

Home Affairs Committee

Oral evidence: [Hate crime and its violent consequences](#), HC 683

Tuesday 20 February 2018

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Members present: Yvette Cooper (Chair); Stephen Doughty; Sarah Jones; Stuart C. McDonald; Naz Shah.

Questions 259–386

Witnesses

I: Rt Hon Baroness Warsi of Dewsbury, and Professor Chris Frost, Chair of the Ethics Council, National Union of Journalists.

II: Rt Hon Sir Alan Moses, Chair, Independent Press Standards Organisation, Nazir Afzal OBE, Member, Complaints Committee, Independent Press Standards Organisation, and Anne Lapping, Board Member, Independent Press Standards Organisation

III: Jonathan Heawood, Chief Executive Officer, Independent Monitor for the Press.



Examination of Witnesses

Witnesses: Rt Hon Baroness Warsi of Dewsbury and Professor Chris Frost.

Chair: Welcome to our session of the Home Affairs Select Committee this afternoon. We welcome Baroness Warsi and Professor Frost to give evidence before us today as part of our inquiry into hate crime and in which we are particularly looking at issues around Islamophobia and the print media. Before we start on the evidence session, just for declarations of interest, Naz Shah.

Naz Shah: I would like to declare my interest of being on the same secretariat group as Baroness Warsi of the All-Party Parliamentary Group on British Muslims.

Q259 **Chair:** Baroness Warsi, you have spoken about and made speeches about anti-Muslim sentiments in sections of the press. What is your evidence for this?

Baroness Warsi of Dewsbury: Thank you very much, Chair, and thank you very much to your colleagues on the Committee for hosting this evidence session. I talked about it in the Leveson Lecture, so I am really grateful that you responded to that call.

If I go back to my first public intervention on this in politics in 2011 when I talked about Islamophobia having passed the dinner table test, one of the first questions that was raised both within Government and by other parliamentarians was: where is the evidence for the fact that Islamophobia exists? One of the challenges at the time was that we had no mechanism by which we could record hate crime and so over a period of years since 2011 to now successive Governments have introduced mechanisms through the police, third-party reporting, individual organisations, community trusts, to bring forward the statistics and data. I think this is a question that is often asked right at the beginning. I would not say it is the basis for why you have asked me this question but it is a question that is often argued right at the beginning before we are failing to deal with an issue or we are failing to acknowledge that there is an issue.

It gives me no comfort to say that since 2011 to now there is a huge amount of data to show that the statement that I made at the time that Islamophobia had passed the dinner table test was correct and there is widespread Islamophobia, anti-Muslim and anti-Muslim discrimination across Britain. You will all be familiar with recent cases where if you type in a Muslim name with a job application or whatever application, you are going to get a different outcome to if you typed in another name. Specifically with the press, I could spend hours giving you case after case after case: Christian child into Muslim foster care; Trevor Kavanagh talking about "the Muslim Problem"; Rob Liddle belittling the ethnic cleansing in Myanmar; Richard Kemp talking about Muslim infiltration into



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the army; Niall Ferguson in *The Times* talking about the Islamist mind poison that turns lost souls into lone wolves; Gilligan's consistent articles; Douglas Murray in *The Sun*, "To have less terrorism, the UK needs less Islam". It goes on and on.

These are the high profile ones but beyond that we have everyday examples of what I call low-level poisoning of the discourse: schoolchildren banned from singing "Silent Night" over fears it will offend other religions, These are all untrue. That was not true. "They grabbed me everywhere. More than 900 migrants carried out Germany NYE sex attacks"; *The Express*; not true. "Terror in Spain, gunman screaming 'Allahu Akbar' opens fire in supermarket"; *The Sun*, *The Mail*, *The Express*; not true. "Muslim migrants behind rise in anti-Semitism"; *The Times*; not justified by the evidence. "Muslim husband found guilty of murdering his convert wife with claw hammer and knife, burning her body after he had banned her from seeing her family." It goes on and on and on. It gives me no comfort to do this but this is a daily occurrence when you pick up the papers.

It should not come as a surprise to us. The Leveson inquiry showed this. They heard evidence during that inquiry of editors asking people to go out and find Muslim stories because they sell papers. It was something that was specifically addressed in that inquiry and it is something that journalists spoke about, that pressure was put upon them to go and find these kinds of stories. Sadly, since then I think it has just increased over time. But I can provide you with reams of evidence of where this is happening on a daily basis.

Q260 **Chair:** Why do you think it is happening?

Baroness Warsi of Dewsbury: It sells papers. I think that post-Leveson, when intrusion into people's private lives and hacking and invasion of privacy were probably not as popular because they couldn't get away with it in the same way, we had to find a new way to shock people, make them angry, as Paul Baker would say. Make them angry, put them on the front page and get them to sell papers. Unfortunately, because of the climate that we live in and because of this rise in Islamophobia over time, a shock jock Muslim story on the front page sells papers. This is nothing new. We have been here before. In fact, I was talking to the guys from IPSO before we came in about that some of the headlines we see now could have been written about the Jewish community in the 1930s, and indeed were, could have been written about the gay community in the 1950s when they were the other, or could have been written about Irish Catholics in the 1980s.

I think it is papers realising that this mode of operating works and that the other of the time, the bogeymen of the time, are British Muslims and, therefore, it is an easy way to sell papers. I think it is appalling because historically we now look back at that period in the 1930s or the 1950s and we say, "We really shouldn't have done that". If we realise we got it wrong then, that should inform us that we are getting it wrong now.



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Q261 **Chair:** We want to ask you questions about what you think needs to be done, but we will come back to that. Professor Frost, can you tell us your assessment of the nature or scale of the problem?

Professor Frost: I think the problem is of quite a reasonably large scale now and some of the numbers and figures show that. One of the difficulties is, as the Baroness has said, that we need to remember that newspapers are there to make money. They are not there, necessarily, to provide journalism, so there is a divide between newspapers as a medium and the journalism that they contain. They also contain a lot of other things that people find useful—puzzles, information, entertainment, sport and so on—so news is not the only thing they sell. I always liken them to a supermarket. It is no good just talking about the standard of baked beans. Supermarkets do a lot more than that but even so the standard of baked beans is controlled to ensure that we don't poison people and that they are kept in good condition and so on.

The same applies to newspapers and news. Freedom of expression is vitally important but freedom of expression through newspapers is not necessarily the full range. It needs a tighter control. The newspapers themselves accept that. They told Leveson that they accepted that they should behave responsibly. They told Leveson that they wanted regulation and that that should be introduced. What happened with it, if you recall, is that they did not apply the regulation that Leveson had suggested.

Q262 **Chair:** Can I just pause you there? We want to come on to some discussion about that.

Professor Frost: That is fine. I realise I started to drift a little bit away from my—

Chair: What we are interested in is your assessment of the nature of the problem and why it is happening.

Professor Frost: One of the best ways to sell newspapers—time has shown and all the research shows—is to raise issues of fear. People buy newspapers when they believe there is a risk, whatever that risk might be, far more than they do when everything is nice and comfortable and happy. Newspapers over the years have tried to develop the idea that there is a risk for which they either provide a solution or at least try to ameliorate what the risk is, because then people will continue to buy the newspapers. One of the easiest ways to do that is to pick a group which is an “other” group, a small minority of the community, and at the moment a good one is Muslims, because of Isis and terrorists based around Isis and others. It is very easy to say, “This is a group of which you should be fearful”, ignoring the fact that the percentage of terrorists in the Muslim community is no larger than in any other community. They are easily identified and you can say, “That is a Muslim”, and it makes for easy stories. We have a lot of examples. I will not go into detail but we can send you that information, if you want, to show—



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Q263 **Chair:** That would be helpful. Are those examples that the NUJ has put together?

Professor Frost: Yes. You may well have some of those already because some have been given in evidence to Leveson about the way that journalists are being obliged to write the stories that focus on that downside.

Q264 **Chair:** That was the next question I was going to ask you. Do you think the majority of your members are concerned about this?

Professor Frost: Yes. It is quite difficult to say the majority. An awful lot of members, and I think this is largely focused around the national press. It is not such a significant problem in the local press, although it will depend where the local paper is, but certainly it is around the national papers. As chair of the NUJ's Ethics Council, I have had members in the past ring me and say, "I have been appalled by what my editor has asked me to do with regard to this particular story. What can I do about it?" and we have discussed how they might handle that, but at the end of the day if you rely on that job for your mortgage and the editor says, "Do it that way or get out" your choices are pretty limited. A few years ago *The Daily Star* and *The Daily Express* chapel did take a complaint to the then PCC about something they were obliged to write but the PCC threw that out. We get a number of cases where journalists are instructed to write things in a particular way, instructed to find stories that are particularly about that sort of othering.

Q265 **Chair:** Can I ask both of you what you think the impact is of these kinds of stories? Baroness Warsi, you have talked about it having an impact on policymaking, which is presumably drawing on your experience in Government. Could you say a little bit about what you think the impact is?

Baroness Warsi of Dewsbury: I think this has been looked at internationally and domestically. If you look at the UN Special Rapporteur's report, the Council of Europe report, various pieces of research that have been done by the Universities of Cambridge, Lancashire, Exeter, a number of international and domestic organisations and institutions have looked at this and said that basically it impacts on the public discourse about how we see these communities. That public discourse then leads to the way in which policies are made.

I will give you an example. There was a recent case with multiple headlines on the front page of *The Times* about this story that you may recall. It was a story of a young Christian child who was adopted by Muslim parents. There was a photograph that was doctored and then used. I think it was an Abu Dhabi photo that was used as a local photo. It was presented as a kind of black and white issue. This was a Christian child adopted or fostered by a very conservative Muslim couple who would not let her eat bacon or wear the crucifix. I think you will remember the details of that. Much of that story has proven to be false.



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The inaccuracies have come out over a period of time. I was talking to the colleagues from IPSO about this and they were saying they are still investigating this matter months on. Off the back of that, I had two colleagues of mine—I think it was Shaleish Vara and Robert Halfon—who commented on that piece.

The story that *The Times* was trying to tell was shock, horror, this is a child from a religious community who is being fostered by this other religious community and that is abhorrent or worrying or disturbing or whatever point they were trying to make. It was an odd point to make because if you look at the statistics of fostering and adoption, a Muslim child is more likely to be fostered or adopted by a non-Muslim foster carer and adopter simply because there are not that many Muslim foster carers or adopters to be able to take all the children. If it was an issue about cross-cultural adoption and fostering, they got the wrong end of the stick. Secondly, on this particular case there were so many inaccuracies that are still coming to light and findings of fact are being found in the childcare proceedings and over time those facts have started to come to light. But what it did was it informed a reaction in our colleagues and I spoke to my colleague Shaleish Vara about it at the time and I said, "You have commented on this piece and you haven't looked behind it" and he said, "Well, it was on the front page of *The Times*" as if somehow because *The Times* is considered to be a respectful paper that puts something on its front page, we will just take that as gospel.

I felt that it does start to impact in the way politicians respond to, it impacts the way in which the public start talking about it. What somebody should have turned round and said is, "Well, so what?" Let's take *The Times* version of it, "So what if it is a Christian child who is fostered by Muslim foster carers? Is that an issue? Are we saying that is an issue?" It is a bit like the Obama question: is Obama Muslim? Well, no, but so what if he was? I think that it starts to poison the debate about the Muslim community and it impacts on what we see on our streets. There is evidence to show that this does play in the way people react on the street, the kind of things people quote back when they engage in hate crime, the rise in hate crime. Brexit was a typical example with the kind of hostility about Turkey and the subsequent hostility towards immigration and migrants generally and the fallout subsequently to that. This is not just an abstract issue that is an academic thing that we can talk about here. This is impacting on people's daily lives, especially people who, as Professor Frost has said, are easily identifiable or visibly Muslim.

- Q266 **Naz Shah:** My first question is to Professor Frost. Research has shown that a large section of the population relies on the media for their knowledge of Muslims and Islam and that reliance on the media for information about Muslims or Islam is associated with support for policies targeting Muslims. What are the likely consequences, in your opinion, of the proliferation of such views in the mainstream media?



Professor Frost: It is funny you should say that. I have a very similar slide open in front of me now saying that 64% say they get all their knowledge from the press and that 74% of Britons know next to nothing about Islam. It is not a huge surprise that they do not know anything about it. What is worrying is if they are getting all their information about Islam from the press and if that press is basically dripping small doses of inaccurate knowledge into their ears, they are not going to get any further information. One of the things that newspapers should be there for in their journalism is informing them so that they do start to understand what Islam is. That is not easy for newspapers to do because they are limited in space, but that is why it is vitally important that newspapers are accurate about these kinds of things, that newspapers choose the right stories that talk about the right issues, that they are not manufacturing those stories in order to get sales among an audience that does not fully understand what it is that they are talking about. It would not be an overnight success if we stopped the kind of Islamophobia that we see. We would not see all Britons suddenly knowing all about it, but hopefully we could then get accurate information that would allow them to understand what is going on.

Q267 **Naz Shah:** You pressed IPSO to carry out an investigation into the prevalence of Islamophobia, racism and hatred espoused in the British press. What is your assessment of the scale of the problem? Does the majority of the NUJ members support that call for an investigation?

Professor Frost: Certainly the majority support it. We have pursued this a number of times through our annual conference. As I said before, I have had calls from our members who work on papers that specialise in these kinds of stories saying that they do not want to do this kind of work. They want to go out and report accurately and fully on what is happening. One of the things that has particularly concerned me since the PCC started but certainly since IPSO started is that IPSO said that one of the big differences it had—after everyone agreed that the PCC was not fit for purpose, that it was purely a complaints body, finally—was it would have the ability to investigate and to monitor the press. I have been very disturbed to find out in how limited a way that power is being interpreted by IPSO in that it is not intending to investigate issues of this sort to see what is happening, to give advice and guidance to the newspapers concerned and then to the journalists.

We have worked, as a union, over the last 15 to 20 years to try to protect our journalists' ability to uphold our code of conduct but also the IPSO, and previously the PCC, code, so that if journalists are asked to do something that they believe is unethical, we think they should have the legal right to say, "No, I'm not doing that" without risking their contract of employment. We have gone a little way down that line. Leveson did say that there should be a whistle-blowing hotline, a way of complaining to IPSO so they gain some protection on that. We don't think that goes anything like far enough, nor are we entirely convinced that that system



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is working well, but you would need to talk to IPSO about that. They will not give us any details of the hotline and how it is working.

Q268 **Naz Shah:** To that end, would you consider IPSO is fit for purpose?

Professor Frost: No.

Q269 **Naz Shah:** Baroness Warsi, in 2011 you talked about the dinner table test. Where do you think we are at now with Islamophobia since then?

Baroness Warsi of Dewsbury: It is really interesting because in 2011 when I made that speech there were dozens and dozens of articles, mainly negative, written about it. I think I touched a raw nerve. I think many people writing those articles realised it was their dinner tables I was talking about and that there was this kind of discourse about British Muslims that had passed a respectable level. I think things are far worse. That was seen as quite a stark statement to make in 2011. It now seems like a very timid statement, seven, eight years on. I do not think anybody would doubt or question that statement in any way whereas at the time so many questions were raised about did Islamophobia even exist; this was just completely untrue; I was making up these statements. Again, it gives me no comfort to say that I think things are far worse.

As I said in Leveson Lecture, I think Islamophobia is Britain's bigotry blind spot. I think we still fail to see it in the way that we see other forms of discrimination and it is why the press choose to focus on it because it is the bit of bigotry that they feel they can still get away with. Littlejohn wrote about Tom Daley in a comment piece recently and the outpouring of real anger towards this homophobic piece showed that you can't get away with writing homophobic comment pieces or racist comment pieces or anti-Semitic comment pieces, thankfully, in the way that you could have done in the past. But it is obvious from the comment pieces that we are seeing—when people like Trevor Kavanagh, who was on IPSO—good choice that he has gone and it might be worth you asking IPSO whether he went or was pushed—start complaining that complainants are complaining about his conduct or when they start talking about the Muslim Problem—capital letters—which leads to people like yourself and 100 parliamentarians, the Board of Deputies, to hold their hands up in horror and say, "Where are we going with this kind of Nazi type language?" I think it clearly shows that the situation is far worse now than it was in 2011.

Q270 **Naz Shah:** How do you feel about the fact that nobody has commented, apart from your Leveson Lecture, on the issue of Islamophobia since 2011?

Baroness Warsi of Dewsbury: It is probably the speech that I feel most proud about and most sad about. It is a speech I should never have had to make. As a British Muslim, as the only Muslim in the Cabinet at that time, I would have hoped that one of my colleagues would have picked up the mantle. It is most powerful when groups speak for the other and I think it would have been right for somebody else to have made that



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speech. But what saddens me probably even more than that is there has been no mainstream politician who has made a speech about Islamophobia since then. Where is the big keynote speech from a leader of a political party to say, "Let me tell you what the extent of this issue is. Let me tell you how we got here and let me explain how we think we are going to deal with it"? It is an aside; it is an addition; it is an extra. In the way that politicians were making big speeches about racism or homophobia and how we were going to tackle them, I sincerely hope that politicians are prepared to take the same mantle and I hope it is a politician who is not Muslim by faith.

Q271 Stephen Doughty: Thank you both for your evidence so far. I represent a very large Muslim community in Cardiff South and Penarth. It is one of the oldest Muslim communities in the UK and one of the most diverse. I think we had one of the first mosques in the country. Yet I am regularly being told about the actual impact of this on the lives of individual constituents. One of the most powerful examples was from young Muslim girls in the constituency who are fourth, fifth generation families who certainly felt that in the last few years they were getting more abuse in the streets and so on and they directly attributed this back to what was going on in the press. What are you hearing from communities about the direct impact of this and is there a general sense that things are getting worse and this is having a real life impact as well? That they are reading it is one thing that is bad enough but it is generating other hate crime and other offences.

Baroness Warsi of Dewsbury: Some of the stories that I hear are really sad. Young girls who are visibly Muslim, who wear the headscarf so would be identified as Muslim, say that they no longer stand on the edge of platforms on the Tube. They always stand with their back against the wall. I never thought I would have to hear that they choose where to stand based on the fact that they would become a target if they were to stand anywhere else. That is because they have seen the videos of people being pushed in front of trains from platforms or knocked around on platforms. I have had young girls who I mentor, who wear the headscarf, who have asked whether they should consider not wearing it; would it help their chances of getting a job?

I think Maria Miller did an excellent report in the Women's Select Committee about having a triple whammy if you're a Muslim woman: female, ethnicity and religion. When I am consistently saying to people you have to be true to yourself, as a politician one of the things that I have consistently said is, "You have got to remain true to yourself, you have got to be authentically yourself in politics", it is a really hard question when young girls ask me that. I know full well they are more likely to get the job if they did not go in a headscarf and went in a nice skirt suit, but that is not something I can advise them about. I say to them, "This is the reality, these are the choices that you have to make". Women should not have to make those choices. Whether or not to wear the headscarf before you go into a job is as bad as a woman having to



think, "Should my skirt be two inches shorter because it might get me the job?" I thought we had had the debate about the length of our skirts. I did not think in 2018 we would still be having a debate about the length of our scarves.

- Q272 **Stephen Doughty:** We are talking predominantly about the print media today but I was struck by your comment about your colleague Shaleish Vara saying that he was happy to say something because he had seen it on the front page of *The Times*. What do you feel—maybe Chris in particular—has been the knock-on impact into other forms of media of the more strident headlines and so on that we have seen in particularly the print media? I am thinking about I have a particularly unpleasant blogger locally who has increasingly used Islamophobic and other types of language, in my view, and I feel that is partly because of the culture that is created out there in the mainstream, "It is okay, if they are doing it, it is fine for me to do it as well". What would you say the impact has been?

Professor Frost: I think that is right. Quite clearly, if you are reading this kind of material in your national paper daily, then doing your blog or tweeting or other social media becomes more appropriate because that is what you are reading in the newspaper. I think social media probably tends to go further than that. One of the problems about social media is you tend to talk to like people so gradually as you become more and more Islamophobic or racist or sexist or whatever it might be, the people that you are communing with are then building that up and it can get extremely poisonous, so that does not help either. You have people who are reading about this in the newspaper, which certainly does not reach the level of hate crime in the sense that the law is set out but of course it can soon ramp up on the social media to reach that level and that adds another factor. Newspapers obviously have no control over that, but if they were not dripping that poison in the first place it would not necessarily be out there to be used more generally.

- Q273 **Stephen Doughty:** Do you think it is a convenient excuse used by some that they are simply reporting as some sort of disinterested party and that they are not actually part of the problem themselves?

Professor Frost: The newspapers? They might say that. I don't believe them. They are deliberately choosing these stories because they know very well that it will sell papers. One has to remember is that the choices particularly the tabloids have these days of the kind of stories they know will sell and will get good audiences is falling all the time because the competition they have from social media and elsewhere to get the same material is growing and growing. They know perfectly well that those stories will attract audiences. They know perfectly well that if they are careful about how they are inaccurate they will not get any comeback on it and that it will not be possible for anybody to sue and that while complaints might be made to IPSO, those complaints will not necessarily achieve anything.



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Since IPSO started it has dealt with 18,666 cases of discrimination and I can't say that all of those are Islamophobia but I think we can all imagine that quite a significant percentage of them is going to be. It found that seven cases had breached it because the way that its code is written means that it has to be discrimination against an individual. Of course, the newspapers make damn sure they do not discriminate against an individual. It is not that difficult to do when you are trying to talk about a group of people.

Q274 **Stuart C. McDonald:** Baroness Warsi, in your letter to us you called IPSO a sham, so you are clearly not a fan. What would a fit-for-purpose regulator look like?

Baroness Warsi of Dewsbury: Professor Frost is probably better at answering that question than I am, but I know you are going to be taking evidence from IPSO and in fact they are in the room. You have three great individual here from IPSO, so this is not a reflection on the particular individuals. Of course there have been individuals like Kavanagh in IPSO who I think many of us are glad to see the back of. There are good people and bad people in IPSO, but what I am interested is as a regulator, once you have established that there is this Islamophobic discourse in the media, and we have seen dozens and dozens of examples of them—I would say to you that it may be worth you calling Miqdaad Versi, a young man who spends his life away from work consistently making complaints to IPSO. He has had so many cases now. He is like the fulltime person who spends his time doing this. Once you have established that there is a problem and that it is affecting public discourse—and I think from the evidence you have heard and from the evidence we can submit, the answer to both those questions would be yes—then the question to ask is: what do we do about it? The answer appears to be, “We have IPSO” and clearly IPSO is not working. It is shambolic.

Much of what was expected to be implemented through Leveson has not been. Section 40 continues to sit on the statute books without it being triggered. Leveson 2 has not happened. IPSO has drafted itself so narrowly both in group activity and—the way IPSO is structured at the moment, and I said this in my Leveson Lecture, allows you to discriminate against groups. Calling a whole group of people or setting a narrative about them that is stereotypical and perpetuating the stereotypes about those communities is not something that IPSO could ever deal with it so, therefore, the poisoning of the debate basically means it is not fit for purpose. One of the things I was saying to the guys from IPSO is if you are truly honest to yourself and you sit back and say, “Are we doing our job properly? Could we be far better at doing this? Could we actually regulate better?” I think they would say yes but they would say, “We probably could do it better if we had a statutory basis”, but that is exactly what the press does not want. Ideally, I would not like it to go down that route but if it continues to remain ineffective in the



way that it is as a voluntary organisation, where do we eventually end up with it?

- Q275 **Stuart C. McDonald:** Do you think the problem is more the nature of the rules that they have to enforce rather than where the decision-makers are drawn from or is it a combination?

Baroness Warsi of Dewsbury: I think IPSO has been structured by the industry specifically to allow it to sidestep responsibility. That is why they do not want the kind of regulation that Leveson—it does not satisfy the guidelines that Leveson laid out as to what regulation should look like. That is why we ended up with IMPRESS and IMPRESS is ineffective because the main culprits do not join it, so we are stuck in this place where we have one thing that could work but can't work because people are not part of it and one thing that is set up in a way that means it does not have to deal with—Professor Frost is going to be far better at this. It interprets where the apology and correction should appear. It interprets these things so broadly that you end up with a situation where you might have—we had a particular case, I think it was one in five Muslims are supporting Isis or something. There was an awful case, which again I talk about in the Leveson Lecture, where it appeared on the front page and I think the correction was at page 66, or something. Again, Miqdaad is very good at this. He will give you the detail of the complaints he has made.

- Q276 **Stuart C. McDonald:** Professor Frost, there is lots of evidence about what is wrong with IPSO and IMPRESS, but what would a well-functioning regulator look like?

Professor Frost: I certainly think a well-run self-regulating regulator would look very much as Leveson asked for it to be. That is to say that it would be able to investigate. It would not set the terms of its references for investigations and monitoring as narrowly as IPSO has done. We have to remember this is not necessarily either the people on the board of IPSO and certainly not the staff at IPSO, who I think do a good job within the constraints that they have. This is about the publishers who set it up. It is not the industry that has set up IPSO. It is the publishers who have set up IPSO, the people who have a financial interest in running the newspapers, the people who do not want Leveson 2 to go ahead because it will start to expose some of their appalling practices over the last 20 years. What the publishers have done is set up a structure that means that we can't investigate some of these kinds of things, or IPSO can't.

IPSO can't monitor what is going on in the way that we were promised. The code of conduct is exactly the same as the one that the PCC had. The PCC was condemned by nearly everybody when it came to Leveson as being just a complaints handler. Well, that is interesting because I had been saying that it is just a complaints handler for 20 years and I was told I was wrong and suddenly it appears that I am right. What we now have is another complaints handler. The only significant difference is that it does have the right to fine a newspaper that systemically breaches that code of conduct. Of course, the chances of ever applying those fines are



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practically zero. It simply won't happen. It wouldn't have happened under the PCC and it won't happen now.

I have been told time and time again that there is nothing wrong with the IPSO code of conduct set up by the editors, the same code more or less as was used by editors. Well, we certainly did not give evidence to Leveson that the code was faulty as such because there were so many other things that were wrong at the time, but the code is not very good. It is full of weasel words like "significant inaccuracies". What is a significant inaccuracy? They do not talk about accuracy in their code of conduct, they do not talk about getting things right, which is what the NUJ thinks we should be doing as journalists. We accept we do not always manage to do it. There are time constraints and other problems and then you publish a correction. But IPSO's code just says it should not be significantly inaccurate. I have read essays from students like that. They were not significantly inaccurate but they did not get very good marks, I can promise you.

Q277 Stuart C. McDonald: Changes to the code of conduct, a stronger power of investigation. Is there something more fundamental needed as well or would that make IPSO fit for purpose?

Professor Frost: I certainly think that would be a really good start. If we got to a position where they could investigate and say to the industry, "This is the way these should be handled, these are the kind of problems", if they talked to a wider share of stakeholders about the code so that we could get a much stronger code that did the things—I don't personally have a problem with having a verification body that looks over what they are doing and says, "Yes, that seems to be fine to us".

Q278 Stuart C. McDonald: You spoke a little bit about the fact that it has been established by publishers and there is self-regulation. Are you happy that that is where we need to be—

Professor Frost: No, I think it should be an independent body with a number of stakeholders as Leveson suggested, that it should not just be run by the people who want to make money out of it.

Q279 Stuart C. McDonald: Moving on a little bit, IPSO states that it has, in 10 instances of articles involving Muslims and Islam, upheld complaints on grounds of accuracy. Is that in any way a substitute way of dealing with the sort of stories you were talking about earlier?

Professor Frost: No, the PCC did that after the NUJ and a number of other campaign groups complained strongly. The buzzword more was immigrants and asylum seekers at that particular time. The other groups move depending on what can be easily identified. They said, "Right, we will take complaints from third parties about accuracy when it is to do with Islam or asylum seekers or whatever". However, the number of complaints they were able to deal with did not change significantly in numbers because again the code is deficient when it comes to accuracy. Significant inaccuracy gives you quite a lot of leeway to say, "That was



just a small error. It is not particularly significant in the story as a whole". A lot of the problem here is not so much inaccuracies or accuracies within the story but the mere fact that story has been chosen to run at all, because it is not of any particular interest. The only reason that it has been run is it is about another group and this time Muslims.

Q280 **Stuart C. McDonald:** You would both advocate that third-party reporting in relation to discrimination cases should be allowed, as with IMPRESS?

Professor Frost: Yes.

Baroness Warsi of Dewsbury: Yes, and what is interesting is if you say "Muslim grooming town" you might have got it inaccurate because it is not a Muslim grooming town, which is obvious and this was one of the headlines that was run, and you might say, "I'm really sorry, that was inaccurate", but what I would really like them to say is, "That was discriminatory". Inaccuracy makes it look like, "Oops, I made a mistake" whereas discriminatory means, "I did a really nasty, malicious piece". I am absolutely convinced that these pieces in the media are nasty malicious pieces, deliberately targeting a community with a view to getting a reaction in their readership and poisoning the public discourse, not "Oops, I made a mistake because I got a digit wrong in some maths figure". I think inaccuracy has been an easy copout when we should be dealing with discrimination.

If we take one of the issues that we have with how IPSO deals with corrections, if you put something on *The MailOnline*, that then gets picked up by lots of other online media, usually gets picked up by somebody like Tommy Robinson who then turns up with a camera and spreads it among the far right community, which then ratchets up the hate internationally, not just here. We even have presidents in the White House who suddenly get excited by these tweets and want to retweet them. Having done all of that damage, *Daily Mail* might say, "Oh, that was inaccurate. Delete". I am sorry, you may have deleted that tweet but who is going to go back and put right every person you poisoned along the way? Therefore, I think there is a real issue where we have the world of social media.

Only last week the Prime Minister was talking about, quite rightly, when we were celebrating 100 years since some women got the vote, that what we tolerate offline we will no longer tolerate online. The argument is if a newspaper editor turned up outside my garden gate with a megaphone and started saying, "Muslim groomers, Muslim paedophiles, Muslim terrorists, Muslim this, Muslim that" the chances are he would probably get arrested for some sort of basic order offence and be taken away, but yet they can megaphone that every single day in their newspapers. If we are genuinely committed to protecting online what we protect offline, we need to make sure that we do not allow people to do in the print world what we do not allow people to do in the real world to communities. These days you can damage and harm and cause community tensions whether you do it stood outside somebody's house and maybe my neighbours and I will hear it, or whether you do it in one of the most



popular papers in the country where thousands, and then millions subsequently off the online media, will read it.

Q281 **Stuart C. McDonald:** Probably two of the most controversial IPSO decisions concerned quite well known opinion pieces, one by Katie Hopkins, which IPSO itself described as “a polemic which expressed strong and abhorrent views”, and the other one that you have mentioned already by Trevor Kavanagh. Complaints were not upheld in either case. These are not news articles as such; they are by columnists. What standards should they be held to in comparison with news articles?

Professor Frost: Comment is more difficult because people quite clearly have a right to express particular views, but I think the point about both of those is it is clear that the comment pieces were written in a way that was designed to be inflammatory, designed to pander to the kind of readers who still do not know anything about Islam and do not particularly want to get to know it—Katie Hopkins in particular. Trevor Kavanagh talked about “the Muslim Problem” and he is certainly long enough in the tooth, certainly a very experienced journalist; he should know that that kind of term has more meaning than it actually appears from the two words used separately. One can only assume that he used that deliberately and since he resigned from the board of IPSO shortly afterwards, he clearly had regrets about using it. I don’t think Katie Hopkins has regrets about anything and I will not say anything more, because even with the kind of privilege we get here, it would not be appropriate.

What I did want to do very quickly was talk about a case I used with students that illustrates exactly what we were talking about just before. *The Sun* carried a story, front page headline, “Swan Bake” and they claimed that eastern European refugees, because this was about 10 years ago, had been spotted wheeling a swan away in a supermarket trolley and that this swan was then later barbecued somehow and eaten because, according to the paper, that bird is a delicacy to these people. I don’t know if they were talking about the Royal Family or—anyway, when that was checked by Refugees Media, the charity, they could find no evidence. The police denied that they had been told anything about this. The park keeper who had been quoted extensively in the story denied saying anything like that. In the end, after much negotiation, the PCC managed to persuade *The Sun* to print something that put a very minor correction in the paper, yet the story simply was not true. It was completely inaccurate and yet PCC would not adjudicate that this was a breach of their code and it was made up.

Q282 **Stuart C. McDonald:** To bring you back to opinion pieces, you have explained what you thought was wrong with those columns but is it not difficult to regulate in such a way that those two columns would be beyond—those rules are pushed too far while at the same time making sure there is legitimate space for sometimes controversial opinions? As a journalist, Professor Frost, are you not slightly concerned that if we go



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down this road there is going to be a sort of chilling effect on freedom of the press?

Professor Frost: I think there is. We need to be very careful about comment because quite clearly that is linked to individuals writing in the newspaper. The difficulty at the moment is that while there should be a separation between fact and comment, comment should be based on fact and if it is not that should be ruled out. That is not comment, that is fiction, and it should be made clear. Comment is clearly quite a bit more difficult to deal with, certainly from IPSO's perspective. Usually it should be pretty straight forward but I don't think it always is. I think if we start with the news, get that factually correct, then it is going to be much easier to say this comment that we are writing should be based on those facts and not some of the facts that you think of. But at the end of the day if Katie Hopkins wants to say, "These people are cockroaches" then I don't really think there is very much we can do about that without damaging free speech.

Baroness Warsi of Dewsbury: It is interesting, because I was going to pick up on that. If you had a newspaper that reported accurately, that did not just focus on negative stories about a community, that presented a wide range of opinions about a very diverse community of 3 million in this country, had columnists possibly even from that community who wrote pieces in that newspaper not just about their own experiences but about the environment or the economy or anything else, so there was an overall balanced approach to way in which British Muslim communities were being projected, and then occasionally you had this really awful, nasty column, you could say that is fine, that is part of the free press. You have some people commenting in this way, some people commenting in that way. But where you have this drip poisoning, these inaccurate kind of stories—and again I can send you lots of evidence of the terms that are used next to the word Muslim and how overwhelmingly they are negative terms—and there are no positive columns and no columnist from those communities writing any columns, then you are saying freedom of speech therefore dictates, freedom of speech dictates that we have a freedom of expression about lots of different opinions, including nasty Katie Hopkins opinions and the views of Trevor Kavanagh, however distasteful they may happen to be.

But if all your paper ever does is put out distasteful views, distasteful inaccurate stories, negative stories and does not have people from those communities or mixed communities writing in your paper, you have to start to question what those papers are all about and what is the culture and environment that they are trying to create. Is this about freedom of expression or is this about creating community unease to sell papers? I think that is a really dangerous space that we have got into, because ultimately freedom of expression and all our other freedoms in this country are only such if we have a cohesive community. We won't have a cohesive community if popular and widely read newspapers are



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consistently telling us that we have an enemy among us and we have to fear them and, therefore, we have to turn in on ourselves.

Q283 **Sarah Jones:** A question to both of you: what are your thoughts on campaigns such as Stop Funding Hate, which discourages companies from advertising in certain newspapers and the fact that some companies like Virgin Trains, albeit for a short period of time, banned the sale of certain publications?

Professor Frost: There has been quite a lot of banter backwards and forwards. Stop Funding Hate quite clearly thinks that commercial organisations who advertise within newspapers whose views might be incompatible with their commercial operations should think very carefully about advertising there. I think this has been whipped up a fair bit, I have to say, by people who perhaps oppose that view. It is probably fair to say it has been whipped up a little bit by those who support it. Quite clearly, any commercial organisation that pays for advertising in any newspaper, broadcasting, whatever it might, has the right to decide whether that best serves the customers they want to access. If a large number of the customers they want to access will be offended by them advertising in a particular newspaper, quite clearly they will stop advertising there and I think they have every right to do that. I think, frankly, this has been whipped up by people who want to cause trouble.

Baroness Warsi of Dewsbury: I am a centre right politician. I am a Conservative. I believe in the free market and I absolutely support what Stop Funding Hate is doing. It is using the market to be able to convince people that, "Don't advertise here". They are not using the arms of the state, officialdom, the police. They are not saying the state has the answers. What they are saying is that the citizen is big and the state is very small, and it is very much a centre right view to take. What they are saying is that the free market will eventually mean that people will vote with their pounds and their feet and they will make sure that they don't buy the products that they know are being advertised in publications that propagate hate, and I call it that. I say this is hate speech and what they are doing is something that I very much support.

The Chair is very familiar with this because of her experience in Home Affairs. We do not tolerate preachers of hate in this country and we consistently work through the Home Office and the Home Secretary excludes people from coming into this country. We have a Prevent programme, whatever its challenges are but its aim is, among other things, to deal with preachers of hate. Hate can be preached from a paper as much as it can be preached from a pulpit. I think Government have to take this seriously and apply the laws in relation to hate speech consistently, whether it is done in a place of worship, over the television by hate preachers, in big gatherings that people may come and attend from overseas and we exclude those people, or whether it is done on a daily basis through newspapers.

Q284 **Sarah Jones:** This is a question for Professor Frost. The proportion of UK



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journalists who are Muslims is 0.5% compared to 5% of the national population. Do you think news outlets should be doing more to recruit more journalists who come from BME backgrounds but in particular Muslims?

Professor Frost: Yes. The NUJ has been working very hard on this for decades now. It is quite clear that it is unbalanced. It is not so bad on gender; there is still more men than women but that is changing and I think in 20 years' time it is going to be pretty much 50:50. But it is certainly white journalists who are from more privileged background and that clearly distorts the way that newspapers are operated. They do not know about the communities on which they are reporting because they simply do not have the background information. We need people from much more diverse backgrounds, whether that is class or ethnicity. I have been involved in some projects on this myself, but it is an extremely difficult thing to do. Most journalists now are educated to at least graduate level, some to postgraduate level, and getting people through a degree programme—I have run degree programmes. We try as hard as we can to get a balance of ethnicities but we do not get the applications that we would like from those communities and it is a massive problem. I know several research projects that are looking at ways to do that. It has to be done. It is just that no one has come up with a magic solution yet.

Q285 **Sarah Jones:** In terms of the content in the papers, it has been said that Islam has been “hijacked by the media” in that many people only obtain information about religion from news stories. Given what you have said about what sells newspapers, how can we get more positive narratives about Muslims and other targeted communities into the papers?

Professor Frost: I think we would start to get more positive stories if we started putting in fewer negative stories. There are plenty of good stories out there to be used. It is just so much easier to go for the negative stories and if you talk to a number of the journalists who are working on some of the papers that have some of the worst examples, they become quite frustrated. They are finding stories about those communities that are newsworthy, that should be out there, but when they submit those they are asked to rewrite them in a way that is negative and poisonous. Our general secretary, Michelle Stanistreet, gave evidence to the Leveson inquiry, making quite clear the kind of bullying and pressure a number of our members have been under to write stories in a particular way. If they are not written in that particular way they are not used and if your stories are not used over a period you gradually get demoted and then eventually, of course, you are sacked.

As part of the research I was doing for this meeting I read the evidence of various journalists working for some of the tabloid newspapers two or three years ago and what they were asked to do by their editors and news editors and the kind of bullying and pressure they were under, frankly, is just heart-breaking. It is appalling that people are in a workplace being told to do those kind of things, but they have mortgages to pay for, they have children to bring up. They have two choices: they



either do as they are told or they quit their job, and it takes quite a brave person to say, "That's it, I'm just quitting my job". What do you do?

Baroness Warsi of Dewsbury: We have to deal with the reality. As politicians we deal with this every day. Bad news makes good news and good news makes no news, so good news is less likely to be something that the newspapers will want to write about. But I am not too worried about whether they write good news stories or bad news stories about Muslims; I just want them to write true stories about Muslims. If we just got to the point of writing accurate stories about Muslims, I would settle for that. I think that that is the basic line that we need to talk about. The issue that you raised about having more journalists from Muslim backgrounds, just like Parliament and the police, journalism should be reflective of the communities that make up this country. If 5% of the United Kingdom is British Muslims, it would be good to be able to have that figure nearer to 5%, but I do not think journalists or editors are ignorant, stupid people who can't pick up a book and read about Islam. I am not convinced that these stories that are being put out are there because they don't know or they don't understand or they can't read or they can't go and find out or they can't fact-check. If that is their problem there is a much bigger issue with editors and journalists if that is the quality of people we are dealing with.

I don't think it is about lack of knowledge or lack of ability. I think it is lack of political will. I don't think they are bothered about going and finding out what the truth is. With *The Times* story about this young child, I don't think that the journalist could be bothered to go out or even if he did know could say that, "This is not a black and white issue. This is not just a Christian girl and Muslim parents". The fact that she did have family, grandparents who were practising Muslims, the fact that she did not have the crucifix taken off her, the fact that some chain was taken off her neck for her own security, and the court and social services accepted that—there were so many nuances to that story. It could have been written up in a much more accurate way. I was not worried that this was a bad story about British Muslims being written. I was concerned that this was a wholly inaccurate story being written deliberately to further an agenda of putting fear in the minds of people that these mad, crazy Muslims in Britain were now adopting our Christian children and we needed to protect our Christian children from them, the Muslims. That was the story that was put out over and over again on the front page. If it had been repeated accurately with the facts as I think *The Times* were aware of, or certainly became aware as subsequent front pages were published, I would have been happy with that story and a genuine debate with some facts about actually how much cross-cultural adoption and fostering is going on.

That story, with all due respect, can be written by a white man who has no religion. It does not have to be written by a Muslim woman who is from the north of England, although I would clearly love it to be a Muslim



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woman from the north of England to write that story. I think it is a deliberate ploy rather than ignorance.

Q286 **Naz Shah:** A final question for Baroness Warsi. You talked about the other, the other being blacks, gays, women at times. If you could fix this—you talked about political will—what else would be needed to fix it? If we do not fix it, what are your fears? Where will this end up?

Baroness Warsi of Dewsbury: What is it that we as politicians can do? First of all, we can stop trying to charm and be charmed by newspaper editors. I think somehow we have forgotten what happened at the time of Leveson. There was political will post-Leveson. All political parties agreed the royal charter and the way forward and somehow we seem to have had collective amnesia about that period and it has gone back to business as usual. Therefore, we, as politicians, need to stop selling our souls for the sake of a positive headline at a relevant time during elections.

Secondly, I think we need to do what we said we would do, which is implement section 40. We need to bring back Leveson 2 and we need to have genuine opening of what happened during that period and not just brush it under the carpet and pretend it has gone away. I think we need to tighten up the code. We need to have a look again at the law. I know you are going to be taking evidence from Nazir Afzal at IPSO who has some interesting takes on what the law says about hate crime and how we can deal with it.

We can look at the way in which we deal with our language. During Brexit, as somebody who was considering voting leave, I could not bring myself to vote leave because of the toxic debate that was taking place about the narrative on why we wanted to leave at that point, and that is why I ended up voting remain. We can take responsibility for the debates and the language that we use. I think there is a lot of things that can happen in the short term. Ultimately what I would like to see is the Prime Minister preferably, but if not the Leader of the Opposition, come out and do a big speech about the role of British Muslims in this country, who they are, how they got here, how they matter and belong and how they, along with every other community in this country, deserve to be equally protected, protected not just on our streets but from this onslaught within the media.

Q287 **Chair:** Can I ask you a quick, clarifying final question? When you talked about strengthening the code, Baroness Warsi, would it be sufficient to include the paragraph that is in the IMPRESS Editors' Code on discrimination against groups in the IPSO code?

Baroness Warsi of Dewsbury: Yes, I think that would be a good start.

Professor Frost: Yes, that would certainly be a good start. Their code is much stronger in a number of ways. It is the accuracy and the discrimination clauses that are the big problem.

Chair: Thank you both for the evidence that you have given, which we



take extremely seriously, which is why we are holding this evidence session and this inquiry. Thank you very much for your evidence.

Examination of Witnesses

Witnesses: Rt Hon Sir Alan Moses, Nazir Afzal, and Anne Lapping.

Q288 **Chair:** I welcome the second panel to give us evidence. Could you introduce yourselves and what your role is within IPSO, starting with Sir Alan?

Sir Alan Moses: I am Alan Moses. I am Chairman of IPSO. I was appointed nearly four years ago and have been chairman throughout, since it got going in September 2014. I am also chairman of the Complaints Committee, which is separate from being chairman of the board.

Anne Lapping: My name is Anne Lapping and I am a member of the board of IPSO.

Nazir Afzal: Good afternoon, I am Nazir Afzal. I was the Chief Prosecutor for 20-odd years and I am now on the Complaints Committee and I have been for about three months.

Q289 **Chair:** You obviously heard the evidence from the NUJ and from Baroness Warsi. Do you agree that there is a problem with inaccurate reporting about Muslim communities, with Islamophobia or with anti-Muslim hatred in the British print media?

Sir Alan Moses: Can I separate the things? I think that there is a fundamental problem that I do agree with, which is the way people write about other groups and other religions and particularly, because it is in question for this Committee, about Muslims. That is one question. So far as accuracy is concerned, when complaints are made about accuracy in such stories feeding the prejudice that derives from it, IPSO can and does deal with it. The impression that you were given that somehow it overlooks accuracy is quite wrong. On the question of hate speech, the issue of whether a particular article is breaching the criminal law, IPSO takes the view that is one for the police, and it indeed has reported newspapers when that has occurred.

The more important thing that emerged from the evidence that you have just been listening to, I would perhaps venture, is the problem of writing of stories that fall short of incitement to hatred—which is a criminal offence—but is prejudicial, that panders to people's prejudices about groups. One of the fundamental questions that I think Mr McDonald raised was how do you deal with that and how should IPSO and the Editors' Code deal with those problems. That it is a problem, as I suspect all of this Committee think and as I certainly believe, is beyond question. It has an impact on our daily lives and it is something that we should



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fight against and it seems to me that all of us as individuals, as politicians, as press regulators, should be deeply concerned about it. From a regulator's point of view, the question I would deeply like to discuss with you is how practically to deal with it. Sorry, it is a very long answer to your question.

Q290 **Chair:** I am going to ask you further questions on that point, but I would like to ask our other panellists do you agree there is a problem that surrounds wording around pandering and encouraging prejudice and hatred towards Muslims in articles in the print media?

Anne Lapping: I think the cumulative effect of a lot of stories does poison the atmosphere and a lot of stories are misjudged and some of them you think are really deliberately nasty. The problem is drawing a line between free speech and comment and things that as a regulator we can deal with.

Nazir Afzal: I agree entirely with everything that has been said. Yes, it does poison the atmosphere. I think we have all suffered at the hands of various newspapers that have decided to take a particular line. But again agreeing with colleagues, we take our lead from Parliament. Parliament created some legislation back in 2006 that allows for insult, abuse, dislike, antipathy, discussion, criticism. When you have set those exceptions, people are running with them, and, sadly, we are the victims. Many of us, particularly as a Muslim myself, are the victims of that kind of abuse.

Anne Lapping: I think a lot of people feel frustrated, not just us, not just the people in this room, at reading stuff that runs totally contrary to their values and that they think is causing damage. That does not make it actionable.

Q291 **Chair:** Do you accept that IPSO at the moment is incapable of dealing with this problem?

Sir Alan Moses: It is capable of dealing with aspects of the problem. I am not sure I accept the word "incapable". I would like to put it in my own words.

Q292 **Chair:** You have just set out that you think there is a problem. All three of you have agreed. You think that there is a significant problem and you have not challenged the previous panel's evidence on the fact that there is a problem. My question is: do you accept that what you are currently doing is failing to address that problem?

Sir Alan Moses: Failing begs the proper question of whether a regulator ought to be, because—

Q293 **Chair:** Before we get to whether or not you think the regulator ought to or ought not to, I would like to understand from you whether you think what you are currently doing is addressing the problem in any way.



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Sir Alan Moses: It addresses the problem in relation to accuracy, it addresses the problem in relation to clause 12 of the Editors' Code, which deals with discrimination against individuals, but it does not prevent and it does not deal with the question of prejudicial or abusive writing about groups.

Q294 **Chair:** Even on the issue about whether or not you address anything under clause 12 and on accuracy, we wrote to you to ask for some figures on IPSO's investigations of complaints. I want to clarify whether these figures are accurate. You told us that you had had 8,148 complaints, in a year, that cited clause 12. Of those, only one was upheld on the grounds of clause 12. I make that an upholding rate of 0.0001% and you upheld only three others on grounds of accuracy. Is that right?

Sir Alan Moses: No, it is not right in relation to accuracy. One has to be slightly careful about the figure of 8,000. Some of them are multiple complaints. So far as accuracy is concerned, I have a whole list here of complaints against national newspapers that were upheld on the grounds that they were inaccurate.

Q295 **Chair:** I am referring to ones that particularly cite clause 12. You may have other ones that may be inaccurate around other things.

Sir Alan Moses: So far as clause 12, that sounds right. It goes back to the problem that the previous witnesses were discussing, which is the question of when you do not attack an individual but you are abusive about a group. There is no breach of the Editors' Code for writing either offensive material or abusive material about a group. Therefore, the question is whether you should have a clause in the Editors' Code that prevents writing prejudicial or abusive comments about a group, such as the Muslims.

I should point out, picking up a point you made, Chair, that the IMPRESS code does not prevent writing prejudicial material about groups. It only refers to groups in the one context of incitement to hatred of a group. IPSO's view, and the Editors' Code Committee's view about that, is that that is a criminal offence and regulation ought to be dealing with things other than criminal offences.

Q296 **Chair:** Why do you not have incitement to hatred included within your code?

Sir Alan Moses: Because it is a criminal offence.

Q297 **Chair:** Does that mean you think it is okay if the prosecutors, for whatever reason, do not have the capacity or resources to pursue something through the criminal route, you will still not take any further action if it is referred to you? If you have a complaint referred to you that may or may not be pursued by the police or prosecutors, even if you look at the case and you think it is incitement to racial hatred or incitement to hatred against another protected group, it is okay and you will not pursue it because it is a matter for the police?



Sir Alan Moses: I do not see how you can say that because you do not pursue it if you think it is okay. The mere fact that you do not pursue it as a regulatory breach does not mean to say you think it is okay. It is merely a fact that regulation ought to deal with those matters in the interstices that are not within the criminal law.

There is a real difficulty about incitement to hatred, and that was touched upon by Nazir, and that is the question of 26(j) of the Public Order Act, which has specifically been introduced by you, by Parliament, to allow abusive insulting words to be written about religions. That was introduced because it was thought if it was not introduced the Public Order Act would not be consistent with Article 12 of the European Convention. For IPSO as a regulator to have provisions about writing offensive material about groups, however desirable to prevent that, as a press regulator it raises very deep questions about legality.

Q298 **Chair:** What questions does it raise if you had something in your code that simply replicated the law? Why does that raise any difficult questions for you?

Sir Alan Moses: That does not raise a difficult question. It just seems to us that as a regulator we should be dealing with matters that are not the subject of the criminal law.

Q299 **Chair:** We took evidence from the social media companies. One of the issues that we pressed them on repeatedly was why they did not do more to remove things that were clearly a breach of the law, and why they did not take action swiftly rather than leaving it to the police or to prosecutors to pursue this. I think surely the same question applies to you. If you have had a complaint made to you and it looks like it is an example of incitement to racial hatred, why would you not simply rule on that swiftly and get it addressed quickly rather than leaving it and waiting for the police and prosecutors to pursue it?

Sir Alan Moses: The police resources, I would have thought, would be much more able to act upon it. That is the reason.

Anne Lapping: Can I just interject? I think our role then is to make sure it is reported to the proper authorities, the prosecuting authorities or the police, and that is what we have done.

Q300 **Chair:** What is not clear is what your objection is to addressing things. Presumably you think it is wrong to incite racial hatred.

Sir Alan Moses: Then that has to be decided. On the one hand, it would be by our complaints group. Secondly, the question would then be decided by a jury next time around. Why should it be any substitute for a serious criminal offence that can be tried on indictment and for which the maximum sentence is two years?

Q301 **Chair:** You make judgments all the time. You make judgments and you make judgments in complicated cases and you have to weigh up the



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evidence and you make judgments. Why do you think you are not capable on making judgments on some of the most extreme cases that you might have come to you as complaints?

Sir Alan Moses: I think we would be capable of making judgments.

Nazir Afzal: My view would be if it is a criminal offence you would report it to the police. That is what I would say in every other sphere of my life. Given what I have said at the outset—I have not seen these cases, I have only been there three months—my perception is that were it to be a criminal offence it would be reported to the police.

Q302 **Chair:** How many have you referred to the police?

Sir Alan Moses: We referred the cockroach case.

Chair: How many others?

Sir Alan Moses: That was the only one.

Q303 **Chair:** You have referred one case to the police?

Sir Alan Moses: That was the one that we thought was capable of being examined as a question of incitement to racial hatred.

Q304 **Chair:** On the figures that I quoted, in terms of upholding the grounds of clause 12 we have 0.0001% of cases being upheld on grounds of clause 12 and 0.0001% of cases being referred to the police and that is all?

Sir Alan Moses: Yes, but I think you would have to look at the reasons why the complaints under clause 12 were not upheld. I do not think the figures reveal anything. The question is whether the article discriminated against a person on the grounds prohibited under clause 12 or against a group. Writing abusive, offensive material about a group is not a breach of the Editors' Code. Then the question arises whether it ought to be.

Chair: Indeed. Perhaps you could answer that question.

Sir Alan Moses: A balance has to be struck between allowing people to criticise or write offensive material about groups or religions or beliefs, and about protecting individuals. The reason clause 12 is drafted the way it is is in order to maintain that balance. People in this country, however much you may regret it, are allowed to write offensive abusive things about individuals as long as they do not attack the individuals but only attack the groups. That is part of the freedom of expression that the media has. If you wish to require the media to have different rules of balance, fairness, taste and decency, Parliament must say so, but that has never been the way freedom of expression has hitherto been interpreted in this country.

Q305 **Chair:** You have self-regulation. The Editors' Code is drawn up by all of you, not by all of us. You have chosen to only include discrimination against individuals and not against groups.

Sir Alan Moses: Yes.



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Chair: Why do you think it is important to include discrimination against individuals if it is not important to include discrimination, including inflammatory content, against groups?

Sir Alan Moses: For the reason that I have already given, that it seems to me a balance has to be struck, however much one may dislike it, between the right to express yourselves in pejorative, provocative ways about groups. There seems to be a distinction between doing that and attacking an individual in those ways.

Q306 **Chair:** Why is that? What is the distinction?

Sir Alan Moses: The distinction is that you are allowed, in the law of this country, to attack groups and be abusive about them.

Q307 **Chair:** Your clear view is that you think there is a real problem, you think there is a real problem in the print media but there is no further role for you to play in addressing it. Is that correct?

Sir Alan Moses: I think there is a great role that we play in addressing it that you have not yet been told about.

Chair: In 0.0001% of cases.

Sir Alan Moses: I have already made a comment on that, but there is much more that we do. I speak a great deal with Miqdaad Versi, as he will tell you, about the problems of what it is like to be a Muslim in this country when you read that sort of material in the newspaper. We have, with our standards group, continuing discussions with the independent Hate Crime Working Group, Citizens UK, Tell MAMA, the Regent's Park mosque, the Leicester mosque, and we are working at the moment members of the Anti-Muslim Hatred Working Group that the Ministry of Housing has set up. It is simply not right to say that we just deal with complaints.

All I am saying is that a balance has to be struck between allowing the very thing of which section 26(j) is an example, of allowing people to criticise groups in highly pejorative ways, on the one hand, and on the other hand seeking to protect individuals. It is an extremely difficult task that my Committee take very seriously every day. The fact that we do not uphold complaints, I would like to stress, does not mean to say that we approve or do not find deeply offensive some of the material written. The question is how the balance should be struck.

Q308 **Stuart C. McDonald:** I will return to the question about balance in a moment, but if I could run through some of the other questions that were raised in the previous evidence session. Do you think there are any issues arising from the regulatory structure or governance of IPSO that affect your ability to tackle hate crime in the print media at all? Are you quite happy with how you are constituted?

Sir Alan Moses: One of the problems is that we have a large Complaints Committee of 12, with a majority of independent members. It is a large



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committee and it does mean that a number of different views are expressed. If it was smaller or if it was just me, it would be much easier to act far more speedily, but I do not have a casting vote. I am just one member of that committee. Compared with my time as a judge when I could make the decision as just one person, or three when I was in the Court of Appeal, it is much easier than when you have a committee of 12.

I think the structural problem, which I think IPSO does as best as it possibly can, is a question of speed. The material—I think you have heard this—is published and then, if it is a pejorative piece, feeds into and panders to other people's prejudices and the damage, in a sense, is done. By the time IPSO makes its ruling it might be two or three months later and of course, in a way, that is far too late. It is really difficult to see how you could fairly resolve these complaints, giving both sides a proper opportunity to deal with it quicker.

Q309 Stuart C. McDonald: Any other thoughts on changes?

Nazir Afzal: I agree with Sir Alan in relation to that. What I have seen is that the investigations are very thorough. I have seen the IPSO staff diligently looking at everything that has been submitted, making sure serious inquiries are made of the publishers and the publication. I have seen some very challenging questions being asked of the publication, at the end of which, as Sir Alan said, there has to be a Committee hearing. They happen once a month and, therefore, there is only a certain number of cases you can deal with in that particular meeting, so there will be some delay. Given I have dealt with cases that lasted two or three years before the police were able to submit a case, I would suggest that they work in a very timely fashion. My concern is what Sir Alan says, that once it is out there, it is out there, so we are literally trying to put the fire out after it has been set up.

Q310 Stuart C. McDonald: What do you say to those who perceive IPSO needs to be more independent, that it is too close to the industry?

Sir Alan Moses: I simply do not recognise that as a criticism. It was set up, as indeed Leveson recommended it should be set up, by the regulated bodies themselves, with a contract. The Leveson achievement was persuading the press to enter into a contract. That had never been done before. Who else was going to set it up if it was not the press? Was it going to be a state body like Ofcom? Brian Leveson did not suggest that. In those circumstances it is very difficult to see how structurally it could have been done differently.

All I have to say is it is deeply insulting to members of the Complaints Committee to suggest that they reach anything other than an entirely independent view about the merits of each case. Nobody controls our judgments, nobody controls our decisions. So far as finance is concerned, which was another source of criticism, the fact is that we have now, as Brian Leveson recommended, had a budget agreed throughout the whole period of the contract of five years. That has been agreed so that we are



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not dependent financially either. The day-to-day running and the day-to-day decision-making of IPSO is entirely independent from those that we regulate.

Q311 Stuart C. McDonald: I have absolutely no reason to quibble with what you say about the fact that members of the complaints panel make their decisions independently, but it is also about perception as well. Is there a danger that sometimes, the membership being drawn, as it is partly, from the various professional—

Sir Alan Moses: We do have some representatives who are nominated. They do not have to be chosen. We have an independent appointments panel chaired by Haydn Phillips. The fact is that you need people in the regulator who have worked in the business. They are not allowed to be editors. It seems to me highly valuable from the public's point of view that you should have people who have worked, for example, in tabloids, broadsheets and magazines, and we do have those who have that experience.

Nazir Afzal: I would agree with that. They bring some professionalism and some knowledge that I do not have myself. I think it also needs to be said if there was any potential conflict of interest they are out of the room faster than you could imagine. They do not need to be asked, they leave. They know that they are not involved in any discussion that might relate to any newspaper that they have worked on.

Q312 Stuart C. McDonald: Another criticism that was made in the previous session was that the test of inaccuracy being significant inaccuracy means it is too difficult to ever find a breach.

Sir Alan Moses: I do not recognise that criticism. The wording of the code does not refer to significance. In Article 1(i) it refers to the obligation on the press to, "Take care not to publish inaccurate, misleading or distorted information". For correction, that does refer to significant inaccuracies. In the cases involving articles that were drawn, partly by the Committee, to our attention and that we have listed, the inaccuracies were found and upheld. There was no problem about significance.

Q313 Stuart C. McDonald: Does the significance only kick in when you are deciding whether or not a correction should be made?

Sir Alan Moses: That is right. If it is insignificant, then we would not.

Nazir Afzal: It can be upheld but it does not necessarily follow that there will be a correction unless it is a significant inaccuracy.

Q314 Stuart C. McDonald: I take it there is quite a lot of debate and maybe even previous decisions about what constitutes something that is significant enough to merit that correction?

Sir Alan Moses: Yes. That does not seem to me to have been interpreted in any other way, under my chairmanship, other than that we



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might not deal with something if it is trivial but otherwise we would deal with it. Certainly in the context of attacks on someone by virtue of their religion or their belonging to a group, it is very difficult to see that if there was an inaccuracy there it would not be found to be an inaccuracy, because it is such a tinderbox. We are talking about an area of a powder keg and that the Committee is very conscious of.

- Q315 **Stuart C. McDonald:** Going back to this issue of balance and the fact that you will find cases of discrimination against individuals and that will be a breach of the code but there is this issue of discrimination against groups not being in breach of the code, you have questioned utility of the IMPRESS-type of clause.

Sir Alan Moses: That does not seem to me to grapple with that problem of whether prejudicial remarks about groups should be forbidden in the press code. It is not in IMPRESS and it is not in ours.

- Q316 **Stuart C. McDonald:** You have also highlighted some of the issues with the criminal law and in particular section 26(j). I cannot remember which particular Act it was. Would there be a different way to go about it if this Committee thought that there has to be some higher form of protection for groups in the code? How would you go about drafting that?

Sir Alan Moses: You would have to draft it in a way consistent with freedom in speech as enshrined in the European Convention on Human Rights, which, as interpreted by this Parliament, as interpreted by the courts, does allow insulting and abusive words to be written attacking groups on grounds of religion or, for example, sexual orientation. You would have to change the law, as it seems to me, and you would have to fight the case through to Strasbourg to show that you had struck the balance correctly.

- Q317 **Stuart C. McDonald:** Are there examples of other countries that have tried to do that?

Sir Alan Moses: Poland has forbidden any attack on Poles on the grounds that they may have been complicit in the holocaust. One can think of a whole lot of countries that do do that. Of course, we do it in this country in relation to public broadcasting. Where you license a body and say, "You are not to publish except under licence", you can require balance, decency and absence of offence and so on and so forth, as you do with the BBC and other broadcasters. I do not know whether this Committee would dream of going back to the last time Parliament decided to try to license the press, which was 1640, an occasion that Milton described as like stopping crows flying over the gate to get into the park.

- Q318 **Stuart C. McDonald:** Earlier you seemed to accept that there was a legitimate debate to be had about how far you could go and where you would strike this balance, but now you seem to be firmly coming down on the side of those who say there is a right—



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Sir Alan Moses: I think there is a debate but I think you have to face it. The debate is about questions of control and legislation. Rather than looking at what are said to be IPSO's inadequacies, I think there is a much more fundamental, difficult question, and that is how we as society should strike that balance between freedom of expression to criticise and abuse, and protection of those who belong to the group. I am simply posing the difficulty and the difficulty for us in our daily judgment trying to give effect to this, which is the reason I raised it.

Q319 **Stuart C. McDonald:** Finally, could I raise with you one particular case that the panellists from the last evidence session highlighted? It is about the child placed with foster carers. We had understood that that was not going to be investigated.

Sir Alan Moses: I am in great difficulties about that. We have a rule that if there is a complaint, unless the complainant agrees then the fact of there being a complaint has to remain a secret until it is resolved, to protect the complainant. All I can say is that you will know that Tower Hamlets did publicly say they were instructing its chief executive to consider a complaint made by IPSO. Therefore, you must not assume that it is not being investigated.

Q320 **Stuart C. McDonald:** Moving to a hypothetical case, it is one, for example, that does involve a stock image being manipulated in a controversial way, to put it like that. Just because the individuals directly involved in that particular story do not complain, should you not have a role investigating that anyway, because that can have very significant consequences for the community?

Sir Alan Moses: We do allow third-party complaints in relation to accuracy but not in relation to other clauses. There are grave difficulties about it. We started with rather more messianic zeal in bringing complaints where the particular victim of the publication did not choose to complain, and we found that that might end up doing far more damage than good, because if it is not upheld, if the complaint is not found to be good, then the person who is the subject of the story suffers much more when the result of the adjudication is known.

Q321 **Naz Shah:** I have quite a few questions, particularly in relation to the evidence that you have given. You have talked about hate speech against groups, and I am going to draw your attention to Trevor Kavanagh, who was on IPSO's board. Trevor Kavanagh attacked a complainant for complaining to IPSO, breaching the very reason of IPSO's existence; he remained on the board. He breached the code himself for his article; he remained on the board. He wrote a number of inflammatory articles about Muslims, including the infamous "Muslim Problem"; he remained on the board. Did you sack Trevor Kavanagh, who left two years into his three-year term, after his latest act or did he resign?

Sir Alan Moses: He resigned.

Q322 **Naz Shah:** Why didn't you sack him?



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Sir Alan Moses: The sequence of events was that when the complaint was made about the latest article, the Complaints Committee had to consider it. It did consider it and it dismissed the complaint under Article 12 and it did not find a breach of Article 1. After it had ruled in relation to that, then Trevor Kavanagh resigned.

Q323 **Naz Shah:** What does a board member have to do to be sacked?

Sir Alan Moses: He has to breach the code that is set out and his obligations in relation to the reputation of IPSO. If he is found to have breached that code, he will be sacked by the board.

Q324 **Naz Shah:** He did. He breached the code himself.

Sir Alan Moses: It did not arise in the case, because he went.

Naz Shah: Sir Alan, he did breach the code.

Sir Alan Moses: That remained to be determined and, in fairness to him, he would have had to have an opportunity to argue against that. It never arose.

Q325 **Naz Shah:** Sir Alan, do you consider "the Muslim Problem" article not hatred?

Sir Alan Moses: I considered it deeply offensive.

Q326 **Naz Shah:** Despite the fact that the Jewish Board of Deputies, myself, lots of parliamentarians, more than a fifth of this house, complained and found it to be hate speech, you found it to be offensive?

Sir Alan Moses: I found it to be offensive, yes. I have explained that if it was hate speech, you should have reported him to the police.

Q327 **Chair:** Do you think it was hate speech?

Sir Alan Moses: I am not prepared to answer that question, because my job as Chairman of the Committee is to speak for the Committee and the Committee made no ruling about that because it was concerned with the question of whether it was discrimination against an individual or whether it was inaccurate. I, as a member of the Committee, cannot give my own personal views about what I thought about that article.

Q328 **Chair:** Does anybody else on the panel want to answer whether they think it was hate speech or not?

Nazir Afzal: I was not on the Committee at the time, and I found it despicable, disgusting and hateful.

Chair: Was it hate speech?

Nazir Afzal: I certainly was not on the Committee at the time.

Chair: You do think it was hate speech?



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Nazir Afzal: It was hateful. I understood what Ms Shah has said. There is no other way I could perceive what was said, particularly the words “Muslim Problem”.

Anne Lapping: I found it deeply offensive, really offensive.

Q329 **Chair:** The word “offensive” is a bit of a one to hide behind. I am interested in whether you think it is hate speech.

Anne Lapping: I thought it was disgusting. I am not sure what hate speech is in legal terms. I am not sure if it was legally hate speech. I do not know.

Q330 **Naz Shah:** That brings me to the question that when you considered the complaint that you did make to the police on the cockroach article, did you consider that hate speech or did you consult your board?

Sir Alan Moses: I did not consult the board. It was a discussion in the Complaints Committee, which is separate from the board.

Q331 **Naz Shah:** When you led that discussion, I take it—correct me if I am wrong—that you will have taken it to the Complaints Committee?

Sir Alan Moses: I did not take it to them. There were vast numbers of complaints about it and so it came before the Committee.

Q332 **Naz Shah:** There were vast numbers of complaints about this article as well, Sir Alan. My question again is: did you take it to the Committee to ask whether it was hate speech?

Sir Alan Moses: There were two questions in our decision published on the website. One is the question of whether it was a breach of clause 12 and, two, whether it contained an inaccuracy.

Q333 **Naz Shah:** Let me come again to this question. You are a judge by profession and perhaps I have not made myself clear. When you went to the Committee when you had complaints about the Katie Hopkins article—

Sir Alan Moses: I am sorry, we are at cross-purposes. I thought you were talking about the Trevor Kavanagh article.

Naz Shah: We are talking about both of them. In the Katie Hopkins article, you considered it to be hate speech, or your panel considered it to be hate speech, which warranted a complaint to the police.

Sir Alan Moses: It warranted to be referred to the police.

Q334 **Naz Shah:** It warranted a referral to the police. The same process happened here, am I right, that lots of people complained that the Trevor Kavanagh article was also hate speech, so why was the decision taken not to refer it? What was the difference?



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Sir Alan Moses: The complaint was not that it was hate speech, which covers a whole multitude of things. The question was whether it was a breach of clause 12 and clause 1, and those were considered.

Q335 **Naz Shah:** Was that considered in the Katie Hopkins article, whether it was a breach of clause—whichever one you have just referred to?

Sir Alan Moses: Yes.

Q336 **Naz Shah:** Yes, it was, and this was not. Nazi-like terminology was not considered a breach?

Sir Alan Moses: Sorry?

Naz Shah: Nazi-like terminology was not considered hate speech?

Sir Alan Moses: If it was Nazi-like, it would have been considered as hate speech.

Naz Shah: Sorry, it was Nazi-like. The Jewish Board of Deputies stated as such.

Sir Alan Moses: That was their opinion.

Naz Shah: That was their opinion. I agree with that opinion, but you disagree with that opinion?

Sir Alan Moses: My view was that to use that language was deeply offensive. That was my opinion.

Q337 **Naz Shah:** Do you agree with you me it was Nazi-like language?

Sir Alan Moses: Can I just finish my answer? We said so in our ruling.

Q338 **Naz Shah:** Do you agree referring to “the Muslim Problem” in capitals, as “the Jewish Problem” was referred to by the Nazis, was hate speech, yes or no?

Sir Alan Moses: I am not prepared to give an off-the-cuff view about that.

Naz Shah: It is not an off-the-cuff view, is it, Sir Alan?

Sir Alan Moses: My only function as a member of the Committee is to represent and indicate the ruling of the Committee on those questions. I am not prepared to give a personal view on what I think of that particular article more than I have said.

Q339 **Naz Shah:** My personal view on this is that I agree with the former people who gave evidence that it is not fit for purpose. Moving on.

Sir Alan Moses: Which purpose did you have in mind? You see, you use a cliché like fit for purpose, but it disguises the far more difficult question of which purposes you think it is designed or ought to be fulfilling. I think until you have defined that, a general criticism like that is just impossible to answer.



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Chair: Sir Alan, I think it is for the Committee to set out in our conclusions what purpose we think you are fit or not fit for and I think your evidence is rather helping us in doing that.

Q340 **Naz Shah:** You referred to Miqdaad Versi earlier on. There have been eight rulings by IPSO on issues to do with Islam and Muslim, all from the same one individual. What does that say about the regulatory process, that Muslim communities need to have their own watchdog looking over articles? Let me qualify that. In my opinion, one does not have to be a woman to be a feminist, one does not have to be black to get racism. Likewise, you do not have to be a Muslim to get anti-Muslim hatred or Islamophobia. To this end I would expect IPSO, the members of the board and the complainants to understand prejudice. To this end, why does it take a Muslim man to highlight the issues that are going on in the press? Do we need a regulatory body that is just for Muslims right now?

Sir Alan Moses: I think he does very important and valuable work but it should and could be anybody.

Q341 **Naz Shah:** Why does it take him to highlight it? Why are you not picking it up?

Sir Alan Moses: Our function is to look at standards generally. It does not take just him to pick it up. We do discuss this real question of striking the balance between freedom of expression and protecting individuals from prejudice extremely seriously and it does not take just him.

Q342 **Naz Shah:** The NUJ, Sir Alan, has demanded IPSO launch an inquiry on press racism. Is this something you are prepared to do?

Sir Alan Moses: Yes.

Q343 **Naz Shah:** Are you going to be doing it?

Sir Alan Moses: We will certainly consider the best way of carrying on this debate about how best the members of a particular racial or religious group can be protected, consistent with freedom of expression. That requires discussions with the press—I do not know how many editors you have called here to speak about what they publish—and politicians and us and a forum that will continue with the discussions that I do have all the time with these different representative bodies. It is clearly something that has to be taken forward and considered.

Q344 **Naz Shah:** Why are you hostile to the Press Recognition Panel? Do you not believe there should be any Government or independent oversight on your successes or failures?

Sir Alan Moses: I am not hostile to it but the press has set its face against it. Not only those who are our members but also all those who have joined no particular group have a theological dislike of the idea of a body, the recognition panel. If IPSO was asked tomorrow to go to the recognition panel and seek recognition it would do so, but it was set up so as not to do that.



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Q345 **Naz Shah:** What do you understand by due prominence? I have just looked at an article now where *The Sun*, despite you finding that the headline was inappropriate and asking them to issue a correction, the correction is 66 pages behind the headline.

Sir Alan Moses: Which one is that?

Naz Shah: I am talking about *The Sun* in particular. *The Sun* was asked to have a correction about your former board member on its front page. It then went 66 pages down from the top of this. Do you think that is considered appropriate and acceptable?

Sir Alan Moses: If I do not know which case it is, I am afraid I—

Nazir Afzal: Is that the “one in five” case?

Anne Lapping: It does not have 66 pages.

Naz Shah: No. *The Sun* was asked to have a correction about your former board member on its front page. I am trying to find it.

Anne Lapping: Sorry?

Chair: Perhaps we will come back to that one if Naz wants to find it while we are referring to other questions.

Q346 **Sarah Jones:** When we heard evidence from Baroness Warsi, she said that she thought if you were being honest and if you were thinking about what you do, you would think what you do is not good enough and that there were more things you could do to be better. I wanted to give you the opportunity to say a bit more about—given the constraints, which I understand, in terms of what is the legal side—what is your role, what do you think you could do within the confines of the existing role and your existing role? What more do you think you could do with this problem, which you identified yourself and we have all agreed with?

Sir Alan Moses: I think this question of continuing the discussion and debate and making sure—as Miqdaad Versi knows and does contact me personally, meets me personally and discusses these things—the more that happens, the better. I think it is also important to have the editors and the press involved in those discussions. We do it in a whole range of things, contrary to what you were told by the professor, in relation to transgender, suicide, the reporting and intrusion on grief and privacy. We do that and we publish papers based upon the analysis of the complaints.

Of course an organisation like IPSO can always improve and can always do better but, to speak in general terms like that, I believe that we do take these matters extremely seriously and that those who work with me, both on the board and the Committee, are constantly looking at ways of improving standards in the press.

There are fundamental difficulties that seem to me to be highlighted by your previous evidence. One of the major criticisms was that the newspapers do not publish the good stories, the positive stories, that



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they are always looking for the pejorative story, the story that does a group down. However much one may agree with that as a proposition, the real question is what do you do about it. How does any regulator compel newspapers to publish the stories other than the ones they want to publish? There are no means, short of seeking to run the printed media like public broadcasters, or ensuring that form of balance and decency.

Anne Lapping: I will be somewhat repetitive of Alan, but I have taken part in one or two of the workshops that we have done with professionals on reporting of suicide. There have been others. We have done workshops on reporting transgender. I think they are all very useful and I think that is something we should definitely follow up and can follow up with the Muslim community, as we have done with other communities, significant problems but not of the same nature.

I would also say, as someone who has to confess to having been a journalist, you cannot tell newspapers what to publish. You cannot even tell broadcasters, who come under the Broadcasting Act, what kind of programmes they can produce and what they should broadcast. You can say maybe you cannot do something. You can, under the Broadcasting Act, insist on balance and due impartiality. You cannot do that with newspapers.

What you can do is take very seriously and deal with criticisms, which we do. I think it is worth remembering that newspapers have voluntarily signed legally binding contracts to accept our enforcement of the code, which you can criticise, which is debated, which does change over time, but what you cannot do is say to newspapers, "You must publish good news". It is just impossible. What you can do is issue guidance and facilitate conversations and, more than conversations, debate on issues. I have cited two; there are more. It is certainly something we can do more of and should do more of with the Muslim community.

I would also add that what we are dealing with is a problem that we all recognise and is a difficulty, and a difficulty in relationships between communities that we all deprecate and material that all of us would rather not see, but I think we have to recognise—and I am sure this Committee does—that newspapers are one component of a whole range of influences. Politicians themselves, as I am sure you would recognise, in some ways have more power and more influence even than newspapers. I am not saying that newspapers are not in some ways culpable, but so are a lot of other organisations. I am sure that you will recognise that and reflect that.

Nazir Afzal: My children do not get anything from newspapers. We have to recognise, as I think you have by taking evidence from social media companies, that is where they get their news. I go back to what I said right at the outset. I think we can do something around religious hatred that we did not do back in 2006. When you legislated in 2006 you made a



very specific point that you would differentiate between racial hatred and religious hatred. Those of us who were around then remember there was a real campaign by people like Rowan Atkinson and others, saying you should be able to laugh about religion. What you did with that legislation was you said it had to be threatening and you said that it had to be intended to stir up hatred, both of those two tests. They are not reckless and you cannot use insult and abuse. You made that threshold that high and in 10 years of prosecuting I could not bring one prosecution.

I think you then send out a message. If you are saying that Parliament says you are allowed to do what I said earlier on about ridiculing, insulting and abusing, people can take advantage and see that as almost the way they should behave, rather than saying, as we do with many other bits of legislation, "This is something you should not do".

Q347 Sarah Jones: Turning to some of the specifics, are you content that the measures enforced by IPSO after a breach of the code are strong enough, and what evidence do you have that they make a difference when it comes to editorial decision-making thereafter?

Sir Alan Moses: What happens if we uphold a complaint is that we require it to be put in the newspaper where the Committee decide it should be put, in the terms that we dictate and the font size we dictate. All I know from experience is that the newspapers hate it. There has never before been a legal obligation on the newspapers to put into their newspapers what we dictate should be put in. I know there is big debate and real questions asked of us about due prominence, whether due prominence should be equal prominence, whether it should be more prominent than the Committee has dictated, but the fact is that telling an editor what they have to put in the newspaper is not a power that even the courts have hitherto had and they take it very seriously. When a complaint is upheld, our standards branch also requires the newspaper to tell us what action they have taken to prevent its repetition.

Q348 Sarah Jones: Do you think it has made a difference in their decision-making?

Sir Alan Moses: I am sure it has made a difference. I am sure it has made a difference in the seriousness with which they take compliance as to the Editors' Code. We have had illustrated today, and I know you have heard from other evidence, what difference it has made to the age-old problem—I do not suppose anybody in this Committee will think that this is a new problem—of the newspapers seeking to foresee what their readers want to hear and then publishing it and the unholy circle whereby they print something, the readers read it because they like reading about that and they are confirmed in their prejudices. The increase of that prejudice is not something that we have dealt with.

Q349 Sarah Jones: Complaints that have been upheld against several articles have been on the grounds of accuracy, including from misrepresentation of research findings, failure to differentiate between conjecture and fact



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and making assertions based on no evidence. Do you think those errors were intentional?

Sir Alan Moses: Sometimes I have suspicions, but I think on the whole they have been much more to do with carelessness. Of course, they are much more prone to carelessness if it is feeding their own particular line they want to take.

Q350 **Sarah Jones:** Would you agree?

Nazir Afzal: Absolutely. In the examples I have seen, they have not carried out due diligence and it may be because they did not want to carry out due diligence.

Q351 **Sarah Jones:** The comments that were made in the evidence we heard earlier about journalists being bullied into writing in a certain way, I have talked to plenty of journalists who have said that to me, in lots of different fields. Not this particular subject, but journalists in the world of health. You have to write ridiculous stories about tiny research findings that do not mean anything, that tell you that we are all going to die of cancer if we eat a banana or whatever. Lots of journalists say all the time that they feel pressured to write in a certain way. Do you think that is part of the issue here?

Sir Alan Moses: I am not sure it is as bad as it was. I do not know what periods the professor was talking about, the periods that led to his evidence to Leveson. I think inevitably the journalists who get on are those who are taking the line that the editor of the newspaper wants them to take.

Anne Lapping: Or finding good stories.

Sir Alan Moses: Or finding good stories. Andrew Norfolk is a very good example of that. The journalist now criticised in relation to the foster story was of course the author of the story about Rotherham, in the face of enormous opposition from every government, local government and police body. He took four years writing that.

Q352 **Sarah Jones:** One final question from me. In your annual report you received 14,455 complaints in 2015-16.

Sir Alan Moses: Yes.

Sarah Jones: *The Daily Mail*, including *The MailOnline*, and *The Sun* accounted for half of all of those complaints. Does this suggest that there are endemic issues with the content of those?

Sir Alan Moses: I think what it suggests is that the two most popular newspapers are those that most accurately reflect and identify what they believe their readers want to read. It is no accident that they head that list, because that is the type of journalism they write.

Nazir Afzal: I agree



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Q353 **Chair:** Can I follow up on some of your earlier evidence, to clarify? As I understand it, when you were asked about why the Editors' Code could not be strengthened to deal with inflammatory or prejudicial content against groups, you had two reasons that you expressed for not strengthening the code. The first was that there is provision in the law against incitement to hatred and that should be dealt with by the legal system and not by yourselves. The second was that you could not set any stronger words because that would somehow undermine the balance between hatred expressed against groups and freedom of expression to insult groups. Is that an accurate characterisation of your arguments from earlier?

Sir Alan Moses: "Could not" are not the words; clearly you could because you could change the law in relation to that provided by Article 12. What I was groping towards was whether, if you did, you would be striking the right balance and whether you ought to have a provision that says you should not be able to insult a group by virtue of being a particular group.

Q354 **Chair:** I think the point you made, however, was that if you did anything to change that balance, you might be in breach of another law. I specifically wanted to ask you on that: do you think that section 4.3 of the IMPRESS code goes against the law or might be challenged in the European Court? I will read it for you, for the record. "4.3. Publishers must not incite hatred against any group on the basis of that group's age, disability, mental health, gender reassignment or identity, marital or civil partnership status, pregnancy, race, religion, sex or sexual orientation or another characteristic that makes that group vulnerable to discrimination." Do you think that that provision in the IMPRESS code is illegal?

Sir Alan Moses: No, I do not think it is illegal to prohibit incitement to hatred against any group. But my point about that was that that is an offence under the Public Order Act.

Q355 **Chair:** That comes back to the first one, that you think that you should not have things in your code that are illegal and that are dealt with by the criminal justice system. In your own code, you have at paragraph 15, "No payment or offer of payment to a witness or any person who may reasonably be expected to be called as a witness should be made in any case once proceedings are active, as defined by the Contempt of Court Act 1981". Can you confirm that that is actually illegal?

Sir Alan Moses: As far as I am aware, yes.

Q356 **Chair:** And clause 10: "The press must not seek to obtain or publish material acquired by using hidden cameras or clandestine listening devices". That is also illegal?

Anne Lapping: Is there not a public interest—

Sir Alan Moses: There is.



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Chair: There is reference to a public interest defence in it, but my question is basically that this reflects the legal position, in your code.

Sir Alan Moses: I think it does not.

Q357 **Chair:** I think that in fact it does, but you do also refer to the public interest test, so it seems to me that it does refer to the law. At clause 7 you say, "In any press report of a case involving a sexual offence against a child the child must not be identified". That is also against the law.

Sir Alan Moses: Clause 7(ii) goes wider than the law.

Q358 **Chair:** Either way, would you accept that I have just given you three examples of things that are in the Editors' Code that are effectively the law?

Sir Alan Moses: Two examples I would accept.

Q359 **Chair:** We can go on, if you like. I can find several more. My point is and my question to you is whether you accept it, that you have within the Editor's Code a whole series of statements that are basically replicating the law of the land.

Sir Alan Moses: In those circumstances, yes.

Q360 **Chair:** Therefore, what is your justification for not including the law on incitement to hatred?

Sir Alan Moses: The justification that I have given is that the Editor's Code committee has taken the view that the matter in that particular circumstance ought to be dealt with by the criminal law.

Q361 **Chair:** Why? The others are not. You are not expecting the criminal law to deal with these other things. You are expecting your code, as well as the law, to deal with those. Why would you on this one issue and not on all of these others?

Sir Alan Moses: I think the context is totally different. There is a difficult line to be drawn between incitement to racial hatred, or religious hatred, and protecting the right to write offensive material about a group. I think that is a totally different context from the ones that you have given.

Q362 **Chair:** I am still struggling to see why. Perhaps you could give me some examples or some more explanation.

Sir Alan Moses: No, I cannot give any further examples. All I would like to say—

Q363 **Chair:** In which case, maybe I will ask the rest of the panel. Can you give any explanation as to why some aspects of the law are good enough to include in the Editors' Code but other aspects of the law are not good enough to include in the Editors' Code?

Nazir Afzal: My reading of what has been said is that perhaps those items are in there because they were specifically issues that were raised



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in Leveson, the idea of recording conversations, the idea of children, and so on. Maybe it was a direct response to that and that is why they were incorporated into the code. But I cannot add anything.

Q364 **Chair:** You think issues of prejudice and hatred were not included as part of the Leveson discussions?

Nazir Afzal: I don't know.

Sir Alan Moses: He made no comment, quite specifically, on the Editors' Code, and it was not part of his remit. I do wish to go back, if I may give my view about this. The real problem is the one that I raised earlier, which is the question of prejudicial material written about groups that falls short of incitement to hatred. There can be all sorts of debate about that and about whether the criminal law is effective at all about that. It seems to me that that is real problem. Then the question is how a regulator ought to deal with that sort of prejudicial material

Q365 **Chair:** Your conclusion seems to be that a regulator should not deal with it at all.

Sir Alan Moses: It is not a question of not dealing with it. I don't think it can deal with it as a breach of the Editors' Code.

Chair: The inconsistencies, shall we say, in your evidence about what should be dealt with by the law, what should be dealt with by the Editors' Code, are very substantial and you may want to consider further the huge gap in the consistency in your own evidence about what should be addressed by both and perhaps write to us further.

Q366 **Naz Shah:** Earlier on, Mr Afzal, you said, "We are putting out the fire after it is lit" in relation to when you make your judgments and correction orders. If you have a fire, such as the one in five jihadis out there story, do you think it is appropriate to use a glass of water to be putting out a large fire?

Nazir Afzal: Of course not. You have to ask yourself what you want from the regulator. Do you want it to be able to close down the media outlet or the newspaper outlet, or whatever it may be? I don't think you do. The response has to be in some way proportionate to what has been done. In that particular example, which again predates me, my understanding was that you found—I am talking to Sir Alan here—that it did breach the code, the one in five, it was not accurate, and therefore there needed to be a correction put in the newspaper. It was done. Again, the problem we have is that it took several weeks, if not months, for that to happen and I understand the correction was on pages 4 and 5, which is where the bulk of the article was, but in any event today's newspaper—

Naz Shah: The horse had bolted, hadn't it, Mr Afzal?

Nazir Afzal: Today's newspaper is tomorrow's chip paper, yes, people have—



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Naz Shah: The damage had been done.

Nazir Afzal: The damage had been done, I totally accept that, and then, of course, it develops and grows and grows and people add more to it.

Sir Alan Moses: I don't know under what system of regulation that criticism that the damage had been done could be avoided, short of pre-emptive injunctions.

Q367 **Naz Shah:** Perhaps if you insisted, and got your newspapers, who fund you and pay for you to do the work for IPSO, to also sign a declaration that the punishment will merit and reflect the crime. The crime in this instance, metaphorically speaking, is that you have had a misleading headline on your front pages and it warrants more than a little line somewhere buried deep inside a paper and not given equal prominence. Perhaps that is something you might want to consider, Sir Alan. Moving on—

Sir Alan Moses: So you don't want me to answer that, deal with that?

Naz Shah: It is a suggestion. You asked for a suggestion. I have already had my answer. I am not sure your answer would be satisfactory to the wider public

Sir Alan Moses: You have not even heard it.

Q368 **Naz Shah:** Moving on, can I ask this? You talked about carelessness and due diligence and, Sir Alan, you in particular mentioned Norfolk doing a good piece of work around Rotherham. Given that *The Times* article—I am taking it that it has been investigated—on the fostering story was so grossly inaccurate, was really misleading, do you think that is just a matter of carelessness, negligence, or—

Sir Alan Moses: Chair, I have already explained my position in relation to the fostering story. There has been no decision made. You are in the happy position of making decisions without having to make these difficult judgments as a regulator. We have to wait and listen to and consider the evidence on both sides before we make a judgment.

Q369 **Naz Shah:** My opinion, as a member of this Select Committee, from what I have read and heard, is that this was way beyond carelessness, it was way beyond not doing due diligence; it was an outright attempt at the demonization of Muslims, using journalism, and that was an example of its worst kind.

Moving on. Finally, I would like to ask you a question, Sir Alan. You said you are not happy to answer things in public, but given that you are a public figure and given the positions you have held, I think it is very apt that I ask you this. Coming back to the question I raised earlier, we talked about "the Muslim Problem". Would you agree that using the terminology "the Jewish Problem" is Nazi-like?

Sir Alan Moses: Yes.



Q370 **Naz Shah:** Would you agree that is hate speech?

Sir Alan Moses: Yes, I would.

Q371 **Naz Shah:** What is the difference between “the Jewish Problem” for the Jewish community and “the Muslim Problem”? Why are you finding it so difficult to accept “the Muslim Problem” being hate speech when you are happy to say “the Jewish Problem” was hate speech?

Sir Alan Moses: The difference is that I am a member of a committee that did consider that particular question, namely the question of the article written by Trevor Kavanagh. The committee reached a view about it and gave its decision. We cannot have, in any press regulator, individual members of the committee giving their own personal views, whether they agree or do not agree with the decision of the committee. As chairman of the committee, I have to remain loyal to that principle. That is why I am not answering your question.

Q372 **Naz Shah:** Sorry, Sir Alan, let me make this really clear. You have just stated very clearly that you accept “the Jewish Problem” is Nazi-like language and is language of hatred. Putting the article to one side—I am not talking about the article—I am asking you, to this end, do you agree that “the Muslim Problem” is also language that is hatred?

Sir Alan Moses: I cannot put the article aside.

Q373 **Naz Shah:** Why can’t you? It is a simple question.

Sir Alan Moses: No, because it is in the article on which the committee ruled.

Q374 **Naz Shah:** For a final time: do you consider the terminology “the Jewish Problem” as being Nazi-like and hate speech? Yes or no?

Sir Alan Moses: I have already answered that.

Q375 **Naz Shah:** Yes. To this end, I take it you will also consider the issue of “the Muslim Problem” being hate speech.

Sir Alan Moses: I have given my answer about that.

Chair: I thank the panel for giving us your time this afternoon and giving evidence to us. I have to say that as a former journalist I strongly believe in the freedom of the press, I strongly believe in self-regulation, and I really want it to work and to be effective, but as a former journalist I personally feel very embarrassed by the huge discrepancies and contradictions in the evidence that you have given us this afternoon. I hope that you will go and reflect further on it. We are at all times receptive to getting further written evidence from you on these serious and significant matters.

Thank you very much for your time this afternoon.

Examination of Witness

Witness: Jonathan Heawood.

Q376 **Chair:** Thank you for coming to give evidence. You have obviously heard the evidence we have heard earlier today. Can I ask you, first of all, whether you think that there is a problem in the print media around Islamophobia or hatred and prejudice towards Muslims and Muslim communities and, secondly, why the IMPRESS code includes the further provision around groups?

Jonathan Heawood: Thank you very much. It sounds like I will not be adding anything to what any other witness has said if I agree that I think there is a problem around this issue. To move on to how we chose to address the issue—very briefly, because I am aware that it is the end of the afternoon and I will not take up very much of your time—Sir Brian Leveson, in his report, made recommendations about the need for a regulator to address this issue. It was in the form of a soft recommendation rather than an absolute requirement. He considered it was not his business to tell a regulator how to regulate for issues of discrimination. He shared the view of others today that it is a difficult issue and one for the regulator, in consultation with its publishers, to try to find its own way through, but he strongly urged any regulator to try to address that and, in his words, to try to balance the interests of press freedom with what he called “the spirit of equalities legislation”, that is the Equality Act.

What we did at IMPRESS to try to find our way through that thicket was to, first of all, look at press codes from around the world. We looked at 56 codes, including the Editors’ Code, the NUJ code, *The Guardian*, and *The Financial Times*, but also another 52 codes from all sorts of international jurisdictions, to see how they looked at these issues. Discrimination does tend to feature in codes as one of the requirements on publishers and journalists not to discriminate. We then looked in more detail at 21 codes, which we selected particularly because they were from countries that are members of the Council of Europe, in other words signed up to the European Convention on Human Rights so, like us, they have a duty to balance Article 10 free speech with other rights and interests but also countries that stand above the UK in the Reporters Without Borders Press Freedom Index, so countries that you could not accuse of being overly censorious, certainly not in comparison with the UK. These are countries including Finland, Denmark, Germany, Belgium and others with very high standards of press freedom.

We found that of those 21 codes, one had nothing to say about discrimination, two banned incitement to hatred but had nothing else to say, and 12 were broadly in line with the Editors’ Code in that they only focused on discrimination against named, identifiable individuals. However, the remaining codes go much further, including the Irish Press Council code, which regulates many of the same newspaper groups that are regulated by IPSO in this country and which prohibits “offensive



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language". It goes much further, beyond the criminal standard, into regulating speech that groups might find offensive, a potentially subjective test.

We looked at that evidence. We talked to the public, who, again, in all focus groups, agreed that discrimination was one of the biggest concerns they had, one of their top five concerns about press standards in this country, and we talked to various stakeholders, to our publishers, and to free speech groups. I should say that I was previously director of English Pen, the free speech charity, and was partly responsible for drafting section 29J of the 2006 Act so I am quite familiar with that exemption for insulting and offensive language. I felt, on balance, the best way through that thicket was to mirror the criminal law to prohibit incitement to hatred against groups on the basis of any of those characteristics listed in the Equality Act. That means that on issues of race or disability, we would track the law. In other words, there is a pretty high standard there. On issues of religion, again we would track the law, where there is more latitude. Section 29J does allow for publishers, editors, journalists to potentially be insulting, to potentially cause offence, so this is not a subjective test, but where they cross the line into inciting hatred, we see no argument for saying that we should stand back somehow and let the law do its business.

There are various reasons for that. First, the law is a cumbersome beast, it is an expensive beast, and we do not particularly want to encourage the law into newsrooms. Part of the job of regulation is to keep the law out of newsrooms and to try to encourage high standards. Secondly, it is to set a very clear standard about what we expect and we felt to have a lacuna in that part of the code would not set a clear message for the 90 or so publications that we regulate. Thirdly, because actually even though the law is as it stands—and, as you heard from the previous witness, it is difficult sometimes for the CPS to bring prosecutions under that part of the law—that does not mean that it would stop IMPRESS from regulating, if it was faced with an issue that in our view constituted incitement. In other words, we can replicate the word of the law but we can interpret that in the context as we see fit. So for those reasons, we decided on that point to track the criminal law but clearly with latitude to interpret that over time, as we think appropriate.

Q377 Chair: Do you have information on how many complaints you have had under part of your clause 4?

Jonathan Heawood: So far none under that particular clause. We have had a number of complaints. As I am sure you are aware, IMPRESS is in its early days; we have 89 members. The vast majority of complaints that we have considered so far have been under the accuracy clause. We have not yet had any under clause 4. I am sure they will come. We have some fairly rowdy, rambunctious members. We look forward to seeing those complaints as and when they arise.

Q378 Naz Shah: IMPRESS's standards clause explicitly protects groups such as



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Muslims from discrimination while IPSO's does not. Why did IMPRESS decide to include this protection?

Jonathan Heawood: When we were drafting the code we asked ourselves exactly the question that some of your previous witnesses have asked, which is what is the purpose of regulation. We felt that it is in order to encourage news publishers to set a high standard of journalism, not simply to be a free-for-all for freedom of expression but to do something that has some added value to it. This is particularly important in a context where any of us can go online and share our views, as you well know and you have heard previous sessions on the impact of social media on this. In this day and age journalism seems to be about something slightly better than that, so it seemed important for us to address these issues about anti-Muslim discrimination, among a range of other issues that the code tries to address, to ensure that when we put the IMPRESS kitemark on a publication to say it is regulated by us, that that has some meaning as a way of helping the public to distinguish journalism they can put some trust in.

Q379 **Stuart C. McDonald:** Just to clarify, your evidence is that there are plenty of examples, other than Poland, of countries that do set a higher, perhaps stricter, standard when talking about discrimination and prejudice and some of these countries, I take it—Ireland for example—are party to the European Convention on Human Rights and those rules have not been successfully challenged.

Jonathan Heawood: Precisely, yes. If you give me a moment, if you are interested, or I could write in a follow-up, I could identify the countries in particular, but as far as I am aware, those bodies have operated entirely within the constraints of the European Convention.

Stuart C. McDonald: That would be very useful, if you could write with examples.

Jonathan Heawood: Of course.

Q380 **Stuart C. McDonald:** Thank you very much indeed. The way your code is drafted, how often do you see cases before IPSO and no action is eventually taken or a complaint is dismissed and you think to yourself, "Well, it would have been different under IMPRESS"? How significant is the difference between the two codes?

Jonathan Heawood: It is different at both a macro and a micro level. We have whole provisions in the IMPRESS code that are not in the IPSO code. For instance around transparency, we require publishers to be a bit more transparent about conflicts of interest, shareholdings, and so on, which might have a bearing on the news stories they choose to run. At a micro level, there are small but, we are discovering, quite significant differences. Where the IPSO code encourages editors to avoid inaccuracy, we have a slightly more positive requirement to take reasonable steps to ensure accuracy. To be honest, at the time of drafting it we did not see that as a massive difference, but in practice we have come to find that it



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points us in quite different directions. We look at the steps. We do not accept carelessness, essentially, as an answer.

Q381 **Stuart C. McDonald:** But surely carelessness, if it leads to inaccuracy, would still breach the IPSO code as well. I do not quite understand why that—

Jonathan Heawood: Without sitting in the Complaints Committee of IPSO it is hard to know exactly how they reach the decisions they reach, but I think it is the difference of having a slightly more positive requirement. We would want a journalist to be able to demonstrate what steps they had taken to ensure accuracy. For instance, we had a complaint about a headline in a website called *The Canary* that we regulate, which takes quite a strong view on Laura Kuenssberg, and they ran a story about Laura Kuenssberg, the BBC political editor, as you know, saying, "We need to talk about Laura. She is listed as a speaker at Tory Party conference". We discovered fairly quickly that in fact, although she was listed in the programme, it was for a fringe event, hosted by a think tank, and she had not accepted the invitation. We considered that *The Canary* had not taken appropriate steps to check the accuracy of that.

I don't know how IPSO would have ruled on that particular instance, but if you look at some of the areas in relation to discrimination where they have gone down the accuracy route, they have allowed Kelvin McKenzie to say that Islam is a violent religion. They have said that does not, for them, engage the accuracy requirement because it is a statement of opinion. They allowed Trevor Kavanagh to write in his piece about what he called "Muslim sex crimes" in relation to so-called honour killings and FGM, whereas I think, as most people would say, these are not Muslim in any way—these are cultural, or simply criminal, offences. But again, they said that is a statement of opinion. I think where you find the latitude is in where they seem to be quite relaxed about truth claims being made under the guise of opinion.

Q382 **Stuart C. McDonald:** It might be impossible, but is there any way, any evidence, to show that the standards you require for preventing discrimination against groups have real-life impact?

Jonathan Heawood: It is too early days. I wish I could. It is too early days on that one. I would love to come back in a couple of years with a progress report.

Q383 **Sarah Jones:** I want to give you the opportunity to respond to a recent comment in the media about the way IMPRESS is funded, including from a trust fund established by Max Mosley, that that influences the way you approach your role. What is your response to that?

Jonathan Heawood: The simplest way to respond is to say that any regulator will, first, have to be funded, and secondly will have to deal with the way that it is funded to ensure that that does not compromise it. That is obviously true, whether it is a statutory regulator funded through



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taxation or an industry regulator funded by the industry that it is regulating. In that respect, Sir Brian Leveson anticipated that would always be an issue for a regulator. It is an issue for IPSO, which is clearly funded predominantly by certain newspaper groups, which, as you have noted, also generate the bulk of its business.

What Sir Brian Leveson recommended was that in order to mitigate any risk of being influenced or appearing to be influenced, the regulator should be subject to oversight, so we are duly overseen by the Press Recognition Panel, an independent, arm's length public body, which went through our funding arrangements with a very fine-toothed comb, spent nine months doing it, and had three rounds of public consultation where every bit of documentation and evidence relevant to that was aired, and found that actually they did not compromise our independence; there is no capacity for influence. That was then subject to a judicial review, claimed by the News Media Association, which represents parts of the industry, and the High Court upheld the decision of the PRP. That is a slightly legalistic answer but, for us, it was a pretty compelling one.

Someone asked a member of our board the same question last night. That is David Leigh, a former investigations editor of *The Guardian* and a very fierce advocate of free expression and a fairly strong critic of Max Mosley, who said that he simply would not have taken the job at IMPRESS if he had any concerns that Max Mosley was somehow there pulling his strings. The fact that David took the job and is very much enjoying the job I hope is another bit of evidence that that is not how it works.

Q384 Chair: This is a question that I think someone put to our first panel. Do you think there is any risk of a chilling impact on free speech or freedom of the press from the fact that you have the stronger provisions in the Editors' Code?

Jonathan Heawood: They are designed to have an impact. When we use the word chilling, we use it to mean a kind of disproportionate or inappropriate, unnecessary impact. I find it very hard to think of an example where you want to encourage hatred against any group on the basis of some inborn characteristic of that group, so if it is chilling it is rightly chilling. It is certainly not unduly chilling.

Q385 Stuart C. McDonald: If your code essentially replicates criminal law—and we have already heard that there are significant difficulties in bringing prosecutions, partly because of the way the law is drafted—surely that indicates that it cannot really make that much difference, if it does not, at the end of the day, catch very many. Of all the controversial cases that we have heard about, there has been one, or maybe two, that have even been considered a possibility of a prosecution. Surely the same would then apply, that there would be only one or two that would possibly breach your code.



Jonathan Heawood: It is a good question. Again, it comes down to the will and the capacity of the prosecuting agencies and if they are prepared to take on those newspapers and bring prosecutions and see them through.

Q386 **Stuart C. McDonald:** Is it not also to do with this section 29J, which I want to go and look at again, and if that is part of your code then surely you are no more likely to be able to impact on the sorts of stories we have been talking about than the prosecution authorities are?

Jonathan Heawood: It comes down to how you interpret that in practice based on the case in front of you. One of the respondents to our code consultation was the Equalities and Human Rights Commission, which made very clear in its response that it strongly encouraged us to take on some kind of provision along those lines. It made the point that it is not able to bring prosecutions. Reading between the lines, and the fact that it quoted the various UN bodies that had commented on discriminatory and hate-filled reporting in bits of the British press, I got the very strong impression that the Commission felt that prosecutions should be mounted but simply that it is not the body to do it.

What the CPS does or does not do in relation to particular issues is, first, above my pay grade and, secondly, there are many, many factors going on there. What we can do is set out a very clear standard to make sure we at least do not get into the same kind of confusion that you saw in the previous panel.

Chair: Thank you very much, Mr Heawood, for your evidence. If you are able to provide any further written evidence in response to Mr McDonald's questions, that would be extremely welcome. Thank you for your time this afternoon.