



INDEPENDENT PRESS STANDARDS ORGANISATION

Arbitration Pilot Scheme Rules

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Glossary of Terms:

The singular includes the plural (and vice versa), and any one gender includes the other gender(s).

Administrative Fee – The fee to be paid to the Arbitration Company in order for it to provide the Arbitration Services in respect of a documents-only arbitration.

Agreement – The contract by which the Parties agree to arbitrate a Claim under the Pilot Scheme.

Arbitration Company – The third party company IPSO has contracted with to provide the Arbitration Services and report upon the Pilot Scheme.

Arbitration Documents – The Claim Form, and copies of any article/s which are the subject of the Claim along with any further documentation or evidence upon which the Claimant seeks to rely in the Claim Form.

Arbitration Services – The functions carried out by the Arbitration Company in respect of a Claim as identified by the 'Agreement for Arrangement of Dispute Resolution Services' as signed by CEDR Services Limited and IPSO. In brief these functions include the administration of the arbitration, appointment of the Arbitrator and management of Fees paid by the Parties.

Arbitrator – A lawyer appointed by the Arbitration Company to arbitrate the Claim.

Arbitrator Panel – A list of Arbitrators pre-approved by IPSO from which the Arbitration Company must appoint an Arbitrator to the Claim. Any amendments made to the Panel during the Pilot Scheme must be approved by IPSO.

Arbitrator's Fees – Those fees that are paid to the Arbitration Company in respect of the work to be undertaken by the Arbitrator.

Assessment – A Ruling on the Fees to be reimbursed and Legal Costs to be paid by the Respondent to the Claimant, and/or the grant of appropriate Relief to the Claimant made by the Arbitrator during the Assessment Procedure.

Assessment Fee - The fee to be paid by the Respondent to the Arbitration Company in advance of an Assessment Procedure.

Assessment Procedure – The process by which the Arbitrator makes an Assessment in the event that the Parties reach an agreement on liability regarding the Claim or part/s of the Claim.

Claimant – The Party bringing a Claim against a Participating Member.

Claim – A claim pursued by the Claimant against the Respondent under the Rules.

Code Complaint – A complaint pursued under the Editors’ Code of Practice complaints system handled by IPSO.

Damages Cap – The maximum sum of £50,000 which can be awarded by the Arbitrator under the Rules.

Fees – The Administrative Fee, Preliminary Ruling Fee, Final Ruling Fee, Assessment Fee and Oral Hearing Fee relevant to the Claim.

Final Ruling – A determination made by the Arbitrator during the Final Ruling Procedure that the Claim is upheld or dismissed. A requirement for one Party to reimburse Fees and to pay Legal Costs to the other Party, as provided for in the Rules, and the grant of Relief to the Claimant can be included in a Final Ruling.

Final Ruling Fee – The fee to be paid in equal shares by the Parties to the Arbitration Company in advance of a Final Ruling.

Final Ruling Procedure – The process by which the Arbitrator can make a Final Ruling.

Governing Act – Either the Arbitration Act 1996 or the Arbitration (Scotland) Act 2010. The 1996 Act applies to the Rules as standard unless the Parties agree within the Agreement that the 2010 Act should apply instead. These Acts are statutes which, where they apply, govern the manner in which the Agreement and the Rules function and may add provisions to the Rules in certain circumstances.

IPSO – The Independent Press Standards Organisation, the regulator of the majority of the UK press.

Interim Period – A stay in the proceedings which automatically follows the completion of a Preliminary Ruling Procedure during which time the Parties can assess the most appropriate way to proceed with the Claim.

Legal Costs - Fees payable by each party to their respective legal advisors or representatives in relation to a Claim pursued under the Pilot Scheme.

Legal Costs Cap – The maximum sum which the Arbitrator can require a Party to pay to the other Party in respect of their Legal Costs under the Rules.

Offer of Amends- An offer made under s. 2 Defamation Act 1996.

Oral Hearing – The process by which the Arbitrator conducts an inquisitorial, face-to-face meeting with the Parties, and any relevant witnesses or experts.

Oral Hearing Fee – The fee to be paid by a Party or the Parties in advance of an Oral Hearing to include the cost of hiring a venue (if any) and the additional fees payable to the Arbitrator and the Arbitration Company in respect of that Oral Hearing.

Participating Member – Members of IPSO that have agreed to participate in the Pilot Scheme by completing an IPSO Pilot Arbitration Scheme Memorandum of Understanding.

Party – A party which agrees to arbitrate a Relevant Claim under the Pilot Scheme.

Pilot Scheme - A temporary arbitration scheme conducted under the Rules which is designed to assess the potential for IPSO to implement a permanent arbitration scheme.

Preliminary Ruling – An early determination made by the Arbitrator in respect of core issues relating to the dispute, the determination of which should encourage the Parties to resolve the Claim. The Arbitrator cannot, as part of a Preliminary Ruling, require a Party to reimburse Fees or pay Legal Costs to the other Party or grant Relief to the Claimant.

Preliminary Ruling Fee – The fee to be paid by the Respondent in advance of a Preliminary Ruling Procedure.

Preliminary Ruling Procedure – The process by which an Arbitrator can make a Preliminary Ruling.

Referral Stage – The stage at which IPSO passes the Arbitration Documents to the relevant Participating Member and during which the Parties may agree to arbitrate or determine whether the Claim should be withdrawn or settled.

Relevant Claims – The claims that can be arbitrated under the Pilot Scheme, namely civil claims relating to: libel, slander, malicious falsehood, misuse of private information, breach of confidence, harassment and data protection. Under this definition harassment refers only to civil claims made in respect of the Protection from Harassment Act 1997, and data protection claims do not include appeals made in respect of a subject access request.

Relief – The remedy granted by the Arbitrator to the Claimant.

Respondent – The Participating Member against whom a Claim is pursued.

Respondent's Response – A written response provided by the Respondent in relation to the Arbitration Documents.

Rules – The provisions contained within this document, inclusive of the Glossary of Terms.

Ruling – An order, grant, requirement, decision, determination or award made by the Arbitrator including Preliminary Rulings, Final Rulings and Assessments.

Transfer Process – The stage at which the Parties have agreed to arbitrate and IPSO passes the Claim onto the Arbitration Company having received the completed Arbitration Documents and signed Agreement.

PART ONE: The Pilot Scheme

1. The Pilot Scheme

- 1.1. The Pilot Scheme will operate in accordance with the Rules.
- 1.2. The Rules do not commit IPSO, or any members of IPSO, to implementing or participating in a permanent arbitration scheme. A decision will be taken by the IPSO Board as to whether or not IPSO will implement a permanent scheme after the completion of the Pilot Scheme.
- 1.3. Participation in the Pilot Scheme by a member of IPSO demonstrates a willingness to use the Pilot Scheme for appropriate Claims, but does not compel that Participating Member to use the Pilot Scheme in relation to any particular Claim.
- 1.4. The Pilot Scheme will run for 12 months or 50 completed Claims, whichever occurs first. IPSO will not refer Claims to Participating Members after this point. Claims which are on-going, where the Parties have signed the Agreement prior to the completion of the 12 month period or 50 Claims, will continue within the Pilot Scheme under the Rules.
- 1.5. For the purposes of clause 1.4 a completed Claim is one in which:
 - a) The Arbitrator has made a Final Ruling or an Assessment (irrespective of any ongoing appeal of that decision to the Court),
 - b) The Claim has been struck out by the Arbitrator,
 - c) The Claim has been terminated by the Arbitrator on grounds of suitability,
 - d) The Claim has been settled or withdrawn after the Arbitrator has been appointed,
 - e) The Claim has been terminated in accordance with clause 10.4.
- 1.6. A Claim withdrawn or settled before an Arbitrator is appointed is not to be counted as a completed Claim for the purposes of clause 1.4.
- 1.7. IPSO reserves the right to immediately terminate the Pilot Scheme at any point upon receiving information which IPSO believes to show that the Pilot Scheme is incapable of fulfilling the objective stated in clause 3.1 or that the Pilot Scheme otherwise hinders the fair application of justice.
- 1.8. A decision made by IPSO in relation to clause 1.7 shall have the same effect as if the Pilot Scheme had come to an end under clause 1.4.
- 1.9. IPSO reserves the right to amend the Rules during the Pilot Scheme save that such amendments shall not apply to arbitrations which have already commenced under the existing Rules and will not compel a Party or the Parties to arbitrate under the Pilot Scheme. Any alterations to be made to the Fees structure will only be made after inviting discussion on the matter from Participating Members, the Arbitration Company and the Arbitrator Panel.

- 1.10. The Arbitration Company appointed by the IPSO Board is the Centre for Effective Dispute Resolution (CEDR Services Limited).

2. Monitoring the Pilot Scheme

- 2.1. In addition to providing the Arbitration Services the Arbitration Company agrees to monitor and report on the Pilot Scheme in accordance with this clause.
- 2.2. The Arbitration Company is under a duty not to publish or share information pertaining to the Parties' submissions or confidential Rulings made by the Arbitrator to IPSO, or any other organisations or persons, except as otherwise required by law.
- 2.3. The Arbitration Company agrees to provide a report on the effectiveness and operation of the Pilot Scheme to IPSO which will not be published by the Arbitration Company unless by agreement with IPSO. For the purposes of this clause the Parties agree that the Arbitration Company is entitled to disclose information relating to the outcome of all Claims to IPSO.
- 2.4. If it is necessary under this clause for the Arbitration Company to provide information to IPSO, which would reasonably be deemed confidential or private, the Arbitration Company shall anonymise the relevant Parties.
- 2.5. Participating Members agree to provide reasons in writing to IPSO for not agreeing that a Claim should be arbitrated under the Pilot Scheme when a Claimant expresses a wish to do so. The reasons given shall be used by IPSO only to assess the Pilot Scheme.
- 2.6. The Parties agree that the Arbitration Company and/or IPSO may contact them to obtain feedback on the Pilot Scheme.

PART TWO: IPSO Arbitration

3. Introduction

- 3.1. The objective of the Pilot Scheme is to provide a quick, cost-effective, fair and impartial procedure for resolving Relevant Claims made against the press.
- 3.2. In accordance with clause 3.1 the Pilot Scheme aims to:
 - a) Take into account inequality of power between the Parties,
 - b) Provide a flexible process which may be tailored to individual Claims,
 - c) Support pro-active case management and inquisitorial arbitration,
 - d) Provide effective remedies,
 - e) Direct unsuitable Claims to more appropriate forums, and
 - f) Strike out vexatious or frivolous Claims at an early stage.
- 3.3. The Arbitration Company and Arbitrators must act in accordance with the objective set out in clause 3.1, and provide services consistent with the aims of the Pilot Scheme as far as reasonably possible in each case.

- 3.4. Parties agree to act in good faith and further agree to act in accordance with the objective and aims of the Pilot Scheme.
- 3.5. The Pilot Scheme will only be used to resolve Relevant Claims.
- 3.6. Once agreement to pursue arbitration is reached by the Parties, Claimants will not be entitled to pursue a Code Complaint which relates to the same subject matter, until the Claim is concluded under the Pilot Scheme.
- 3.7. The Rules should not be interpreted as extending the powers of IPSO beyond those provided in IPSO's Articles of Association, Regulations or Scheme Membership Agreements.

4. Standard IPSO Arbitration

- 4.1. The provisions set out under clause 4 apply unless otherwise agreed by the Parties and such agreement is permitted by the Rules.
- 4.2. Arbitrations under the Pilot Scheme will be:
 - a) Governed by the Arbitration Act 1996, and
 - b) Deemed to take place in London (U.K.), applying the law of England and Wales.
- 4.3. The Claim shall be determined by a single Arbitrator.
- 4.4. Rulings made by the Arbitrator are final and binding on the Parties, subject to the right to appeal to the Court on the mandatory grounds of appeal provided for by the relevant Governing Act. The Parties agree that the right to appeal under the Rules does not include the right to appeal to the Court on a point of law.
- 4.5. Claims will proceed directly to a Preliminary Ruling Procedure upon the appointment of an Arbitrator.
- 4.6. Arbitration will be conducted as a documents-only procedure.

PART THREE: Making a Claim

5. Submitting Claims to IPSO

- 5.1. IPSO can provide information relating to the Fees and processes of the Pilot Scheme.
- 5.2. Information provided by IPSO in relation to the Pilot Scheme does not amount to legal advice. It is the Parties' responsibility to consider whether or not they should obtain independent legal advice.
- 5.3. If the Claimant wishes to pursue arbitration the Claimant will be required to complete and submit the Arbitration Documents.
- 5.4. Upon receiving the completed Arbitration Documents from the Claimant IPSO retains a discretion as to whether to refer the Claim to the relevant Participating Member and is under no obligation to do so.

6. Referral Stage

- 6.1. Parties are at liberty to agree to arbitrate or discuss a possible settlement of the Claim during the Referral Stage.
- 6.2. The Parties must each agree to use the Pilot Scheme on a case-by-case basis by signing the Agreement. The Participating Member agrees to provide the signed Agreement to IPSO.
- 6.3. Parties are at liberty to sign the Agreement independently of IPSO and the Referral Stage. In these circumstances the signed Agreement must be provided in writing by the Participating Member to IPSO. IPSO will then require the completion of the Arbitration Documents by the Claimant.
- 6.4. Within the Agreement the Parties may agree:
 - a) That the arbitration shall be governed by the Arbitration (Scotland) Act 2010;
 - b) That the seat of the arbitration should be moved to Scotland or Northern Ireland;
 - c) That the Arbitration Company should appoint a panel of Arbitrators in respect of the Claim in accordance with the relevant Governing Act;
 - d) To allow for appeals to the Court against rulings made by the Arbitrator on points of law in accordance with the relevant Governing Act;
 - e) That the Claim should proceed directly to an Assessment Procedure upon the appointment of the Arbitrator; and/or
 - f) To remove the Damages Cap.
- 6.5. Upon receiving a signed Agreement, IPSO retains the right not to transfer a Claim to the Arbitration Company for arbitration under the Pilot Scheme.

7. Transfer Process

- 7.1. IPSO can transfer the Claim to the Arbitration Company upon receipt of the signed Agreement and the complete set of Arbitration Documents.
- 7.2. Where the Claim is to proceed directly to the Preliminary Ruling Procedure upon the appointment of the Arbitrator the following process applies:
 - a) The Claimant must pay their share of the Administrative Fee to the Arbitration Company within 14 days of the Arbitration Company acknowledging receipt of the Agreement and Arbitration Documents.
 - b) The Respondent must provide a response to the Arbitration Documents and pay their share of the Administrative Fee and the Preliminary Ruling Fee in full to the Arbitration Company within 14 days of the Arbitration Company informing the Respondent that it has received payment of the Claimant's share of the Administrative Fee.
- 7.3. In circumstances where the Respondent is considering making an Offer of Amends the Respondent's Response can be limited to submissions relating to issues to be determined within the Preliminary Ruling and need not provide a substantive defence at this stage.

- 7.4. Where the Claim is to proceed directly to the Assessment Procedure upon the appointment of the Arbitrator the following process applies:
- a) The Respondent must pay the Administrative Fee and Assessment Fee in full to the Arbitration Company, and may provide a response which is limited to matters relating to the Relief, Fees and Legal Costs to be awarded by the Arbitrator. This response must be provided within 14 days of the Arbitration Company informing the Respondent that it has received the Agreement and Arbitration Documents.
 - b) The Claimant is not required to pay any Fee for the Assessment Procedure, but is entitled to make a submission which is limited to matters relating to the Relief, Fees and Legal Costs to be awarded by the Arbitrator.
- 7.5. Only upon receiving the required Fees shall the Arbitration Company appoint an Arbitrator.

8. Appointing Arbitrators

- 8.1. The Arbitration Company will appoint an Arbitrator from the Arbitrator Panel taking into account the complexity of the dispute, any disclosed conflict of interest, the availability of the Arbitrator and any objections made by either Party in relation to the selection of a particular individual.
- 8.2. The objection to the appointment of a particular Arbitrator by either Party shall not constitute an effective veto of that appointment.
- 8.3. Appointed Arbitrators must be independent of the Parties and the matters to which the dispute relates. They shall be under a duty to disclose any conflict of interest, actual or apparent, which may apply to their involvement in specific cases.
- 8.4. If an Arbitrator dies or is unable to continue to act as an Arbitrator for the Claim, the Arbitration Company will appoint another Arbitrator at the request of either Party.

PART FOUR: Arbitration Procedure

9. Suitability

- 9.1. The Arbitrator must, as a matter of priority, make a determination as to whether the Claim is suitable for arbitration under the Pilot Scheme:
- a) Upon the commencement of a Preliminary Ruling Procedure,
 - b) Upon the commencement of a Final Ruling Procedure, and
 - c) In the event that the arbitration has not been concluded within 90 days of the Arbitrator's appointment, not including the period between the completion of the Preliminary Ruling Procedure and the commencement of the Final Ruling Procedure.
- 9.2. The Arbitrator must also have continuous regard as to whether the Claim is suitable for arbitration under the Pilot Scheme. In this regard the Arbitrator may make a determination on the Claim's suitability on their own initiative, or upon either Party requesting them to do so.

- 9.3. If the Arbitrator determines that the Claim is unsuitable they must - as soon as reasonably practicable after making such a determination - inform the parties and, subject to clause 9.4, discontinue the arbitration.
- 9.4. The Arbitrator must allow the Parties to make submissions on suitability before a final determination is made by the Arbitrator, but may set an appropriate deadline for such submissions to be made. Where either or both of the Parties disagree with the Arbitrator's determination, the Arbitrator's determination shall be final.
- 9.5. An arbitration may be discontinued as unsuitable on the following grounds:
- a) The Claim is outside the remit of the Pilot Scheme;
 - b) The Claim gives rise to a novel or complex point of law;
 - c) It is in the public interest or in the interest of the Parties to have a determination made by the Court;
 - d) It is unlikely that the Claim could be completed within a reasonable period of time;
 - e) The disclosure of documents may be required from a non-party in order to make a just determination of the Claim and such disclosure cannot be readily obtained by either Party;
 - f) The Relief available under the Pilot Scheme would not provide an effective remedy were the Claim to be successful;
 - g) In respect of a specific claim, the Pilot Scheme is unable, or is unlikely to, fulfil the objective set out in clause 3.1.
- 9.6. In determining suitability, the Arbitrator must have regard for whether either Party is realistically able to pursue or defend the Claim in Court.
- 9.7. A decision under this clause is not made based upon the merits of the Claim but its suitability for arbitration under the Pilot Scheme. The Parties are at liberty to pursue the Claim further in Court, save that the Parties remain bound by any Ruling already given by the Arbitrator in relation to the Claim.

10. Evidence & Procedure

- 10.1. The Arbitrator has the power to determine the way in which the arbitration will proceed, subject to the Rules, and may in this regard tailor the process and/or disclosure requirements in order to achieve a fair resolution of the Claim.
- 10.2. The Arbitrator should act inquisitorially and may in particular make directions to:
- a) Allow or require the Parties to, or limit the extent to which the Parties may, submit or respond to evidence, clarifications or submissions;
 - b) Set deadlines for the provision of evidence, clarifications or submissions;
 - c) Conduct inquires questioning the Parties, witnesses or experts and the evidence, clarifications or submissions they provide;
 - d) In exceptional circumstances, and only in accordance with clause 11, proceed by way of an Oral Hearing if it would expedite the fair resolution of the Claim; and/or

- e) In the event that an Oral Hearing is deemed necessary, set a timetable for the completion of the hearing and limit the time allowed for submissions to be made by the Parties, witnesses or experts.
- 10.3. The Arbitrator may proceed with the arbitration, and is not precluded from making a Ruling in accordance with these Rules, in the event that either Party fails to comply with the Rules or the Arbitrator's directions.
- 10.4. In the event that the Claim is not completed within 120 days of the Arbitrator's appointment, not including the period between the completion of the Preliminary Ruling Procedure and the commencement of the Final Ruling Procedure, either Party may serve notice in writing to the Arbitrator, the other Party and the Arbitration Company terminating the Agreement.
- 10.5. If a Party serves notice to terminate the Agreement both Parties remain bound by any Ruling already given by the Arbitrator and agree to be bound by a subsequent Ruling made by the Arbitrator in accordance with clause 21 or 22.
- 10.6. If the Parties reach a settlement or require an Assessment Procedure to begin during the arbitration the Respondent must, as soon as reasonably practicable, or in any event within 48 hours, inform the Arbitrator and the Arbitration Company.

11. Oral Hearings

- 11.1. Should the Arbitrator consider that an Oral Hearing is required they must first obtain agreement from the Parties in order to conduct the hearing.
- 11.2. The Arbitrator may continue with the arbitration on the papers if the Parties do not agree to an Oral Hearing where the Arbitrator determines that the Claim can still be fairly resolved via a documents-only procedure. If the Claim can no longer be fairly resolved it should be discontinued under clause 9.
- 11.3. An Oral Hearing should be held on an inquisitorial basis.
- 11.4. The IPSO offices shall, when available, host Oral Hearings at no cost to the Parties.
- 11.5. If the IPSO offices are unavailable, or not appropriate for such use, the Arbitration Company agrees to facilitate or aid the Parties in finding a suitable venue for an Oral Hearing.

12. Preliminary Ruling Procedure

- 12.1. The Preliminary Ruling Procedure is deemed to have commenced upon the appointment of the Arbitrator.
- 12.2. Under the Preliminary Ruling Procedure the Arbitrator must provide an early and binding determination on core issues which they identify as requiring a Preliminary Ruling.

- 12.3. The Arbitrator must take into account any submissions relating to the identification of the core issues submitted by the Parties when determining which issues require a Preliminary Ruling.
- 12.4. The Arbitrator's decision shall be final in relation to the identification of the core issues requiring a Preliminary Ruling.
- 12.5. In the event that the Arbitrator is unable to identify issues which would benefit from a Preliminary Ruling, the Parties agree that the arbitration should proceed directly to the Final Ruling Procedure, subject to the payment of the Final Ruling Fee in full by the Parties.
- 12.6. The Arbitrator shall aim to give a Preliminary Ruling within 30 days of their appointment by the Arbitration Company.
- 12.7. The Preliminary Ruling Procedure is deemed to have been completed on the date the Preliminary Ruling is given by the Arbitrator in writing to the Parties.

13. Interim Period

- 13.1. The Interim Period shall begin upon the completion of the Preliminary Ruling Procedure and shall last for 21 days.
- 13.2. The Parties may agree to extend the Interim Period during the standard 21 days, but must inform the Arbitration Company in writing if this is the case. The Arbitration Company shall in turn inform the Arbitrator.
- 13.3. The purpose of the Interim Period is to allow the Parties to consider the Preliminary Ruling and to negotiate a settlement as appropriate, or to allow the Claimant to withdraw the Claim.
- 13.4. The Arbitrator will not act further in relation to the matter and in particular may not make a determination on suitability; on whether or not to strike out a Claim; or make any award of Relief, Fees or Legal Costs after the completion of a Preliminary Ruling Procedure until the commencement of a subsequent Final Ruling Procedure or Assessment Procedure. This clause applies whether or not the Interim Period has come to an end.

14. Final Ruling Procedure

- 14.1. After a Preliminary Ruling has been given, the Claim will not proceed to a Final Ruling Procedure unless one or both of the Parties makes a valid request in writing for it to do so.
- 14.2. During the Interim Period either Party may make a request in writing to the Arbitrator that the Claim should proceed to the Final Ruling Procedure in order to obtain a determination in relation to the outstanding issues. If no request has been made by either Party during the Interim Period both Parties must agree in writing to proceed to a Final Ruling Procedure.

- 14.3. The Claimant is at liberty to withdraw the Claim notwithstanding a request to proceed to the Final Ruling Procedure having been made by the Respondent during the Interim Period.
- 14.4. Where the Claimant has made a request during the Interim Period the Respondent must submit to the Final Ruling Procedure and pay their share of the Final Ruling Fee at the end of the Interim Period unless the Parties reach a settlement of the Claim or the Claimant withdraws the Claim subsequent to that request being made.
- 14.5. Where the Respondent has served a notice on the Claimant under clause 16.12 (indicating an intention to invite the Arbitrator to strike out the claim) but the Claimant does not withdraw the Claim before the end of the notice period or the Interim Period (whichever is later) notwithstanding service of the notice both Parties agree to pay their share of the Final Ruling Fee and to proceed to the Final Ruling Procedure where a valid request to do so has been made.
- 14.6. A Final Ruling Procedure is deemed to have commenced upon the Arbitration Company receiving payment of the Final Ruling Fee in full from the Parties.

15. Assessment Procedure

- 15.1. The purpose of the Assessment Procedure is for the Arbitrator to determine the appropriate Relief to be awarded and/or Fees and Legal Costs to be paid to the Claimant by the Respondent where the Parties have reached an agreement in relation to liability.
- 15.2. The Claim must and may only proceed to the Assessment Procedure where the Parties have so agreed:
 - a) In the Agreement, or
 - b) After the commencement of the arbitration by making a joint request in writing to the Arbitrator and the Respondent has paid the Assessment Fee.
- 15.3. The Parties must identify in writing the basis upon which the Arbitrator is to make an Assessment.
- 15.4. The Parties will not be entitled to make submissions as to the merits of the Claim within the Assessment Procedure except in so far as they relate to the appropriate Relief, Fees and/or Legal Costs to be awarded.

16. Strike-Out Procedure

- 16.1. The Arbitrator may, under their own initiative or upon receiving a request to do so from the Respondent, determine whether the Claim should be struck out on the following grounds:
 - a) The Claim is wholly without merit;
 - b) The Claim is trivial with the time and cost of pursuing the claim further being wholly disproportionate to the potential award; and/or
 - c) The Claim is otherwise frivolous or vexatious.

- 16.2. Subject to the obligation first to assess the suitability of a Claim under clause 9.1 the Arbitrator shall endeavour to make a determination under this clause as soon as reasonably practicable following receipt of a request from the Respondent.
- 16.3. Before making a request to the Arbitrator, the Respondent must give written notice of their intention to do so to the Claimant. The notice must be copied to the Arbitrator and clearly state the following:
 - a) That the Respondent intends to ask the Arbitrator to strike out the Claim in accordance with clause 16 of the Rules,
 - b) The Respondent's reasons for believing the Claim ought to be struck out,
 - c) The date on which the request will be made to the Arbitrator,
 - d) That, if the Claim is struck out, the Arbitrator will require the Claimant to reimburse the Respondent the Fees they have paid, and may also require the Claimant to pay Legal Costs to the Respondent in accordance with the Rules, and
 - e) That a decision made by the Arbitrator to strike out the Claim will act to prevent the Claimant from pursuing the Claim further in arbitration or in Court subject to the rights of appeal allowed by the Rules.
- 16.4. The Respondent must give the Claimant not less than 7 days in which to respond to the notice, or to withdraw the Claim, before making the request to the Arbitrator. Once the Claimant provides a response to the notice the Respondent may make the request to the Arbitrator and need not wait until the notice period has expired.
- 16.5. The Arbitrator must advise the Claimant that they are proceeding under clause 16 upon receiving a request to do so by the Respondent. In advising the Claimant under this clause the Arbitrator should provide a 7 day period in which the Claimant may provide a response to the Respondent's notice if a response has not already been given. The Arbitrator may subsequently ask for further submissions from either Party in order to determine whether or not the Claim should be struck out.
- 16.6. The Respondent must inform the Arbitration Company if they give notice to the Claimant under this clause before an Arbitrator has been appointed.
- 16.7. Where clause 16.6 applies the Arbitration Company shall delay the appointment of an Arbitrator for the duration of the notice period to provide an opportunity to the Claimant to withdraw the Claim or to provide a response before an appointment is made.
- 16.8. Where the Arbitrator decides to act in accordance with clause 16 under their own initiative they must give notice to the Parties and give the Claimant not less than 7 days to respond or to withdraw the Claim.
- 16.9. A notice given by the Arbitrator under clause 16.8 must:
 - a) State that the Arbitrator intends to proceed on their own initiative under clause 16,
 - b) State the reasons for the Arbitrator believing there may be grounds for the Claim to be struck out,
 - c) Seek a response from the Claimant and state the deadline for that response,

- d) State that, if the Claim is struck out, the Claimant will be required to reimburse the Respondent the Fees they have paid, and may also be required to pay Legal Costs to the Respondent in accordance with the Rules, and
- e) State that a decision made by the Arbitrator to strike out the Claim will act to prevent the Claimant from pursuing the Claim further in arbitration or in Court subject to the rights of appeal allowed by the Rules.

16.10. The Arbitrator may make a determination to strike out the Claim if the Claimant does not provide a response when requested to do so by the Arbitrator under clause 16, but only after the deadline for receiving that response has expired.

16.11. In determining whether or not to strike out a Claim the Arbitrator may have regard for whether the Respondent's request was made at an appropriately early stage.

16.12. If the Claimant wishes to proceed to a Final Ruling Procedure and the Respondent gives notice under clause 16 before the Final Ruling Procedure has commenced, the arbitration will be stayed until the notice period has ended.

16.13. A determination by the Arbitrator that a Claim is struck out is binding on the Parties.

17. Withdrawing a Claim

17.1. The Claimant may withdraw the Claim, at any point, subject to this clause.

17.2. The Claimant must serve notice of withdrawal in writing.

17.3. The notice of withdrawal must be sent by the Claimant to the Arbitration Company, the Respondent and the Arbitrator.

17.4. The Parties remain bound by Rulings already given by the Arbitrator if the Claimant withdraws the Claim.

PART FIVE: Fees, Costs and Relief

18. Fees Introduction

18.1. A requirement imposed by the Arbitrator upon a Party to reimburse the Fees which have been paid by the other Party shall be binding on the Parties.

18.2. The Arbitrator is not entitled to require a Party to reimburse part of the Fees which have been paid by the other Party in circumstances where that part of the Fees has been or is to be refunded by the Arbitration Company under the Rules.

18.3. The Administrative Fee to be paid in respect of a Claim which is to proceed directly to a Preliminary Ruling Procedure shall be £600 plus VAT and is to be paid by the Parties in equal shares.

18.4. The Administrative Fee to be paid in respect of a Claim which is to proceed directly to an Assessment Procedure shall be £200 plus VAT and is to be paid by the Respondent.

- 18.5. The Arbitrator's Fees are paid to the Arbitration Company and are as follows:
 - a) The Preliminary Ruling Fee of £3,500 plus VAT;
 - b) The Final Ruling Fee of £5000 plus VAT; and
 - c) The Assessment Fee of £500 plus VAT.
- 18.6. The Parties agree that the Fees identified in clause 18.5 apply per Arbitrator.
- 18.7. The Respondent agrees to pay the Preliminary Ruling Fee and/or the Assessment Fee where they become payable under the Rules.
- 18.8. The Parties agree to pay the Final Ruling Fee in equal shares where it becomes payable under the Rules.
- 18.9. In each case the Oral Hearing Fee must be determined and notified to the Parties by the Arbitration Company before the Parties can agree to proceed to an Oral Hearing.
- 18.10. Upon the Arbitrator directing that an Oral Hearing should be conducted, with the agreement of the Parties, the Parties also agree to pay the Oral Hearing Fee in equal shares, unless the Arbitrator and Parties specifically agree otherwise.
- 18.11. Where the Arbitrator has the discretion to require the reimbursement of Fees by one Party to the other the Arbitrator shall allow the Parties to make submissions in respect of the use of that discretion.

19. Legal Costs Introduction

- 19.1. A requirement imposed by the Arbitrator upon a Party to pay Legal Costs to the other Party shall be binding on the Parties.
- 19.2. An order made by the Arbitrator requiring a Party to pay Legal Costs to the other Party in respect of a documents-only arbitration must not exceed £5000 where the Damages Cap applies.
- 19.3. An order made by the Arbitrator requiring a Party to pay Legal Costs to the other Party in respect of an arbitration which has proceeded by way of an Oral Hearing must not exceed £10,000 where the Damages Cap applies.
- 19.4. If the Damages Cap has been removed in accordance with the Rules the Arbitrator must, as soon as reasonably practicable, set an appropriate cap on recoverable Legal Costs having invited submissions from the Parties. The Arbitrator's decision shall be final.
- 19.5. Any award of Legal Costs made in respect of clause 19.4 must not exceed £20,000.
- 19.6. The Arbitrator shall have discretion not to require either Party to pay Legal Costs to the other Party if it is fair and reasonable to do so.

- 19.7. In agreeing to arbitrate under the Pilot Scheme the Parties agree not to recover Conditional Fee Agreement success fees, or associated After-the-Event Insurance premiums, from the other Party in any event.
- 19.8. The Parties agree that Part 36 of the Civil Procedure Rules does not apply under the Rules.
- 19.9. Where the Arbitrator has allowed expert evidence to be submitted, the Parties agree to bear their own costs in relation to any expert they wish to rely upon in any event and those costs will not be recoverable from the other Party.
- 19.10. Where the Parties seek to rely upon the evidence of a single expert they agree to pay the costs of that expert in equal shares and the shares paid will not be recoverable from either Party in any event.
- 19.11. Where the Arbitrator has the discretion to require the payment of Legal Costs by one Party to the other the Arbitrator shall allow the Parties to make submissions in respect of the use of that discretion.

20. Successful and Unsuccessful Claims

- 20.1. A Claim is deemed to be successful if the Claim is upheld and, where relevant, the Relief granted by the Arbitrator is more favourable than an offer previously made by the Respondent.
- 20.2. The Arbitrator must require the Respondent to reimburse the Fees paid by the Claimant in the event that the Claim is successful.
- 20.3. The Arbitrator may require the Respondent to pay the reasonable and proportionate Legal Costs incurred by the Claimant in the event that the Claim is successful where it is fair and reasonable to do so.
- 20.4. The Claimant will not be entitled to recover Fees or Legal Costs from the Respondent in the event that the Claim is unsuccessful.
- 20.5. The Claimant will not be required to reimburse Fees or pay Legal Costs to the Respondent in the event that the Claim is upheld but unsuccessful, or in the event that the Claim is dismissed, save by the application of clause 22.

21. Timed-Out Claims

- 21.1. Where the Agreement is terminated under clause 10.4 the Arbitrator has the discretion to require a Party to reimburse the Fees paid by the other Party in part or in full if fair and reasonable to do so.
- 21.2. The Arbitrator may require a Party to pay the reasonable and proportionate Legal Costs incurred by the other Party in the event that the Claim is terminated under clause 10.4.

22. Fees and Legal Costs Exceptions

- 22.1. Notwithstanding clauses 19 to 21, where the conduct of a Party warrants such an order, the Arbitrator may require that Party to reimburse the Fees already paid by the other Party in full or in part.
- 22.2. Notwithstanding clauses 19 to 21, where the conduct of a Party warrants such an order, the Arbitrator may require that Party to pay the reasonable and proportionate Legal Costs incurred by the other Party up to £20,000.

23. Unsuitable Claims

- 23.1. The Arbitrator cannot require either Party to reimburse or pay to the other Party Fees or Legal Costs, where the Arbitrator determines that the Claim is unsuitable for arbitration under the Pilot Scheme.
- 23.2. Where the arbitration is discontinued under clause 9.1(a), the Preliminary Ruling Fee shall be refunded to the Respondent by the Arbitration Company less £500.
- 23.3. Where the arbitration is discontinued under clause 9.1(b), the Respondent's share of the Final Ruling Fee shall be refunded to the Respondent by the Arbitration Company less £500 and the Claimant's share of the Final Ruling Fee shall be refunded to the Claimant by the Arbitration Company in full.

24. Struck Out Claims

- 24.1. The Arbitrator must require the Claimant to reimburse the Fees paid by the Respondent in the event that the Claim is struck out.
- 24.2. Where the Claim is struck out and the notice to strike out the Claim is served by the Respondent before the Arbitrator was appointed, the Respondent shall be refunded the Preliminary Ruling Fee by the Arbitration Company less £2000.
- 24.3. Where the Claim is struck out and the notice to strike out the Claim is served after the completion of the Preliminary Ruling Procedure but before the commencement of the Final Ruling Procedure, the Respondent shall be refunded their share of the Final Ruling Fee by the Arbitration Company in full, and the Claimant shall be refunded their share of the Final Ruling Fee by the Arbitration Company less £2000.
- 24.4. The Arbitrator may require the Claimant to pay the Respondent's reasonable and proportionate Legal Costs in the event that the Claim is struck out.

25. Withdrawn Claims

- 25.1. If the Claimant serves notice of withdrawal before the Arbitrator is appointed the Arbitration Company shall:
 - a) Refund in equal shares a proportionate sum of the Administrative Fee to the Parties depending on the amount of work already undertaken by the Arbitration Company;
 - b) Refund the Preliminary Ruling Fee in full to the Respondent if this has already been paid.

- 25.2. Subject to clause 13.4, if the Claimant serves notice of withdrawal after the Arbitrator has been appointed, the Arbitrator shall have the discretion to require the Claimant to reimburse the Respondent's share of the Fees in full or in part. The Arbitrator may also require the Claimant to pay the Respondent reasonable and proportionate Legal Costs in accordance with clause 19.
- 25.3. The Arbitrator shall have the discretion not to require the Claimant to reimburse Fees or pay Legal Costs to the Respondent where a Claim is withdrawn if it is fair and reasonable to do so.
- 25.4. A Party shall be refunded their share of the Final Ruling Fee by the Arbitration Company if a notice of withdrawal is served before both Parties have paid their share of that Fee.

26. Awards

- 26.1. Final Rulings, whether to uphold or dismiss the Claim, shall be provided in writing by the Arbitrator who shall provide reasons for the decision, and details of the Relief granted where this is relevant.
- 26.2. Unless the Rules state otherwise the Arbitrator shall have the same powers to grant Relief as the Court and must apply the law applicable to the seat of the arbitration in this regard. In particular, the Arbitrator may:
 - a) Award damages to the Claimant,
 - b) Require the Respondent not to re-publish the information or the words which are the subject of the Claim,
 - c) Require the Respondent to remove the information or the words which are the subject of the Claim from the Respondent's website or other online platforms over which the Respondent has control,
 - d) Require the Respondent to use all reasonable endeavours to secure the removal of the information or words which are the subject of the Claim from third party websites and/or other online platforms,
 - e) Require the delivery up or destruction of offending material,
 - f) Require the Respondent to desist from the conduct which is the subject of the Claim;
 - g) Award Fees and/or Legal Costs as provided for in the Rules; and/or
 - h) Direct the Respondent to publish a summary of the Final Ruling in Claims for defamation in accordance with s.12 Defamation Act 2013.
- 26.3. Damages awarded under clause 26.2 shall be limited to £50,000.
- 26.4. The Damages Cap may only be removed by the express agreement of the Parties in writing. The cap shall be deemed to have been expressly removed by the Parties if they so agree in the Agreement or subsequently make a joint request in writing to the Arbitrator.
- 26.5. If the Respondent wishes to rely on an Offer of Amends as a defence or in mitigation of damages, the Respondent must inform the Arbitrator, as soon as reasonably practicable, that an Offer of Amends has been made.

- 26.6. The Arbitrator does not have the power to award exemplary damages or aggravated damages.
- 26.7. Where a Party is required to make a payment of Fees, Legal Costs and/or provide Relief the requirement must be complied with within 28 days of the date of notification of the requirement by the Arbitrator, unless the Arbitrator states otherwise.
- 26.8. If the Parties cannot agree upon the wording of a summary to be published under clause 26.2(h) the wording may be settled by the Arbitrator. Where the Parties cannot agree on the time, manner, form or place of publication, the Arbitrator may give such directions as to those matters as they consider reasonable and practicable in the circumstances.
- 26.9. It shall not be within the Arbitrator's power to award pre-publication injunctions against the publication of material which is the subject of the Claim.
- 26.10. The Parties expressly agree to be bound by any Relief granted by the Arbitrator.

27. Rulings and Confidentiality

- 27.1. All correspondence sent between the Parties, the Arbitrator and/or the Arbitration Company relating to the Claim shall be treated as confidential, subject to the Arbitration Company's duty to provide information to IPSO under clause 2.
- 27.2. Upon the appointment of an Arbitrator all correspondence sent between the Parties must be copied to the Arbitrator by the sender of the correspondence.
- 27.3. All correspondence exchanged between one Party and the Arbitrator must be copied to the other Party by the sender of the correspondence.
- 27.4. If the Arbitrator agrees to conduct an Oral Hearing the hearing shall be conducted in private.
- 27.5. The Parties agree not to disclose details of the arbitration at any time to any third party unless it is necessary for the purposes of complying with the Relief granted by the Arbitrator, or as otherwise required by law or the Rules.
- 27.6. With the exception of Final Rulings, which may contain details relating to previous Rulings given in respect of the Claim, there shall be an assumption that Rulings shall be confidential, subject to duties imposed by the Rules, unless the Parties agree otherwise in writing.
- 27.7. Any Party may request the Arbitrator to direct that a Final Ruling should be made confidential, stating reasons for the request. This request should be made as soon as reasonably practicable after the Arbitrator is appointed and, in any event, not after the date of the Final Ruling.
- 27.8. Any Party may request the Arbitrator to anonymise parts of the Final Ruling, including but not limited to the identity of the Parties, stating reasons for the request. This

request should be made as soon as reasonably practicable after the Arbitrator is appointed and, in any event, not after the date of the Final Ruling. If the Arbitrator directs that any part of the Final Ruling should be anonymised or redacted, they should nevertheless make every effort to produce a Final Ruling that may be publicly disclosed.

- 27.9. Upon receiving a request under clause 27.7 or 27.8, the Arbitrator should consider whether granting the request outweighs the public interest of publishing the Final Ruling. The Arbitrator should have particular regard to the nature of the Claim in determining whether or not it is fair to publish the Final Ruling, or particular details within the Final Ruling, and whether publication may infringe the legal rights of the Parties or third parties.
- 27.10. Unless the Arbitrator directs that the Final Ruling should be made confidential, it shall be published on IPSO's website. Final Rulings which have been anonymised or redacted shall not be treated as confidential.
- 27.11. Respondents have a duty to report the Final Ruling fairly and accurately save in circumstances where a summary has been published under clause 26.2(h) or where the Final Ruling has been made confidential. In so doing the Respondent must not identify parties who have been anonymised in the Final Ruling or include redacted information.