

Response to the Media Standards Trust report

Introduction

This document is a response to the Media Standards Trust report [“The Independent Press Standards Organisation \(IPSO\), Five Years On, A reassessment”](#) published in October 2019.

IPSO welcomes external scrutiny and is committed to transparency in all of its work. We regularly and openly engage with groups and individuals interested in matters related to press regulation and editorial standards.

At no point during the research or writing of this reassessment did the Media Standards Trust approach IPSO for information or comment to give them insight into the organisation. Therefore, this report pays no regard to the actual practice or reality of IPSO’s regulation.

In comparison, Sir Joseph Pilling’s independent external review, which the report “considers unpersuasive”, had full access to IPSO as well many external stakeholders, including those critical of the organisation; his report is a more accurate snapshot of IPSO’s effectiveness and independence.

Standards investigations and financial sanctions

IPSO has powers to impose appropriate and proportionate sanctions. Financial sanctions can only be issued as a result of a standards investigation.

A key principle of regulation is that all regulators act proportionately to the seriousness of the issue that they are investigating. Standards investigations are one of many interventions available to IPSO to address standards concerns. The purpose of a standards investigation is to address serious and systemic problems within the industry. Given that the potential outcome of such an investigation is a significant financial penalty on a publisher, combined with the likelihood of significant reputational damage, it is right and proper that the test for launching such an investigation is set high. IPSO does not agree that there is a significant difference between ‘serious or systemic’ and ‘serious and systemic’: both imply serious wrongdoing at a publisher.

However, it is important to note that “serious and systemic” breaches of the Editors’ Code are not the only test for launching an investigation. IPSO’s Board can launch a standards investigation in one or more of the following circumstances:

- IPSO reasonably believes there may have been serious and systemic breaches of the Editors’ Code
- there has been one or more failure or failures to comply with the requirements of IPSO’s Board
- where IPSO’s Board believes that an investigation is necessary because substantial legal or Code compliance issues are raised about a publisher

- an annual statement identifies significant issues of concern
- an analysis of statutory authority reports identifies significant compliance issues.

Publishers cannot intervene in the decision to launch a standards investigation; it is a decision that can only be made by IPSO's Board.

In order to carry out a standards investigation effectively, IPSO must engage with both the entity under investigation and those who have raised concerns. The reassessment identifies six areas, where it asserts publishers could "intervene" in the process of a standards investigation, which we have responded to below.

1. At the commencement of an investigation IPSO will notify the Regulated Entity of the terms of reference and "will take into account any comments received in response before finalising the terms of reference" (Regulation 55). This corresponds to Regulation 42 original 2013 IPSO Regulations, which also set out a 14-day time limit for Regulated Entities to respond; this limit has been removed. It is not clear whether this serves to prolong or shorten the investigation process.

It is right that an entity under investigation has the opportunity to see and comment on the terms of reference. Any changes to the terms of reference are a decision for IPSO's Board.

2. The Regulated Entity is invited to attend a meeting where they can make oral representations to the Investigation Panel (Regulation 59; previously Regulation 46).

It is right that an entity under investigation has the opportunity to make representations on its behalf.

3. At any stage during the investigation the Regulated Entity can dispute "matters including the scope of the investigation or the need for documentary evidence" (Regulation 61; previously Regulation 48).

It is right that an entity under investigation has the opportunity to make representations on its behalf. The final decision is made by IPSO's Board.

4. The Investigation Panel provides a draft report to the Regulated Entity which then has 28 days to respond (Regulation 63; previously Regulation 50).

It is right that an entity under investigation has the opportunity to provide comments on the investigation report. Changes to the report must be agreed by the independent investigation panel.

5. When a decision has been made the Regulated Entity can request that the decision be reviewed (Regulation 71; previously Regulation 53).

Opportunity for review is a proper part of any functioning, proper process. A request for review can only be made where there has been a substantial procedural flaw or the decision of IPSO's Board to impose a sanction is manifestly unfair.

6. The appointed Reviewer (previously Review Panel) will prepare a note of the decision and send it to the Regulated Entity, which has 14 days to comment on the draft (Regulation 76; previously Regulation 60).

It is right that the regulated entity is able to comment on any review.

IPSO is confident that we have the required funding and resources in order to carry out a standards investigation independently and effectively.

Any fines paid as a result of a standards investigation would be paid directly into the enforcement fund to be used for future standards investigations.

IPSO membership

We are proud to have a large and diverse membership: from the biggest national newspapers, almost all local newspapers, household-name and niche interest magazines, to small hyperlocal online-only publishers. These can be viewed on our website.

Membership of IPSO is open to all on fair, reasonable and non-discriminatory terms, regardless of sector. This includes those publishers that are “digital-native”.

In 2019 we signed up six new members, many of whom are online-only. We are satisfied that the existing membership structure is fair and functional, but do not rule out future changes to reflect the diversity of the industry that we regulate.

Annual statements and compliance

IPSO requires the senior individual responsible for compliance to be named in a publisher’s annual statements which we publish on our website annually. Failure to name this individual would make a publisher non-compliant with the process.

By publishing annual statements on our website, we provide all the information in one place, in a way that is easily accessible to the public.

The requirements for annual statements have changed, as a result of our learning from administering the process for the last five years. We do not consider these changes a dilution. In previous years the statement requirements focussed on narrow aspects of good journalistic practice and compliance with the Code. We have broadened these requirements so that the annual statement looks more thoroughly at how publishers comply with the Code. We will continue to assess the statements rigorously and thoroughly and work to address any compliance failures identified through this process.

Arbitration

IPSO has operated an arbitration scheme since 2016. In 2018 we introduced a new compulsory scheme. All IPSO's national newspaper publishers are members of the compulsory scheme, which means they must agree to arbitrate if a claim is made against them.

Funding

IPSO has agreed a five year budget with the Regulatory Funding Company to run to the end of 2024. The agreement makes provision for an annual review of IPSO’s budget to check whether any of the assumptions on which the five year budget was based have changed. This is the only sense in which the budget is annual.

Once the RFC has agreed the budget with IPSO it is for the RFC to decide the subscriptions it charges IPSO members in order to fund that budget.