

IMPRESS



CI Arb
evolving to resolve

Dispute Appointment Service

**CI Arb/IMPRESS
ARBITRATION SCHEME
RULES (“the Rules”)**

**FOR USE IN ENGLAND, WALES, SCOTLAND,
AND NORTHERN IRELAND**

CI Arb/IMPRESS ARBITRATION SCHEME RULES (“the Rules”) FOR USE IN ENGLAND, WALES, SCOTLAND, AND NORTHERN IRELAND

Where any claim is referred for arbitration under the Scheme, the parties shall be taken to have agreed that the arbitration shall be conducted in accordance with the Rules or any modified, amended or substituted Rules which the Scheme may have adopted and which have come into effect before the commencement of that arbitration.

Scope

1. The IMPRESS/CI Arb scheme relates to civil claims between a claimant and a participating publisher for:
 - (a) defamation;
 - (b) breach of confidence;
 - (c) misuse of private information;
 - (d) malicious falsehood; or
 - (e) harassment.

The Scheme does not cover pre-publication matters which seek to prevent publication.

2. The Rules are intended to govern arbitrations under the Scheme. Arbitrations under the Scheme shall be conducted under the Arbitration Act 1996 (the Act). Where the arbitration is to be seated in Scotland it shall be conducted under the Arbitration (Scotland) Act 2010. These Rules incorporate the mandatory provisions of the relevant Act.
3. The parties may not amend or modify these Rules or any procedure under them after the appointment of an arbitrator unless the arbitrator agrees to such amendment or modification.
4. Under the terms of the IMPRESS Regulatory Scheme, where IMPRESS has determined that such a dispute is suitable for arbitration under the IMPRESS/CI Arb scheme, the publisher is required to participate in the arbitration.
5. The parties shall sign an agreement to arbitrate and submit it, through IMPRESS, to CI Arb. In the case of a publisher the document shall be signed by or on behalf of the individual notified to IMPRESS as the legal and standards compliance manager. The arbitration shall be regarded as commenced when both parties have signed Form ARB1 and the signed Form ARB1 has been received by CI Arb.

Appointing authority and appointment of the arbitrator

6. CI Arb shall appoint a sole arbitrator. The arbitrator will proactively manage the arbitration, making such enquiries of the parties as the arbitrator may think fit.

7. Arbitrators appointed under this scheme may be subject to monitoring, supervision or scrutiny by CI Arb and by agreeing to arbitration under these Rules the parties agree that disclosure of documentation to CI Arb for the purposes of such monitoring, supervision or scrutiny, does not infringe any principle of confidentiality relating to the arbitration.

Representation, informality and costs

8. Without restricting the right of a party to be legally represented, the arbitration shall be conducted with minimum formality and as far as possible without the need for legal representation. If one party is represented and the other is not, the arbitrator will aim to ensure that lack of representation does not disadvantage the unrepresented party.
9. No award of costs shall be made against the Claimant under any circumstances.
10. The fees of the arbitrator, which shall be paid by the publisher, shall be set at no more than £3,500 unless the publisher agrees to the payment of a higher fee.
11. Where the Claimant has succeeded in whole or in part in their claim, the arbitrator may make an award of costs against the publisher. The arbitrator shall approach the assessment of such costs on the basis that, in ordinary circumstances:
 - (a) the maximum sum to be awarded will be £3,000; and
 - (b) the hourly charging rate of a lawyer employed by the complainant shall be reasonable and proportionate having regard to the nature of the claim and the rate shall not exceed £300 per hour. The arbitrator shall hear submissions on costs before making any award.
12. In making a decision to award costs, the arbitrator shall have regard to all the material circumstances, including such of the following as may be relevant:
 - (a) whether the costs of the Claimant were reasonable and proportionate having regard to the nature of the claim;
 - (b) whether or not legal representation was necessary;
 - (c) any offer of settlement or compromise made by the publisher.

The arbitrator's inquisitorial role

13. The arbitrator shall as far as possible adopt an inquisitorial process, taking the initiative to ascertain the facts and the law, managing the case, making enquiries of or putting propositions to either party, taking into account any inequality of representation. In doing so, the arbitrator must treat the parties fairly, ensuring that before any award is made, each party has had a reasonable opportunity to put its case and to deal with the other party's case.
14. In the case of a publisher, notwithstanding that the publisher may be legally represented, the arbitrator has the right to communicate direct with the publisher's legal and standards compliance manager.

Procedure

15. It shall be for the arbitrator to decide all procedural and evidential matters. As soon as practicable after being appointed, the arbitrator shall give directions to the parties as to the procedure and the timings that will apply, and may give further directions at any time. These directions may include the order and timings within which documents shall be exchanged, and whether or the extent to which expert evidence shall be admitted.
16. The Claimant should set out in written form the allegations of fact or matters of opinion which it is intended to establish by evidence and set out the other remedies sought and the total value of all quantifiable sums if any claimed, together with a copy of all documents or statements relied on. The publisher should set out in written form the extent to which the allegations of the Claimant are accepted, and where allegations are denied, their reasons for doing so, and if they intend to put forward a different version of events from that given by the Claimant, they must state their own version and supply all documents and or statements relied on.

Speed

17. The arbitrator shall take all reasonable steps to ensure that, in arbitrations conducted without an oral hearing, the arbitration is concluded within a period of 3 months of appointment of the arbitrator and, in all other cases (except the most complex), the arbitration is concluded within a period of 6 months of appointment.

Settlement and Determination

18. The arbitrator shall seek to establish the facts underlying the dispute and exercise his/her powers accordingly. The arbitrator may explore with the parties whether an agreed settlement is possible. If not, the arbitrator will decide the substance of the dispute in accordance with the law of England and Wales, or, where appropriate, Scotland or Northern Ireland.

Default and striking out

19. The arbitrator shall have the powers under the Act in the event of a party's failure to comply with directions. Notwithstanding the fact that IMPRESS has referred a claim to arbitration, the arbitrator shall have the power to strike out all or part of a claim in the following circumstances:
 - (a) In the case of a claim for libel, there is no real prospect of the Claimant showing that the publication has caused or is likely to cause serious harm to their reputation;
 - (b) The Claimant discloses no reasonable ground for bringing the claim;
 - (c) The claim is an abuse of process;
 - (d) The claim is trivial with the time and cost of the claim being wholly disproportionate to the potential award;
 - (e) The claim is made in bad faith; or
 - (f) The claim is otherwise frivolous or vexatious.

Arrangements for any hearing

20. The arbitrator will decide:

- (a) whether or not to hold an oral hearing, and if so, after hearing representations from the parties, whether it should be held in public or in private;
- (b) the procedures to be adopted at any hearing;
- (c) which, if any, witnesses shall attend; witnesses of fact will be questioned by the arbitrator or, in exceptional cases and with the leave of the arbitrator, the other party;
- (d) any time limits to be imposed on the length of oral submissions or the examination or cross-examination of witnesses.

21. The arbitrator may at any time order any of the following to be delivered to him or her in writing:

- (a) submissions to be advanced by or on behalf of any party;
- (b) questions intended to be put to any witness;
- (c) answers by any witness to identified questions.

Awards

22. Any award shall be in writing, dated, and signed by the arbitrator, and shall contain sufficient reasons to show why the arbitrator has reached the decisions contained in it, unless the parties otherwise agree or the award is by consent.

23. Any award shall be final as to the issues determined in it, and shall be binding on both parties.

24. The award shall be made public. On application by the parties, the arbitrator shall decide whether any parts of the award shall be redacted to protect confidential information.

25. The arbitrator may award and/or direct:

- (a) Damages to the Claimant;
- (b) That the publisher shall publish a summary of the award, in a form to be agreed by the parties or directed by the arbitrator;
- (c) That the publisher shall not re-publish the information or statement in respect of which the claim has been brought; and/or
- (d) Such other award or direction as he/ she may determine.