

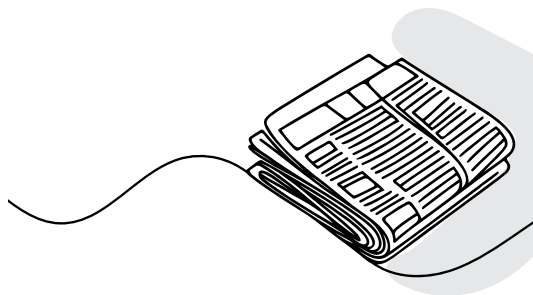


DENMARK

This is the first of the international comparative schemes CMT is publishing as part of the Future of News Media Standards Schemes project. Most of the work is based on desktop research, but some of our summaries – including this table on the Danish Press Council – are also informed by interviews with key participants. Some of our work required translation of web pages and documents such as annual reports, and the information we present is in summary form, which inevitably means there will be gaps. We will update the tables periodically.

The table on Denmark was last updated on 2 May 2024.

SCHEME: COVERAGE AND REGULATORY STATUS



BOARD COMPOSITION AND APPOINTMENT

Pressenævnet is the Danish Press Council (DPC). It was established in 1992, replacing an earlier body formed by the print media industry. The DPC operates a **cross-platform scheme covering print, broadcast and online media**. It is co-regulatory in the sense that the DPC manages a code of practice and complaints, but the scheme is recognised in legislation and failure to comply with rulings can result in enforcement action. The *Media Liability Act 1991* establishes an overall requirement for 'sound press ethics' and makes editors, journalists and media owners accountable to a code of practice. It also sets out the process for the making of complaints.

Membership is mandatory for all print and broadcast media that fulfil the circulation and licence criteria specified in the *Media Liability Act*. This includes print media that are published periodically (meaning at least twice a year), the Danish Broadcasting Corporation and other licensed broadcasters. These forms of media do not need to actively register for regulation by the Press Council. In contrast, some online media and social media pages must actively join the DPC in order to meet the requirements of the *Media Liability Act*. In essence, this applies to sites that feature text or audiovisual news content, published periodically, except those receiving a subsidy under the *Danish Act on Media Subsidies* which are automatically covered.

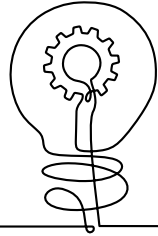
The *Code of Judicial Procedure (Retsplejoven)* confers members with rights relating to source protection and access to case files inaccessible to the public.¹ The *Media Liability Act* assigns responsibility for complying with certain obligations under the Act to editors only; the exemption this provides to journalists applies also to liability in defamation.

In 2022, in recognition of the changing media landscape, the Ministry of Culture and the Ministry of Justice established a **committee to review the country's 'media responsibility system', including the ways in which bloggers and influencers might be held accountable**. The terms of reference for the committee included a requirement to examine the ombudsman scheme used in Sweden.²

The DPC had a budget of €550,000 in 2022, with an average budget from 2018-2022 of €513,200.³ Funding is fully provided by media organisations. Half of the funding is met by public service broadcasters (but not private broadcasters), while the other half is met by associations representing print publishers. Online media contribute if they are members of one of four funding associations.⁴ In 2023, the Council was supported by a secretariat of six staff members, including a head of secretariat, three administrators, a clerk and a student assistant.⁵ The funds are paid by the member organisations to the Ministry of Justice which then distributes them to the Council.

There are eight members of the DPC. The Chairman and Vice-Chairman must be lawyers and are appointed on advice of the President of the Supreme Court. Six remaining members are appointed by the Minister of Justice on recommendation from relevant associations. These include two members recommended by the Danish Journalists Union; two members representing editorial management from print, radio or television entities; and two members from the Danish Council of Adult Education to represent the public. Appointments are for four years. Each member has a substitute.

STANDARDS SETTING ROLE



Under s 34(1) of the *Media Liability Act*, **the DPC must determine whether the content and conduct of the media is contrary to 'sound press ethics'. This is a dynamic legal standard, the content of which can change over time.** A set of 'Advisory Rules of Sound Press Ethics' established by print media organisations proposed by the 1990 Media Liability Committee¹¹ forms an annex to the *Media Liability Act*. The Council and industry are currently guided by 23 Advisory Rules (distributed over three subjects) which cover topics such as accuracy, conduct contrary to sound press ethics, and court reporting. The Council is not bound only to consider these rules as its overriding responsibility is to make decisions in accordance with the general standard of 'sound press ethics'; the rules assist the Council's interpretation of the standard. In practice, each DPC decision contributes towards the development of the standard and, over time, informs changes to the rules. The Advisory Rules can also be applied to advertising and publicity material appearing in printed periodical press. The rules were revised in May 2013 on endorsement from the Association of Danish Media (Danske Medier) and the Danish Union of Journalists (Dansk Journalistforbund).¹² A new media industry working group was formed in June 2022 to update the rules.¹³

COMPLAINTS



In 2022, the DPC received 181 complaints, up from 161 in 2021. Of those, 147 were determined by the Council. In 2022, 19 cases were rejected by the board's chairman as being outside the Council's jurisdiction, down from 24 in 2021.

Only persons with a 'legal interest' (meaning they are directly or indirectly mentioned in an article) can complain. However, if a complainant does not have 'legal interest' but the matter affects the public interest, then the board can investigate regardless of who made the complaint. The DPC may hear a case of its own accord where essential, without it being initially referred;¹⁰ however, this power has rarely been used.

Complaints must be made within 12 weeks of publication. If the initial complaint is made directly to the publisher, then a complaint can be made to the Press Council up to 12 weeks after the publisher replies to the complainant. As prescribed in s 44(1) of the *Media Liability Act*, complaints must be in writing.

COMPLIANCE AND ENFORCEMENT



The DPC cannot require a publisher to pay damages. Where the Council finds an outlet in breach of its obligations under the *Media Liability Act* it can express its criticism via a ruling, which the outlet must publish. Where the Council decides a right of reply is warranted, it can direct the responsible editor to publish a reply and the Council's ruling. Where an outlet refuses to comply with an order of publication issued by the DPC, the responsible editor risks a fine or up to four months in prison. Enforcement of fines and other criminal sanctions can be pursued by the Prosecution Service on the Council's referral of a matter to police.⁸ However, it appears this power has not been used since the 1990s.⁹ Section 50 of the Act stipulates that decisions of the Press Council cannot be brought before another administrative authority.

OTHER FUNCTIONS

The Council applies the standard of 'sound press ethics' to **podcasts and posts by journalists and media organisations on social media**.⁶ The Council also applies standards to advertising, and editors share liability with the person who has inserted the advertisement in relation to the content of advertisements.⁷

Main source: www.pressenaevnet.dk

END NOTES

- 1 See for example, Retsplejoven [Code of Judicial Procedure] (Denmark) § 41f: 'These duties and rights follow when a media is covered by the Press Board's competence' <https://www.pressenaevnet.dk/medier/>.
- 2 'Terms of Reference for the Committee on Updating and Strengthening the Media Responsibility System', 20 June 2022. See: <https://kum.dk/aktuelt/nyheder/kulturminister-nedsaetter-medieansvarsudvalg>. A report of the European Commission issued in July 2023 noted that 'the Government is examining the need to support the Danish Press Council system through the possible creation of a new media ombudsperson'. See: EC (2023), 2023 Rule of Law Report: Country Chapter on the Rule of Law Situation in Denmark. 5 July. Pp 13-14. https://commission.europa.eu/publications/2023-rule-law-report-communication-and-country-chapters_en. In early 2024 it appeared that a 'controversial' recommendation for a government-appointed ombud was being considered. See: <https://frihedsbrevet.dk/svensk-medieombudsmand-forstaar-ikke-en-pind-af-hvad-der-foregaar-i-soeren-pinds-medieansvarsudvalg-myndigheder-og-politikere-skal-ikke-blande-sig-i-hvad-medierne-goer/> and <https://www.berlingske.dk/kultur/omdiskuteret-udvalg-rejser-forslag-om-en-statslig-medieombudsmand-danske>.
- 3 This figure is derived from the information made available through the Media Councils in the Digital Age (MCDA) project <https://www.presscouncils.eu/Budget>.
- 4 See Adeline Huline, Ensuring the Financial Sustainability and Independence of Press and Media Councils: Building Trust in the Media in SEE and Turkey Realized for the 2017 Annual Meeting of AIPCE (Report, 2017) <https://webarchive.unesco.org/20200529062919/https://en.unesco.org/news/unesco-survey-provides-depth-analysis-press-councils-financial-sustainability>.
- 5 Presse Naevnet – Sekretariat: <https://www.pressenaevnet.dk/sekretariatet/>.
- 6 'Media Councils in the Digital Age – Comparative Data – Scope' <https://presscouncils.eu/Scope>.
- 7 Media Liability Act 1991 (Denmark), s 27(1)-(2). A translation is available from the Pressenaevnet website: <https://www.pressenaevnet.dk/media-liability-act/>.
- 8 An example of this was when the editor-in-chief of Uge-Avisen Karup, Jens Erik Olsen, refused to publish the Council's ruling and the Council therefore reported the editor to the police in November 1997. Jens Erik Olsen was subsequently sentenced by the court in Kjellerup on 7 April 1998 to a fine of DKK 3,000 and ordered to publish the Council's decision. The editor unsuccessfully appealed to the High Court and the fine was increased to DKK 5,000. See further 'Treatment of Cases of Own Operation (certain media coverage of Crown Prince Frederik) – extract from annual report 1997' <https://www.pressenaevnet.dk/indsigt/behandling-sager-egen-drift-visse-mediers-omtale-kronprins-frederik-uddrag-aarsberetning-1997/> and also, Nina Kroman and Mark Pearson, 'Criminal Justice and the Media in Denmark and Australia' (2014) 26(2) Australian Journalism Review 128.
- 9 Jens Kruse Mickelsen. Interview with Derek Wilding, 24 October 2022. Mr Mickelsen is Chairman of the Danish Press Council and a Justice of the Supreme Court of Denmark.
- 10 See Media Liability Act, s 44(2).
- 11 This committee was chaired by a justice of the Supreme Court, and it was composed of representatives from various media organisations – publishers' associations, a journalists' association, and broadcasting services – as well as representatives from the government and the public. See further Lara Fielden, Regulating the Press: A Comparative Study of International Press Councils (Report, 2012) <https://reutersinstitute.politics.ox.ac.uk/our-research/regulating-press-comparative-study-international-press-councils>.
- 12 Presse Naevnet – Guide to good press practice - <<https://www.pressenaevnet.dk/god-presseskik/>>
- 13 See: EC (2023), 2023 Rule of Law Report: Country Chapter on the Rule of Law Situation in Denmark. 5 July. Pp 13-14. https://commission.europa.eu/publications/2023-rule-law-report-communication-and-country-chapters_en.