

# IPSO

**IS IPSO A REALISTIC OPTION FOR THE PROTECTION OF  
REPUTATION AND THE CORRECTION OF UNTRUTHS -  
AND DOES IT DO WHAT IT SAYS ON THE TIN?**

27<sup>th</sup> November 2018

Jonathan Coad

KEYSTONE LAW



# WHAT IT SAYS ON THE TIN

## *What is IPSO?*

*IPSO is the independent regulator for the newspaper and magazine industry in the UK. We hold newspapers and magazines to account for their actions, protect individual rights, uphold high standards of journalism and help to maintain freedom of expression for the press.*

# WHAT DOES IPSO CLAIM TO DO?

- *We make sure that newspapers and magazines follow the Editors' Code*
- *We investigate complaints about printed and online material that may breach the Editors' Code*
- *We can make newspapers and magazines publish corrections or adjudications if they breach the Editors' Code (including on their front page)*
- *We can investigate serious standards failings and can fine publishers up to £1 million where they are particularly serious and systematic*



# THE SORRY HISTORY OF PRESS SELF REGULATION

- General Council formed in 1953 under threat of statutory regulation
- Its stated aim was maintaining high standards of ethics in journalism
- **V1** did not work
- General Council was reformed as the Press Council in 1962
- In the late 80's several newspapers breached the standards set by the Press Council, which was obviously ineffective
- **V2** did not work



# THE SORRY HISTORY OF PRESS SELF REGULATION

- In 1990, the Calcutt Report concluded that a new voluntary body should be given 18 months to prove its effectiveness
- The Report stated that if the voluntary body failed, it should be replaced by a legally empowered body
- This led to the creation of the Press Complaints Commission
- The Culture, Media & Sport Select Committee described the PCC as *“toothless”*
- MPs described it as *“well meaning, but a joke”*, and about as much use as a *“chocolate teapot”*

# THE SORRY HISTORY OF PRESS SELF REGULATION

- Secret filming caught by journalists saying things like *“The PCC is run by the newspaper editors”, “getting a PCC isn’t great, but, a lot of papers just brush it aside, all it is is a little apology somewhere in the paper, you get a slap on the wrist, you get reported by the PCC but there’s no money”*
- The PCC also conducted what it described as an *“investigation”* into phone hacking which turned out to comprise of writing to News International to ask if it had done it. It cleared the newspapers group on the strength of its denial
- **V3** did not work

# THE CREATION OF IPSO

- IPSO started in the same offices and with many of the same staff as the PCC in September 2014
- It was set up by the Press, which recognised that the only important issue arising from the Leveson inquiry was that the Press industry maintained the right to mark its own homework
- Leveson's recommendations overwhelmingly accepted by Parliament and the public as a whole; but were vigorously opposed, which filled their pages with false claims that it would amount to State censorship
- IPSO is neither Leveson compliant, nor has it sought to be approved by the Press Recognition Panel
- **V4** is not working either



# HOW IS IPSO DOING?

- It has conducted no investigations
- It has issued no fines
- Its adjudications often come months late, and are of dubious credibility
- Its record on prominence is as lamentable as that of the PCC
- It has ordered no front page corrections
- Its claim to be “independent” is therefore manifestly untrue



# IPSO'S FRONT PAGE POLICY

*A newspaper's front page is a means for an editor to convey to readers what they consider to be the main news stories of the day. Front pages are therefore an important forum for editorial expression. Publication of a correction, or a reference to a correction on the front page, is an interference with this. In applying the 'due prominence' requirement proportionately, the Committee therefore considers that front page corrections, or references to corrections, should only be required in the most serious cases, especially where a paper has an established corrections column.*



# IPSO'S FRONT PAGE POLICY

- Reference to the correction is a small strip at the foot of the page, legible only by a buyer of the paper, as is the correction
- It is therefore of virtually no practical use to ensure that anything like the same number of readers of the offending article
- The best place for a paper to breach the Code is therefore on the front page because there is no risk that it will be asked to correct misleading articles published there



# UNIQUE NATURE AND IMPACT OF THE FRONT PAGE

- Read in hard copy form at railway stations, tube stations, petrol stations, newsagents, supermarkets, and the IPSO waiting room
- Held up on television cameras on late evening and early morning news programmes
- Read out by radio presenters on evening and morning programmes
- On news apps and via social media
- It is therefore read by tens of millions who would never read the paper itself
- As is its purpose – an advertisement to induce people to buy it

HACKED OFF

# Daily Mail



**LITTLE JOHN:** If they could kill Brexit, these so-called Tories would be happy to live in Corbyn's Britain

## ANOTHER HUMAN RIGHTS FIASCO

Iraqi 'caught red-handed with bomb' wins £33,000 - because our soldiers kept him in custody for too long

TAXPAYERS face massive compensation bills after a suspected Iraqi insurgent won a human rights case against the Ministry of Defence yesterday. The High Court found the man held by British troops despite already being found guilty of a crime. A landmark case which has put the onus on the European Commission to make sure that the rights of prisoners of war are protected. The court ruled that the MoD was liable for compensation. The taxpayer cost the state more than



**Recognise who's playing Demelza's new Poldark pal?**

FIND THE ANSWER ON PAGE SEVEN

# Daily Mail



**People who say they remember being BORN**

Families are spending more than they earn for first time since 1988

## LIVING BEYOND OUR MEANS

HOUSEHOLDS are spending more than they earn for the first time in 38 years. The average family spent £800 in the last year - against the pay for most people on living on debt. The British Household Panel Survey, according to the Office for National Statistics, has found that households are spending more than they earn for the first time since the 1980s. The Office for National Statistics said that the average household income was £1,000 in 2018, while the average household expenditure was £1,000.



**Meghan's kiss for her polo Prince**

**IPSO UPHOLDS COMPLAINT AGAINST DAILY MAIL ON IRAQI COMPENSATION CLAIMS**

**The perfect dating dress**  
 by Anna Murphy Plus: How to wear stripes

**Mike Atherton**  
 The greatest Test upset I've seen

**Outraged May slams North Korea after missile fired over Japan**

Prime Minister Theresa May has expressed her outrage at the launch of a ballistic missile over Japan, saying it was a "clear and deliberate provocation". She said the launch was a "major escalation" and that the UK would be "working closely" with the US and other allies to respond to the threat.

**Judge rules child must leave Muslim foster home**

The Times praised for exposing councils failure

A judge has ruled that a young girl must be removed from her Muslim foster parents' home because they are unable to provide her with a suitable education. The judge said the foster parents had failed to ensure the child had access to a school that met her needs, and that the council had failed to intervene.



**Thousands of Twitter users 'deceived by Russian agent'**

Matthew Moore Media Correspondent

A study has revealed that thousands of Twitter users were misled by a Russian agent who posed as a UK taxpayer. The agent used a fake profile to spread disinformation and influence public opinion.

**Animal magic**  
 Fashion goes wild this summer

**Science fact**  
 How Kubrick got the future right in 2001

**NO APOLOGY JUST THIS TINY CORRECTION**

President Emmanuel Macron of France visits the head of President Trump's White House, after arriving at the White House for a summit with the US president.



**Ban on junk food deals as obesity drive unites MPs**

Action against two-for-one offers within weeks | Party leaders urge May to tackle health crisis

MPs have united to demand a ban on junk food deals, such as two-for-one offers, to help combat the obesity crisis. The move is seen as a significant step towards improving public health.

**Johnson attacks May**  
**Tycoon 'swayed' polls**  
**GRN's sting in the tail**  
**Advantage Liverpool**  
**Isso upholds complaint against The Times**

**Judge slams advisers to parents of Alfie Evans**

Alfie Evans, a young boy with a rare brain condition, has been taken to a hospital in Italy for treatment. His parents have expressed their frustration with the medical team's decisions.

**TWO magnificent FREE magazines**

# Daily Mail

MONDAY, NOVEMBER 27, 2017 www.dailymail.co.uk NEWSPAPER OF THE YEAR 65p

**Meet the woman who makes Meghan sparkle**



**The Verdict**  
20 pages of big football opinions

INSPIRE MAGAZINE STARTS ON PAGE 37

## REVEALED: CUT-PRICE AMBULANCE CREWS SENT ON 999 CALLS

**'Technicians' less skilled than paramedics**

**AMBULANCE bosses are sending cut-price 'technicians' to 999 calls instead of paramedics, an investigation reveals today.** They are being dispatched to incidents of individuals at the scene serious emergencies, including the latest attacks and seizures.

**By Sophie Borland, Rosie Taylor and Ross Parker**

Technicians were almost the same number as paramedics - meaning the difference - but they have less training and fewer skills.

Problems of differential responses were at the core of the ambulance crisis in England since they were cut back to about 300,000 calls with only 10,000 technicians.

The included over 130,000 of the most serious emergencies, but if the trend continues for all time, it suggests that ambulance technicians were sent out to respond to about 300,000 calls with only 10,000 technicians.

The investigation reveals that ambulance technicians were sent out to respond to about 300,000 calls with only 10,000 technicians.



**Joan's fury as her son brands his father a paedophile**

Same Joan with Anthony Newley in 1991

### Weather



**Summary: Wintry showers**

**Today's weather**

Area	Temp	Wind	Cloud	Sun
London	10-12	SW 10-15	Partly cloudy	10-12
Manchester	8-10	W 10-15	Partly cloudy	8-10
Birmingham	9-11	SW 10-15	Partly cloudy	9-11
Edinburgh	7-9	W 10-15	Partly cloudy	7-9
Belfast	8-10	SW 10-15	Partly cloudy	8-10

**5 day forecast**

Area	Tue	Wed	Thu	Fri	Sat
London	10-12	11-13	12-14	13-15	14-16
Manchester	8-10	9-11	10-12	11-13	12-14
Birmingham	9-11	10-12	11-13	12-14	13-15
Edinburgh	7-9	8-10	9-11	10-12	11-13
Belfast	8-10	9-11	10-12	11-13	12-14

## £1 MILLION LUCKY SQUARES GAME

**YOUR favourite new daily game has a brand £1million up for grabs and it's so easy to play! Just match your Unique Number on the daily page of today's paper with the numbers on the grid.**

**HOW TO PLAY**

1. Pick your Unique Number in the grid.

2. Try to match your Unique Number to the numbers on the grid.

3. If you match your Unique Number to the numbers on the grid, you win!

**TODAY'S PRIZES**

- Match 6: £5,000
- Match 5: £1,000
- Match 4: £500
- Match 3: £100
- Match 2: £25

**HOW TO CLAIM**

1. If you match your Unique Number with an entire set of numbers, call 0343 871 2722 today between 9.30am and 5pm.

2. Every claim must be verified by a random telephone survey.

3. You must be able to prove you retain your copy of the Mail.

**Continued from Page One**

required to be strong, not to add for help and to be able to handle the situation.

When the situation they did to get help for greater help, they said for help to be able to handle the situation.

When the situation they did to get help for greater help, they said for help to be able to handle the situation.

**Europe forecast**

Area	Temp	Wind	Cloud	Sun
London	10-12	SW 10-15	Partly cloudy	10-12
Manchester	8-10	W 10-15	Partly cloudy	8-10
Birmingham	9-11	SW 10-15	Partly cloudy	9-11
Edinburgh	7-9	W 10-15	Partly cloudy	7-9
Belfast	8-10	SW 10-15	Partly cloudy	8-10

**Around the world yesterday**

Area	Temp	Wind	Cloud	Sun
London	10-12	SW 10-15	Partly cloudy	10-12
Manchester	8-10	W 10-15	Partly cloudy	8-10
Birmingham	9-11	SW 10-15	Partly cloudy	9-11
Edinburgh	7-9	W 10-15	Partly cloudy	7-9
Belfast	8-10	SW 10-15	Partly cloudy	8-10

**Clarifications & corrections**

**FOLLOWING AN ARTICLE ON** paramedics - including using...  
**and police ambulance crews** - including using...  
**and police ambulance crews** - including using...  
**and police ambulance crews** - including using...

**IF YOU CAN'T SEE YOURSelves MAIL**...  
 Please send us your name and address...  
 Please send us your name and address...

**INSIDE: Sudoku 45-47, Offer and Calmer 48, Letters 59, TV and Radio 60-63, City 80**

**IF YOU CAN'T SEE YOURSelves MAIL**...  
 Please send us your name and address...  
 Please send us your name and address...

WIN £10,000 WITH TODAY'S PAPER SEE PAGE TWO

# Scottish Daily Mail

WEDNESDAY, JANUARY 26, 2011 65p

## Fergie: world's proudest (and most embarrassing!) mum

### SNP stops British flag flying on government buildings during Royal Family celebrations

# STURGEON BANS UNION FLAG FOR QUEEN'S BIRTHDAY

NICOLA Sturgeon has decreed that the Union Flag should not be flown over dozens of public buildings on the Queen's birthday and other royal events.



Doctor Foster takes swipe at overpaid men

### Weather

Summary: A cold day

SEVERE WIND: A very cold and windy day. Severe gusts will be experienced, especially in the morning. A lot of rain or snow is likely, with heavy showers of rain and snow in the evening.

High	Low	Wind	Sea	Temp
Edinburgh	1-4	10-15	1-2	1-4
Glasgow	1-4	10-15	1-2	1-4
Perth	1-4	10-15	1-2	1-4
London	1-4	10-15	1-2	1-4
Manchester	1-4	10-15	1-2	1-4
Birmingham	1-4	10-15	1-2	1-4
Cardiff	1-4	10-15	1-2	1-4
Belfast	1-4	10-15	1-2	1-4
London	1-4	10-15	1-2	1-4
Manchester	1-4	10-15	1-2	1-4
Birmingham	1-4	10-15	1-2	1-4
Cardiff	1-4	10-15	1-2	1-4
Belfast	1-4	10-15	1-2	1-4

### Clarifications & corrections

In our January 24 article we stated that Sturgeon has taken flag for Queen's birthday, we reported that Nicola Sturgeon decreed that the Union Flag should not be flown over dozens of public buildings on the Queen's birthday and other royal events. We are happy to clarify that the decision to change the policy on flag flying was taken and implemented by former First Minister Alex Salmond in 2006. The Premier and Ministers have updated operational procedures.

(PSC) Regulated

## £1 MILLION

### TO BE WON IN OUR NEW LUCKY SQUARES GAME

PLUS last chance for \$10k bonus prize today

### LUCKY SQUARES DAILY GRID - FRIDAY, JANUARY 26

01	02	03	04	05	06	07	08	09	10
11	12	13	14	15	16	17	18	19	20
21	22	23	24	25	26	27	28	29	30
31	32	33	34	35	36	37	38	39	40
41	42	43	44	45	46	47	48	49	50
51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70
71	72	73	74	75	76	77	78	79	80
81	82	83	84	85	86	87	88	89	90
91	92	93	94	95	96	97	98	99	00

### HOW TO PLAY

1. Pick your two-digit number in the grid. It must be a number between 01 and 99.
2. Pick your two-digit number in the grid. It must be a number between 01 and 99.
3. Pick your two-digit number in the grid. It must be a number between 01 and 99.
4. Pick your two-digit number in the grid. It must be a number between 01 and 99.

### HOW TO CLAIM

1. If you have a winning number, you must claim your prize within 30 days of the draw.

2. Every game must be verified by a winning number.

INSIDE: Sudoku 43-45, Offer & Calmer 46, TV and Radio 56-59, Letters 60 & 61, City 73-76

**Style on Wednesday**  
 Erdem by H&M  
 High-street collection  
 the Royal family will want

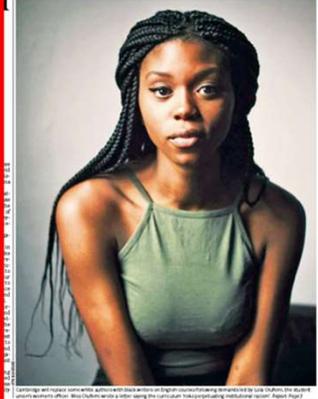
**Plus Party shoes you can walk in**  
 Save today and save £150 a year

**The Daily Telegraph**  
 NATIONAL NEWSPAPER OF THE UNITED KINGDOM

**Super-rich hacked in Bermuda data leak**

**Privacy blunder** in Bermuda, announced last week, has led to the disclosure of the names of the world's richest people and their assets. The leak, which has been described as a "major breach of trust", has caused a storm in the world of finance. The names of the world's richest people were leaked to a website, which has since been shut down. The leak has caused a major scandal in the world of finance, with many people questioning the security of their assets. The names of the world's richest people were leaked to a website, which has since been shut down. The leak has caused a major scandal in the world of finance, with many people questioning the security of their assets.

**Student forces Cambridge to drop white authors**



Cambridge will replace some white authors with black ones in English literature courses, says a Black student who is calling for the university to 'decolonise' its curriculum.

**Terror watchdog accused of naivety**

**Security** watchdog has been accused of naivety for failing to identify a potential terrorist threat. The watchdog, the Home Office, has been criticized for its handling of a case involving a suspected terrorist. The case involved a man who was suspected of being a terrorist, but the watchdog failed to identify him as such. This has led to accusations of naivety and a lack of vigilance.



**'Lazy' Davis accused of tarrying over Brexit Bill**

**Labour** minister has been accused of tarrying over the Brexit Bill. The minister, David Davis, has been criticized for his handling of the Brexit Bill. He has been accused of being "lazy" and not doing enough to move the bill forward. This has led to a loss of confidence in his leadership.

**Peers demand total ban on cold-calling 'menace'**

**Parliament** has demanded a total ban on cold-calling, which is seen as a "menace". Members of the House of Lords have called for a total ban on cold-calling, which is the practice of making unsolicited phone calls to people. They argue that it is a major nuisance and a waste of time.

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**NEWS BULLETIN**

**Flexible screens just the touch for smartphones**

Only smartphones across the world could use the kind of paper that flexible screens made of active organic polymers. The technology allows for a wide range of applications, from small portable devices to large-scale displays. This is a significant advancement in the field of flexible electronics.

**Quiet US and jury believe verdict wrong**

A message revealed by a confidential source to the press has caused a stir. The source, who is believed to be a high-ranking official, has provided information that suggests a verdict may be incorrect. This has led to speculation and a call for a re-evaluation of the case.

**50pc**

More than half of the population in the UK are now using mobile phones. This is a testament to the widespread adoption of mobile technology. The use of mobile phones has become an essential part of daily life for many people.

**Christians forgo four of the 10 commandments**

The 10 commandments are a central part of the Christian faith, but some Christians are questioning their relevance in the modern world. Some argue that certain commandments, such as those regarding slavery and capital punishment, are outdated and should be discarded.

**Cricketers chased pop fans into buying £100 tickets**

Cricket fans have been urged to buy £100 tickets for a special event. The event is being organized by cricket fans and is intended to raise money for a charity. The tickets are being sold at a premium price, but fans are encouraged to support the cause.

**Ships vital for Royal Navy's amphibious landing operations**

The Royal Navy's amphibious landing operations are vital for the country's defense. These operations involve the use of ships to transport troops and equipment to a beachhead. This is a complex and dangerous task that requires a high level of coordination and skill.

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**Corrections and Clarifications**

**Cambridge University**  
 An Oct 25 article incorrectly stated that under proposals by academic staff in response to an open letter from students on "decolonising" its English Faculty, Cambridge University will be forced to replace white authors with black writers. The proposals were in fact recommendations. Neither they nor the open letter called for the University to replace white authors with black ones and there are no plans to do so.

**Corrections and Clarifications**

**Cambridge University**  
 A member of the staff reported that under proposals by academic staff in response to an open letter from students on "decolonising" its English Faculty, Cambridge University will be forced to replace white authors with black writers. The proposals were in fact recommendations. Neither they nor the open letter called for the University to replace white authors with black ones and there are no plans to do so.

**The Daily Telegraph**

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Steal glances and headlines

M&S  
 up to you





# IPSO'S ABUSE OF ARTICLE 10

1. (i) *Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas ...*
  
- (ii) *The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and necessary in a democratic society, ...*



# COMPETING INTERESTS IN PLAY OVER PROMINENCE

- The newspaper
- The complainant
- The general public
- The interests of the paper are always given precedence by IPSO - despite its claim to be "independent"
- When that is applied to front page corrections, it renders the IPSO remedy virtually useless



# WHY DOES ALL THIS MATTER?

**Defamation Act 2013, section 1**

## ***Serious harm***

*(1) A statement is not defamatory unless its publication has caused or is likely to cause serious harm to the reputation of the claimant.*

*(2) For the purposes of this section, harm to the reputation of a body that trades for profit is not “serious harm” unless it has caused or is likely to cause the body serious financial loss.*

What about *Lachaux*?



# WHY DOES ALL THIS MATTER?

Defamation Act 2013, section 4

## *Publication on a matter of public interest*

*It is a defence to an action for defamation for the Defendant to show that –*

- (a) the statement was, or forms part of, a statement on a matter of public interest; and*
- (b) the Defendant reasonably believed that publishing the statement complained of was in the public interest.*



# THE KEY SECTIONS OF THE IPSO CODE

## **1. Accuracy**

- (i) The Press must take care not to publish inaccurate, misleading or distorted information or images, including headlines not supported by the text.*
- (ii) A significant inaccuracy, misleading statement or distortion must be corrected, promptly and with due prominence, ...*

In theory this should provide an effective remedy for all the erroneous or mendacious output of the press which cannot be addressed under the current state of the law

# THE KEY SECTIONS OF THE IPSO CODE

## **2. Privacy**

- (i) Everyone is entitled to respect for his or her private family life, home, health and correspondence, including digital communications.*
- (ii) Editors will be expected to justify intrusions into any individual's private life without consent. In considering an individual's reasonable expectation of privacy, account will be taken of the complainant's own public disclosures of information and extent to which the material complained about is already in the public domain.*

[subject to a Public Interest exception]

# SO HOW DOES IPSO WORK?

- Though it will not tackle a news story prior to publication, it will send out "advisories"
- Complaints must be made within four months of publication (unless a very good reason is given for delay)
- Entire process is by an exchange of correspondence
- Initially, you are supposed to try to resolve your complaint with the paper directly
- If that fails, then IPSO begins an "investigation"
- During this time it will try and broker a settlement
- If it does, then it will record this as a resolved complaint on its website
- If not, then it will adjudicate the complaint
- The process can take up to 18 months
- Papers are obliged to publish adverse adjudications

# IF IT IS SO BAD, WHY USE IPSO?

- No option in the absence of a legal (defamation, breach of confidence or DPA) claim
- A useful opportunity to have a dry run for a legal claim
- A newspaper has during the course of the process to disclose material which would be relevant in a legal claim
- A favourable adjudication is a good jump-off point for a legal claim
- The process is a recommended part of the Defamation Pre-Action Protocol



# WHAT CAN I DO IF IPSO LETS MY CLIENT DOWN?

- If there is a viable legal action, then reverse any adverse IPSO adjudication that way
- IPSO probably not susceptible to judicial review (*Coulter* [2018] EWHC 919 (QB))
- Make a procedure appeal – almost certainly useless
- A suggestion about what should happen

# LOOKING AHEAD

- The Press has succeeded in browbeating governments out of ensuring effective press regulation for 65 years - that is unlikely to change
- It is hard to see IMPRESS being any more than a bit player in the future
- The Guardian and Financial Times are unlikely to join IPSO or IMPRESS - both for different reasons
- Since newspapers such as the Daily Mail and Mail on Sunday are effectively broadcasters, what justification is there for their being regulated differently from ITV?
- The IPSO Code is broadly fit for purpose; the problem is IPSO's manifest failure to enforce it.
- If the Supreme Court upholds the *Lachaux* appeal then there will be an even more gaping hole in the law of defamation as any corrective to Press abuse
- However, at present, we still are at the mercy of powerful newspaper groups as the Press tail continues to wag the political dog
- IPSO is better than nothing, but frequently fails to provide adequate protection for reputation or the correction of untruths because of its patent lack of independence

# FOR FURTHER INFORMATION



**Jonathan Coad**  
Consultant Solicitor

m 07714 683 052

t 020 33 19 3700

e [jonathan.coad@keystonelaw.co.uk](mailto:jonathan.coad@keystonelaw.co.uk)

w [www.keystonelaw.co.uk](http://www.keystonelaw.co.uk)

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