

# Guidance for journalists: 'Due prominence'

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This guidance explains how IPSO makes decisions on the prominence with which editors must publish remedies to breaches of the Editors' Code of Practice (The Code).

This guidance is aimed at editors who want to understand IPSO's approach and is designed to raise editorial standards.

It gives examples of how IPSO applies the due prominence rule.

## Key points

- IPSO must be proportionate in the decisions it takes on prominence and must balance the need to provide redress with the importance of freedom of expression.
- IPSO will take a number of factors into account when deciding how prominently remedies should be published, including the seriousness and prominence of the breach.
- Editors can contact IPSO if they would like advice on how to ensure that they publish remedies with sufficient prominence, in cases where IPSO is not already involved.

# Introduction

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## One of the principles that regulators abide by is the need to act proportionately.

This means that regulators should only intervene when necessary and any actions they take should be proportionate to the perceived problem, risk or breach of the regulatory standards and justify the compliance costs imposed.

The Editors' Code of Practice incorporates the concept of proportionality in its requirements on publications to publish remedies with due prominence.

In the context of IPSO's work considering complaints under the Code, this requirement to act proportionately most often presents itself when the Committee must consider what due prominence means.

In this context, 'due' means appropriate and proportionate in response to the breach of the Code. Decisions about due prominence are highly specific to the individual circumstances of each case.

However, IPSO has established principles that guide its general approach drawn from a number of its rulings that required it to consider what due prominence consisted of in individual complaints.

These principles underpin this guidance.

# The Editors' Code of Practice

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A significant inaccuracy, misleading statement or distortion must be corrected, promptly and with due prominence and – where appropriate – an apology published. In cases involving IPSO, due prominence should be as required by the regulator.

The Code places a clear requirement on editors to correct issues promptly. If IPSO receives a complaint about an inaccuracy, one of the factors it will consider is what steps the newspaper or magazine took to address the issue. Editors are therefore encouraged to correct inaccuracies promptly and with sufficient prominence, in order to comply with the requirements of the Code.

Clause 1(ii) of the Editors' Code

# What factors does IPSO consider when deciding what is due prominence?

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IPSO is asked to make decisions on prominence in two contexts:

1. When it must determine whether a remedy offered or taken by a publication has met its obligation under Clause 1(ii), to correct a significant inaccuracy, misleading statement or distortion with 'due prominence'.

2. When deciding how to exercise its powers to determine the "nature, extent and placement" of a remedy to a breach of the Code that it has established. The Code states that adjudications and corrections will be published with 'due prominence' as required by IPSO.

Decisions on the level of prominence given to the correction or adjudication are made on the basis of the particular facts of the breach of the Code. IPSO may consider the following factors when deciding on the prominence of the correction or adjudication, either separately or in combination:

- the seriousness of the breach of the Code
- the position of the breach of the Code within the publication
- the prominence of the breach of the Code within the article
- the extent of the breach of the Code within the article
- the public interest in remedying the breach of the Code
- the consequences of the breach of the Code
- any actions taken by the publisher to address the breach of the Code.

# Why is prominence important?

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The factors identified may not all be relevant in every case. But they do demonstrate that the extent of the prominence of the correction or adjudication has two different purposes.

It makes clear to readers and editors the nature, gravity and significance of the breach, first as a matter of information and second as a matter of sanction and redress.

It will also act as a deterrent to future breaches of the Code. The requirement to print words dictated by IPSO in a newspaper, in a position and size determined by IPSO, will always be a sanction against a publisher and provide some redress for a complainant.

Freedom of expression includes the right of an editor to choose what goes in their newspaper and where it goes, which is fundamental to journalism, press regulation and the Code.

In ordinary circumstances, this will include the right of an editor to correct an inaccuracy of their own volition, without a complaint being made to IPSO.

When IPSO forces newspapers or magazines to publish a correction or an adjudication, IPSO is taking away an editor's right to choose the content they are publishing in that space.

Instead, IPSO is filling that space, choosing the words that must be used, specifying their size and placement. It is not just a loss of control: IPSO has used the space to tell their readers about the publication's editorial failure.

This does have a punitive impact on the publisher and is a serious matter.

IPSO recognises that some complainants who have suffered from a breach of the

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Code may feel that, unless the newspaper is required to publish the remedy on the front page, the breach has not been remedied.

However, it would be disproportionate to regard the satisfaction of the complainant as the only factor. Instead, in making decisions on due prominence, IPSO must balance the need to provide redress for a complainant with the issue of restricting an editor's exercise of freedom of expression and decisions must therefore be proportionate to the factors identified above.

This regularly means that the remedy is effectively more prominent than the original breach, as in when an inaccuracy buried deep in a paper is corrected on page 2, where many publications carry their corrections columns.

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# Case studies

These case studies explore IPSO's decision making on due prominence in more detail. The case studies look at the following key areas:

- corrections columns
- front page corrections and references
- online publication.

All of the adjudications mentioned below can be found on IPSO's website:

[www.ipso.co.uk](http://www.ipso.co.uk)

## Corrections columns

IPSO recognises the value of established corrections columns. They serve several important purposes: they signify a commitment to accuracy; they provide information to readers about how to make complaints; and if they appear consistently, they contribute to the prominence of corrections by ensuring that readers know where to find them.

An established corrections column provides a clearly marked area in a newspaper or magazine where a reader can quickly find corrections. As a result, except in exceptional circumstances, corrections published in that column are likely to be considered as published with due prominence. However, in order for a column to be considered 'established' it should be published in the same place with sufficient frequency so that readers are aware of the column.

## Wilson v The Press and Journal

At the point that IPSO considered the complaint, The Press and Journal ran its corrections on either page five or page six of the newspaper. The Press and Journal also provided information on the letters page in each edition about the location of the corrections.

IPSO ruled that The Press and Journal had to publish a correction to address a significant inaccuracy. The newspaper offered to publish the correction on page five or six, which was where the newspaper usually published corrections, when the original article had appeared on page three.

IPSO ruled that the regular placement of corrections on page five or six as standalone items did not amount to an established corrections column. The location of corrections varied across two pages, and the statement recording the publication's complaints policy was published on a different page. Without an established

column, IPSO did not consider that the publication of a correction two or three pages further back in the publication than the original error constituted due prominence. The newspaper was required to publish the correction on page three or further forward and also on the newspaper's homepage.

Following this complaint, The Press and Journal established a signposted corrections column.

### Key point

*In order to be considered established, a corrections column should appear regularly in the same place and should include information about the publication's complaints policy.*

## Black v Sunday Express

IPSO will consider both whether a corrections column is established and whether it is sufficiently prominent in deciding whether or not a correction published in a corrections column is sufficiently prominent. In this case, IPSO required the Sunday Express to publish an adjudication to remedy an inaccuracy which had featured in a front page story after the Sunday Express published a correction without sufficient prominence.

The Sunday Express had published a correction to the story already on the letters page of the newspaper. This was the first correction published by the Sunday Express under IPSO. IPSO ruled that the publications of corrections on the letters page did not amount to an established corrections column because there was no information published on the page which might indicate to readers that this was the case. In addition, readers would not be aware of this positioning as the correction published was the first under this policy.

IPSO also ruled that publishing the correction on page 30 was not a sufficiently prominent location in which to correct the accepted inaccuracy.

IPSO required the Sunday Express to publish an adjudication on page two as the newspaper had not published the correction in an established corrections column, nor with sufficient prominence.

### Key point

*Even if a publisher has already published a correction, IPSO may require editors to publish an adjudication if they have failed to publish the correction to a significant inaccuracy with sufficient prominence.*

## Front page corrections and adjudications

Front pages are of particular importance to newspapers as they provide a publication with an opportunity to communicate with potential new readers. They are therefore valuable both commercially and editorially, as a means of expression. Further, front pages generally inform readers, using limited space, of the main news stories of that day. IPSO must act proportionately in deciding whether or not to require a front page correction or adjudication. Front page corrections are generally reserved for the most serious cases, wherever the breach of the Code appeared in the publication.

## [Portes v The Times](#)

There are circumstances in which a front-page correction may be required by the Code, regardless of the existence of an established corrections column. Requiring publishers to publish corrections in places other than a corrections column can undermine the advantage of having a consistent position for corrections. However, there will be occasions when the inaccuracy or mistake is so significant as to require correction in an even more prominent place than the corrections column, even if the newspaper has an established one.

IPSO required The Times to publish a reference on its front page to a correction published in its corrections column, after The Times published a front-page story which contained a significant inaccuracy.

The newspaper had already published a correction, amended the online article, and appended the correction as a footnote. In doing so, it had acted in good faith

and attempted to remedy the inaccuracy. However, the correction had not been duly prominent and so a front page reference was required. The front page reference had to include the word “correction” and referred to IPSO’s upheld ruling. The Times also had to republish the correction in its corrections column.

### Key point

*For the most serious inaccuracies a corrections column may be insufficiently prominent. In those cases, IPSO may require editors to take additional steps to address the inaccuracy, such as publish a front page correction. IPSO may require this even when editors have taken steps to address inaccuracies if those steps did not result in sufficient prominence.*

### Buckingham Palace v The Sun

IPSO required The Sun to publish a front page reference to an adjudication published on page two, to remedy a breach of the Code caused by a headline on a front page which was not supported by the text and was significantly misleading.

IPSO took into account the prominence of the breach, the significance of the headline claim which did not comply with the Code, and the fact that the newspaper had not taken any steps to mitigate the effects of the breach, in deciding what remedial action it required.

In this case, the front page splash was a breach of the Code. As a result, the front page reference to the adjudication had to appear in the same position and same size as the sub-headline which had appeared on the front page in question, within a border distinguishing it from other editorial content on the page. The Sun also had to publish the adjudication online, with a link to the adjudication on the homepage for 24 hours.

## McDonald v Daily Express

IPSO required the Daily Express to publish an adjudication with a front page reference following a story which significantly misrepresented a poll. In addition, the Express had not mitigated the effect of that breach by offering to publish a correction. In this case, the headline, sub-headline and opening paragraphs of the story, which appeared on the newspaper's front page, all contributed to the significantly misleading reporting of the poll.

As a result, the Committee required the newspaper to publish a reference to the adjudication on the front page, directing readers to the full adjudication published on page two. IPSO required that the front page reference appear in the same size font, and taking up the same space or more, than the sub-headline which appeared on the front page under complaint, with a border. The Express also had to publish the adjudication online, with a link to the adjudication on the homepage for 24 hours.

## Key point

*IPSO may require an editor to publish an adjudication with a front page reference to remedy a front page breach if the editor has not taken any steps to address the effect of the breach.*

## Online publication

Publishers continuously update websites, particularly homepages, as new content becomes available. This makes decisions on the prominence of corrections or adjudications to online articles more challenging, because the level of prominence with which an article is published may change over time.

### Hales v Mail Online

IPSO required Mail Online to publish an adjudication online with a reference on its homepage, to address a serious failure to take care over the accuracy of an article, after it published a series of direct quotations allegedly from the complainant without taking any steps to verify them. Mail Online had offered to publish a correction promptly to the article. However, the severity of the breach of the Code meant that the Committee decided that the publication of the offered correction would not be an appropriate remedy to this failure.

In this case, the online article had not appeared on its homepage, or any other channel page at any time and had instead been published straight to the newspaper's archive. However, the Committee ruled that publication of the adjudication simply to the archive would not be an effective remedy to the breach of the Code. As a consequence, it required that a link to the adjudication be published on the publication's homepage for 24 hours and that if the article remained online it should have a correction and reference to the adjudication also published with it.

### Key point

*IPSO may require an editor to publish a link to adjudications on their homepage in order to correct a serious breach of the Code, even when that article did not feature on the homepage originally.*

## HRH Prince Henry of Wales v Mail Online

IPSO required Mail Online to publish an adjudication on its homepage after it published photos of the complainant engaging in private activities without his knowledge and consent, and without a justification from Mail Online for the public interest in publication. IPSO required that the adjudication was published within the top fifth of the homepage, before dropping down in the normal manner because the article under complaint had appeared at the top of the publication's homepage.

### Key point

*IPSO will generally take into account the prominence with which an article is published on a homepage in deciding the prominence with which an adjudication should be published online.*