

# Procedures for investigating complaints arising under the Information Fair Trader Scheme (IFTS)

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## Background

1. The Office of Public Sector Information (OPSI), part of The National Archives, operates the [Information Fair Trader Scheme \(IFTS\)](#). The scheme accredits its members to a high standard of information trading based on the principles of Maximisation, Simplicity, Innovation, Transparency, Fairness and Challenge.
2. This document describes OPSI's procedures for investigating complaints under IFTS.
3. OPSI:
  - investigates complaints under the PSI Regulations.
  - administers the Information Fair Trader Scheme (IFTS) which monitors compliance with a set of information re-use principles. Crown bodies in receipt of a licensing delegation from the Controller of Her Majesty's Stationery Office (HMSO), an official of The National Archives, or the Office of the Queen's Printer for Scotland (OQPS), or volunteer members, are required to abide by these principles. OPSI will investigate complaints that IFTS members are not adhering to the requirements of the Scheme.
  - conducts mediations as part of its dispute resolution activity.
  - processes requests to charge above marginal cost from Crown bodies seeking a licensing delegation.

## Purpose

4. The overriding aim of these procedures is to provide an effective complaints process, offering a faster and lower cost alternative to action through the courts.

## Definitions

5. In these procedures the following terms are used:
  - **Complainant:** any re-user or potential re-user that wishes to make a complaint about non-compliance with the IFTS principles.

- **IFTS Member:** an organisation that is accredited to the full IFTS and has created the information which is the subject of the complaint or has responsibility for allowing its re-use.
- **Recommendation:** OPSI's recommended course of action based on its findings as to whether the IFTS principles have been breached.
- **HMSO:** Her Majesty's Stationery Office, whose responsibilities include the licensing of Crown copyright material produced by public servants employed by United Kingdom, England, Wales and Northern Ireland Crown bodies
- **OQPS:** The Office of the Queen's Printer for Scotland, whose responsibilities include the licensing of Crown copyright material produced by public servants in the Scottish administration.
- **TNA:** The National Archives is a government department and an executive agency of the Ministry of Justice. It incorporates the Office of Public Sector Information and Her Majesty's Stationery Office.
- **Working Days:** Monday to Friday, excluding Bank and Public Holidays.

## Making a complaint

6. The complainant should make a complaint to the IFTS member in the first instance. If, having exhausted the IFTS member's complaints process, the complainant is dissatisfied with the outcome and feels that there are grounds for taking the matter further, the complainant may refer the complaint to OPSI.
7. Complaints to OPSI must:
  - be in writing.
  - state the nature of the complaint in no more than 2,000 words.
  - provide OPSI with a copy of the PSIH's written response to the complaint where this exists.

8. The complainant should also cite the specific aspect(s) of the IFTS principles that complainant believes the IFTS member is not meeting.
9. OPSI will acknowledge receipt of the complaint in writing within 3 working days.

### **Initial assessment**

10. OPSI will assess whether the complaint is formally within the scope of the IFTS principles and will notify the complainant whether it will investigate the complaint within 10 working days of receipt.
11. As part of its initial assessment process, OPSI may request information from, or a meeting with, the complainant or the IFTS member.
12. If the complaint relates to issues such as Freedom of Information or competition policy, OPSI will notify the complainant whom they should contact about their complaint. OPSI has a Memorandum of Understanding with the Competition and Markets Authority (CMA) <https://www.gov.uk/government/organisations/competition-and-markets-authority>, a working agreement with the Information Commissioner [informationcommissioner.gov.uk](http://informationcommissioner.gov.uk) and a concordat with the Scottish Information Commissioner [itspublicknowledge.info](http://itspublicknowledge.info). These agreements set out how the various bodies work together in related areas of policy.

### **Investigation**

13. Having confirmed to the complainant that it will investigate the complaint, OPSI will send the statement of complaint to the IFTS member, inviting the IFTS member to submit a response to OPSI. The IFTS member will be required to send this response to OPSI within 10 working days and it should be no more than 2,000 words. The response will be copied to the complainant.
14. Once the IFTS member's response to the statement of complaint has been received, OPSI will commence its investigation. In some cases, OPSI may require further information and supporting evidence from one or both of the parties. Either party may be interviewed by OPSI.

15. OPSI's investigation will be based on an assessment of whether the IFTS member has complied with the IFTS principles.
16. OPSI will assess how long the investigation will take to complete and notify the complainant and the IFTS member. This assessment will take into account the complexity of the issues raised. The investigation should take no more than 60 working days.
17. If OPSI is unable to complete the investigation within the estimated timescales, it will notify both parties of the revised timetable.
18. OPSI may consult specialists from other organisations where appropriate. The complainant and the IFTS member will be notified if OPSI intends to do this.
19. A complainant may withdraw a complaint at any point by notifying OPSI.

### **OPSI's recommendations**

20. On concluding an investigation, OPSI will prepare a report for publication which will cover the following information:
  - the nature of the complaint.
  - the issues put forward by each side.
  - OPSI's findings on which of the IFTS principles, if any, have not been complied with, together with its reasons.
  - OPSI's recommended course of action.
21. If OPSI finds that the IFTS member has complied with the IFTS principles it may nevertheless identify some areas where improvement is possible and make suggestions accordingly.
22. The draft report will be sent to both parties to check for factual accuracy. Each of the parties will have 5 working days in which to respond. A lack of response will be taken by OPSI to indicate that the parties are content as to factual accuracy. OPSI will

consider suggested revisions to the report, making any amendments that it considers necessary. The final decision will rest with OPSI.

23. The final version of the report will be issued to each of the parties and published on the OPSI website. Subject to commercial confidentiality, OPSI also reserves the right to publish the statement of complaint and the IFTS member's response to it.

### **Meeting the recommendations**

24. OPSI will require the Accounting Officer for the IFTS member to respond with an action plan setting out actions that the IFTS member will take to comply with the recommendations, together with a timetable by which these actions will take place.

25. OPSI will publish a progress report on what action the IFTS member has taken to address OPSI's recommendations. If the IFTS member has not taken sufficient action to comply with the IFTS principles, OPSI may suspend its IFTS accreditation, or refer the matter to a Minister within the Ministry of Justice. This could result in the Minister in question writing to the appropriate Minister in a UK government department or devolved administration requesting that the IFTS member implement OPSI's recommendations.

26. In exceptional circumstances, and following discussions with the appropriate Ministers, OPSI may consider it necessary to revoke in full or in part a delegation of authority where the IFTS member is a Crown body. Additionally, where there have been flagrant or systematic breaches of the IFTS principles, OPSI may recommend to the parent department that an IFTS member is divested of its refined information operation.

27. Following publication of the complaint report and completion of the appropriate follow up activity, OPSI will notify both parties when it considers the matter to be closed.

### **Other action**

28. The complaints procedure does not prevent either party from having recourse to the courts, or prevent parties from referring issues to other regulatory bodies at any time, although OPSI will not actively investigate a complaint while it is the subject of a current judicial process. OPSI's recommendations may be used as evidence in any

subsequent action, including application to the APPSI Review Board or action taken through the courts. OPSI may make available submissions produced by both parties and notes of any discussions within OPSI as evidence in any subsequent legal proceedings.

## **Confidentiality**

29. OPSI will respect the confidentiality of all supporting papers and documents. OPSI will store all documents in its possession securely and will not divulge the content of any documents identified as confidential to any other party, except where legally obliged to do so or by the express permission of the owner.

## **Further information**

30. Please contact:

Office of Public Sector Information

The National Archives

Kew

Richmond

Surrey TW9 4DU

Email: [standards@nationalarchives.gsi.gov.uk](mailto:standards@nationalarchives.gsi.gov.uk)

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