

IPSO Pilot Arbitration Scheme Summary

What is the IPSO Pilot Arbitration Scheme?

The Pilot Scheme is a cost-effective way of resolving legal claims outside of court proceedings. A claim can be brought by an individual or organisation (the claimant) against the publisher of a newspaper or magazine that is participating in the pilot. The claimant and the publisher are collectively known as the parties.

Where parties agree to arbitrate, a barrister will be appointed to act as an arbitrator (judge) for the claim. The arbitrator's rulings will be final and binding on the parties.

What is the IPSO Arbitration Process?

At the outset, IPSO will conduct an initial assessment of a claim to make sure it is within the remit of the scheme.

The scheme can deal with claims which:

- are brought within 12 months of the alleged wrongdoing;
- are brought against a participating newspaper or magazine; and
- pursue a relevant claim (further information is available at www.ipso.co.uk).

The scheme cannot deal with claims which:

- seek a prepublication injunction;
- are pursued by a third party; or
- have already been ruled upon by the Court.

If a claim is within the remit of the scheme, IPSO can provide the claimant with a claim form in which full details of the claim can be provided, together with supporting documentation. Once complete, IPSO can refer these documents to the relevant publisher.

During the referral period, the parties will have the opportunity to discuss the possibility of settling the claim. At this stage, the publisher may also agree to arbitrate the claim under the pilot scheme, although it is under no obligation to do so. If both parties agree to use the scheme, IPSO can transfer the claim to the Centre for Effective Dispute Resolution (CEDR).

You should note that publishers and claimants who are already in correspondence in relation to a claim may agree to arbitrate independently of this process, but will need to contact IPSO to obtain the relevant forms.

Can a claim be brought under the scheme at the same time as a Code Complaint?

No. The resolution of a dispute cannot be pursued simultaneously as an arbitral claim and a Code complaint. Unless your arbitration claim is made via the arbitration inquiry form IPSO will initially assume you wish to make a Code complaint.

What happens after the claim is transferred to CEDR?

CEDR will require the parties to pay their share of the fees before appointing an arbitrator to the claim. It is anticipated that most claims will proceed directly to a preliminary ruling procedure where the arbitrator will make a ruling on the core issues in dispute. This should help to resolve points which are central to the dispute at an early stage.

Once a preliminary ruling is made, the arbitration will be stayed, giving the parties an opportunity to reach a settlement, or for the claimant to withdraw the claim, without incurring further fees or unnecessary costs. This interim period will last for 21 days, however the arbitration will not then continue to a final ruling unless one or both of the parties make a request for it to do so.

In the final ruling, the arbitrator can uphold or dismiss the claim, and will grant remedies, if appropriate. Awards of damages and the amount of legal costs which can be recovered by one party from the other are capped as standard.

Throughout the arbitration, the arbitrator has the power to strike out claims that are wholly without merit, trivial, vexatious or frivolous and also has the discretion not to continue to arbitrate claims that are unsuitable for the scheme. Costs incentives have been introduced so that parties are encouraged to raise issues relating to the suitability and strike out procedures at an appropriately early stage in the arbitration.

If the parties reach an agreement on liability at any point before a final ruling is made, they may ask the arbitrator to make a ruling on the appropriate award of damages and/or costs to be paid.

How much will IPSO Arbitration Cost?

Where a claim is resolved after the preliminary ruling, the claimant will have paid £300 (+VAT) and the publisher will have paid £3,800 (+VAT), not including their own legal costs.

Where a claim is resolved after a final ruling, the claimant will have paid £2,800 (+VAT) and the publisher will have paid £6,300 (+VAT), not including their own legal costs.

The vast majority of claims should be determined via a documents-only process, however the parties may agree with the arbitrator to attend an oral hearing. The fees for an oral hearing will be paid equally between the parties.

In general, the claimant can only recover their fees from the publisher if their claim is successful (this does not include all upheld claims), whilst the publisher can only recover their fees from the claimant if the claim is struck out. However, the arbitrator has the discretion to award fees and legal costs based upon the conduct of the parties where this is fair and reasonable.