

**INDEPENDENT PRESS STANDARDS ORGANISATION C.I.C.**

**REGULATIONS**

## REGULATIONS

---

### The Remit of the Regulator

1. The Regulator shall regulate the following material published by Regulated Entities within the UK, the Channel Islands and the Isle of Man, subject to the exceptions in Regulation 3 below:
  - 1.1 editorial content included in a printed newspaper or magazine; and
  - 1.2 editorial content on electronic services operated by Regulated Entities such as websites and apps, including text, pictures, video, audio/visual and interactive content.
2. The Regulator may only regulate an entity (other than a Broadcaster) which publishes a printed newspaper or magazine and/or editorial content on electronic services in the United Kingdom, the Channel Islands and the Isle of Man or targets such newspaper, magazine or electronic content at an audience in the United Kingdom, the Channel Islands and the Isle of Man. The Regulator shall not be entitled to refuse membership to any such entity in a way that is unfair, unreasonable or discriminatory.
3. Complaints handling by the Regulator shall be restricted to complaints about breaches of the Editors' Code which, for the avoidance of doubt, shall not include:
  - 3.1 complaints about TV and radio services regulated by Ofcom and/or the BBC Trust;
  - 3.2 complaints about advertising regulated by the Advertising Standards Authority and/or Advertising Standards Authority (Broadcasting) Limited;
  - 3.3 concerns about matters of taste/decency and due impartiality;
  - 3.4 at the Regulator's discretion, legal or contractual matters which are dealt with more appropriately by the Arbitration Service, the courts or tribunals or elsewhere;
  - 3.5 complaints about books;
  - 3.6 complaints about 'user generated content' posted onto Regulated Entities' websites which has not been reviewed or moderated by the Regulated Entity;
  - 3.7 complaints about online material that is not on sites owned by or under the control of Regulated Entities; or
  - 3.8 complaints from one Regulated Entity about another Regulated Entity.

### The Regulator's Functions

4. The Regulator shall have the following functions:
  - 4.1 handling complaints about breaches of the Editors' Code;

- 4.2 monitoring and investigating issues of standards and compliance with the Editors' Code, which shall include:
    - 4.2.1 the monitoring of compliance with the Editors' Code including through the provision by Regulated Entities of annual statements; and
    - 4.2.2 the investigation of, and Adjudication upon the matters set out in Regulation 53;
  - 4.3 recording and publishing breaches of the Editors' Code, save that the Regulator may in its discretion determine that there are circumstances where this is inappropriate;
  - 4.4 publishing an annual report in accordance with Regulation 52;
  - 4.5 providing guidance to Regulated Entities on matters concerning the Editors' Code, including public interest considerations. Such guidance shall be confidential and non-binding and shall not restrict the freedom to publish;
  - 4.6 at the discretion of the Regulator, notifying and advising Regulated Entities about their activities in cases where an individual has raised concerns regarding undue press intrusion. Such notification and advice shall be confidential and non-binding and shall not restrict the freedom to publish;
  - 4.7 if thought fit by the Regulator's Board following due consideration and consultation, operating a system whereby Regulated Entities are entitled to display a mark or badge determined by the Regulator to denote adherence to the Editors' Code and the Regulations;
  - 4.8 providing a confidential whistleblowing hotline for individuals who have been requested by, or on behalf of, a Regulated Entity to act contrary to the Editors' Code; and
  - 4.9 providing the Arbitration Service (subject to the terms of the Scheme Membership Agreements).
5. In accordance with and subject to the Regulator's Articles, the Regulator's Board is responsible for the management of the Regulator's business for which purpose it may exercise all of the functions and powers of the Regulator and may delegate any such functions or powers as it sees fit from time to time.
  6. The Regulator may extend any of the time periods prescribed under these Regulations.

## **Complaints**

### **Procedure**

7. Subject to Regulation 8, the Regulator shall offer without charge a 'complaints handling' service to the public in cases where there is disagreement between a complainant and a Regulated Entity about whether the Editors' Code has been breached.
8. The Regulator may, but is not obliged to, consider complaints: (a) from any person who has been personally and directly affected by the alleged breach of the Editors'

Code; or (b) where an alleged breach of the Editors' Code is significant and there is substantial public interest in the Regulator considering the complaint, from a representative group affected by the alleged breach; or (c) from a third party seeking to correct a significant inaccuracy of published information. In the case of third party complaints the position of the party most closely involved should be taken into account. The Regulator may reject without further investigation complaints which show no prima facie breach of the Editors' Code and/or are without justification (such as an attempt to argue a point of opinion or to lobby) and/or vexatious and/or disproportionate.

9. The Regulator may, at its discretion, allow a complaint to be brought notwithstanding that legal proceedings (whether civil or criminal) may later be brought concerning the subject matter of the complaint.
10. Complaints shall include:
  - 10.1 a copy of the article in question, if there is one;
  - 10.2 a written outline of the concerns by reference to the Editors' Code; and
  - 10.3 any other documents which will help the Regulator to assess the complaint.
11. Complaints shall only be accepted if they have been submitted, either to the Regulator or the Regulated Entity, within four months from the date of the conduct or first publication of the article complained of, save that if a complaint is received outside such four month period but within 12 months of the date of first publication of the article complained of, and relates to an article which remains accessible to the public on a Regulated Entity's website or on other electronic services operated by the Regulated Entity, the Regulator shall consider the complaint only if the Regulator considers that it is still possible for it to investigate and adjudicate fairly, having regard to the period of time since first publication.
12. Subject to Regulation 11, on receipt of a complaint, the Regulator shall review the complaint to ensure that (a) it falls within the Regulator's remit; and (b) discloses a possible breach of the Editors' Code. If the Regulator is not satisfied that the complaint should proceed, it shall write to the complainant to explain why and shall reject the complaint. A complainant can ask the Regulator to review any rejection decision, but must make this request within 7 days of receiving written confirmation of rejection. The Regulator may re-open the complaint following such review.
13. In the case of any complaint which is not rejected by the Regulator or which has been re-opened following a review, in each case pursuant to Regulation 12, the Regulator shall notify the Regulated Entity of the complaint. Consideration of such complaint by the Regulator will not begin until the earlier of: (i) the exhaustion of the Regulated Entity's internal complaints process; (ii) a request by the Regulated Entity for the Regulator to consider the complaint; or (iii) 28 days after the Regulated Entity has received notice of the complaint from the Regulator pursuant to this Regulation 13, unless the Regulator determines that its earlier involvement is essential.

#### *Mediation and complaints handling by the Complaints Committee*

14. Subject to Regulation 13, the complaint shall be investigated by a complaints committee, acting under the delegated authority of the Regulator's Board, which shall be composed in accordance with Regulation 41 (the **Complaints Committee**).
15. This investigation will be conducted in accordance with the procedural requirements set out in Annex C, as amended from time to time by the Regulator's Board as set out in

the Scheme Membership Agreement.

16. Where appropriate, the Complaints Committee will seek to find a satisfactory resolution to a complaint by facilitating mediation.

*Inquiries by the Complaints Committee*

17. Where the Regulator's Board becomes aware of an alleged breach of Clauses 6.4, 13, 15 and 16 of the Editors' Code, or a prima facie breach of any other Clause except Clause 1, that it reasonably considers to be serious and where the Regulator has received no complaint which leads to an investigation under Regulation 14, it may recommend that the Complaints Committee make inquiries of any Regulated Entity:
  - 17.1 where there is substantial public interest in the Regulator acting in the absence of a complaint and, in respect of Clauses other than 6.4, 13, 15 and 16, such decision is taken by unanimous decision of the Regulator's Board at a board meeting;
  - 17.2 if appropriate, other than in respect of clauses 6.4, 13, 15 and 16, having first obtained the express consent of any party or parties most closely involved;
18. Where the Regulator considers suggestions from third parties, it must be satisfied that these are not made without justification (such as an attempt to argue a point of opinion or to lobby) and/or vexatious and/or disproportionate.
19. In considering whether to pursue inquiries, the Regulator will take into account the ability of the party or parties most closely involved to pursue a complaint to the Regulator. Where the party or parties appear to have the ability to complain, the Board must be satisfied that there are compelling reasons why the party or parties will not do so, which would justify the Board proceeding in the absence of their complaint.
20. The Regulator will seek to obtain relevant material from the party or parties most closely involved and will take into account any material obtained, or any refusal to provide information in its determination, including considering whether it is able to reach a decision.
21. In cases where publication has not taken place, other than in respect of Clause 6.4, 13, 15 and 16, a Regulated Entity may notify the Regulator of its belief that the proposed Complaints Committee inquiry would restrict specific legitimate and continuing journalistic activity in a matter incompatible with the Regulator's obligation to have regard at all times to the importance of freedom of expression.
22. Following receipt of a notification under Regulation 21 the Committee will suspend any inquiry for 28 days. This period will be extended for successive 28-day periods subject to re-certification by the Regulated Entity. Any such suspension would be lifted at the time of publication.
23. Subject to Regulations 17-22, inquiries by the Complaints Committee may be initiated by the Regulator's Board:
  - 23.1 on its own initiative; or
  - 23.2 in response to complaints or suggestions received from employees of Regulated Entities; or

23.3 from a third party; or

23.4 from an individual using the whistleblowing hotline.

24. It shall be at the Regulator's sole discretion as to whether or not to initiate an inquiry.
25. Such an inquiry shall be treated as a complaint for the purposes of these Regulations.
26. No Regulated Entity will be obliged to provide information under this provision in breach of a legal duty of confidentiality.

#### *Determination by the Complaints Committee*

27. If the complaint is not resolved by mediation, or following the conclusion of inquiries under Regulations 17-22, the Complaints Committee shall determine whether or not there has been a breach of the Editors' Code and shall notify the complainant and any relevant Regulated Entity of its decision.
28. If the Complaints Committee determines that there has not been a breach of the Editors' Code, the complaint shall be rejected.
29. If the Complaints Committee determines that the Editors' Code has been breached and there has been no request for a review of the decision within the time period set out in Regulation 33, the Complaints Committee shall issue an Adjudication outlining its findings which may include a requirement for the Regulated Entity to take remedial action.

#### *Remedial Action*

30. If a complaint is upheld by the Complaints Committee (whether or not after a review), remedial action shall, save as otherwise provided in this Regulation, consist of a requirement for the Regulated Entity to publish a correction and/or an Adjudication, unless the Complaints Committee at its discretion dispenses with such requirement. The nature, extent and placement of such corrections and Adjudications will be determined by the Regulator acting proportionately and taking into account the nature of the Regulated Entity and its Publications. The Regulator will notify the Regulated Entity and the complainant, where applicable, and take account of any comments before requiring publication of a correction or Adjudication. In cases where a Regulated Entity's arrangements for enforcing standards and compliance have been found to be at fault, the Regulator may inform the Regulated Entity in writing that further remedial action is required to ensure the requirements of the Editors' Code are met.
31. The power to impose remedial action shall apply equally to:
  - 31.1 individual breaches of the Editors' Code;
  - 31.2 groups of people as described in Regulation 8 where there is no single identifiable individual who has been affected; and
  - 31.3 matters of fact where there is no single identifiable individual who has been affected.

#### *Review*

32. A complainant or Regulated Entity may request that a decision made by the Complaints Committee in accordance with Regulation 27 be reviewed by an independent person, appointed by the Appointments Panel in accordance with the Appointments Principles set out in the Regulator's Articles, who shall not be a member of the Board or Complaints Committee (the **Complaints Reviewer**). Requests for a review by the Complaints Reviewer may be made only on the ground that the process by which the Complaints Committee's decision was made is substantially flawed.
33. A request for review by the Complaints Reviewer must be made in writing to the Regulator within 14 days of the relevant decision by the Complaints Committee and it shall be at the Regulator's discretion whether or not to refer the complaint to the Complaints Reviewer.
34. If the Regulator decides not to accept the request for review, it shall uphold the Complaints Committee's original decision and the Complaints Committee shall issue an Adjudication outlining its findings which may include a requirement for the Regulated Entity to take remedial action.
35. If the Regulator decides to accept the request for review (in whole or in part), it will refer the complaint to the Complaints Reviewer.
36. The Complaints Reviewer shall review the process by which the decision of the Complaints Committee was made. Following its review, the Complaints Reviewer shall refer back to the Complaints Committee within 14 days of receiving the request, stating whether or not it considers that the process by which the original decision of the Complaints Committee was made was substantially flawed. If the Complaints Reviewer considers that the process was substantially flawed, the Complaints Committee shall review its decision taking into account the Complaints Reviewer's findings.
37. Following review under Regulation 36, the Complaints Committee shall issue an Adjudication outlining its findings which may include a requirement for the Regulated Entity to take remedial action.

#### *General*

38. The Regulator's Board shall at all times remain responsible for, and shall have ultimate discretion in relation to, the decisions of the Complaints Committee.
39. Where a Regulated Entity and a complainant reach agreement regarding disposal of a complaint each shall notify the Regulator and, if applicable, the Complaints Committee within 14 days of such agreement and, subject to receipt of such notification, the Regulator or Complaints Committee, as the case may be, shall consider the complaint to be closed.
40. If a Regulated Entity offers a remedial measure to a complainant which the Regulator or, if applicable, the Complaints Committee considers to be a satisfactory resolution of the complaint, but such measure is rejected by the complainant, the Regulator or, if applicable, the Complaints Committee shall notify the complainant of the same and that, subject to fulfilment of the offer by the Regulated Entity, it considers the complaint to be closed and a summary of the outcome shall be published on the Regulator's website.

#### Composition of the Complaints Committee

41. The Complaints Committee shall be a committee of 12 members appointed by the Regulator's Board in accordance with the Appointment Principles set out in the Regulator's Articles and shall comprise:
  - 41.1 the Chair of the Regulator's Board who shall also chair the Complaints Committee but no other members of the Regulator's Board;
  - 41.2 six individuals each of whom is Independent as defined in the Regulator's Articles;
  - 41.3 five individuals who have industry experience as more fully described in the Regulator's Articles;
  - 41.4 the individuals referred to in Regulation 41.2 and Regulation 41.3 shall not be serving editors of bodies that are or could be Regulated Entities, serving members of the House of Commons, the United Kingdom Government, the Scottish Parliament, the Scottish Government, the Welsh Assembly, the Welsh Government, the Northern Ireland Assembly or the Northern Ireland Executive.
42. In appointing the members of the Complaints Committee referred to in Regulation 41, the Regulator's Board shall take account of the views of the Regulatory Funding Company as to the suitability of the candidates and shall aim to ensure that there is at all times one member with significant editorial experience at a senior level at each of the following:
  - 42.1 national mass market newspapers;
  - 42.2 national "broadsheet" newspapers;
  - 42.3 Scottish newspapers;
  - 42.4 regional newspapers; and
  - 42.5 magazines.

## **Standards and Compliance**

### Annual statement of the Regulated Entity

43. Each year, every Regulated Entity shall submit to the Regulator a statement containing the information identified in Annex A and such information required under the Regulated Entity's Scheme Membership Agreement.
44. The Regulator's Board shall require that the Annual statements must be submitted by a specified date, ensuring that Regulated Entities are provided with at least 56 days' notice.
45. The statements submitted by Regulated Entities in accordance with Regulation 43 shall be published by the Regulator on its website and the Regulator may require that these statements are accessible to the public by the Regulated Entities through their websites or Publication(s).
46. The Regulator shall review these statements and identify any areas of concern. Any such concerns shall be notified to the relevant Regulated Entities, who shall respond to any queries raised within 21 days. On receipt of these responses, the Regulator



may prepare a confidential report identifying any issues of concern and listing any points that require further investigation and shall send a copy of the report to any Regulated Entity concerned.

#### Quarterly statements by the Regulated Entity

47. Following the conclusion of a Standards Investigation or further to a requirement of remedial action issued by the Complaints Committee in accordance with Regulation 30, or following the identification of an area of concern in an Annual statement, the Regulator may require that a Regulated Entity submit Quarterly statements containing the information set out in Annex B in relation to a specified publication, for a specific period commencing on a future date to be specified by the Regulator.
48. The Regulator shall determine the dates by which the Quarterly statements must be submitted. Regulated Entities will be provided with at least 28 days' notice.
49. The Quarterly statements submitted by the Regulated Entities in accordance with Regulation 47, and information contained within them, shall be confidential and will not be published by the Regulator.
50. The Regulator shall review these statements and identify any areas of concern. Any such concerns shall be notified to the relevant Regulated Entities, who shall respond to any queries raised within 21 days. On receipt of these responses, the Regulator may prepare a confidential report identifying any issues of concern and listing any points that require further investigation and shall send a copy of the report to any Regulated Entity concerned.
51. The Regulator will keep any requirement imposed under this clause under review every quarter and will notify the Regulated Entity of the outcome of the review.

#### Annual report of the Regulator

52. Each year, the Regulator shall publish an annual report which shall include:
    - 52.1 the identity of the Regulated Entities and a record of any significant change in the number of Regulated Entities;
    - 52.2 the number of articles in relation to which the Regulator has handled substantive complaints and the outcomes reached, both in aggregate for all the Regulated Entities and in relation to each Regulated Entity; provided that for these purposes complaints which:
      - 52.2.1 are not pursued by the complainant;
      - 52.2.2 are rejected under Regulation 12;
      - 52.2.3 are disposed of by agreement between the complainant and the Regulated Entity outside of the complaints process and duly notified in accordance with Regulation 39; or
      - 52.2.4 are considered closed under Regulation 40 by the Regulator or Complaints Committee following an offer by the Regulated Entity of a remedial measure
- shall not be regarded as substantive complaints;

- 52.3 a summary of any Standards Investigations carried out and the outcome of such investigations;
- 52.4 a report on the adequacy and effectiveness of the compliance processes and procedures adopted by the Regulated Entities; and
- 52.5 any information about the Arbitration Service, including the extent to which the Arbitration Service has been used.

#### Commencement of a Standards Investigations

- 53. The Regulator may require that a Standards Investigation takes place in one or more of the following circumstances:
  - 53.1 where the Regulator reasonably considers that there may have been serious and systemic breaches of the Editors' Code (a **Systemic Failure**);
  - 53.2 where there has been one or more failure or failures to comply with the requirements of the Regulator's Board;
  - 53.3 in exceptional circumstances, where the Regulator reasonably considers that an investigation is desirable because substantial legal issues or Editors' Code compliance issues are raised about the practices of a Regulated Entity or Regulated Entities;
  - 53.4 where an annual statement identifies significant issues of concern, either in relation to a single incident, a Regulated Entity's compliance processes or a pattern of significant, serial or widespread breaches of the Editors' Code;
  - 53.5 where, on analysis of statutory authority reports into press standards, in the view of the Regulator there have been substantial Editors' Code compliance issues identified at one or more Regulated Entity.
- 54. Investigations may be started by the Regulator on its own initiative, or in response to recommendations from the Complaints Committee, complaints or suggestions received from employees of Regulated Entities or a third party or from an individual using the whistleblowing hotline save that it shall be at the Regulator's sole discretion as to whether or not to commence a Standards Investigation.

#### Terms of reference for a Standards Investigation

- 55. The Regulator's Board shall determine the proposed remit and terms of reference for a Standards Investigation taking into account the nature of the Regulated Entity and its Publication(s). On the commencement of a Standards Investigation the Regulator will notify the Regulated Entity or Regulated Entities of the terms of reference for a Standards Investigation and the reason for its being launched and will take into account any comments received in response before finalising the terms of reference.

#### Procedure

- 56. A Standards Investigation shall be conducted by an investigation panel which shall be composed in accordance with Regulation 69 below (the **Investigation Panel**).
- 57. The Investigation Panel shall at all times act reasonably in discharging its responsibilities. It may seek assistance from third parties, such as lawyers and experts, but only where this is necessary and proportionate. The Investigation Panel shall be

under a duty to ensure that any investigation is carried out in a manner that is:

- 57.1 independent of the interests of the press or any third party;
  - 57.2 proportionate to the issues raised;
  - 57.3 fair to the people involved, including any person directly affected by the published articles or conduct under investigation, the newspaper or magazine, its editors and journalists;
  - 57.4 objective and open-minded as to outcome; and
  - 57.5 consistent with the terms of reference set for the specific investigation.
58. The Investigation Panel may request the Regulated Entities which are the subject of the investigation to provide:
- 58.1 documents (which for these purposes mean anything in which information of any description is recorded);
  - 58.2 answers to questions raised, either about practices generally or the facts relating to a particular incident or incidents;
  - 58.3 access to key personnel, for example the editor, deputy editor or assistant editor, and any journalists concerned with the matters under investigation, for meetings and taped interviews.
59. The Investigation Panel shall invite representatives from the Regulated Entities which are the subject to the investigation to attend a meeting, in order to answer questions from the Investigation Panel about the issues raised. Representatives shall be permitted to make oral representations to the Investigation Panel to allow the Investigation Panel to determine the issues, and any outcome, fairly.

#### Disputes

60. If a Regulated Entity refuses to provide information, or attend any meeting, requested by the Investigation Panel, this refusal, and any reasons given for it, will be notified to the Regulator's Board.
61. If at any stage a dispute arises between the Regulated Entity under investigation and the Investigation Panel about matters including the scope of the investigation or the need for documentary evidence, this may be referred to the Regulator's Board for determination. The Regulator's Board's decision shall be final, subject to Regulation 82.
62. Without prejudice to Regulation 61, if a Regulated Entity declines to provide material voluntarily, the Regulator shall have the power (in the Scheme Membership Agreements) to compel the production of documents, seeking specific performance of the Scheme Membership Agreement if necessary, subject to Regulation 78 (sources) and Regulation 81 (privilege) below. The Regulator shall have the power to bring legal proceedings to compel the production of documents.

#### The Investigation Panel's Decision

63. The Investigation Panel shall prepare a confidential draft report providing details

of its investigation and draft recommendation(s). The draft report shall be provided to Regulated Entities which are the subject of the investigation, and to any third party likely to be directly affected by the Investigation Panel's decision, for example journalists accused of wrongdoing. It shall not be provided to any original complainant(s), except to the extent that the report is about the original complainant. All recipients shall have 28 days to prepare any written submissions in response to the draft report and the issues raised by it. All submissions received shall be considered by the Investigation Panel at a meeting.

64. The Investigation Panel shall then reach a decision on the investigation. The Investigation Panel shall give reasons for its decision(s) and shall notify the Regulated Entity concerned.
65. The Investigation Panel shall inform the Regulator's Board of its decision so that the Regulator's Board may determine the appropriate sanction(s), if any, for the Regulated Entity concerned, taking into account the nature of the Regulated Entity and its Publication(s).

#### Sanctions

66. The Regulator's Board may impose one or more of the following sanctions only following a decision by the Investigation Panel:
  - 66.1 publish an Adjudication outlining its findings which may include a requirement for the Regulated Entity to take remedial action;
  - 66.2 require the Regulated Entity to pay a fine subject to Regulation 67;
  - 66.3 require the Regulated Entity to pay the reasonable costs of a Standards Investigation subject to Regulation 67;
  - 66.4 require the submission of quarterly statements for a specified period in accordance with clause 47 above; and
  - 66.5 terminate the Regulated Entity's Scheme Membership Agreement with the Regulator.
67. The Regulator's Board will only impose fines or costs where the Regulated Entity's conduct is sufficiently serious. Any fines or costs will be flexible in amount and will be determined in accordance with the Financial Sanctions Guidance. No fine or costs will be imposed unless the Regulated Entity has first been given the opportunity to attend a hearing at which the potential imposition of a fine or requirement to pay costs will be considered.
68. The Financial Sanctions Guidance shall be issued from time to time by the Regulator's Board. Amendments will be reasonable and approved by the Board in consultation with the Regulatory Funding Company.

#### Composition of Investigation Panel

69. The Regulator's Board shall appoint a standing pool of Investigations Panelists in accordance with the Appointment Principles set out in the Regulator's Articles for the purposes provided under these Regulations. The Investigation Panel shall comprise three members, drawn from the panelists appointed under this Clause, as

follows:

- 69.1 two individuals each of whom is Independent (as defined in the Regulator's Articles);
  - 69.2 one individual who has experience in a senior position with the newspaper or magazine industry (as more fully described in the Regulator's Articles), save that such individual shall not have a connection with a Regulated Entity which is the subject of a Standards Investigation; and
  - 69.3 the individuals referred to in Regulation 69.1 and 69.2 shall not be serving editors of bodies that are or could be Regulated Entities, or current serving members of the Editors' Code of Practice Committee or the Regulator's Board or any individual Connected (as defined in the Regulator's Articles) to the Regulatory Funding Company.
70. The Investigation Panel shall conduct its proceedings as it considers appropriate subject to any requirements imposed by the Regulator's Board.

#### Review

71. Where the Regulator's Board has imposed a sanction on a Regulated Entity pursuant to Regulation 66, the Regulated Entity may request in writing to the Regulator a review of the decision of the Investigation Panel under Regulation 63 and/or the Board under Regulations 65-66.
72. A request for a review under Regulation 71 may be made only on the ground that the process followed by the Investigation Panel was substantially flawed or that the decision of the Board is manifestly unfair.
73. A request for a review should contain a full statement of the grounds for the review and should be sent to the Regulator within 14 days of the date of the Regulated Entity's receipt of the decision of the Board under Regulations 65-66. The Regulator has a discretion to consider whether further evidence will be taken into account and will require an explanation of why evidence was not previously submitted.
74. On receipt of the Regulated Entity's statement pursuant to Regulation 73 the Regulator shall refer the matter to a Reviewer appointed by the Appointments Panel in accordance with the Appointments Principles, with its response. The Reviewer shall be independent (as defined in the Regulator's Articles) and of highest integrity, and shall not be a member of the Regulator's Board, the Complaints Committee or the Investigation Panel.
75. The Reviewer shall conduct the review based upon the documentation submitted by the Regulated Entity and any response from the Regulator. It may dismiss the request for review or remit the matter back to the Board with recommendations as to whether the Board should confirm or vary the decision under review.
76. The Reviewer shall prepare a note of the review of the decision and shall send it in draft with recommendations to the Regulated Entity, which shall have 14 days to make any comments on the draft (including to correct inaccuracies) or to accept the findings and recommendations.

77. If the Reviewer has remitted the matter back to the Board, s/he must provide a written report with recommendations and findings, taking into account the response of the Regulated Entity. The Board shall consider the matter taking into account the recommendations and findings of the Reviewer and will notify the Regulated Entity of its decision either to confirm or vary the original decision promptly.

### **Privilege and Confidentiality**

78. Nothing in these Regulations or the Scheme Membership Agreement shall give the Regulator or any of its directors, employees, members, panel members or advisers the right to require access to, or copies of, materials or information to the extent that such disclosure will, or would reasonably be considered likely to, reveal confidential sources of information.
79. Subject to any relieving provisions in these Regulations from time to time relating to disclosure of information and provided that the Regulator has given at least seven days' notice to the Regulated Entity of intended publication which notice specifies the intended date of publication the decisions of the Regulator in relation to complaints and investigations may, at the Regulator's discretion, be made public save that the Regulator may determine that there are circumstances where this is inappropriate or where redactions are required, (for example, where publication might cause an unjustified interference with any individual's rights under Article 8 of the European Convention on Human Rights).
80. It shall be the duty of Regulated Entities to ensure that if they submit any material to the Regulator which is commercially sensitive or is subject to any provisions of the Data Protection Act 1998 that they clearly mark it as such and bring this to the attention of the Regulator. In such circumstances, the Regulator shall discuss with the Regulated Entity concerned how that material shall be handled and, subject to the approval of the Chair of the Regulator's Board, the Regulated Entity may redact such material.
81. Nothing in these Regulations or the Scheme Membership Agreement shall give the Regulator or any of its directors, employees, members, panel members or advisers the right to require access to, or copies, of materials or information which is protected by professional privilege or where the materials or information sought by the Regulator may be considered self-incriminating in a contemplated criminal prosecution of the provider.
82. Should any dispute arise over whether material is privileged or commercially sensitive or a source is confidential, an independent Queen's Counsel shall be retained to review the material and adjudicate on whether it is privileged or commercially sensitive or confidential as the case may be, the costs of Queen's Counsel to be met in the first instance by the Regulator (but the reasonable costs of such Queen's Counsel may, at the Regulator's discretion, be recoverable from the Regulated Entity concerned as a cost of the investigation).
83. Where any material is redacted pursuant to Regulation 80 or is:
- 83.1 privileged
  - 83.2 commercially sensitive
  - 83.3 identifies a confidential source; or

83.4 is subject to any provisions of the Data Protection Act 1998

and accordingly is not disclosed to any third party, the Regulator may in its discretion not rely on any such material in carrying out its functions in relation to complaints handling or a standards investigation.

84. Notwithstanding any other obligation of confidentiality the Regulator may make public its findings in relation to any complaints handling or standards investigation save to the extent that they fall within Regulation 83.1 to 83.4 above.

### **Interpretation**

85. Unless otherwise specified in these Regulations, the capitalised terms in these Regulations shall have the meanings given in the Scheme Membership Agreement.

86. For the purposes of these Regulations:

86.1 **Scheme Membership Agreement** has the meaning given in the Articles of Association of the Regulatory Funding Company;

86.2 **Broadcaster** means: (i) the holder of a licence under the Broadcasting Act 1990 or 1996; (ii) the British Broadcasting Corporation; or (iii) Sianel Pedwar Cymru; and

86.3 **Adjudication** means a decision of the Regulator or Complaints Committee on the outcome of a complaint or inquiry under Regulations 17-22.

86.4 All references to clauses in the Editors' Code of Practice refer to the clauses so numbered in the Editors' Code of Practice in effect on 1 January 2016.

## ANNEX A

Matters to be set out as part of the Regulated Entities' annual statement:

1. Factual information about the Regulated Entity:
  - 1.1 A list of its titles/products.
  - 1.2 The name of the Regulated Entity's responsible person.
  - 1.3 A brief overview of the nature of the Regulated Entity. It is not expected that this will be longer than one or two paragraphs.
2. Copies of any internal manuals, codes or guidance used by journalists.
3. Brief details of the compliance process, including how the Regulated Entity deals with:
  - 3.1 Pre-publication guidance under Regulation 4.5;
  - 3.2 Verification of stories;
  - 3.3 Compliance with the Editors' Code, including any adverse findings of the Regulator and steps taken to address such findings;
  - 3.4 Editorial complaints which the Complaints Committee determines under Regulation 27;
  - 3.5 Training of staff.

It is not expected that this will be longer than 1-3 pages in most instances.

4. Details of the steps taken by the Regulated Entity in response to any adverse Adjudications by the Regulator during the previous year.
5. In determining the level of detail to be included in a Regulated Entity's annual statement, the Regulator shall take into account the nature of the Regulated Entity including its size, the number of staff employed, number of Publications, circulation figures of the Publication(s) and annual turnover.



## **ANNEX B**

1. Matters to be set out as part of the Regulated Entities' quarterly statements:
2. The name of the Regulated Entity's responsible person.
3. Brief details of all formal written Code complaints which the Regulated Entity has received and concluded. The brief detail must include the name of the complainant, headline, date of article, content or activity complained about, the conclusion reached and remedy agreed, if any.
4. A record of publication of corrections, clarifications, apologies or amendments online or in print
5. A record of all complaints which have been referred to the Regulated Entity from IPSO.
6. The Regulated Entity shall not be required, under 3 and 4, to provide details of complaints about minor inaccuracies or which have been resolved following minor amendment to an online article.
7. No Regulated Entity will be obliged to provide information in a breach of a legal duty of confidentiality.

## ANNEX C

1. The Regulator will inform the complainant and Regulated Entity in writing when it begins consideration of a complaint as set out in Regulation 14.
2. If the complaint has not previously been subject to the Regulated Entity's internal complaints process, the Regulator will provide the Regulated Entity with a copy of the complaint (and any further correspondence) and, if relevant, a copy of the material under complaint.
3. The Regulator will require the Regulated Entity to respond to the complaint within 7 days, or such longer period as is reasonable in the circumstance.
4. The Regulator may then conduct such correspondence between the parties as is necessary in its discretion to mediate or investigate the complaint, subject to the procedural requirements set out below.

### *Confidentiality*

5. Neither party to the complaint should publish material provided to the Regulator as part of the investigation and mediation of a complaint; disclose such material to third parties except as is reasonably necessary in order to engage in the complaints process; or otherwise use it except for the purposes engaging with the complaint.
6. Should either party publish or disclose such information without consent, the Regulator may decline to consider a complaint further, or may consider the disclosure when reaching a determination on remedial action under Regulation 30.
7. These provisions do not prevent the Regulator from publishing details of correspondence exchanged during the complaint as part of a ruling on the complaint.

### *Transparency*

8. The Regulator will ensure that both parties have had sight of any material on which the Complaints Committee may rely in reaching a determination on the complaint, including correspondence from the other party.

### *Timeliness of correspondence and complaints that are not pursued*

9. The Regulator shall require both parties to a complaint to cooperate with it in the prompt consideration of complaints, and shall request responses to its correspondence within 7 days or such longer period as is reasonable in the circumstances. The Complaints Committee will be able to take any unreasonable delay in correspondence into account in coming to a view on a complaint.
10. Should the complainant fail to respond to correspondence the Regulator shall provide the complainant with a reasonable deadline after which the complaint may be closed as not pursued.
11. Should the Regulated Entity fail to respond to correspondence, the Regulator shall provide the Regulated Entity with a reasonable deadline, after which the Complaints Committee may proceed to make a determination on the complaint.
12. The Regulator will not generally reopen a complaint which has been closed as a consequence of a failure by the Complainant to provide a timely response. Complainants

who seek to revive complaints that have previously been closed as not pursued will be asked to explain the reasons for the delay in their response. The Regulator will only reopen a complaint where, taking account of the reasons given and the full circumstances of the complaint, to refuse the request would be unreasonable.

*Multiple complaints*

13. When the Regulator receives a large number of complaints from third parties seeking to correct a significant inaccuracy of published information, the Regulator may, in its discretion, determine that its earlier involvement is essential, and proceed to summarise the complaints for the purposes of investigating the complaint on behalf of the complainants.
14. The Regulator will not refer the complaints to the Regulated Entity's internal complaints handling process, but will investigate them for the purposes of preparing them for a determination by the Complaints Committee as to whether or not there has been a breach of the Editors' Code.
15. Should the Regulated Entity make an offer of remedial action, the Regulator may notify the complainants of the offered remedy. If all complainants accept the proposed remedy as a satisfactory resolution to their complaints, the complaint shall be closed.
16. Subject to Paragraph 15, the Complaints Committee shall determine whether or not there has been a breach of the Editors' Code. Such determination shall be recorded as a single decision by the Complaints Committee.
17. Notwithstanding the above, the Regulator may, in its discretion, elect to refer similar complaints from third parties seeking to correct a significant inaccuracy of published information to a Regulated Entity's internal complaints process. In such cases the Regulator may, in its discretion, select a lead correspondent for the purposes of investigating and mediating the complaint.

*Mediated complaints*

18. If the complaint is resolved to the satisfaction of the complainant through mediation the complaint shall be closed. The Regulator will generally publish a statement recording the outcome on its website.

*Proceed to determination*

19. If the complaint has not been resolved by mediation, the Regulator shall inform the parties that the matter will proceed to a determination by the Complaints Committee. If the complainant wishes to make any further points, a copy will be provided to the Regulated Entity at least 7 days before any determination is made by the Complaints Committee.