of another policeman, will be able to interfere in the confidentiality of sources. Actually, that applies to MPs as well. That, as Bob says, gets every journalist completely united in wanting to defend the sanctity and independence of the press.

Another thing happened during Snowden, when I was asked to appear before the Home Affairs Committee and was asked whether I was sufficiently patriotic. I suggested to the editor of the *New York Times* that she might like to come with me, because we had handled similar material. She looked at me as though I was mad even attending a Committee—or being hauled before a Committee—and said, “I could not possibly come to appear with you, even though I would like to discuss these issues and sit beside you, because I would never dream of doing that in Congress. It would never happen”.

I remember the behaviour of some politicians during Snowden, which I know was a controversial thing, but these are the moments when theology is tested, with demands for the police to be involved and the Commons to interrogate editors. I am trying to explain to you why this is a kind of theological issue to the press. I am sure that the charter was a benignly intended instrument to try to solve the issue of statutory control, but it seemed to many of us like the thin end of the wedge.

Lord Clement-Jones: We are duly grateful for your agreeing to appear here, despite the theology from across the Atlantic. How can you explain colleagues across the Irish Sea with the same cultural background—after all, for most of that 300 years the press was a British press prevalent in Ireland, with Dean Swift et cetera—yet they accepted that sort of recognition system, which is far further along the theological path than a Royal Charter amendable only by two-thirds of Parliament.

Bob Satchwell: I represent editors. I believe that editors should make their own decisions. Clearly those in Ireland did. I would also say that Ireland is different: it is a different culture, its journalists are different. In some ways they are fiercer than some UK journalists about these issues, but that is what they accepted and it was [partly the remit of] the way the negotiations were set up.

The Irish press council perhaps drove it as well. I certainly do not think that you can apply any one system elsewhere to another country. It would be disastrous to have some of the systems that are around in Europe. I would be very happy to have the United States example over here, but it is very difficult to put a different country into the same context.

Q38 Baroness Hanham: Can I bring us back to something that may be a little less exciting: the position of the local press? This Committee has been very interested in that subject and has done a report on it with regard to investigative journalism. I was wondering whether we could talk for a moment or two about how you, Mr Satchwell, think that the local press will be, or are already, affected by membership of IPSO? Is it any different from any other part of the press? When we have thought about that, could we then look at something specific: the cost of arbitration, how that is of concern to the local press and how it sees having to deal with that? If you were able to expand on that, we would be grateful.

Bob Satchwell: As you know, a number of local and regional papers have been under extreme pressure commercially in recent years. Even the bigger ones are smaller entities than any national newspaper. So it can be very difficult to have a phalanx of people looking at complaints and so on, certainly for a small weekly paper. When I was editing a regional paper in Cambridge, we had a system but it was not absolutely formalised. Therefore, it could have shaken. That was one of the points that came out of Leveson that made me think. I had thought 20 years before that we had a robust system, but actually it was not as robust as it could have been. Just having that robust system of IPSO, which they have now

signed up to, obviously puts pressure on them because they do not have so many people around. The costs of membership of IPSO, as you probably heard before I came in, are higher than those of the PCC, which also has an implication.

Baroness Hanham: Is there a sliding scale of subscription costs?

Bob Satchwell: I do not know what the subscriptions are, because that is subject to commercial confidentiality. That is a special arrangement that they make with IPSO. I think that the precise system is based on revenue, but I do not know the precise figures. They are concerned about it taking extra work and cost to do things, but they are taking that on board in a robust way and that will be very good, often for the obvious reason that their readers are sometimes more annoyed than the readers of a national paper might be, as they feel closer to it. It is the old observation that people are more likely to complain to their friends, if you like, so there are a lot of complaints. Most of the things that went to the PCC and that go to IPSO are about accuracy involving an individual.

One of their worries about the finances concerns the issue of arbitration. Certainly, most of those complaints have been dealt with in the past by the PCC and by IPSO at no cost to the complainant and, obviously, the commercial organisation of the paper. However, if you have a compulsory arbitration system, it may not sound that expensive but it would be an extra cost to them, especially if they then had to pay the costs of the complainant and so on. That is where they are concerned. They are looking at very tight, relatively small budgets where the slightest hiccup could make the difference between a paper living and dying.

Baroness Hanham: Do you think there is any movement in this, or is it a fait accompli: they are going to be signed up to whatever that system is, with its associated costs?

Bob Satchwell: All the major groups and regional newspapers are signed up, as are magazines, which have similar economic issues to take care of. They are signed up to six-year contracts, so obviously they have taken that on board very carefully. It is the extra push that could be the problem. It would not take an awful lot to lead to a paper becoming so unviable that it had to close.

Q39 Lord Sherbourne of Didsbury: Can I, in the first instance, put this to Mr Rusbridger? This question is about exemplary damages and the provisions of the Crime and Courts Act. I realise that at the moment there is no approved regulator. Is it your understanding that if there were to be one—for example, suppose that IMPRESS were to become the regulator—do you understand from the provisions of the Act that the *Guardian* might in certain circumstances be vulnerable to exemplary damages?

Alan Rusbridger: As far as I understand it, the exemplary damages, the so-called sticks, apply regardless of recognition. That is different from costs, although I think the exemplary damages are in there. My learned friend appears to be nodding, so I think I have got that bit right. The carrots come in once there is recognition of a panel and recognised regulator, but the sticks are there regardless of recognition.

Lord Sherbourne of Didsbury: I am being a bit slow. Just so I am absolutely clear, if there were an approved regulator available for anyone to join, the stick would relate to costs, would it?

Alan Rusbridger: There are two different kinds of sticks. There are the exemplary damages, which apply anyway, which I think was a mistake.

Lord Sherbourne of Didsbury: So does the stick of exemplary damages apply regardless of whether there is—

Alan Rusbridger: You are quite right to be looking at my learned friend, because she will nod. I am pretty sure that I am right in saying that the exemplary damages—

Lord Sherbourne of Didsbury: So the exemplary damages stick applies, regardless of whether there is an approved regulator?

Alan Rusbridger: There is ambiguity about that. The thought was that if you joined the regulator there might be some immunity from exemplary damages, but the lawyers who I have spoken to are not sure that that is a very sound protection. It seems to be at the discretion of the judge. If the regulator found you guilty of a breach, it would then be open to the courts to impose exemplary damages. The degree of immunity from exemplary damages that we had thought might be granted by becoming part of the regulated regulator is not there.

Lord Sherbourne of Didsbury: In the case of costs, there would have to be an approved regulator before that stick came into effect.

Alan Rusbridger: That is right. As I say, again, the advice of our lawyers—and Gill Phillips is a member of the International Media Lawyers Association, so I think it is a common view in Fleet Street and in regional newspapers—is that the carrots were poorly drafted. If they were intended as an incentive to persuade people into the regulatory system, they have failed because people do not believe in them.

Lord Sherbourne of Didsbury: Are they not clear enough in the Act?

Alan Rusbridger: They are not very juicy carrots.

Lord Sherbourne of Didsbury: It is the juiciness rather than the clarity, is it?

Alan Rusbridger: I think the regional papers feel that this could land them with a bunch of expenses that they do not welcome. There is a feeling that it is extremely complex—that the BBC website's newspapers are all going to be treated differently by the courts. A large part of it is at the discretion of the courts, and the carrots seem to favour claimants more than defendants. So there is a lot of uncertainty about how they would work. The media lawyers feel that they were not given a chance to advise. The carrots that Leveson imagined were better than the carrots that we have ended up with.

Lord Sherbourne of Didsbury: You are nodding, Mr Satchwell. Do you agree with what has been said?

Bob Satchwell: In effect. In a sense it comes down to the fact that, although I am not a lawyer and it baffles me, I thought that we were all supposed to be equal under the law but this would create an unequal legal regime. People who for whatever reason had not joined the approved regulator would be treated differently; they could commit the same "offence", as it were, and it would cost an awful lot more.

Lord Sherbourne of Didsbury: So you are critical of these provisions, are you?

Bob Satchwell: Yes.

Alan Rusbridger: I think you heard Sir Alan Moses, a Court of Appeal judge, say that they were not even clear to him.

Q40 Baroness Scotland of Asthal: I want to make sure that I understand the information that you are giving the Committee, Mr Rusbridger. First, you think that Leveson was correct in the structure that he put together. Secondly, you think the current system that is being operated by IPSO is not Leveson-compliant. Thirdly, you would have preferred the Leveson framework to a charter. Fourthly, the carrots given by Leveson were clear and more attractive. Have I understood you so far? I will go on to ask you a question if I have understood you correctly.

Alan Rusbridger: Is your first question whether I think Leveson was correct in whole or this bit of it?

Baroness Scotland of Asthal: It went through a number of iterations. Leveson then had to create a new structure that would be capable of delivering a more robust and effective regulatory framework. I have taken it, from the evidence that you have given us, that you thought that Leveson had got the balance for that framework, while it was not perfect and some things could have been changed, about right.

Alan Rusbridger: When you ask that question, you are going beyond just the carrots and sticks?

Baroness Scotland of Asthal: Yes.

Alan Rusbridger: In the space of a year, Leveson got to the heart of most of the problems and came up with most of the answers. When we met as a body of editors in the weeks following Leveson, in the space of one breakfast we agreed all the significant points; there were about five that we wanted to talk about.

Baroness Scotland of Asthal: The problem that we have now is that the approach crafted then—the charter and everything that came before— was of itself not Leveson-compliant, so we have now got into this hybrid. Correct?

Alan Rusbridger: If Leveson-compliant means compliant with everything that Leveson recommended, it is not Leveson-compliant.

Baroness Scotland of Asthal: Exactly. I am just trying to follow where the *Guardian* is now. Has the *Guardian* tried to create, within its own framework, a framework that is trying to be Leveson-compliant: that is, Leveson mark 1 as opposed to Leveson mark 2, with the charter?

Alan Rusbridger: Yes. I did not take Leveson to be the scriptures.

Baroness Scotland of Asthal: No, but we are talking about the fundamental principles that he was trying to enunciate.

Alan Rusbridger: But if you say that he was trying to find something that was robust and independent, I think the jury is out as to whether it is as independent as Leveson would have wanted.

Baroness Scotland of Asthal: We now have this situation, do we not? We have the legislation that was created and the new structure that has come on board; and, as of yet, there has been no judicial legal service body training material pronouncement as to how the courts should interpret all or any of this to date.

Alan Rusbridger: Yes.

Baroness Scotland of Asthal: But we may have that and, if and when we do, some of the things you are worried about could be clarified. Yes?

Alan Rusbridger: Yes.

Baroness Scotland of Asthal: Once it is, if it was in fact clarified to be nearer to the Leveson model, that would solve many of your problems.

Alan Rusbridger: Yes. Leveson's analysis of the old PCC was right. The things that worry Sir Alan and worry us about the new IPSO body is that it shares some of the deformations of the old PCC. The situation is quite retrievable, but when Sir Alan says, "Give us a bit of time", that is what we are all waiting for.

Baroness Scotland of Asthal: Just tell me if I am not getting it right. At the moment, it looks as if the *Guardian* is saying, "I am between the devil and the deep blue sea. I cannot join IPSO because it is non-compliant with some of the fundamental principles. I cannot possibly do that unless Sir Alan Moses is able to wave his magic wand, persuade everyone to behave well and change it fundamentally". Neither do we know how many people are going to join the new body and whether that will work. Are you waiting to see who joins IMPRESS as well?

Alan Rusbridger: I would not hold my breath to see if anybody is going to join IMPRESS, because of the things that I have mentioned so far. As the editor of the *Guardian*, I feel that I have two things that perhaps other members of the press do not. One was that we wrote about phone-hacking and the victims of it expect the *Guardian* to keep up the pressure. I respect their position. I do not agree with everything that Hacked Off has done, but nor do I abuse them or regard them as a terrible enemy. They are trying to make constructive suggestions, but the *Guardian* has an obligation to respect the people who were the victims of the thing that we exposed. Secondly, at the *Guardian* I bear strongly in mind that in looking into phone-hacking the old PCC criticised the *Guardian*, not the *News of the World*. That was a terrible indictment of the old PCC, so I am not going to jump into a new system until I am absolutely convinced that it is different from the old system.

Baroness Scotland of Asthal: I wonder whether I could trespass a little more on the Committee's and your patience. What are the fundamental things that you think any independent regulator must have before you believe that we would be where we should be on press regulation?

Alan Rusbridger: We need to hear from Sir Alan and his board whether they feel that they have the freedom from the industry to do the things that they feel they should do as a regulator. That is to do with funding, do with appointments, with rules and regulations, with the code, with his feeling that he can do proper investigations without going through the eight or nine hoops that he talked about earlier. It is to do with all the articles, memorandums and the regulations which he says are so complex that even he cannot understand them. If the chair of the body is saying that there are certain things that he regards as pretty fundamental, we should listen to him and his board with respect.

Q41 Lord Razzall: This is for the Society of Editors. I suspect that it is a fairly soft ball after the previous questions. I assume that you agree that your members might be concerned about the effect of a plurality of regulators, both for them and their readers. You can just say yes.

Bob Satchwell: Yes. I think everyone agrees with that. The ideal would be to have one. That is not just for our sake; it is for the public.

The Chairman: One year on, where do we think things will have reached? Can I try this particularly on you, Alan Rusbridger? Is it your hope, somewhere deep inside, that a year from now you would find that IPSO was a body that you would like to join, that there would be harmony across the whole of the press, that all publishers would be part of one regulatory body, recognised or not under the charter? Would you feel that that was a place that you would be glad to be in a year from now?

Bob Satchwell, a year from now, would you be at your happiest if the whole of the world of publishers was within one regulatory system, that being a reformed IPSO?

Alan Rusbridger: I have always believed that it is better for the press all to be together in one body. I sat on the code committee until I resigned over that terrible report that the PCC produced. The healthiest solution would be for the industry to make the concessions to Sir Alan and his board that they want, so that you have a comprehensible, robust, independent, simple-to-understand regulator. If you had that, I think that the *Guardian* and the *FT*—well, I cannot speak for the others; I think the *Guardian* would probably consider joining. We would be in a healthier situation where we had a stronger regulator that would apply to the whole of the press. That would be the desirable thing in a year's time.

Bob Satchwell: The whole history of press regulation, going back to the PCC and the Editors' Code, has been dynamic; there has been change all the way through. There was a change after the Editors' Code was first set up, and then major change after the death of Princess Diana. A huge change came about then. Lots of other things have happened in the way that the press understood the need, for all sorts of ethical and commercial reasons, to behave in a different way. That is already showing now, post-Leveson and post the creation of IPSO. In a year's time, when the members of IPSO have had to be audited, they may well learn some new things. I do not believe that they will be resistant to all change.

When I came in at the end of Sir Alan's evidence, he was talking about the code committee, for example. That is a major change. That is what people could not understand about the old system, in a way—that the Editors' Code of Practice Committee was not part of the PCC. It was separate, and then that committee handed over the regulatory activity to the PCC. Eventually, it was changed so that the code had to be approved by the PCC. Now it is not only going to have lay members on that committee; it will have to go back to IPSO for approval. If IPSO or its board does not approve it, it will have to go back to the editors. So I think there will be lots of room for change over that time. As I say, I hope we will see a continuation of these cultural changes that have happened, which will hopefully prevent some of the things that have happened in the past. The signs are there now.

The Chairman: Thank you both very much. Is there anything you would like to add as a final thought to us?

Bob Satchwell: No, thank you.

The Chairman: Thank you very much indeed for joining us. It has been extremely helpful. Thank you.