

Susie Uppal
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Press Recognition Panel
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Dear Susie

I am responding to your letter of 9 February.

I do not accept that the PRP has been misrepresented.

Alan's comments referred to the decision by the Press Recognition Panel to impose, as a condition of recognition, a requirement that arbitration must be compulsory for publishers not only with respect to participating in the scheme as a whole, but also in relation to each individual claim brought against a publisher.

The idea that Charter-compliant arbitration must be compulsory with respect to individual claims represents the PRP's interpretation of the Charter; the Charter itself is silent on the issue of whether publishers may decline to arbitrate individual claims.

To my knowledge, this interpretation was promulgated for the first time in your 'Decision Following the Consultation on Proposals for Recognition of Press Self-Regulators' Paper, published in September 2015. The reasoning given was as follows:

"The criterion 22 obligation is to provide an arbitration route for members of the public, which would not be the case if publishers could opt out generally or on a case by case basis."

The document entitled: 'PRP Board decision in respect of the application for recognition for IMPRESS' published on 21 November 2016 commented further that:

"We agree with IMPRESS that the compulsory nature of the scheme for publishers is the intention of the criterion".

IPSO disagrees with the PRP's position that a requirement for the availability of "an arbitration route" constitutes a stipulation that arbitration should be mandatory in relation to individual claims. Indeed, the Leveson Report, from which the Charter criteria were adapted, noted, in recommending that an arbitration service should be provided by a new regulator, that "neither publishers nor complainants can be forced to use [a system of arbitration]" and found that the new regulator "should offer publishers the right to use the system".

The effect of this interpretation is compounded by the fact that the Royal Charter goes beyond Leveson's recommendations in that it rules out any possibility that a publisher could recover costs from arbitration, by ensuring the parties bear their own costs subject to a successful complainant's costs or expenses being recoverable.

In these circumstances, Charter-compliant arbitration requires publishers to arbitrate in every case under a scheme that obligates them to pay for the whole of the arbitration, without the possibility of recovering any costs, win, lose or draw. The fact that a small administrative fee may be payable by the Claimant under Charter compliant arbitration is insignificant in this regard, as the publisher's costs and fees are likely to run into the thousands.

Alan was perfectly entitled to draw a contrast between this position – which is conditioned on the decision by the PRP to impose a requirement that a compliant arbitration scheme be mandatory for each claim – and the arbitration pilot scheme operated by IPSO.

Yours sincerely

A handwritten signature in black ink that reads "Matt Tee". The signature is written in a cursive style and is underlined.

Matt Tee
Chief Executive