

# UK's Privy Council used to steamroller press regulation

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Across-party Royal Charter on press regulation in the UK has been granted by the Privy Council, after a court challenge by the newspaper industry was rejected.

The move constitutes a major threat to free speech and freedom of the press in Britain and internationally, including for Internet publications.

The Privy Council, made up of government ministers, met in private with the Queen at Buckingham Palace. It included Deputy Prime Minister and leader of the Liberal Democrats Nick Clegg, Health Secretary Jeremy Hunt, Culture Secretary Maria Miller and Liberal Democrat Justice Minister Lord McNally of Blackpool. The Queen will have been read out the wishes of parliament and signalled her approval.

The Royal Charter will create a watchdog, which will in turn oversee a new press regulator. The move was taken following the Leveson Inquiry into newspaper ethics and practices and has sought to capitalise on widespread revulsion over the “industrial scale” hacking of private communications by Rupert Murdoch’s News Corp/News International publications such as the now defunct *News of the World*.

Publishers were only given until 5:30 pm Wednesday to prevent the approval of the charter by the Privy Council.

The body, essentially a feudal relic, and the mechanism of a Royal Charter were chosen as means of circumventing continued opposition from within the media to plans backed by both governing parties, Conservative and Liberal Democrat, and the opposition Labour Party.

In November 2012, Lord Justice Leveson published his nearly 2,000-page report calling for a new system of press regulation to replace the Press Complaints Commission (PCC), which is run by the newspaper industry as a token gesture. Leveson’s proposal was for

a self-regulating body, overseen by an independent “recognition body” and with statutory underpinning.

To counter arguments against political interference and state control of the press, Prime Minister David Cameron rejected the idea of legislation to underpin regulation and advanced the alternative of a Royal Charter.

Royal Charters are generally a means of approving decisions that have already been taken by parliament in the name of the monarch.

The new body will be made up of non-journalists and have no serving editors, unlike the PCC, and will draw up a code of standards covering privacy, when there is no public interest justification, as well as accuracy. The body will be able to impose fines of up to one percent of turnover, capped at £1 million for breaches of the code.

A great deal is made of such “safeguards” as the non-inclusion of civil servants and Members of Parliament and of the freedom of the media to either sign up or stay outside the new system. But both are paper-thin disguises for de facto state and political regulation.

Although not part of the state, the new body will still enforce a system of press regulations determined *by the state*.

There is also a coercive element. Under the Crime and Courts Act 2013, courts have already been advised to treat publishers differently if they are part of an approved regulator or not—especially when it comes to exemplary damages in a libel action for those not registered.

In addition, under the PCC, only people directly affected by a story could complain. Now third parties “seeking to ensure accuracy of published information” can register complaints.

This will inevitably include the government in both

categories. It will provide a new mechanism for censorship when it comes to issues such as publishing the revelations by whistleblower Edward Snowden of mass state surveillance.

The charter includes the provision that any changes to its strictures require a two-thirds majority in parliament, but this still means that it can be made yet more restrictive in future.

Many websites will be covered by the legislation—if they “contain news related material” or have more than one author. The Department of Culture, Media and Sport has stressed that the location of the servers is not relevant. Officials told the BBC, “What is relevant is whether the alleged libel (or other relevant media related offence as covered by the new provisions) was committed here, e.g. the article was published here. Downloading here can count as publication in the law.”

In the run-up to the Privy Council meeting, press and publishing industry bodies such as the Industry Steering Group laid out the case against the new legislation. They proposed a new Independent Press Standards Organisation (Ipso) to replace the Press Complaints Commission, which would have included former editors and possibly an MP sitting on the recognition panel, and no changes to be allowed by parliament, even with a two-thirds majority.

A group of seven international press freedom groups urged the Queen not to sign the charter, describing it as “toxic” and as camouflage for a “set of repressive statutory controls.”

The signatories were the World Association of Newspapers & News Publishers and FIPP, the worldwide magazine media association, the Commonwealth Press Union Media Trust, the Inter American Press Association, the International Association of Broadcasting, the International Press Institute and the World Press Freedom Committee. These organisations said the charter “will have a chilling impact on journalism throughout the United Kingdom” and that “the actions of Britain’s parliament will be used as an excuse by those who want to muzzle the press in their own country and stifle the free flow of information.”

The newspapers’ alternative proposals were rejected by a subcommittee of the Privy Council on October 8 on the grounds that they did not comply with “government policy.”

On Wednesday, High Court judges refused a last-minute injunction sought by the Press Standards Board of Finance (PSBF) and said there were no grounds for a judicial review. The injunction was backed by the Newspaper Publishers Association, the Newspaper Society, the Scottish Newspaper Society and the Professional Publishers Association.

As the Privy Council met, publishers appealed to Court of Appeal judges to reconsider. This too was denied by Lord Dyson, Master of the Rolls, Lord Justice Moore-Bick and Lord Justice Elias, who refused an interim order pending further legal action. Richard Gordon QC, representing the PSBF, commented in court, “This process, we say, was conspicuously unfair. It’s almost Kafkaesque in terms of not knowing what the next step is intended to be.”

The newspaper industry described proceedings leading to the rejection of their right of appeal as “unfair and unlawful.” A further appeal is expected within the next seven days, calling for a judicial review.

As has now become the norm, the absence of any defence of democratic rights from the pseudo-liberal fraternity has left mainly right-wing elements within ruling circles to strike a pose as guardians of liberty.

Murdoch’s *The Sun* declared that the resort to a closed session of the Privy Council “has more in common with tyranny than a nation that founded parliamentary government.”

The *Daily Telegraph* notes that it is not hard to conceive of the charter being amended and made more restrictive by a two-thirds majority in parliament: “The *Guardian*’s recent investigation into state spying is exactly the kind of reporting that could spark a moral panic among politicians and give them cause to limit what the press can publish.”

The *Daily Mirror* editorialised that “many newspapers are refusing to deal with a regulatory body that is, in effect, an extension of the state.”



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