

Legal Proceedings

The Council's procedures for complaints involving issues which are, or may become, the subject of legal proceedings are explained below.

Complainants will be required to indicate whether they have commenced, or may commence, legal proceedings against the publisher relating to matters falling within the area of the complaint. This obligation will apply from the beginning of the complaint process until its completion.

If proceedings have commenced or there is a reasonable possibility that they may be commenced, the publisher may request within seven days of notification by the Council that the Council

- withholds action on the complaint until the proceedings have concluded or there is no longer a reasonable possibility that they will be commenced; or
- does not take any such action unless the complainant meets certain conditions.

The publisher's request must provide detailed reasons and may suggest conditions which could be applied if the Council decides to proceed. The conditions could include, for example, that while legal proceedings are still in process or likely:

- some or all communications by the publisher in response to the Council will be made on a "without prejudice basis"; or
- the complainant signs a confidentiality agreement (or, if he or she prefers, a waiver); or
- the matter will not be referred to the Adjudications Panel.

When making decisions about whether and how to proceed, the Council will take account of

- any beneficial or adverse impacts which may be caused to either the complainant or the publisher;
- the desirability of facilitating frank communication by them.

If proceedings have actually been commenced, consideration of the complaint by the Council should not proceed unless there are special circumstances which mean that a delay would be unfairly detrimental to the complainant.

Decisions on these issues will be made by the Executive Director. If the complainant or publisher wishes to object to such a decision, they can seek review by a panel of three Council members nominated by the Chair (including the Chair or Vice-Chair, a public member and a publisher member).

The Council will advise complainants to consider seeking legal advice before deciding whether to sign any confidentiality agreement or waiver.