

**1. Background**

- 1.1. The Joseph Rowntree Reform Trust Limited (the Trust) is not a charity and pays corporation tax. It was set up by Joseph Rowntree with the express intention that it should be able to act politically, outside the limits of charity law.
- 1.2. In his founding memorandum for the Trust, Joseph Rowntree presciently warned that “perhaps the greatest danger of our national life arises from the power of selfish and unscrupulous wealth which influences public opinion largely through the press.”
- 1.3. The experience of the public, and particularly of victims of press intrusion, in more recent decades has been not just of that unscrupulous influence of opinion, but of a ruthless drive to sell newspapers no matter whose individual rights to privacy, to decency and to dignity are violated in the process.
- 1.4. In its earlier life, the Trust owned newspapers, or parts of them, to rebalance this unscrupulous power. In recent times, the Trust has, by contrast, supported initiatives and political campaigns to bring about a free, plural and decent press in the United Kingdom.
- 1.5. The Trust has made grants to, among others, Media Standards Trust, the Media Reform Coalition, Hacked Off and IMPRESS.

**2. In your opinion, has the new system for overseeing press regulation in the UK been a success or failure so far? Please explain your reasons.**

- 2.1. The Trust strongly believes that the express will of Parliament (and indeed the public) is for the Leveson system of independent self-regulation of the press to be implemented in full, and that when it is implemented it has every potential to be a success.
- 2.2. [Analysis undertaken by the Media Standards Trust](#) in 2013 showed that the Independent Press Standards Organisation (IPSO) failed to meet 20 of the 38 Leveson recommendations in respect of independent self-regulators. We submit that it could not reasonably be designated a recognised regulator by the Press Recognition Panel, and – of course – in that same knowledge it has not sought recognition.
- 2.3. More recent analysis (2015), by Hacked Off, of IPSO’s record as a regulator, shows that IPSO’s inception has brought about no substantive advance on the position endured by victims of press intrusion during the life of its predecessor, the Press Complaints Commission (PCC). [The Failure of IPSO](#) is a damning dossier of press intrusion and defamation, and of the limited redress victims still get. The PRP will doubtless have noted the derisory scale and prominence of “corrections and clarifications” IPSO has directed where a story is proved to be wrong.

- 2.4. The refusal of the IPSO member publishers to set up, or join, a regulator capable of being recognised by the PRP is particularly disappointing, given that many of the same publishing groups comply with a similar system of independent self-regulation in the Republic of Ireland.
- 2.5. However, the success or otherwise of the UK system for overseeing press regulation in the UK cannot, and should not, be seen entirely through the prism of IPSO's dire performance.
- 2.6. The "system" is not IPSO, but that set out in the Royal Charter, agreed across the main parties.
- 2.6 The authority of the Royal Charter is protected by the activities of the PRP, which has gone about its role with distinction and professionalism. The panel has shown its capacity to oversee a 21<sup>st</sup> century system of independent self-regulation, capable of adapting to the emerging requirements of an ever-changing publishing market. Success is now predicated on the following:
- 2.6.1 Recognition of a robust, independent self-regulator, which – unlike IPSO – can meet the tests set for them by the Press Recognition Panel. We acknowledge and endorse the rigour and openness with which this process is presently underway in relation to IMPRESS, and strongly support their application for recognition.
- 2.6.2 Full implementation of the cross-party agreement including commencement of Section 40 of the Crime and Courts Act, which provides crucial incentives for publishers to become members of a recognised regulator. Without this, it is not a surprise that most large national and regional newspapers feel they can ignore the Leveson system as endorsed by Parliament.
- 3 For publishers, joining an approved regulator is voluntary. For regulators, applying for Charter recognition is voluntary. In your opinion, what factors or issues will affect regulators' and publishers' decisions when they consider these choices.**
- 3.1 The spirit of Leveson's recommendations was that, in the first instance, compliance with recognised, independent self-regulation should be voluntary but with strong incentives.
- 3.2 As the PRP call for evidence states, there are two primary incentives:
- 3.2.1 First, the exemplary damages provisions, which in egregious cases will
- a) permit the courts, where a news publisher chooses not to join a recognised regulator, to
- continue to award higher damages to those who have been defamed, and
  - for the first time, award such damages to those whose privacy has been intruded upon

b) provide immunity for news publishers who do join a recognised regulator from exemplary damages in both libel and privacy

Naturally, the immunity part of this provision can only come into force once there is a recognised regulator to join. In any case, it is a relatively weak incentive because the circumstances in which exemplary damages apply are limited to rare cases where a publisher can be shown to have had “deliberate or reckless disregard of an outrageous nature for the claimant's rights”.

3.2.2 The second, much stronger provision, found in Section 40 of the Crime and Courts Act 2013 gives protection to publishers who are members of a recognised regulator from having to pay their winning opponents' legal costs if someone brings legal action against them rather than enter into the recognised system of arbitration. Equally, it permits the courts to demand that those who are *not* members of a recognised regulator pay both sides' costs, when legal actions are brought against them.

This would provide access to justice for those making claims against large newspapers and protect small publishers defending suits brought by wealthy claimants. But it is contingent both on the recognition of a regulator, and on the commencement of Section 40.

3.3 *In relation to publishers:*

3.3.1 JRRT believes that there is good chance that some mainstream publishers will join a recognised regulator once all these incentives are fully in place.

3.3.2 JRRT believes protections against excessive costs awards for members of recognised regulators has the capacity to enhance freedom of speech. No editor need be afraid to ‘go with’ a good story, in the public interest, for fear of defending legal actions, if their publication is a member of a robust, recognised self-regulator.

3.3.3 In any failure report to Parliament, JRRT would want to see the PRP make clear the crucial necessity of commencing Section 40 of the Crime and Courts Act, to ensure the full suite of incentives are in place to persuade publishers to join.

3.3.4 These incentives then need to be matched by a demonstrable change in attitudes among press proprietors and senior editors. Acceptance of the role of an independent self-regulator in their industry, as it exists in so many others, is essential if there are to be proper ethical considerations at play in the day-to-day decision making of British newspapers, with effective remedies for breaches and violations. Likewise, an acceptance that press freedom is not synonymous with publishers' commercial interests will be vital.

3.4 *In relation to regulators:*

3.4.1 the decision to apply for recognition in our view sits alongside the confidence the regulator has in its own genuine independence from the press, and the robustness of its regulatory decisions. It is no surprise that IPSO commands no such confidence in this respect.

**SUBMISSION BY THE JOSEPH ROWNTREE REFORM TRUST LIMITED  
TO THE PRESS RECOGNITION PANEL**

- 3.4.2 a decision not to apply shows the influence of unscrupulous wealth of which Joseph Rowntree warned, where media proprietors themselves – as members of a regulator – are exerting restraint on the regulator not to meet the stringent Leveson criteria, and – by extension – not to apply for recognition.
- 3.5 In making recommendations for how to go forward with the independent self-regulation agenda, in relation to those publishers who have refused to join a recognised regulator, or to set one up with a chance of recognition, the Trust would wish to see the Press Recognition Panel revisit Leveson’s call for a “backstop regulation” arrangement, perhaps through Ofcom.

**Nick Harvey**

**Chair**

***on behalf of the Board of Directors of the Joseph Rowntree Reform Trust Ltd***

**12th June 2016**