



NEW ZEALAND
**PRESS
COUNCIL**

2014

42nd Report
of the
New Zealand Press Council

NEW ZEALAND PRESS COUNCIL

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Chris Darlow Lawyer, Auckland

Peter Fa'afiu Tamaki Redevelopment Company, Auckland
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Sandy Gill Consultant and mother, Lower Hutt

Marie Shroff Independent Consultant, Wellington, Alternate member (from May)

Representing editors, nominated by the Newspaper Publishers Association (NPA)

John Roughan Assistant Editor *New Zealand Herald*, Auckland

Mark Stevens Digital Editor, Fairfax Media, Wellington

Representing Magazines, nominated by the Magazine Publishers Association

Jenny Farrell Editor, Kia Ora Air New Zealand inflight magazine, Auckland

Representing Journalists, nominated by the NZ Engineering, Printing and Manufacturing Union(Media Division)

Penny Harding Journalist, Wellington (until March)

Stephen Stewart Journalist, Wellington

Vernon Small Journalist, Wellington (from May)



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Chairman's Foreword

There were substantial changes in many fields for the Press Council in 2014.

The procedural changes initiated by my predecessor Barry Paterson were implemented. These include requiring all publications and websites to regularly publicise the Press Council complaints process; setting rules for publication of upheld determinations; introducing a new sanction of censure.

The Council's decision to extend its jurisdiction to online news sites and bloggers required Constitutional changes. The Constitution was amended accordingly and provision was made for representation through a new journalist member with a particular expertise in digital media to sit on the Press Council. A new status of Associate Member of New Zealand Press Council Inc was instituted for those seeking membership. Additionally members and associate members of the Press Council Inc are now required to sign a commitment to comply with the Complaints Procedure and Statement of Principles.

There were many personnel changes on the Press Council. Jenny Farrell, editor of *Kiaora* inflight magazine, and Mark Stevens, digital editor Fairfax, joined the Press Council at the February meeting. Both have long and wide experience in the industry.

Public member Pip Bruce Ferguson resigned from the Council in March to take up an appointment at Dublin City University. Peter Fa'afiu, alternate public member, was prepared to step up to the full public member role and we were delighted to welcome him into this position.

Marie Shroff, former Cabinet Secretary and Privacy Commissioner, was appointed to the alternate public member position.

Penny Harding, journalist member nominated by the EPMU, completed her eight-year term in March. Penny's contribution to the Press Council was outstanding and her concise and well-argued decisions exemplary. Vernon Small, Fairfax's National Affairs Editor in the Press Gallery, was appointed to fill this vacancy.

Chris Darlow, public member, was reappointed for a second four-year term.

The Press Council has shared offices with the Advertising Standards Authority, on the ground floor at 79 Boulcott Street, since 1997. It was generally agreed that the premises were too large for the current number of occupants and other options were canvassed. It was determined that both organisations would move into the rear two-thirds of the current premises, which would be refurbished. All staff camped together in the front third for two months while the back two-thirds was reconfigured and renovated, moving into the bright new space in December.

In April, together with Rick Neville, Chair of the Executive Committee, and Mary Major I visited the Australian Press Council. It was interesting to note the similarities and differences in the work of the two Councils, the major difference being scale. The New Zealand team was impressed with their work on contracting in media

players and their process for involving both industry and the public in round-table discussions on developing standards and Principles. We noted that the New Zealand procedure for dealing with complaints was simpler and more timely.

The number of complaints determined was slightly down on previous years, though the number of complaints received was up. Many complainants completed an online complaint form without having taken the complaint to the editor in the first instance, as the procedure requires. That these complaints did not come back to the Press Council may be a good indicator of how effective editors are at dealing with complaints.

In an election year it is always interesting to see the various parties' policies on regulation of the media. This year the Green Party favoured bringing together the ASA, BSA and Press Council into a common self-regulatory body, with oversight from a statutory Broadcasting Commission.

Labour also favoured an "omnibus self-regulatory standards body to cover all media complaints and standards issues". Their policy noted that a degree of oversight would be required to ensure that the measures, penalties and codes ensured accountability.

National, who had no published policy, won the election and the status quo prevails, at least for the meantime.

The Harmful Digital Communications Bill was before the House and the Press Council sent a written submission to the Select Committee. While supporting the provisions of the Bill for the most part, our particular concerns were that the Bill, intended by the Law Commission to apply to cyber-bullying through digital communications, captured mainstream media. Mainstream media already operate within an existing complaints process that is able to offer a quick resolution through a fast-track process. We argued, to no avail, that mainstream media should be exempted from this Bill. We also argued that the proposed agency should be required to take the public interest into account when dealing with complaints, as prescribed in the sections relating to the District Court. We advised the Select Committee that as a general principle the Press Council had rejected a forced apology as a means of redress. A forced or directed apology can only be insincere.

I want to express my sincere appreciation of the sterling work carried out by Council members. All members brought energy, experience and wisdom to our deliberations. I also wish to acknowledge the wonderful support we receive from Mary Major. Her great experience is an invaluable aide for the Council and it would be too easy to take it for granted.

Sir John Hansen.
Chairman



New Zealand Press Council 2014:

Front row from left to right: Tim Beaglehole, Mary Major, Sir John Hansen, John Roughan

Middle row: Stephen Stewart, Peter Fa’afiu, Jenny Farrell, Vernon Small

Back row: Chris Darlow, Marie Shroff, Liz Brown, Sandy Gill, Mark Stevens

Sir John Hansen, formerly a judge of the High Court, is the independent chairman. The members representing the public are Ms Brown, Mr Darlow, Mr Fa’afiu, Mrs Gill, and Prof Beaglehole. Ms Shroff is the alternate public member.

Mr Stevens and Mr Roughan represent editors and were nominated by the Newspaper Publishers’ Association.

Ms Farrell represents magazines, nominated by the Magazine Publishers’ Association.

Mr Small and Mr Stewart represent journalists, nominated by the media division of the New Zealand Engineering, Printing and Manufacturing Union (EPMU).

Mary Major is the Executive Director.

Matters of Opinion

Columns of personal opinion have become an important feature of modern newspapers and they are producing an increasing number of complaints to the Press Council. Resolving most of these complaints is perhaps easier than it should be. The Press Council's guiding principles insist only that items of opinion are clearly distinguished from other content. So long as that is done, it can be hard for an aggrieved reader to sustain a complaint.

Many complaints against offerings of opinion are brought under the Council's first principle of accuracy, fairness and balance. The complainant finds the published material biased, unfair or factually wrong. Where opinion, even properly labelled, contains a plain error of fact it should be corrected and a newspaper that fails to do so may struggle to answer a complaint to the Council. But facts are seldom clear cut, a columnist's treatment of them usually allows editors to defend an alleged error as a matter of opinion which the decision to publish does not necessarily endorse. The same defence is usually available to complaints of unfairness or lack of balance.

A column need not be scrupulously fair or balanced but it should be intellectually honest. That is to say, it will not ignore evidence and reasoning that is inconvenient to its argument. It may acknowledge these with no more than a concise comment in the space available but it will not be wilfully ignorant of them. However, that is not a standard to which all items of opinion can be held at all times. Some make their points amusingly by being outrageously unfair, some deliberately take one side when they think the other side is well known. The Council declined to uphold a complaint brought during the year against an opinion piece by a highly regarded journalist writing on the proposed Trans-Pacific Partnership (TPP). Entitled "Ten things the TPP critics do not want you to grasp", it was deliberately one-sided, attempting to balance the debate with arguments the writer believed had been ignored by the other side. The complainant expected "a more balanced view from him". The Council declared (2380) that, "In an opinion piece, as opposed to a news item, the author is not obliged to present all facts or arguments that may be relevant to the topic under discussion, and may select facts that support the opinion that is being expressed." It also held the TPP to be a subject covered by Press Council's exemption for "long running issues" that did not require balance in every story.

As a general rule opinion is allowed to be unfair, unbalanced and even arguably inaccurate (arguable being an essential qualifier) but in one ruling worthy of note this year (2374) the Council warned that it could hold a reasonable opinion to be factually inaccurate. A technology column in the *NZ Listener* had criticised a successful call to remove WiFi from a school. The call had been made by the father of a pupil who had died of a brain tumour after sleeping with a wireless i-pod under his pillow. The columnist wrote that the father, "is convinced the device was responsible for his son's brain tumour." The father

complained to the Council that he had never said WiFi caused the tumour, only that his son's illness prompted him to research the subject.

After hearing from both parties in person the Council concluded the columnist's interpretation was "not unreasonable" on the basis of public reports and previous comments by the complainant, and did not uphold the complaint. But the Council accepted the complainant's statement of his position and reinforced its finding when he subsequently brought a complaint against the *National Business Review* for quoting the *Listener* columnist's view that he blamed his son's death on WiFi. While that complaint, too, was not upheld, the decision (2383) warned that the columnist's account, "is not the complainant's position and the Press Council would not expect to see it reported as such again." Columnists therefore may need to be careful when ascribing motives to another person no matter how reasonable the columnist's belief may be.

The Press Council's principle that carries most risk for items of opinion, even when clearly identified as opinion, is that governing discrimination and diversity. It proscribes gratuitous emphasis on gender, religion, minority groups, sexual orientation, age, race, colour or physical or mental disability. Some of those distinctions are more sensitive than others. The Council this year did not uphold a complaint against a column on women drivers by Sir Robert Jones in the *New Zealand Herald* (Case No 2365). Jones claimed women were too hesitant at intersections and blocked the free flow of traffic by persistently driving in the outside lane. The tenor of the piece may be gleaned by his suggestion to police that when they responded to complaints about his weaving around women drivers, they would be "doing God's work by going to the complainants' homes, beating the crap out of them and burning their houses down". A woman complained that by publishing the column the *Herald* was "condoning a discriminatory attitude towards women that includes tolerating the use of violence". The Council said the freedom to express even offensive views was crucial to a democratic society.

Race raises more difficult questions. Complaints against columns have been upheld for remarks the Council found to be generalised criticism of Maori. These though were not unanimous decisions and represent rare exceptions to the Council's reluctance to inhibit free expressions of opinion on all matters covered by the discrimination principle. Gratuitous references and stereotyping are the pitfalls to avoid.

The greater latitude given to expressions of opinion under the Council's principles can be a temptation to editors to classify material as opinion when it is really asserting facts. A case in point during the year concerned a story in *The Dominion Post* that was severely critical of the coach of the All Whites not long before the coach resigned. It was written by the newspaper's football correspondent and it stated that the coach had lost respect from the players, his communication with the team had broken down, the

Matters of Opinion (cont'd)

team lacked clear direction and its organisation was a shambles. It was the lead item on the paper's sports pages, given a factual headline and clearly considered to be news. But when a reader complained that the article contained no quotes or sources to support its statements, the editor responded that it was an opinion piece. She considered it was clearly labelled as opinion because it carried the writer's picture byline. It was the paper's practice to use picture bylines only on opinion pieces.

Council members, many of them longstanding readers of *The Dominion Post*, were unaware the newspaper used picture bylines for this purpose and did not consider it adequately distinguished an item of opinion. Newspapers have more obvious devices to set opinion apart from their news columns. The story in question was clearly an assertion of facts based on the knowledge and observations of a journalist who was well placed to offer them. Furthermore, in the Council's view, the story did not need to be supported by quotes or other sources and the complaint was not upheld. The journalist was in a position to use his inside knowledge and observations as fact, and readers would have read them as fact. The editor did not need to seek refuge in opinion for a bold piece of legitimate reporting.

In summary, fairness and balance are optional qualities for writers of opinion. Commentators who want to be taken

seriously will strive for them. It is possible to write lively, readable, strong comment that is fair and balanced in the sense that it acknowledges contrary arguments and answers them. When they fail to do so, readers who have come to expect this quality from journalists may be sufficiently disappointed to complain. But for the Council to uphold their complaint it would need to apply a different standard to these columns than it would to those that simply, and entertainingly, vent a wildly unbalanced opinion. Even then, its judgment on whether a serious column had been fair or balanced would often depend on the Council's own view of the issues.

Subjective judgment of columns and commentaries would be valid if the Council was simply a reference point for standards of journalism, but as an adjudicator of complaints its rulings have to be based on objective standards and be consistent. When readers complain about items of clearly identified opinion their disappointment needs to be more than disagreement with the opinion or even offence at the way it has been expressed. The Council is not an arbiter of topics or taste. Editors provide a platform for the personal views of a privileged few and their freedom of speech rightly prevails.

Social Media and the Press Council

The Press Council is conscious of the growing number of media reports which are based on or include social media posts.

Examples of such reports are those which featured in the following complaints to the Press Council:

- Case number 2411: Aaron Letcher against the *Waikato Times*.
- Case number 2417: Joanna Malcolm against *The Press*.

In the Letcher case, the *Waikato Times* featured a front page report claiming the Young Nationals had bought hundreds of copies of the book *Dirty Politics*, intending to burn them.

The complainant viewed the story as being factually wrong, unsubstantiated and based entirely on a rumour which originated from a Facebook post. It was denied by Letcher.

A supporting source was quoted by the *Times* but did not go far enough to confirm the truth of what was viewed by the Council as being, at best, hearsay or, at worst, the newspaper being used for political purposes.

“Newspapers need to be careful when dealing with rumour that is denied. A false accusation can easily be made for the purpose of forcing a political opponent to deny it publicly,” the Council said in its decision.

“That indeed is said to be a device of ‘dirty politics’. Newspapers should take care to ensure they are not unwitting instruments of it.”

In a split decision, the Press Council decided the *Waikato Times* could not substantiate the rumour to a standard that met its principles of accuracy and fairness and **upheld**

the complaint.

At the first meeting of 2015, the Press Council considered a complaint from Joanna Malcolm. That decision can be found at http://www.presscouncil.org.nz/display_ruling.php?case_number=2417.

In the Malcolm case, *The Press* quoted an insulting Facebook post by Tina Nixon in an article headlined “Roger Sutton and his dramatic downfall”. The post read: “I call on all journalists to apply some logic to this and get past the breathtaking PR snow job perpetrated by the self serving egotistical dictatorial narcissistic nasty prick Sutton is.”

The complainant believed the use of the quote crossed an ethical boundary into personal abuse and vitriol, and suggested that had Nixon been asked for a direct quote, she would not have used such inflammatory language.

The complaint was **not upheld** and the story was found to have sufficient balancing comments about Mr Sutton which painted him in a more positive light. The Council also took into consideration that Nixon’s comment was in the public domain.

In general, the Press Council views social media as an entirely appropriate source of news and tips in a modern society. It feels strongly, however, that the principles of fairness, accuracy and balance still apply.

Important journalistic traits of checking and challenging every piece of information remain as relevant today when dealing with information sourced from social media as they have in the past when dealing with information sourced from more traditional means.

Behind the Scenes at the Press Council in 2014

Not all complaints that come to the Press Council end up being formally adjudicated by the Council. Some are withdrawn, some are mediated (a process recommended as an option by the 2007 Ian Barker / Lewis Evans review of the Press Council) and some are resolved by the newspaper or website.

Some of the complaints that did not go to formal adjudication in 2014 follow; other complaints were resolved by publications agreeing to publish a correction, a clarification, an apology or a letter to the editor.

A file photograph of staff from a company was used to illustrate an online story about a hacker defrauding the company. The staff pictured in the photograph had no connection with the fraud.

On contact from the Press Council the publication immediately removed the photograph from the story; removed the photo from the company server; removed the photo from the photo library; and phoned and apologised to the complainant. They acknowledged the distress the error had caused. They also contacted aggregator sites advising them of the error and seeking immediate take-down of the photo.

A complainant noted that an online headline *Clever thief outsmarts police* misrepresented the story, as the suspect had in fact been caught. He also thought it would encourage criminals to believe that they could outsmart Police. The headline was quickly amended by the editor.

A family member complained about the repeated use of the photo of his sister and her child taken from the coversheet of their funeral service five years earlier. Both had died under tragic circumstances and the photo was republished when similar incidents occurred. This caused understandable grief to the family.

The publication agreed to annotate the electronic file so that the photo would no longer be used to illustrate articles about incidents unrelated to the one that affected the family.

A report of an Employment Relations Authority finding had unintended consequences for one family. The publication reported that a murderer with a several convictions was found to have been unfairly sacked for revealing only one assault conviction at his job interview. The man had been called to a meeting without any notice

or the right to bring a representative to the meeting. He was awarded no compensation because he had contributed to the situation but should, the Authority said, have been paid a week's notice.

However the published report went further than reporting on the ERA ruling, giving considerable detail about the 1984 murder including the injuries to the victim. It included a photo of a news clipping of the High Court proceedings.

A family member complained that publication of this gratuitous detail of the rape and murder was entirely irrelevant to the reporting of the ERA case. He also argued this information had fallen into practical obscurity and that to raise it now was a breach of privacy that had the potential to harm the victim's grandchildren, given the unusual family name and the ease with which information can be gained from a Google search.

The editor apologised for any distress caused. He noted that material was generally only removed from digital stories in cases of error or defamation. However in this case he had reviewed the story alongside the complainant's request and "did not want to accentuate any concerns for you or your family."

The extraneous detail about the murder had been removed from the story which now focussed on the ERA ruling. The photograph of the news clipping has also been removed.

The complainant was grateful for the editor's quick response and to the Press Council for facilitating this outcome.

A complaint was received from a third party concerning a reference to a man as having served time for being involved in a bank robbery. The man, one of three brothers mentioned, had not been involved. The Press Council contacted the editor who advised he was dealing directly with the interested party and, later, that the newspaper had publicly apologised as part of the settlement. This third party complaint was therefore considered settled.

An Analysis - 2014

Of the 49 complaints that went to adjudication in 2014 two were upheld in full; two were upheld by a majority; one was upheld in part; four were not upheld by a majority; and 40 were not upheld. A further 12 complaints were resolved informally.

Twenty six complaints were against daily newspapers; 10 were against Sunday newspapers; two were against community newspapers; three were against online news sites; four were against magazines; one was against a newspaper's magazine insert; two were against farming publications; two were against NBR and there was one complaint against a Catholic Church publication Wel-Com.

Most complaints going to adjudication are considered by the full Council. However, on occasions, there may be a complaint against a publication for which a member works, has had some input into the complaint or has some link. On these occasions the member leaves the meeting and takes no part in the consideration of the complaint. Likewise, occasionally a Council member declares a personal interest in a complaint and leaves the meeting while that complaint is under consideration. In 2014 there were 20 occasions where a member declared an interest and left the room while the complaint was considered. There was also one

occasion when, because of a public member standing down an industry member also was required to stand down to maintain the public member majority.

Debate on some complaints can be quite vigorous and while the majority of Council decisions are unanimous, occasionally one or more members might ask that a dissent be simply recorded, or written up as a dissenting opinion (Cases 2385, 2394, 2397, 2400, 2409 and 2411).

Press Council complaints are generally considered on the papers. However if a complainant requests the opportunity to make a submission in person they are generally given that opportunity. In such cases the editor is also invited to attend. No new material ie that has not already been presented to the editor for a response, may be introduced at this stage.

The Press Council does not encourage legal representation, the Council is after all dealing with ethical issues not legal ones, but occasionally complainants do attend with their lawyers

In 2014 two complainants chose to make personal submissions to the Council and one was also represented by a lawyer. On both these occasions the publications were also represented, one by the writer of the opinion column complained about, the other by the editor.

Press Council Complaints Statistics

Year ending 31 December	2011	2012	2013	2014
Complaints Determined	68	92	67	61
Decisions issued	60	76	61	49
Upheld	10	16	9	2
Upheld by majority	4	2	2	2
Part upheld	4	3		1
Part Upheld by majority				
Not Upheld by majority	3	5	3	4
Not upheld on casting vote of Chairman			1	
Complaint declined	1			
Not upheld	38	50	46	40
Mediated/resolved	8	16	6	12
Complaints received and not determined	63	65	75	95
Withdrawn	12	5	9	3
Withdrawn at late stage	1	1		
Not followed through	22	36	37	38
Out of time	2		2	3
Not accepted	5	4	14	15
Outside jurisdiction	6		7	22
In action at end of year	15	19	6	14
Total complaints	131	157	142	156

Decisions 2014

Complaint name	Publication	Adjudication	Date	Case No
Alana Bowman	<i>NZ Herald</i>	Not Upheld	February	2365
NZ Kiwifruit Growers Inc	<i>Straight Furrow</i>	Not Upheld	February	2366
John Wilson	<i>Sunday Star-Times</i>	Not Upheld	February	2367
Dale Warburton	<i>The Dominion Post</i>	Not Upheld	February	2368
Ian Braddon-Parsons	<i>Otago Daily Times</i>	Not Upheld	March	2369
Simon Clark	<i>Stuff</i>	Not Upheld	March	2370
William Lentjes	<i>The Press</i>	Upheld	March	2371
C M Nijman	<i>The Dominion Post</i>	Not Upheld	March	2372
Gerard & Claire Rushton	<i>Ashburton Guardian</i>	Not Upheld	March	2373
Damon Wyman	<i>NZ Listener</i>	Not Upheld	March	2374
Stephanie Honeychurch	<i>NZ Listener</i>	Not Upheld	March	2375
Complaint	<i>Greymouth Star</i>	Not Upheld	May	2376
Dorothy Bauld	<i>NZ Herald</i>	Not Upheld	May	2377
Mike Butler	<i>Wel-Com</i>	Not Upheld	May	2378
EQC	<i>NBR</i>	Upheld	May	2379
Jan Rivers	<i>Stuff</i>	Not Upheld	May	2380
J Spencer	<i>Herald on Sunday</i>	Not Upheld	May	2381
Hugh Steadman	<i>Sunday Star-Times</i>	Not Upheld	May	2382
Damon Wyman	<i>NBR</i>	Not Upheld	May	2383
A Elborn	<i>NZ Herald</i>	Not Upheld	June	2384
Moira Irving	<i>Taranaki Daily News</i>	Not upheld by Majority	June	2385
Suzanne Pierce	<i>Taranaki Daily News</i>	Not Upheld	June	2386
Vanessa Alexander	<i>Rugby News</i>	Not Upheld	August	2387
Complaint	<i>Otago Daily Times</i>	Not Upheld	August	2388
Caron Fletcher	<i>Stuff</i>	Not Upheld	August	2389
Lyndsay Lyons	<i>NZH & HoS</i>	Not Upheld	August	2390
Frank Macskasy	<i>NZH & HoS</i>	Not Upheld	August	2391
Malcolm Scott	<i>NZ Herald</i>	Not Upheld	August	2392
Max Shierlaw	<i>Wainuiomata News</i>	Upheld in Part	August	2393
Complaint	<i>Lucky Break</i>	Not Upheld by Majority	August	2394
Complaint	<i>Herald on Sunday</i>	Not Upheld	August	2395
Louise Wickham	<i>NZ Herald</i>	Not Upheld	August	2396
Capital Coast DHB	<i>The Dominion Post</i>	Upheld with Dissent	September	2397
Heike & Rudi Hofer	<i>NZ Herald</i>	On one aspect Not Upheld	September	2398
Roy Myers	<i>Northern Outlook</i>	Not Upheld	September	2399
David Shand	<i>NZ Herald</i>	Not Upheld by Majority	September	2400
Simon Townsend	<i>Herald on Sunday</i>	Not Upheld	September	2401
Zoe Dryden	<i>Herald on Sunday</i>	Not Upheld	September	2402
Peter Waring	<i>The Dominion Post</i>	Not Upheld	September	2403
Dawson Bliss	<i>NZ Farmer</i>	Not Upheld	November	2404
Simon Boyce	<i>The Dominion Post</i>	Not Upheld	November	2405
Reuben Chapple	<i>Herald on Sunday</i>	Not Upheld	November	2406
Andrew Parsons	<i>Herald on Sunday</i>	Not Upheld	November	2407
Eileen Smith	<i>NZ Herald (viva)</i>	Not Upheld	November	2408
Roderick Wellwood	<i>Hawke's Bay Today</i>	Not Upheld by Majority	November	2409
Christine Banks	<i>Greymouth Star</i>	Not Upheld	December	2410
Aaron Letcher	<i>Waikato Times</i>	Upheld by Majority	December	2411
Joy Sutton	<i>NZ Herald</i>	Not Upheld	December	2412
Donna Vitasovich	<i>NZ Herald</i>	Not Upheld	December	2413

Adjudications 2014

CASE NO: 2365 – ALANA BOWMAN AGAINST THE NEW ZEALAND HERALD

Background

Alana Bowman complained about a Bob Jones column published in the *New Zealand Herald* on October 22, 2013. In his column Sir Robert claimed that ‘terrified’ women drivers were stopping at roundabouts and causing ‘massive pile-ups’ and delays. They were also blocking the free flow of traffic by persistently driving in the right-hand lane. The title of his column was “Spare us from road-clogging women.”

As for people who complained to police about him weaving around the women drivers, he said he had suggested to police that they would be ‘doing God’s work by going to the complainants’ homes, beating the crap out of them and burning their houses down’.

Complaint

Ms Bowman said the column advocates for violence toward women. The *Herald* had moved away from publishing an opinion piece and into “a condoning discriminatory attitude toward women that includes the tolerating the use of violence.”

The attitudes expressed by the columnist were damaging and contributed to discrimination against women. As such as they were in breach of the Press Council’s principle dealing with discrimination.

Ms Bowman was aware of two previous complaints, which were considered and not upheld by the Council at its December 2013 meeting. Ms Bowman does make a distinction with her complaint and it sits with the responsibility of the publisher for deciding to publish the article.

Ms Bowman acknowledges that Sir Robert is entitled to his opinion but asks is it appropriate for the *Herald* to circulate it among the public? She adds that the publisher deflects its responsibility on to Sir Robert, saying, in essence, “that’s how he is.”

Ms Bowman raises a couple of cases where women were attacked in their homes. “Attacks against women in their homes are real events, not a play fantasy created to make people laugh. Like rape jokes, attempts at humour of this sort help create public acceptance of violence, and violence targeted against certain groups.”

Newspaper’s Response

Editor of the *New Zealand Herald* Shayne Currie says, clearly, Sir Robert had an issue with women drivers, but not all women drivers.

His comments were his opinion, based on his observations over the past 20 to 30 years and he had attempted to relate these in a humorous way. He accepted some people would not share Sir Robert’s sense of humour. Sir Robert was known as a provocative and forthright newspaper columnist and commentator and his column had to be read in that light.

The letter Sir Robert said he sent to police over complaints about him weaving around women drivers was not intended to be serious, and was not taken by police to be serious. The editor said neither Sir Robert nor the *Herald* condoned violence against women or anyone else.

He stood by Sir Robert’s right to freedom of speech and expression and offered the opportunity for Ms Bowman to express her own views through a letter to the editor.

Discussion

The Council has been consistent in its approach on opinion pieces. It sets a high bar for a complaint to be upheld as freedom to express - even offensive views - is crucial to any democratic society. Ms Bowman’s opinion is that the column is offensive; seeing it as discriminatory against women.

The column uses hyperbole to revisit the well-worn refrain that women can’t drive cars properly. Ms Bowman represents a number of readers who disagree with Sir Robert’s views. However, there will be a number of readers who also read Sir Robert’s column on regular occasion for his opinions and the way he expresses them. Ms Bowman is entitled to her own opinion and was offered the opportunity to express these in response, which she did not take up.

In terms of the *Herald’s* decision to publish the opinion piece, the Council has been consistent in regards to these types of complaints. Editorial decisions are the responsibility of the publication. The Council does not wish to take that fundamental right away from publishers.

Complaint is not upheld.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Pip Bruce Ferguson, Chris Darlow, Peter Fa’afiu, Jenny Farrell, Sandy Gill, Penny Harding, Mark Stevens and Stephen Stewart.

John Roughan took no part in the consideration of this complaint.

CASE NO: 2366 – NEW ZEALAND KIWIFRUIT GROWERS Inc AGAINST STRAIGHT FURROW

The Complaint

Neil Trebilco (President of NZKGI) complained that an article by Jamie Ball published in *Straight Furrow* on 1 October 2013 failed the Press Council Principles of Accuracy, Fairness and Balance. In alleging that the article contained several errors the complainant gave two examples. The first was ‘Mr Ball’s claim that Chilean growers earn more than New Zealand growers for their fruit’. His second example was the statement that from 2001 to 2012, ‘average NZ grower payments fell for the first eight years before eventually lifting to just five per cent above where they first began’.

The Paper’s Response

The paper’s response to the complaint was from Tim Cronshaw, Fairfax Head of Rural Content. He said he was responding to the complaint as the editor of *Straight Furrow* and the reporter had both left the paper. The Fairfax representative wrote that the reporter had ‘looked into apparent discrepancies in the pricing for New Zealand kiwifruit in Europe and quoted official data on import

prices of kiwifruit plus a reputable source in the form of the editor of *World Kiwifruit Review*. The article, the Fairfax representative claimed, 'included a range of views that showed a complex pricing system around the world for selling kiwifruit but also a balancing view from the complainant himself that Zespri, New Zealand's single point of entry, was achieving a premium pricing over other countries.' The Fairfax representative added that, following the complaint, Zespri had been asked if they would like to write an article giving its view of the questions at issue. Both the Zespri chairman and the complainant wrote and their letters were published on 15 October.

Discussion

It is clear that there can be ambiguities in any discussion of kiwifruit prices and returns to growers. This is stated in the article and helpfully discussed in the Zespri letter published on 15 October. What the reporter does make clear in his article is where he draws his information from. For example, the first error the complainant cites is when the reporter quotes the *World Kiwifruit Review* editor, Desmond Bourke, as saying '... I also use the EU databases [from Eurostat] on Kiwifruit imports. In that market, New Zealand has a slight edge over Chile in some years, and Chile over New Zealand in other years'. The second claimed error again stemmed from the reporter's use of the *World Kiwifruit Review*. It might have been helpful to the reader if the reporter had engaged more critically with the complexities of the statistics he was using (and in this respect the Fairfax representative's suggestion of a meeting between his staff and a representative of Zespri or the NZKGI seems a good one) but at the same time his article gave a far from negative picture of Zespri's achievement in marketing New Zealand kiwifruit, quoting a range of sources including the complainant.

The paper's readiness to invite and print the letters from the Zespri chairman, and that of the complainant, largely offsets the suggestions of lack of fairness and balance, and in the context of the whole article and the range of views that are given, the inaccuracies complained of do not have the significance to justify upholding the complaint.

The Council therefore does not uphold the complaint.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Pip Bruce Ferguson, Chris Darlow, Peter Fa'afiu, Jenny Farrell, Sandy Gill, Penny Harding, John Roughan, Mark Stevens and Stephen Stewart.

CASE NO: 2367 – JOHN WILSON AGAINST SUNDAY STAR-TIMES

The Press Council has not upheld a complaint by John Wilson against the *Sunday Star-Times*.

Background

The complainant, Mr Wilson, argued that one paragraph of a column by Rod Oram published on December 8, 2013, was 'grossly misleading' and, by imputation, breached Press Council principles of accuracy, fairness and balance.

The paragraph related to a criticism of government fiscal prudence in relation to the awarding of the Transmission

Gully motorway project Public Private Partnership (PPP) to a consortium funded by the Bank of Tokyo-Mitsubishi.

It would cost \$900m to build the motorway but the PPP funding would grant \$3.12 billion to the consortium over the 25-year contract. According to Mr Oram, this worked out at 'a taxpayer subsidy of \$15 per vehicle per trip over the next 25 years'.

Mr Wilson wrote to Fairfax Media staff and the *Sunday Star-Times* editor on 12 December complaining about the figures, particularly the 'massive profit of approximately \$2.22 billion at the expense of the Government/Taxpayer' implied in the column. He stated that this should include ongoing maintenance and operations costs to be borne by the consortium but that was not evident in the way the column was written. He also claimed that the reference to the 'subsidy' was misleading, as the Government would have to maintain a road regardless.

The managing editor of Fairfax *Business Day* responded to what she had interpreted as a letter to the editor from Mr Wilson, indicating that Mr Oram's column is an opinion piece. She included a response from Mr Oram justifying his opinion at some length. Mr Oram, in his response, had admitted that maintenance would cost a maximum of \$300 million over 25 years, making a total construction and operating cost of \$1.2 billion and recognising that the consortium would have a higher cost of capital than would have occurred if it was purely government funded.

Mr Wilson responded that his complaint was *not* a 'letter to the editor' and he didn't want it published as such. If it was published, he wanted his name removed. He still believed that Mr Oram's claim of fiscal irresponsibility by Government was unjustifiable given the figures he had cited. He recognised Mr Oram's confirmation that the figures should have incorporated maintenance costs but was still dissatisfied with 'other extra costs to be borne by the PPP which Mr Oram has not quantified'. He wished for acknowledgement of the misleading figures and comparison of his figures against Mr Oram's by an independent assessor.

Unfortunately, the managing editor had sent the letter to press with Mr Wilson's name on it prior to receiving his embargo on this happening. She did not feel the column required correcting in the light of the further clarification by Mr Oram, and had given prominence to Mr Wilson's letter on page 2 of the business section, along with Mr Oram's response.

The Complaint

Still dissatisfied, Mr Wilson complained to the Press Council, raising the same issues. He believed that Mr Oram's response continued the columnist's criticism of the Transmission Gully proposal without fully addressing Mr Wilson's complaint. This was forwarded to the editor.

The Newspaper's Response

Sunday Star-Times deputy editor responded to the complaint as the original editor was on leave. He rebutted the claim that the column was 'grossly misleading'. He stated that including a cost of \$300m of maintenance across a 25 year period would be equivalent to a homeowner factoring in the cost of house maintenance over that period when

applying for a loan. He presented Mr Oram's justification of his rationale that the consortium would receive a higher level of capital cost (\$900m) compared with the government's share, and this would be the same regardless of the maintenance cost. The point about the '\$15 subsidy' seems to be 'a matter of semantics'. As the column is an opinion piece, based on Mr Oram's arguments presented in the column and his response, it is fair and balanced. The two men have different opinions on the figures and what they convey.

Mr Wilson had the right to respond to the editor, and he continued to maintain that Mr Oram's claim of fiscal irresponsibility was based on grossly misleading figures. He agreed he did not know additional costs of design, financing, maintenance and operating faced by the consortium. He maintained that the \$15 is not a subsidy. Additional information he provided did not form part of his initial complaint and is therefore not included.

Discussion

This complaint essentially relates to different interpretations of figures by two people, a regular columnist with the *Sunday Star-Times* and a complainant who feels he has competence in the financial area. Both present arguments to support their points of view, but the points of view differ.

The editors have considered the complaint and the response submitted by Mr Oram, justifying why he held his opinion, and believe that the column, as an opinion piece, is still fair and balanced when the figures are interpreted as Mr Oram has done. Mr Wilson disagrees.

The Press Council can understand why Mr Wilson raised his concerns initially, as Mr Oram had not spelled out the inclusion of the ongoing operational costs in the column. However, the paper's publication of both Mr Wilson's letter and Mr Oram's response makes these costs clearer. There are still aspects of the PPP that are made clear by neither complainant nor columnist, and the Council cannot speculate on these, neither is it fair to expect the paper to do so.

The Press Council believes that the paper has acted appropriately. The complaint is not upheld.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Pip Bruce Ferguson, Chris Darlow, Peter Fa'afiu, Jenny Farrell, Sandy Gill, Penny Harding, John Roughan, Mark Stevens and Stephen Stewart.

CASE NO: 2368 – DALE WARBURTON AGAINST THE DOMINION POST

Dale Warburton (the complainant) complained about an article published in *The Dominion Post* on November 22, 2013.

The complainant alleged that the article breached Principles 1 (Accuracy, Fairness and Balance) and 4 (Comment and Fact) of the New Zealand Press Council Statement of Principles.

The complaint is not upheld.

Background

The article was the front page lead of the sports section and was headed "Herbert lost the respect of the players". It discussed Rikki Herbert's (the coach) relationship with "players" in the All Whites football team as he ended his tenure as their coach, and "a breakdown in communication" as he left the coaching position.

The article delivered a picture of a team in "shambles" with no clear direction and a coach who was not doing the job as he should.

It concluded with the comment that given the team's failure to deliver, the coach had "done the sensible thing and walked the plank" but also noted that one of the issues leading up to the eventual outcome was that the coach "was hamstrung by the governing organisation's inability to organise meaningful warm-up games."

Complaint

The complainant alleged that the article made a number of allegations without providing any quotes or sources and did not provide any evidence to support the allegations made by the writer. The complainant believed that this prevented the reader from judging the "motivation and authenticity" of any source the writer might have had.

The complainant went on to state that without any quotes or source, the article is essentially an opinion piece without being presented as such, and that neither the paper nor online version were shown as an opinion piece.

He believed that the article did not contain balance to the "unsubstantiated accusations" and the coach did not appear to have been given the opportunity of reply.

Commenting on the editor's response to his complaint, he did not accept that a reader would know that the article was an opinion piece just because a photo of the writer was included with an article but did accept that the article appeared both in the opinion and football sections on the website.

He also did not agree with the editor's comment that the practice used by the *Dominion Post* "since its inception over a decade ago" to use photographs of the writer to denote an opinion piece is one that enabled the public to recognise it as such and believed it unreasonable for a newspaper to expect a reader to ascertain if an article is an opinion piece or not.

The Newspaper's Response

In reply to the complaint, the editor said the article was clearly an opinion piece, and was shown as such by the standard practice used by the newspaper of including a photograph of the writer.

She stated that the practice has been used by *The Dominion Post* "since its inception over a decade ago" to denote an opinion piece and was recognised as such by its readers.

As the article was an opinion piece, the requirement for balance did not apply as it would in a news piece. It contained concerns shared by several All Whites players and was presented as such.

The article was a comment piece by the newspaper's football writer and drew on information he had obtained from relevant sources with knowledge of the coach's management of the team.

The writer had been the newspaper's football reporter for three years and has extensive contacts within the All Whites and the Wellington Phoenix teams.

No one had challenged the accuracy of the comments made in the article, she said.

Discussion and Decision

The article discussed the lead up to the coach's departure and commented on what the writer saw as a breakdown in communication between the coach and team members and the players' loss of respect for their coach.

Although the newspaper has what it calls a consistent format to denote an opinion piece, not all readers would necessarily recognise it as such.

Notwithstanding the position taken by the editor and the complainant, the Council did not accept that the piece was "opinion". Firstly, adding a photo of the author does not, of itself, make this an opinion piece. Secondly, this is a story based on unsourced facts from which the author draws conclusions. He is not simply expressing his opinion.

The story was written by a person with a long standing relationship with Wellington football and its stakeholders and reviewed the events leading up to the coach's departure based on information gained from that longstanding association.

The complaints regarding Principles 1 and 4 are not upheld as the article did not breach these Principles.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Pip Bruce Ferguson, Chris Darlow, Peter Fa'afiu, Jenny Farrell, Sandy Gill, Penny Harding, John Roughan and Stephen Stewart.

Mark Stevens took no part in the consideration of this complaint.

CASE NO: 2369 – IAN BRADDON-PARSONS AGAINST THE OTAGO DAILY TIMES

Background

Two people were left with severe injuries following a collision between a tractor and a caravan at Hilderthorpe in January 2014. Complainant Ian Braddon-Parsons claims a report published in the *Otago Daily Times* on January 17, 2014 was incorrect.

Complaint

Mr Braddon-Parsons says the report places the blame for the accident on the campervan, saying it clipped the loader while overtaking and flipped. However, he says he saw the tractor, with front-end loader, turn into the path of the campervan.

He says any jurors who read the report may go into the court with a prejudiced view.

Newspaper's Response

Otago Daily Times editor Murray Kirkness says the report of the crash accurately quoted the police and if their account did not tally with Mr Braddon-Parsons, then that was a matter for the police to explain.

If any further details emerged from the investigation or any court action, then those would be reported too.

Discussion

Reporters rely on police to tell them what happened in cases like this. There is no suggestion that the reporter misquoted the police officer, therefore this is an accurate report.

Other views may well be presented later in Court. Judges will routinely tell jurors to disregard anything they may have already heard about the case.

The Press Council does not uphold this complaint.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Chris Darlow, Jenny Farrell, Sandy Gill, Penny Harding, John Roughan, Mark Stevens and Stephen Stewart.

CASE NO: 2370 – SIMON CLARK AGAINST STUFF

A complaint about a report which promoted use of homeopathy in farming has not been upheld by the Press Council.

However, Simon Clark's complaint did prompt the deletion of some of the story's content, which first featured on the *Stuff* website on February 9.

Background

The story featured Piopio organic farmers Nick and Jo Collins, and their claimed success in using homeopathic and holistic techniques to treat animal health issues. They also used the methods to treat themselves and their children. They bought their homeopathic products from a Wellington company till a colleague recommended a Hamilton based company. The story named the Hamilton company, and contained several references to it.

It also said that, when they bought their farm, it had a history of rotavirus infecting stock. They decided not to vaccinate against it, but to use a product from the Hamilton company. This was successful, and was one of many examples of homeopathy working on the farm. "It gives you faith in the process as really, the key is in the results. You can't use the placebo effect on livestock. At the end of the day, if it didn't work we wouldn't be using it," Mr Collins was quoted as saying.

The story also said they used homeopathy on any sick animals first, unless they were in critical condition. They also used it to complement conventional medicines. The couple said any farmers undecided on homeopathy should talk to farmers who were using it, or attend one of the courses the Hamilton based company ran around New Zealand.

The Complaint

Mr Clark, the head small animal veterinarian at a Levin practice, alleged the report breached Press Council principles of accuracy, fairness and balance; comment and fact; and conflict of interest. The report encouraged an approach to medicine that was "dangerous, foolhardy, and demonstrably wrong". It was a proven fact that homeopathic remedies had no medicinal benefit at all.

He was concerned that the report discussed buying medicines directly from a wholesaler without any advice from a veterinary professional. The published report should not be encouraging this.

It was deeply worrying that these farmers did not believe in vaccinations. The risks of not vaccinating were dire, and should not be encouraged.

He rejected Mr Collins' assertions about there being no

placebo effect in animals. It was not true, and had been clearly proven.

The whole article had the feel of an advertisement for the Hamilton based company. "I was under the impression that advertorials needed to be advertised as such."

Stuff Response

Editor Glen Scanlon said the report came to *Stuff* from the *Straight Furrow* agricultural publication, and originated from the *Dairyman* magazine which had published the story on its natural farming page. It also appeared in the *Taranaki Daily News*.

Rejecting the complainant's assertions about breaches of Press Council principles, Mr Scanlon said the report was the couple's story. They were ardent believers in homeopathic remedies. *Stuff* had not endorsed this approach, despite the complainant's assertion.

It was a long-running debate and *Stuff* had run numerous stories on either side of the debate. The story had not reported the couple inaccurately, or treated them or anyone else unfairly. "The story is in no way presented as being fact. It is quite clear the views are the couple's alone and it is up to the reader to make the judgments that they will."

The complainant had responded with his own viewpoint.

The editor had checked with *Straight Furrow* and the *Dairyman* magazine, and there was no conflict of interest. The story's author had no connection with the firms mentioned in the story.

However, Mr Scanlon said that, on reading the story after receiving Mr Clark's complaint, he decided to delete several references to the business it referred to. He did so because he felt "uncomfortable" with the context in which the story was used on the *Stuff* website. "While it might sit well on the *Dairyman* [magazine] natural farming page it did not sit so well on our farming site." The references did not reflect a conflict of interest "but editorially I was not comfortable with them."

Press Council Decision

In reporting on issues such as this, the usual practice is for the news media to try to balance the story with a countervailing view or views. However, as Mr Scanlon points out, this is a long running issue and *Stuff* has previously reported both sides of the debate, so balance is achieved over time.

Mr Clark's complaint did, however, cause the *Stuff* editor to reconsider references to the Hamilton company, and then delete them. As the editor says, they may have been appropriate in the context of the *Dairyman* pages, but were not appropriate in terms of *Stuff*'s more general approach. Mr Clark's complaint succeeded in making the editor reconsider these references. However he is still dissatisfied and is entitled to his differing point of view.

Accordingly, because of the ongoing debate on this issue, the Press Council does not uphold the complaint on the principle of Accuracy, fairness and balance.

In terms of the complaint about Comment and fact, the Press Council regards the report as a straightforward account of the couple's views.

The complaint about Conflicts of interest is also not borne out, on the basis of the editor's assertions.

The complaint is not upheld.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Chris Darlow, Jenny Farrell, Sandy Gill, Penny

Harding, John Roughan, Mark Stevens and Stephen Stewart.

CASE NO: 2371 – WILLIAM LENTJES AGAINST THE PRESS

William Lentjes complains that an article published on 20 November 2013 by *The Press* breached Principles 1 and 5 of the Press Council principles. Principle 1 requires accuracy, fairness and balance in publications while Principle 5 concerns headlines and captions and requires that they accurately and fairly convey the substance or a key element of the report they are designed to cover.

A similar complaint was made to *The Press*, but not to the Press Council, by Mr Lentjes' mother. Mr Lentjes has sent the Press Council the relevant material and asked for it to be considered as part of his complaint.

The Press Council upholds the complaint of a breach of Principle 5.

Background

On 20 November 2013 *The Press* published an article (which also appeared online at stuff.co.nz) with the headline "Costly lesson after buying car without WOF" and the subtitle "\$3000 repairs needed on second-hand car".

The article reported that Mr Lentjes, a registered car dealer, had sold a car to Cassandra Bean. It said the car had no warrant of fitness and although Mr Lentjes had said it required only a wheel alignment, when she took it for a warrant it required "more repairs than promised". Ms Bean is reported as saying there was actually "a list of things that needed repairing" and that when she spoke to Mr Lentjes about the repairs, he said "It's not my problem, get over it".

The Complaint

Principle 1: Mr Lentjes complains that there was no effort to reflect his view. He says:

- There is no detail in the report about the cost of repairs. There is only the mention of \$3000 in the headline. He told the reporter that the cost of bringing the car to warrant of fitness standard would have been \$150. A friend of Ms Bean, who had inspected the car before she purchased it, said that if it did require repairs for the warrant, the cost would probably be less than \$500. He had given her a discount of \$500 because the car had no warrant.
- Inclusion of remarks made by a MTA spokesman reinforced the message given by the headline.
- He made a mistake in failing to get Ms Bean to sign a statement that she would not use the car until she had obtained a warrant. He regarded this as a "red tape" issue as she was clearly willing to buy the car without a warrant.
- He did not say "It's not my problem, get over it".

Principle 5: Mr Lentjes says the subtitle implies that \$3000 was the cost of bringing the car up to warrantable standard, when in fact the cost was closer to \$150.

The Press response

The Press initially responded only to the complaint from Mr Lentjes' mother. There ensued some correspondence about the condition of the car, the cost of repairs, the various reports on the condition of the car, Ms Bean's rights under the Consumer Guarantees Act and Mr Lentjes' conduct as evidenced by his email correspondence with Ms Bean (copies of which have been supplied to the Press Council).

A further response was addressed to both Mr Lentjes and his mother. It said the essential fact was that Mr Lentjes unlawfully sold a car without a warrant of fitness

and that the car was subsequently assessed as being in very poor condition. It referred to the “buyer beware” issue and a possible wider issue of public safety.

The Press later responded direct to the Press Council, apologising for the delay in replying to Mr Lentjes’ complaint and acknowledging that the sub-heading reference to the figure of \$3000 could not be sustained, had not been verified by the reporter and should not have been published.

However, *The Press* also says that the evidence provided by Mr Lentjes essentially supports the substance of the story that was published – that he sold a car without a warrant of fitness or a relevant signed undertaking from the buyer, and that the car was not in a warrantable state at the time of sale. It said that if the car had been properly checked before the deal and Ms Bean made aware of its shortcomings, it is highly likely that she would not have purchased it.

Discussion

Principle 1

The correspondence between Mr Lentjes, his mother and the Press has been largely concerned with the condition of the car and the cost, or likely cost, of repairing it.

It is not disputed that Mr Lentjes sold the car when it did not have a warrant of fitness and that he did not get Ms Bean to sign an undertaking not to use the car until she had obtained a warrant. In doing so he breached his legal obligations. This is more than a “red tape issue” – it is a breach of a fundamental legal obligation that is in place to protect consumers.

The Press article quite rightly makes its main point on the importance of the legal requirements and the protection they afford for buyers and in describing this aspect of the dealings between Mr Lentjes and Ms Bean, the article is accurate.

Unfortunately, it goes further than the main point and into the disputed area of the extent of repairs needed to the car. There is an implication that Ms Bean had been deceived and that Mr Lentjes had led her to believe that it needed minor and inexpensive repairs when it needed much more. There seems to be some confusion between the work necessary to bring the car up to warrantable standard, which the evidence establishes as repairs to the brakes and shock absorbers at a cost of \$260, and the further work recommended in a mechanical report obtained by Ms Bean after the purchase and not seen by Mr Lentjes until after he had been interviewed for the article.

It was inaccurate to say that “there was a list of things that needed repairing” in the context of bringing the car up to a warrantable standard.

The Press argues that even if the further work was not necessary for the warrant, it was necessary to bring the car up to a state of fitness for purpose as required by the Consumer Guarantees Act. It is not at all clear to what extent the further work was necessary to bring the car up to a “fitness for purpose” standard and to what extent it was simply desirable because of the age and general condition of the car. This is a matter for determination by the Motor Vehicle Disputes Tribunal. However the distinction was not made in the article and the clear implication both from the wording of the article and that of the sub-heading is that very substantial work was needed to bring the car up to warrantable standard. To that extent the article is inaccurate and there was some unfairness to Mr Lentjes in that he had not had an opportunity to see and comment on the mechanical report.

Without independent evidence, it is not possible to determine whether Mr Lentjes made the remark attributed

to him by Ms Bean.

Principle 5

The Press acknowledges that the figure of \$3000 in the sub-heading had not been verified and should not have been used.

In addition the headline “Costly lesson after buying car without WOF” is not entirely accurate. It is established that the cost of obtaining a warrant for the car would have been less than the discount applied by Mr Lentjes. It was not the absence of the warrant but rather the general condition of the car that resulted in substantial repair costs.

Decision

The article in question was substantially accurate. However there was a breach of Principle 5 in that the headline did not fairly convey the substance of the report. To that extent the Press Council upholds the complaint.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Chris Darlow, Jenny Farrell, Sandy Gill, Penny Harding, John Roughan, Mark Stevens and Stephen Stewart.

CASE NO: 2372 – C M NIJMAN AGAINST THE DOMINION POST

C M Nijman claims *The Dominion Post* failed to comply with Principles 1 (Accuracy, fairness and balance) and 9 (Conflicts of interest) of the Press Council Statement of Principles in relation to business page articles published on November 23, 2013 under the main heading “The battle between steel and wood”. The principal story was accompanied, on the same page, by a subsidiary piece (a sidebar) headed “Steel house framing was tough choice”. The stories appeared in other Fairfax publications. The sidebar published in the *Waikato Times* carried the heading “Appeal of steel”.

The Press Council does not uphold the complaint.

Background

The articles referred to the increasing use of steel framing in New Zealand residential building construction. The main story referred in some detail to various claims and counterclaims around timber framing and steel framing. There is no need to recite the pros and cons of each construction type here. It is sufficient to say the main article gave a full and balanced coverage of the diverse views at play.

The sidebar reported the views of a Torren Wiffen. Mr Wiffen had decided to build with steel framing and the story set out his reasons. Specifically the sidebar story referred to Mr Wiffen as being concerned about “seismic strength” and, as a result, had “heard about Golden Homes”. The piece reported Golden Homes as being “one of New Zealand’s leaders in the construction of steel-framed houses”. The piece referred to Golden Homes’ website and the company’s claims that it has “never built a leaky home”.

The Complaint

Ms Nijman’s complaint relates to the sidebar, not the main, article. Ms Nijman essentially says the sidebar amounted to an “advertorial”. Ms Nijman says the story was a “plug” for Golden Homes. The story lacked balance and was not

identified as advertising as the Principles require. The *Post's* treatment amounted to passing off.

Ms Nijman points to a Golden Homes promotion published as part of the *Post's* advertising feature in the same November 23 edition as confirming the side bar's true nature. Ms Nijman refers to Golden Homes taking advantage of the side bar by quoting from the story in its own web site.

The Response

The Dominion Post responds first by saying that the side bar was not an advertorial. The side bar was written by the same reporter who had penned the main piece. The reporter had interviewed Mr Wiffen who had himself mentioned Golden Homes as a company experienced in constructing steel framed houses. This was a "genuine business feature about an issue facing the construction industry". Secondly, the *Post* says the fact Golden Homes advertised in the newspaper the same day was purely coincidental. There is no connection between the people who organise the *Post's* advertising on the one hand and the paper's feature writers on the other. Finally the *Post* says that it has no control over the way third parties, such as Golden Homes, use material published in the paper. News is "often shared and commented on".

The Decision

The Press Council does not agree with Ms Nijman over the side bar story. The side bar was associated with a longer, more detailed, piece dealing with the topical issues around house framing types. The main story covered the competing arguments over which framing system was best in a comprehensive way. The side bar set out the views of a consumer who had chosen to build a house with steel framing. This in itself was unsurprising since the main story had made it clear timber framing has been, and still is, the predominant framing type in this country.

While the Council understands Ms Nijman's concerns about the reference to Golden Homes in the side bar story (particularly in the context of the Golden Homes' own promotion in the advertising feature elsewhere in the paper) it does not view the side bar as an advertorial. Had the side bar not been associated with the main piece Ms Nijman might have had a point. Taken in context though, the side bar did not amount to any passing off by the newspaper.

The Council accepts the *Post's* assurances that its editorial department operates independently of any commercial side of the business.

The complaint is not upheld.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Chris Darlow, Jenny Farrell, Sandy Gill, Penny Harding, John Roughan, Mark Stevens and Stephen Stewart.

CASE NO: 2373 – GERARD AND CLAIRE RUSHTON AGAINST ASHBURTON GUARDIAN

The Press Council has not upheld a complaint by Gerard and Claire Rushton against the *Ashburton Guardian*.

Background

The Rushtons' daughter Courtenay died very suddenly from meningococcal disease on January 3. Her death was reported in the *Ashburton Guardian* on two occasions - the first being January 7 and the second January 8 (the day of Courtenay's funeral).

The paper's first article was noted on the front page without naming the teenager, with a follow-up story on page 3 outlining her death from suspected meningococcal disease and providing facts about the disease and its symptoms. Canterbury Medical Officer of Health Dr Humphreys stated that diagnosis was not confirmed and that family members had been treated with antibiotics and were no risk to anybody.

On January 8, the day of Courtenay's funeral, a second article was published providing more details and citing information from the family's statement, along with a photo provided by them. Again, Dr Humphreys was quoted as saying it was important to raise awareness and make sure people had information in perspective. He reiterated that the family were not at risk themselves or of passing infection to others. He stressed that the family had done the right things, including ensuring all vaccinations recommended and getting swift treatment when Courtenay became ill.

The Rushtons, who had asked to be given privacy and time to grieve as was stated in the article on January 8, wrote to the editor to complain about their deep feelings of invasion of privacy while they were suffering immense grief and trauma. They stated that the *Ashburton Guardian's* reporter and the editor himself had been informed that the family requested time to grieve, but would talk to the *Ashburton Guardian* 'in the fullness of time'. They cited the Press Council's principle that 'those suffering from trauma or grief call for special consideration' and awaited the paper's reply.

The editor replied at length, offering sincere condolences; acknowledging the grief of the family having gone through a loss himself recently, and claiming that he took any reporting about loss of life extremely seriously. One of his reporters had been made aware of Courtenay's death through 'golfing connections'. He referred to personal connections between his chief reporter and the Rushtons' son and acknowledged that she had 'contacted your son to give him a heads up' that the paper and other media would be interested as the disease was notifiable and infectious. The chief reporter was told to deal with a family media person, Mr Storrier. The editor claimed that this was the 'only contact we have had with any member of your family and we have consistently respected your wish for privacy'.

Mr Storrier then contacted the editor to request that the news be kept out of the paper until the death notice was run. The editor agreed to hold any story until the Monday (6 January). He explained that this agreement was risky because of pressure from other media to break the story. Despite Courtenay's death notice running on the Monday, the editor instructed his reporters not to publish until the Tuesday. On contacting the Canterbury District Health Board, the paper's health reporter was told that the Medical Officer of Health wanted to get the word out that the family had been 'vaccinated' and there was no wider danger to the community. He said they had made no further contact with

family members, despite pressure from affiliated APNZ papers to do so. He commented that the paper had decided not to cover the funeral out of respect for the family. The above, stated the editor, showed that 'we have taken this principle extremely seriously, and some media colleagues will argue that we have made too many concessions'. He explained that a person in the Ashburton community had died of a contagious and notifiable disease and the paper's role was to inform that community.

The Complaint

Dissatisfied with the editor's response, the Rushtons contacted the Press Council to lay a complaint. They stated that the 'golfing connections' referral and subsequent paragraph in the editor's response was factually incorrect; that the chief reporter had contacted their son on January 2, before Courtenay died. The son had declined to comment. The chief reporter had then visited him at his home on 4 January; rang him later that day, and 'rang and texted him on numerous occasions'. Hence, this was at variance with the editor's claim that they had had no further contact with the family after the initial contact by the chief reporter.

Further, the Rushtons stated that the editor had told Mr Storrier that only 'a small sidebar referring to the death' would be published, but there had been two stories, both signalled on the front page. They had been contacted by media from throughout New Zealand. They did not accept that the story was already gaining media attention, stating that this was because the *Ashburton Guardian* had broken the story. While they recognised that the paper might have a role to inform the community in the circumstances, the paper's two articles, the naming of the family and the publication of a photo of their daughter on the day of the funeral had caused them 'considerable trauma and grief'. They claimed the paper's action was 'morally insensitive'; that the chief reporter had exploited a personal relationship to gain information for the story and that the editor had broken his word on doing only a small three liner.

The Newspaper's Response

The editor once again acknowledged the family's loss and grief and conveyed sympathies. He then laid out his understanding of the timeline, now recognising that their chief reporter had contacted the Rushtons' son on two occasions and he had also rung her back declining to talk about the situation. He reiterated his claim that the paper had exercised considerable restraint in deciding what and when to publish, noted that Mr Storrier had not raised 'any objection to our proceeding with the article' on Tuesday and stating throughout that after the initial contacts, the paper had made no attempt to contact the family. Their second story and photo had been published only after the Rushton family had issued a press release. He concluded that the paper had 'acted professionally and with sensitivity throughout'.

In their final response, the family noted discrepancies between the first response from the paper and its final (over the number of contacts) and contradictions in the claim that the paper had a role to inform the community, but they had known that the family were not at risk themselves and neither was the community. They were appalled at the

use of 'information or gossip [gained] from a golf course'. They still felt that their grief and trauma should have led the paper not to publish, or to publish a very small story, not two, both signalled on the front page and one containing their daughter's photo.

Discussion

The Press Council extends its sincere sympathy to the Rushton family in what has obviously been a situation of profound distress and trauma. Their desire to have the story covered minimally if at all is perfectly understandable. They are correct that there were discrepancies between the two responses of the paper over the number of times it had made contact with the family.

However, the paper's claim that it had a responsibility to notify the community both of the death, and of the safety of the wider family and community, is accepted. This is not a large community; Courtenay's illness and subsequent death would have been quite widely known and the causes of it speculated on. Despite the lack of definite diagnosis in the first article, the paper was wise to publish the views of the Medical Officer of Health and could hardly have done so without referring to the illness and death of a member of the community. The information supplied by the family, including Courtenay's photo, were legitimately used in the follow-up story. Events like this are shocking in any community, and especially in smaller rural ones. The Press Council accepts the editor's account of having done all he could to minimise intrusion by the paper following Courtenay's death, and outside initial contacts by the chief reporter who knew the Rushtons' son, limited its contact to the family spokesperson, Mr Storrier, who did not express concern about the publishing of the second story.

One aspect of this complaint that deserves comment, too, is the pressure placed on editors who are part of a larger consortium, to investigate and publish stories that happen in a local community. The editor of the *Ashburton Guardian* felt he had been placed under considerable pressure to break the story earlier, and it is to his credit that he regarded the views of the family to the extent that he did, and did not break the story earlier nor report on Courtenay's funeral. That is responsible editorial conduct but could have rebounded on him in a wider consortium.

The Press Council extends its sympathy once again to the Rushtons, but is unable to uphold the complaint.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Chris Darlow, Jenny Farrell, Sandy Gill, Penny Harding, John Roughan, Mark Stevens and Stephen Stewart.

CASE NO: 2374 and 2375 – DAMON WYMAN AND STEPHANIE HONEYCHURCH AGAINST NEW ZEALAND LISTENER

Introduction

There are two complaints about a Peter Griffin technology column, headlined *Something in the air*, in the February 1 issue of *New Zealand Listener* magazine published on January 25. The complainants are Damon Wyman and Stephanie Honeychurch and the complaints have been

looked at as one in the absence of substantial differences.

Damon Wyman, supported by his wife Jo, and Sue Grey, their lawyer, attended the Press Council meeting and spoke in support of the complaint. Mr Wyman and Ms Grey divided their allocation of time between them.

Peter Griffin, author of the column, attended the meeting on behalf of the editor, and spoke in defence of his column.

Background

In his column, Mr Griffin said it was not true that Wi-Fi devices were dangerous to users' health; there was no compelling scientific evidence to suggest that electromagnetic radiation emitted from Wi-Fi devices posed elevated risk of developing brain tumours.

Mr Griffin cited a growing anti-Wi-Fi movement using "dubious research" to bolster counter claims. He used the example of two fathers, Damon Wyman and David Bird, successfully campaigning to have Wi-Fi removed from junior classrooms at Te Horo School.

The Wi-Fi removal followed Mr Wyman's 10-year-old son Ethan dying after developing a brain tumour. Ethan had slept with a wireless iPod under his pillow and the column said "Wyman is convinced the device was responsible for his son's brain tumour..."

Mr Griffin said Mr Wyman's reaction confused correlation and causation and he quoted two scientists, Martin Gledhill and Bruce Armstrong, in his argument that Wi-Fi did not cause adverse health effects.

Complaint

Mr Wyman complained that he had never categorically said Wi-Fi caused his son's tumour, only that his son's tumour has prompted him to research the subject. This is a key plank of Mr Wyman's complaint.

He believed the innuendo in the opinion column was that there was no basis for health concerns and that the science around this was conclusive. Mr Wyman argued this was incorrect and there was scientific recognition of the need for precaution.

The column's standfirst, '*Scaremongers warning of the dire dangers of Wi-Fi are ignoring the science*' was presented as a statement of fact.

Mr Wyman met with Mr Griffin at the end of January and sought an apology, which was not forthcoming. Mr Griffin instead suggested Mr Wyman write to the *Listener*, which he did.

Mr Wyman was concerned at the impact publicity from Mr Griffin's column was having on his three children.

Because Mr Griffin is also the manager of the Science Media Centre, Mr Wyman complained that he was being paid by the Government and defending its position. Martin Gledhill also received income from the Government and the telecommunications industry and, therefore, neither his nor Mr Griffin's position was independent, expert or balanced.

The column, Mr Wyman said, breached Press Council principles of Accuracy, Fairness and Balance, Conflicts of Interest, Headlines and Captions, Comment and Fact, Children and Young People and Privacy.

Other than not suggesting a breach of the Press Council

principle of Privacy, Stephanie Honeychurch's complaint was not dissimilar to Mr Wyman's.

Magazine Editor's Response

The complainants had a different view from Mr Griffin.

Based on several media reports quoting Mr Wyman, it was fair for Mr Griffin to conclude Mr Wyman believed the wireless iPod was responsible for his son's brain tumour.

One particular article quoted Mr Wyman as saying, "We're not saying that caused it, but it seems like a bit of a coincidence". The editor argued that it was reasonable to draw from that comment that Mr Wyman believed the iPod was responsible for the tumour.

Mr Griffin's column was not defamatory of Mr Wyman. Saying Mr Wyman believed a Wi-Fi device caused a tumour would not bring him into contempt, ridicule or disrepute.

The *Listener* column concerned matters of public interest and did not breach the privacy of Mr Wyman's children. It did not name them and Mr Wyman had himself chosen to enter the public forum around this subject.

The Science Media Centre which Mr Griffin managed had a charter ensuring its editorial independence from the Government and, therefore, there was no conflict of interest.

The editor also included a response from Mr Griffin, which featured much of the same points, along with scientific references in support of the argument that Wi-Fi did not cause adverse health risks.

Discussion

The Press Council sets a high bar when dealing with complaints against opinion columns. Mr Griffin was entitled to express his honestly held opinion, supported by scientific research he deemed relevant, and the *Listener* was equally entitled to publish it.

There is not a requirement for balance in an opinion column.

Use of the word 'convinced' to describe Mr Wyman's view of a link between the tumour and the device was unnecessarily strong and does not align with what Mr Wyman says is his view.

Although the complainants strongly believe Mr Wyman had not categorically linked his son's brain tumour to the use of the Wi-Fi iPod, it was not unreasonable for Mr Griffin to conclude this, at the time the column was written, based on public reports and comments by Mr Wyman. The Council, and Mr Griffin, have now heard Mr Wyman state this is not his position.

Mr Griffin and the complainants have differing views on the science around the health risks posed by Wi-Fi devices. Both are entitled to such opinions and both provided much evidence in support of them. It is not for the Press Council to debate or rule on the science.

The column's standfirst properly reflects its content.

Mr Wyman cannot expect to campaign or lobby on an issue without public scrutiny and comment. His children, other than Ethan, however, were not specifically referenced in the column and it did not breach their privacy.

The *Listener* published a letter from Mr Wyman which provided an alternative view to the science Mr Griffin had relied on for his column. The letter ran two weeks after the

column was published, in part due to the magazine editor waiting for Mr Griffin to meet Mr Wyman.

The complaints are not upheld.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Chris Darlow, Jenny Farrell, Sandy Gill, Penny Harding, John Roughan, Mark Stevens and Stephen Stewart.

CASE NO: 2376 – COMPLAINT AGAINST THE GREYMOUTH EVENING STAR

Background

In its publication dated February 17, 2014, the *Greymouth Evening Star* ran an article under its District Court section entitled “Assault case defence successful.” It was a report filed by its court reporter about a case of a local man successfully defending himself in court on a charge of assaulting a woman.

Complaint

The complainant laid a formal complaint with newspaper via a letter dated February 23 and hand delivered to the office of the publication on February 25. The complaint fell under two broad headings of “Complaint 1” and “Complaint 2.”

Complaint 1 consisted of a number of sub-complaints – the article is insensitive to women and domestic violence; it has discredited the complainant in an “unlawful manner”; the article easily identified the complainant; allowed the defendant to boast of his successful defence; signals to the community that the defendant in the case was in the “right”; the small clarification made in the title was not satisfactory; and that the article had signalled to the wider community that “domestic violence is ok.”

Complaint 2 related to two meetings at the office of the *Evening Star* and also consisted of a number of sub-complaints – the court reporter did not introduce himself; a statement made by the reporter to her that he did not believe the defendant with the inference that the article therefore was inaccurate; the editor was looking at the complainant in a “very provocative manner” which made the complainant feel threatened; insensitivity directed towards the complainant by the editor and his staff; not treated in a professional manner; and the conversation with staff of the *Evening Star* had an “unsavoury tone and outcome.”

Following letter exchanges and the meetings mentioned above where the complainant believed there were no satisfactory results, the complainant started the process with the Press Council citing breaches related to Principles 1 (Accuracy, Fairness and Balance); 2 (Privacy); 4 (Comment and Fact); 5 (Headlines and Captions); 6 (Discrimination and Diversity); 7 (Confidentiality); and 11 (Corrections).

Newspaper’s Response

Editor of the *Greymouth Evening Star* Paul Madgwick is clear in response to all complaints:

- The heading was true and accurate of the court case
- The complainant was not identified in any shape or form

- The article did not identify the case as domestic abuse
- The newspaper refrained from stating the complainant was related to the defendant
- The clarification carried on 18 February was worded as requested by the complainant
- The filing of the article by the court reporter was an accurate account of the outcome of the court case
- The comment by the complainant around the provocative look by the editor upon the complainant was both “ridiculous” and “offensive”
- The reporting of the court case was the same as any other case presented in the Greymouth District Court without bias, regardless of colour, creed or sex.

Discussion

Given the number of Press Council principles the complainant believes the newspaper has breached, we wish to go through each one.

In regards to Principle 1, the Council acknowledges the math error made by the reporter in which the age of the defendant in the article was incorrect. The editor is adamant that his court reporter took an accurate account of the court decision on this case and the article reflects that. The Council agrees, notwithstanding the age error, that the four paragraphs are accurate. The math error does not distract from the accuracy of the article in its totality.

The complaint based on Principle 2 is not upheld. The editor is correct to state that the paper could have identified her but chose not to given the sensitivity of the issue. In addition to not identifying the situation as one of domestic violence, the paper went some way in ensuring the privacy of the complainant was upheld.

Principle 4 is not upheld as the article is a factual reporting of a court decision.

The newspaper acknowledged the complaint in regards to Principle 5 and following the meeting with the court reporter on 18 February, provided clarification the following day. The complainant believes the publicised article heading gives the impression that domestic violence is ok. The Council agrees with the editor on this point. The paper did not refer to the case as an allegation of domestic abuse nor did it identify the victim in any shape or form.

The Press Council is of the view that the newspaper did not place gratuitous emphasis on the alleged victim so Principle 6 does not apply.

Principle 7 does not apply given it is a public proceeding in the District Court.

Principle 11 is not upheld although the Council acknowledges the clarification in response to the complainant’s request on the heading and that the newspaper has taken responsibility for the inaccurate age published.

The complainant requests that the Council also makes an adjudication on the accuracy of things said at meetings between the complainant and staff of the newspaper. That is not the role of the Press Council, however, there is no good reason to doubt the accurate account of those meetings put forward by the three newspaper staff.

We recognise that any situation involving assault of another person is a sensitive one and publications should take care to ensure that all reasonable steps are undertaken

to not add further fuel to the fire. In this case, the newspaper has acted appropriately.

Complaint in its totality is not upheld.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Chris Darlow, Peter Fa'afiu, Jenny Farrell, Sandy Gill, John Roughan, Marie Shroff, Vernon Small, Mark Stevens and Stephen Stewart.

CASE NO: 2377 – DOROTHY BAULD AGAINST THE NEW ZEALAND HERALD

Introduction

Dorothy Bauld claimed *The New Zealand Herald* breached Principle 1 (Accuracy, Fairness and Balance) in relation to its Waitangi Day coverage on February 6 2014, because of its editorial decision to publish a “protest-free” paper, which it announced with a “Protest-Free News Pages” stamp featuring a graphic of a raised fist on the front page, and on its retail poster which stated: “This paper is free of protests”.

The complaint is not upheld.

Background

The New Zealand Herald's February 6 print edition ran a large front-page ‘pointer’ to its Waitangi Day coverage inside, featuring photographs of four ethnically diverse New Zealanders under the headline: “Celebrating NZ’s Day”, with the subhead: “Waitangi: What it means to you - A16-19”. A graphic of a raised fist, encircled by the words “Protest-Free News Pages”, was stamped on the top right-hand corner of the page alongside the headline.

Pages A16-19 featured a Waitangi Day “Special Report” coverage in the form of interviews with eight New Zealanders, four of whom were pictured on the front-page pointer, about what Waitangi Day means to them personally. The interviewees represented a broad range of ages and ethnicities; two were Maori. Although not flagged on the front page, page A7 featured photographs and interviews with visitors to Waitangi’s Te Tii Marae the day before.

Pages A48 and 49 featured three stories on Waitangi Day, including a historical backgrounder, and opinion pieces by Attorney General and Minister for Treaty of Waitangi Negotiations, Chris Finlayson, and Mana Party leader Hone Harawira.

The paper’s Editorial discussed, among other things, the progress of the Treaty negotiations.

The retail poster published on February 6 to promote the paper’s Waitangi Day coverage carried a banner headline which stated: “This paper is free of protests”.

The Complaint

Ms Bauld claimed *The New Zealand Herald* breached Principle 1 (Accuracy, Fairness and Balance). She complained that the paper’s February 6 “Headline and Editorial Decision lacked good editorial responsibility, was not of a high standard, was not fair, deliberately avoided balance and public faith in good standards, and was not in New Zealand’s best interests”.

She described the raised-fist stamp on the front page as an “unsuitable accompanying graphic”.

She said the need for the press to maintain high standards of accuracy, fairness and balance was particularly relevant on Waitangi Day: “That is especially so on our national day. Both celebration and protest should be part of our democracy.”

In her opinion, “These editorial decisions were not fair, were

not in the public interest, and deserve an apology. Freedom of expression needs to be balanced by public interest”.

In further correspondence, she stated: “My complaint is as much against the use of censorship as a marketing ploy.”

The Response

The New Zealand Herald's editor, Shayne Currie denied there was any breach of the Press Council’s principles.

Mr Currie defended the decision to promote the edition’s “Protest-Free News Pages”, saying he had chosen to ignore a small group of protesters who “try to hijack Waitangi Day each year with their headline-grabbing antics that target politicians and others”.

He described the decision as the paper’s “own protest” at other media’s focus on protests.

He pointed out that the complainant had ignored the large front-page pointer to the Waitangi Day coverage, and had not mentioned that the paper ran seven pages of debate and discussion on Waitangi Day.

In his opinion, “the debate was covered in a fair, balanced and extensive manner, precisely the principles the complainant is requesting”.

He rebutted the complainant’s position on freedom of expression, asserting that it works in all directions: “It is our right to decide what we do and don’t publish, just as it is the reader’s right to take issue with the decision.”

Mr Currie said that in the days following Waitangi Day, the paper had published correspondence and “received considerable online feedback on our stance”. He said Ms Bauld’s email complaining about the Waitangi Day coverage had not been received by the newspaper until March 12 because it had been sent to an incorrect address.

Had he received the email earlier, he said, he would have suggested the complainant write a letter to the editor that would have been considered for publication, but that too much time had passed since the Waitangi Day coverage.

He disagreed that the fist graphic was unsuitable and said it was simply a protest symbol which the paper has used before.

Discussion and Decision

The *Herald's* decision to publish a “protest-free” paper on Waitangi Day was a controversial one given the paper’s standing as a national newspaper. Although the editorial decision to ignore the “headline-grabbing antics” of protesters who hijack the annual Waitangi Day celebrations is the basis of the complaint, much of the debate focused on the meaning and relevance of the raised-fist graphic on the front page.

The use of the term “protest-free” as a catch-all descriptor also polarised opinion, since the whole point of democratic protest is to give voice to those who feel marginalised. Whether intentional or not, the paper’s stance and the raised-fist graphic implied that the Maori viewpoint had been suppressed since Waitangi Day protests historically have focused on Maori grievances, but the reality was that the coverage inside was extremely balanced and fair.

The other important debate concerns the right of editors to make editorial decisions about what they do and don’t publish. The Press Council clearly states that publications have the right “to adopt a forthright stance or to advocate on any issue”.

The February 6 print edition of the *Herald* carried more than seven pages of Waitangi Day coverage, which was a comprehensive examination of what Waitangi Day means

to a range of New Zealanders. In light of this, the “protest-free” raised-fist stamp on the front page does not accurately reflect the nuance and breadth of the content inside the paper, and can be discounted as a marketing gimmick.

The complaint is not upheld.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Chris Darlow, Peter Fa’afiu, Jenny Farrell, Sandy Gill, Marie Shroff, Vernon Small, Mark Stevens and Stephen Stewart.

John Roughan withdrew and took no part in the consideration of this complaint.

CASE NO: 2378 – MIKE BUTLER AGAINST WEL-COM

Wel-Com is an official newspaper for the Catholic dioceses of Wellington and Palmerston North. Mike Butler of Hastings complains that an article and editorial in the issue of February, 2014, breached principles of accuracy, fairness and balance, and mixed comment with fact. The complaint is not upheld.

The article to mark Waitangi Day presented a version of history found in a recent report for the Northland iwi, Ngapuhi, which the article described as “a proudly independent nation” at the signing of the Treaty, “whose rangatira had already forged links with other nations”.

The report, entitled ‘Ngapuhi Speaks’, stated that Ngapuhi ships had circumnavigated the world, doing extensive trade not just with Australia but with places as far away as the United States and the United Kingdom. Maori had sent specially chosen travellers to other countries to gather information and share it at seminars when they returned. Problems with lawless Pakeha prompted Ngapuhi to form political alliances to protect their mana and apply tikanga (tribal law). The 1835 Declaration of Independence was one such alliance and the Treaty of 1840 was another. It was, “the culmination of a forward-thinking strategy to enhance the beneficial relationship with the British, and to progress their international interests.”

The editorial argued that the Treaty and its history are not widely understood, that the English and Maori versions had different meanings and Ngapuhi leaders had provided evidence that Te Tiriti was a partnership between two nations. Yet Maori were still marginalised. They had been tricked out of their land and despite the best efforts of the Waitangi Tribunal to hear grievances and return land, Maori now led poverty statistics.

The Complaint

Mr Butler complained that the article was a series of biased assertions from a tribal group that is claiming \$600 million in compensation for alleged breaches of the Treaty. *Wel-Com* made no effort to check the material or seek comment from those who take an opposing view. Faulty and biased information was printed in a reputable newspaper that carries the moral authority of the Catholic Church and was distributed to thousands of households who would expect the information to be reliable.

He cited a statement in the editorial, that Maori have been “tricked out of their land”, as an inaccuracy.

In his complaint to the editor, he offered a lengthy rebuttal of the article for publication.

The Response

Wel-Com’s editor, Cecily McNeill, said she did not respond to Mr Butler before his complaint to the Press Council because she felt he was putting pressure on her to publish his complaint, which would be inappropriate in the diocesan newspaper because of “his negative insinuations about Maori”.

Her newspaper’s task was to inform and educate Catholic people of the dioceses about issues that “illuminate Catholic Social Teaching in light of the Gospel call to stand with those who are in any way marginalised”.

Her editorial statement that Maori had been tricked out of their land was a reference to the privatisation of title to land held collectively. The word “tricked” was supported by the research of Robert Considine whose book on the Treaty is in its third reprint and who conducts seminars on the subject for corporate and government clients.

The editorial was supported by published statements from the New Zealand Catholic Bishops’ Conference and other church authorities. The article was in line with the church’s official position. *Wel-Com* was presenting fresh material from the perspective of Maori leaders.

The Decision

The Treaty of Waitangi and its historical context are subjects of keen and continual debate in New Zealand. The Press Council does not think it necessary for every article on the subject to be balanced by opposing points of view. The article in question made its attitude clear to readers at the outset.

The Council notes the editor’s statement that the church’s social teaching obliges her newspaper to “stand with those who are in any way marginalised”. The newspaper is distributed in parish churches and Catholic schools. Its readers would be well aware of their church’s social mission and would have read the article in that light.

The complainant offers no reason to doubt that the article was an accurate reflection of the Ngapuhi Speaks report. The single statement cited as inaccurate is a comment in the editorial that Maori were “tricked” out of their land. Many would argue that proposition is accurate.

Many would also contend the article is fair in the context of a wider debate since it challenged more familiar versions of history.

For that reason, the editor was under no obligation to print Mr Butler’s rebuttal though it is regrettable that she did not give him the courtesy of a reply until he brought his complaint to the Council.

The complaint is not upheld on issues of accuracy, fairness and balance, nor does the Council find fact and opinion were mixed in a way that would mislead readers. The material appeared in a church newspaper whose readers would have known this newspaper’s social purpose and could make allowances for it.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Chris Darlow, Peter Fa’afiu, Jenny Farrell, Sandy Gill, John Roughan, Marie Shroff, Vernon Small, Mark Stevens and Stephen Stewart.

**CASE NO: 2379 – THE EARTHQUAKE
COMMISSION AGAINST NATIONAL BUSINESS
REVIEW, NZ PROPERTY INVESTOR**

Iain Butler, as Stakeholder Communications Manager, complains on behalf of EQC in relation to an article that appeared in *The National Business Review NZ Property Investor* on March 11, 2014. This is a publication that is not available to the general public, being available only through subscription. It is written as a newsletter. However, newspapers and magazines are also available by subscription and we do not see this as a distinguishing feature.

The complaint relates to an article regarding EQC actions in Christchurch. It is not dissimilar to a number of articles that have appeared in various other media outlets, and insurance difficulties following the Christchurch earthquake are well documented. EQC alleges breaches of Principle 1 (accuracy), Principle 1 (balance and fairness) and Principle 4 (failing to distinguish comment from fact).

We note with regret the failure of *NBR* to respond timeously.

In relation to accuracy, it is said that five statements are incorrect. Firstly, that EQC staff had been told to accelerate Christchurch earthquake claims by offering cash where possible. Secondly, that the Fletcher/EQC repair programme was to be wound down by December. Thirdly, that the only way the latter could be achieved was to offer cash settlement, leaving home owners to make their own repair arrangements. Fourthly, is that unless home owners obtained second opinions they may be short-changed by inadequate assessments. Finally, that if someone who has received a cash settlement and embarks upon their own repairs discovers more damage, they will need to engage in litigation with EQC.

EQC states no such instructions were ever given to EQC staff; that the criteria for cash settlements had not changed and that affected home owners would not be required to take cash settlements where they preferred a managed repair; and in cases where additional damage is identified, the case would be reviewed and, where appropriate, compensated accordingly. EQC also states that there is a mediation process available, so litigation is not the only avenue available to homeowners.

EQC states that if asked, these matters would have been made clear to the reporter, and furthermore they were available on their website.

The editor of *NBR* responds that this is a subscription newsletter, so a mix of fact and opinion was not unusual. However, the reporter knew from his own experience the issues being discussed. Further, he spoke to a number of sources including casual acquaintances, people he had known all his life and family members. This group included some of whom had either worked at EQC or dealt with them as claimants. He stated he had been told by several staff members of a desire to accelerate cash settlements. He further went on to say he was personally aware of inappropriate offers of cash settlement, of the impossibility of completing the repair programme because of the number of repairs still outstanding, and that cases of discovery of additional damage were not rare, and were the basis of

many disputes.

The failure to bother to check the accuracy of the matters reported on with EQC is a failure of basic good journalism. Furthermore, it means that many of the matters reported are of contestable accuracy and these impact on both balance and fairness. Had comment been sought it might have pointed to a discrepancy between policy at Head Office level and the practice on the ground. We note in an unsolicited, out of time response *NBR* complains of EQC's regular delays in replying to requests for comment. That is irrelevant here as they were never approached. In any event it is a straight forward matter for a reporter to request comment and impose a deadline. If that had been done in this case, without response, it would have been a more powerful story. We uphold the complaint for breaching principle 1, balance and fairness.

The article contains a mixture of fact and comment without a clear distinction being made and without indication that it was essentially a comment piece. It should have been clearly so labelled. There is an obligation to ensure this happens. As a result there is a breach of principle 4.

It must be noted that the New Zealand Press Council subscribes to the Principles set forth in the New Zealand Bill of Rights Act 1990, and the guarantee of freedom of expression contained therein. We accept that that needs to be balanced against the Principles laid out and published by the Council. Carrying out such a balance we see breaches of Principles 1 and 4 as set out above.

The complaint is unanimously upheld.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Peter Fa'afiu, Jenny Farrell, Sandy Gill, John Roughan, Marie Shroff, Vernon Small, and Stephen Stewart.

Chris Darlow, a public member, withdrew from the discussion because of a conflict of interest. To ensure the public member majority Mark Stevens did not vote on this complaint.

CASE NO: 2380 – JAN RIVERS AGAINST STUFF

Jan Rivers complains that an article published on February 14, 2014 on the *Stuff* website was unfair and unbalanced and therefore in breach of Principle 1 of the Press Council principles. Principle 1 requires fairness, accuracy and balance.

The Press Council does not uphold the complaint.

Background

On February 14, 2014 *Stuff* published an opinion piece by Patrick Smellie about the Trans-Pacific Partnership agreement (TPP). The article was headed "Ten things the TPP critics do not want you to grasp" and consisted of comment on ten arguments that the author attributed to opponents of TPP.

Shortly after the publication of Patrick Smellie's article, Professor Jane Kelsey wrote an article in response to his views. This was also published on *Stuff* and the two articles were connected by hyperlink. The article appears to have been published in *The Dominion Post* and later in the *Stuff* business section, though the date of publication

is not clear. The editor of *Stuff* advises that when he became aware of the two articles he arranged for links between the two articles.

Both Ms Rivers and Glen Scanlon, editor of *Stuff*, appeared before the Press Council to make submissions in person.

The Complaint

Ms Rivers complains that the article is unfair and unbalanced. She also appears to complain that it is factually inaccurate as in her complaint letter she refers to mistakes of fact that have not been corrected.

She comments on five of the ten points, countering them by putting forward evidence that had not been mentioned in Mr Smellie's article.

In addressing the Press Council, Ms Rivers remarked that Mr Smellie presents himself as a journalist and accordingly she would expect a more balanced view from him.

The Stuff Response

The editor of *Stuff* apologised for a delay in responding to the complaint. He submitted that the piece was clearly opinion, and marked as such, and that there was no obligation on the author to agree with others or to use the same arguments. He acknowledged Professor Kelsey's article and said that he had made sure her piece was directly linked to Mr Smellie's piece.

He expressed the view that this was a long-running debate with many different opinions, and that it was healthy for people to make their arguments and for the public to consider these.

Discussion

It is clear that the article in question is an opinion piece and that accordingly the rules about fairness and balance are rather different from those applying to other types of article. Opinions by their very nature may be arguable. They may be robustly expressed and even on occasion offensive or unacceptable to some readers without breaching the standards to be expected of a reputable media outlet.

In an opinion piece, as opposed to the reporting of a news item, the author is not obliged to present all facts or arguments that may be relevant to the topic under discussion, and may select facts that support the opinion that is being expressed. However those facts must be accurate.

On analysis of Ms Rivers' complaint, it becomes clear that she does not so much question the accuracy of the facts presented in the article but that she believes there are other facts that cast doubt on the validity of Mr Smellie's opinions. This may be so, but it does not mean that Mr Smellie's facts are inaccurate. Nor does Mr Smellie's profession as a journalist mean that he should be restricted in the expression of his opinions.

The Press Council principles provide that in articles of controversy or disagreement, a fair voice must be given to the opposition view, but that exceptions may apply for long-running issues where every side cannot reasonably be repeated on every occasion. It is likely that the controversy over the TPP falls into this category. While the provision is

not always relevant to opinion pieces, it seems that *Stuff* has observed the spirit of the principle by publishing Professor Kelsey's article and linking it to Mr Smellie's article.

Decision

The complaint is not upheld.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Chris Darlow, Peter Fa'afiu, Jenny Farrell, Sandy Gill, John Roughan, Marie Shroff and Stephen Stewart.

Mark Stevens and Vernon Small withdrew and took no part in the discussion of this complaint.

CASE NO: 2381 – J SPENCER AGAINST HERALD ON SUNDAY

J Spencer (the complainant) complained about an article published in the *Herald on Sunday* on March 2, 2014.

The complainant alleged that the article breached Principles 1 (Accuracy, Fairness and Balance), 6 (Discrimination and Diversity) and 9 (Conflicts of Interest) of the New Zealand Press Council Statement of Principles.

The complaint was not upheld.

Background

The article discussed a taxpayer-funded trip for deaf MP Mojo Mathers to enable her to be interviewed on a provincial radio station.

The article contained comments from the MP who explained that the trip was essential as she is deaf and it is "almost impossible for her to do live interviews over the phone". Face to face interviews enable her to lip read and the interview was an hour long.

It also included comments from the Taxpayers Union who had questioned whether the expense of getting the MP to the interview was value for money. Their comments suggested that they did not think so.

Unfortunately there were delays in the newspaper replying to the complainant due to confusion as to which publication was responsible for the article. It was commissioned by the *Herald on Sunday* from the APNZ news service, but published only online at nzherald.co.nz and not in the *Herald on Sunday*.

Complaint

The complainant alleged that the newspaper had requested the Taxpayers Union to investigate the MP's expenses relating to her travel for the interview and believed that the newspaper should have also asked the Taxpayers Union to investigate "excursions" by MP Judith Collins and Amy Adams. The complainant believed that this was a breach of Principle 1.

The complainant also alleged that the article "discriminated against one political party but not others" in singling out the MP in a way that breached Principle 6.

In regard to a breach of principle 9, the complainant believed that if the Taxpayers Union was comprised of National Party supporters whose primary concern was the National Party interests over anything else, then the group should not have been part of the newspapers "investigatory group". The complainant felt that the Taxpayers Union

had “essentially discriminated against the disabled of New Zealand by attacking the MP.

Commenting on the editor’s response to the complaint, the complainant asked why the newspaper had not requested the Taxpayers Union to investigate MP’s, Ms Collins and Ms Adams.

The complainant also made the assumption that the Press Council would request proof from the newspaper that it had investigated the two other MPs noted.

The Newspaper’s Response

In reply to the complaint, the editor said the newspaper did not request the Taxpayers Union to investigate the MP. The newspaper conducts its own investigations.

The MP was interviewed about her trip after the newspaper received a tip off. The MP confirmed the trip and provided information about why she thought the expense was appropriate. The reporter then approached the Taxpayers Union for comment due to the lobby groups expressed interest in monitoring the spending of public funds.

The newspaper rejected any allegation of breaching Principle 1 and 6. The article reported accurately the details of the MP’s trip along with comments from both the MP and Taxpayers Union and published both viewpoints.

The newspaper went on to state that the newspaper has published articles relating to MPs from all parties in Parliament and any decision to publish is based on the story’s public interest.

In regard to a breach of Principle 9, the editor believed this appeared to be about the Taxpayers Union and as such does not involve the newspaper. The newspaper publishes articles about all political parties and does not have a bias or preference.

The editor also outlined how the e-mails from the complainant had gone to the incorrect newspaper but finally arrived on her desk. She included the comment that the original e-mails did not appear as complaints but rather as requests for information.

The *Herald* had replied to the complainant providing the information that the newspaper had reported on MP Ms Collins and her trip to China but the first *Herald on Sunday* had learnt of the complaint was when contacted by the Press Council.

Discussion and Decision

The complainant believed that the newspaper requested the Taxpayers Union to investigate the MP’s trip and this is incorrect. The newspaper did their own investigation and requested comment from the Taxpayers Union as a lobby group known for their interest in monitoring the spending of public funds.

The article interviewed the MP and provided information as to why she believed the trip was justified and reported this accurately

While the complainant may not like the comments from the lobby group, they are entitled to hold their viewpoint.

Principle’s 1 and 6 have not been breached. The article contains accurate information from different viewpoints and the reader will reach their own view.

The newspaper comments on MPs from all political

parties not just focusing on any one party.

There was also no breach of Principle 9. The Taxpayers Union is an organization in its own right and not part of the newspaper.

The complaints regarding Principles 1, 6 and 9 are not upheld.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Chris Darlow, Peter Fa’afiu, Jenny Farrell, Sandy Gill, Marie Shroff, Vernon Small, Mark Stevens and Stephen Stewart.

John Roughan withdrew and took no part in the consideration of this complaint.

CASE NO: 2382 – HUGH STEADMAN FOR HARMON WILFRED AGAINST SUNDAY STAR TIMES

Hugh Steadman, on behalf of and with the authority of Harmon Wilfred, claims the *Sunday Star Times* failed to comply with Principle 1 (Accuracy, fairness and balance) of the Press Council Statement Principles in relation to an article published in print and on the Fairfax Stuff.co.nz site on March 9, 2014. *The Sunday Star Times* article is headed “The illegal ‘alien’ no one wants”. The *Stuff* article carried a sub-head “Overstayer not welcome at home”.

The article followed pieces published between 2005 and 2011 by *Sunday Star Times’* sister publication *The Press* in relation to Mr Wilfred’s wish to remain in New Zealand.

In 2012 Mr Steadman complained to the Press Council about the 2005 - 2011 articles. The Council dismissed this complaint in decision number 2250.

The current complaint is not upheld.

Background

The article now under consideration opened with the line “We don’t want him and neither do the Americans”. The story referred to the fact Mr Wilfred continued to live in New Zealand despite not being authorised to do so. The story referred to the his having lived in Christchurch since 2001, having renounced his United States citizenship in 2005 and the difficulty the New Zealand authorities were having in deporting him since he was effectively “stateless”. The US authorities were not willing to accept the Mr Wilfred back in that country since he was no longer a US citizen.

The story covered matters raised in the earlier articles, namely, that Mr Wilfred felt persecuted by the US Central Intelligence Agency over knowledge he had concerning CIA “fraud”. The story proceeded to relate the unsuccessful attempts by Immigration New Zealand to deport him. The story referred to the Mr Wilfred’s wife (apparently a member of a wealthy Canadian family and who is entitled to reside lawfully in New Zealand), the financial failure of organisations with which he and his wife have been associated, and dealings Mr Wilfred claimed to have had with the Canterbury Earthquake Recovery Minister.

The story also recorded details of a liquidator’s report showing a substantial debt to the ERA, IRD (for GST and PAYE) and other creditors.

The basic thrust of the article however was that Mr Wilfred, a controversial figure, remains in New Zealand

unlawfully because he was able to renounce his American citizenship without holding citizenship of another country.

The Complaint

Mr Steadman says the article lacks accuracy, fairness and balance. He says that it was incumbent upon the newspaper, when reporting, to refer to the “true story”. Mr Steadman has submitted a 13 page summary (and numerous attachments) of the trials and tribulation Mr Wilfred and his wife have faced over many years in North America and in New Zealand. The story, if correct, verges on the incredible. Mr Wilfred believes he has been “persecuted” in North America in relation his activities which were entirely worthy.

Mr Steadman advises Mr Wilfred’s passport was “confiscated” by the American consulate in Auckland. Fearing “fell intention” on the part of the US authorities he has declined to return to the United States to reapply for American citizenship. Essentially the complainant says that the *Sunday Star Times* has breached the Council’s statement of principles by not giving fair coverage to his plight.

Mr Steadman objects strongly to the newspaper referring to Mr Wilfred as “staying illegally” in New Zealand. He refers to certain “errors of law” made by the New Zealand Immigration Department. Mr Steadman says that because Mr Wilfred is “stateless” the New Zealand authorities have no lawful right to deport him from this country. He says “there is clear evidence that [he], as a result of his whistle blowing, has been subject to wrongful imprisonment, brutal treatment, threats against his family and threats against his life”. He says “there has been no attempt [by *Sunday Star Times*] to assess or understand this overwhelming evidence other than to pooh pooh it as a fantasy”. For the newspaper to ignore the evidence, when writing the article, demonstrates a lack of fairness and balance.

The complainant refers to Mr Wilfred’s dealings with the Minister for the Canterbury Recovery and to litigation involving the “La Famia” organisations controlled by Mr Wilfred and his wife. He says the article misrepresents the situation in connection with these aspects. All in all Mr Steadman maintains Mr Wilfred is a good and upright person, honestly motivated, and his reputation has been gravely affected by the *Sunday Star Times* article.

The Response

The newspaper responds on three fronts. First it says that most of the supplied “story” does not relate to the published article. Secondly it rejects the claim that the article “sneers” at Mr Wilfred and treats his account as “fantasy.” Thirdly the newspaper says that its reference to the residency status in this country was accurate. The newspaper points to the published comments by the Minister of Immigration and an Immigration New Zealand officer referring to Mr Wilfred’s residency status.

The Decision

The *Sunday Star Times* article follows up on issues which have received coverage over several years. Certainly Mr Wilfred’s situation is unusual and worthy of attention. There is a public interest in this story being followed.

The Press Council is in no position to judge the accuracy

or otherwise of Mr Wilfred’s account of his experiences prior to his arrival and during his time in New Zealand. The Council does not agree that it has been presented with “overwhelming evidence” as to the correctness of this account. Despite this the Council agrees with the newspaper when it says the account of Mr Wilfred’s difficulties in North America is not relevant to the matters actually covered in the article.

The Council does not believe the article misrepresented any issue in relation to the business dealings of Mr Wilfred. The Council has reviewed correspondence between Mr Wilfred and the Minister of the Canterbury Recovery. The article does not misrepresent this aspect either.

The Council notes that the article concluded on the basis that Mr Wilfred has grave concerns about the treatment he would receive in the US should he be deported to that country and concerns he has about “the US justice system”. It does not accept that the article dismisses his story as a fantasy or that it adopts a “sneering” tone.

The Council also notes its decision of May 2012 in relation to the “over stayer” appellation, this term having been used in the articles the subject of that complaint. The Council felt then that the reference did not breach Principle 1 and use of the “illegal alien” term does not now.

The Council does not uphold the complaint.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Chris Darlow, Peter Fa’afu, Jenny Farrell, Sandy Gill, John Roughan, Marie Shroff, Vernon Small, Mark Stevens and Stephen Stewart.

CASE NO: 2383 – DAMON WYMAN AGAINST NATIONAL BUSINESS REVIEW

Introduction

Damon Wyman claims that an article published in the *National Business Review* on February 7, 2014 contained misinformation and defamatory comments. The complaint is the same as one he made against the *Listener* magazine, which has already been heard and was not upheld.

Background

On February 7, the *NBR* published an article by Chris Keall about the issue of Wi-Fi as a radiation threat.

The article referenced the successful lobbying of Te Horo School to remove Wi-Fi from its junior campus. The complainant’s son was a pupil at the school and had earlier died of a brain tumour.

The complainant’s son had been using a Wi-Fi iPod before his tumour was diagnosed. The death prompted the complainant to research the subject of electromagnetic radiation from Wi-Fi and its impact on children.

The *NBR* article said the complainant blamed his son’s death on the Wi-Fi.

The article quoted several sources suggesting Wi-Fi was safe. Included in these sources was Peter Griffin, the manager of the Science Media Centre and the author of the *Listener* column. Griffin said it was wrong for the complainant to blame his son’s death on Wi-Fi.

Complaint

Mr Wyman advised he had never categorically said that

Wi-Fi caused his son's tumour, only that it had prompted him to research the subject.

Other aspects of the complaint related to matters of science which were published in the *Listener* column and which have been dealt with. See decision 2374.

NBR editor's response

The editor did not respond to the complainant. After some delay, however, the editor of the *NBR* responded to the Press Council.

The editor said the *NBR* published authoritative articles by journalists and contributors who were experts or made valuable observations about matters of public interest.

Mr Griffin was in this category, the complainant was not; the complainant was a conspiracy theorist.

The editor referred the Council to research on medical conspiracy theories.

The *NBR* would not endorse or circulate conspiracy theories.

Discussion

The editor's response was unreasonably flippant, provocative and did not in any way address the complainant's key concern that his position had been incorrectly stated.

There is no evidence to support that view that the complainant is a conspiracy theorist.

To state as a fact that the complainant blamed Wi-Fi for his son's tumour and death did not align with what the complainant said was his view.

The Council can only conclude that, at the time the article was prepared, *NBR* accurately quoted Mr Griffin's view of the complainant's position. It was not an unreasonable view based on public reports and comments attributed to the complainant at that time.

Mr Griffin and the *NBR* now know this is not the complainant's position and the Press Council would not expect to see it reported as such again.

The complaint is not upheld.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Chris Darlow, Peter Fa'afiu, Jenny Farrell, Sandy Gill, John Roughan, Marie Shroff, Vernon Small, Mark Stevens and Stephen Stewart.

CASE NO: 2384 – A ELBORN AGAINST THE NEW ZEALAND HERALD

The Press Council has not upheld complaints about two separate columns in the *NZ Herald* criticising Labour Party leader David Cunliffe and his use of a trust.

One column was by Claire Trevett and appeared on March 6. The other, by Fran O'Sullivan, appeared on March 8.

The Complaint

A Elborn criticised use of a "highly unflattering" picture of Mr Cunliffe in Trevett's column. She also criticised use of comments from a radio show in the column, where an elderly voter said she would not have voted for Mr Cunliffe because of his "crumpled" face. The combination of the picture and the quote from the voter was unfair and an attempt to unduly influence voters.

On the O'Sullivan column, the complainant objected to

its claim that Mr Cunliffe had "laundered" money through a secret trust. She contended the word commonly meant money obtained through crime or illegal means, or misuse of the financial system. Mr Cunliffe, she said, had not broken any parliamentary rules.

She said the first column was unfair and discriminatory, while the second used language to deliberately smear Mr Cunliffe's reputation.

Newspaper Response

Weekend Herald editor Jeremy Rees rejected any assertion that the columns aimed to "smear" Mr Cunliffe. The columns were by two of the *Herald's* most senior political and economic journalists. They were giving their opinion of Mr Cunliffe's performance, as columnists were expected and encouraged to do. Both columns were clearly marked as comment. Columnists were expected to take a position, and in this case they had: around Mr Cunliffe's concealing of a trust for donations to his leadership campaign.

Both referred to news stories of that week in which Mr Cunliffe had to reveal the previously secret trust. The columnists rightly gave their opinions on his behaviour and performance. They were calling him to account.

In regards to the "unflattering" picture, the editor said it could be regarded as showing Mr Cunliffe in full flight oratory. It was appropriate for the column. The column also pointed out that sometimes a politician couldn't catch a break, like its reference to the woman who said she wouldn't vote for him because his face was "crumpled". Mr Cunliffe's looks were an issue to the voter, not the writer.

He defended the O'Sullivan column's use of the word "laundered". "While it is strong language, it is surely justified. Mr Cunliffe admitted that he had used a secret trust to hide or 'launder' campaign funds." The Concise Oxford Dictionary defined money laundering as the transfer of (illegally obtained) money to conceal its origins.

The columnist's use of the word, while strong and possibly obnoxious to some people, fell within the definition as money was transferred to Mr Cunliffe to conceal its origins.

The columns were not biased against Mr Cunliffe, but were critical of his actions and deplored his behaviour. O'Sullivan had even gone out of her way to mention his good points. "They are both strong, critical columns as you'd expect from senior journalists confronted with a lapse by a leading politician. But they do not show any systemic bias against Mr Cunliffe."

Complainant's Response

Ms Elborn maintained her objection to Fran O'Sullivan's use of the word "laundered". "Cunliffe didn't use this word. It was Fran's word. The use of this word is biased and unfair. ... Use of the word laundering taints Mr Cunliffe's reputation."

O'Sullivan had no proof that the money was obtained through criminal means, nor did she say she had this information. "The trust wasn't illegal, nor was it secret."

Mr Cunliffe had admitted to a lapse of judgment, but the Trevett column did not comment on the speed and effectiveness of his later action. This was important for the public to know in terms of how a potential future leader

dealt with mistakes/errors of judgment.

The column did not mention that Mr Cunliffe had admitted an error of judgment. The “negative” column was also paired with a voter’s comment about not voting for him because of his face. The column reinforced that with a negative picture of Mr Cunliffe.

Press Council Decision

Freedom of expression and freedom of the media are key tenets of Press Council decision-making. Distinctions between fact; and conjecture, opinions and comment must be maintained. The Press Council’s Principle 4 notes that a clear distinction must be drawn between factual information and comment or opinion, and that an article that is essentially comment or opinion should be clearly presented as such.

The columns which prompted this complaint were clearly identified as opinion, and both were the views of senior journalists on a matter worthy of comment.

Selection of the photograph to accompany the Trevett column was the newspaper’s right. While the complainant may view it as unflattering, the contrary view could be that it simply shows Mr Cunliffe in full-flight oratory in Parliament. The comment about his “crumpled” face was that of a voter, not the columnist.

Use of the word “laundered” in the O’Sullivan column is arguable. However, the journalist was expressing a critical opinion, in deliberately strong terms, as columnists are encouraged to do. The complaints are not upheld.

Press Council members considering the complaint were Chris Darlow, Tim Beaglehole, Peter Fa’āfiu, Jenny Farrell, Sandy Gill, Marie Shroff, Mark Stevens and Stephen Stewart.

John Roughan took no part in the consideration of this complaint.

CASE NO: 2385 – MOIRA IRVING AGAINST TARANAKI DAILY NEWS

Moira Irving (the complainant) complained about articles published in the *Taranaki Daily News* on March 12 and 13, 2014.

The complainant alleged the article breached Principles 1 (Accuracy, Fairness and Balance) and 5 (Headlines and Captions) of the New Zealand Press Council Statement of Principles.

The complaint was not upheld by a majority of 7:2.

Background

The headline on the first story was “Waiiau eatery to close” and the second “Leading eatery to close, staff may head for Mexico”.

Both articles were about the Waiiau Country Estate (the Estate) with the first noting that the restaurant was to close but also that the Estate would continue to remain open for functions.

The article also contained some information about a previous wedding held at the Estate and awards won by the head chef in championships along with comments from an unnamed staff member.

The second article included the information from the

first, but also noted that a new Mexican eatery was opening in the future, so there could be employment opportunities for the staff.

Complaint

The complainant alleged that the headline was “sensationalised out of context” and unless people had read the full body of the article they would not realise that only the restaurant was to close.

She believed that the article was misleading and despite the fact that the restaurant did not close until the end of April, bookings stopped immediately as people thought it was already closed. This meant a large monetary loss to her business.

She went on to state that the headline and article also caused panic for persons who had functions already booked (she provided the Council with e-mail evidence of this) and she had to spend a huge amount of time in damage control reassuring people that the function side of the business was still open and wholly functioning.

She believed that it also impacted on future function bookings as general opinion following the article was that the Estate had closed and bookings dried up.

The Newspaper’s Response

In reply to the complaint, the associate editor said the newspaper believed the article was fair, accurate and clear and while stating that the eatery would close, it did state that the Estate would remain open for functions.

The newspaper did offer the complainant the opportunity to come back with a potential follow up story.

Discussion and Decision

The headline made it clear that it was the eatery closing. This point was reiterated repeatedly and high-up in the body of the article.

The owner of the restaurant was approached for comment and, while not elaborating on the reasons, took the opportunity to confirm the Estate would remain open for functions. This confirmation was the second sentence of the article.

Although the newspaper could have further explained the different aspects of the business and the separation of the function centre and restaurant, it was clear in the story what was closing and what wasn’t.

Principles 1 and 5 have not been breached and, as such, the complaint is not upheld.

Dissent

Council members Sandy Gill and Stephen Stewart thought the headline did not qualify the fact that only the restaurant was to close and any reasonable reader seeing that headline and not reading the full article would be left with the impression that the Estate itself was to close.

They noted that the body of the article did include the fact that the Estate would remain open for functions.

It was their view that Principle 5 had been breached in that while the body of the article contained accurate information, the headline was misleading and gave an incorrect impression to any person who did not read the full article.

Press Council members considering the complaint were Chris Darlow, Tim Beaglehole, Peter Fa'afiu, Jenny Farrell, Sandy Gill, John Roughan, Marie Shroff, Mark Stevens and Stephen Stewart.

CASE NO: 2386 – SUZANNE PIERCE AGAINST TARANAKI DAILY NEWS

Background

On May 9, 2014 the *Taranaki Daily News* carried an article based on a decision in the High Court, a decision which was publicly available. Justice Goddard had considered the legal standing of a note to his lawyer, written by an elderly man, Garth Hughes, a few hours before his death. The judge found that because of the impact of the man's deteriorating health on his ability to think rationally, his note could not be accepted as a legal amendment to his will.

The broader background was that Mr Hughes, having lived a very independent life, had at 88, to his distress, reached the point where a move to full-time care seemed unavoidable. His elderly sister came over from Melbourne to help him make the move and while he welcomed her arrival the stress of the situation was clearly difficult for them both. While arrangements were being finalized for the move to a rest home Mr Hughes took his own life.

The Complaint

The complainant, Suzanne Pierce accepted that the legal ruling was one of public and legal interest but she claimed that the article infringed Press Council principles relating to accuracy, privacy, and corrections. She and her husband had been neighbours of Mr Hughes, and had given the court their view of his health and his circumstances in the last weeks of his life. She claimed that these views as set out in the judge's ruling, had not been reported accurately in the article. A specific instance was the article's use of the word 'fought', which was not in the judgment, rather than 'argued', used to describe the relations between Mr Hughes and his sister during her final visit. Further, the complainant argued, the naming in the article of the people involved was unnecessary and caused distress. Finally, she suggested that the paper should have contacted her and her husband, having named them in the article, to give them the opportunity to comment prior to publication.

The Taranaki Daily News Response

In response the editor acknowledged the complainant's concerns and the distress the article could have caused both her and others. He appeared to concede her point on the word 'fought', and removed it from the online copy, but overall gave his view that the article was 'a fair report of an 11-page document'. He made it clear that where a judge releases a public decision 'his [the editor's] staff are expected to include the names in copy'. He agreed that had his staff talked to the complainant they could have gained further information but did not concede that they should have done so.

Discussion

The Council recognises that this case relates to circumstances in life which, while often unavoidable, are

far from happy and although the article on Judge Goddard's decision came fourteen months after Mr Hughes' death it would, inevitably, have caused distress to a number of people. But that, in itself, would not justify failing to report a case which clearly involves matters of public interest. In considering the complaint relating to accuracy the Council, on balance, accepts the editor's view that the article is a fair report of a longer document, the specific complaints were very few, and it does not uphold the complaint in this respect. Nor does it agree, since the report was essentially a report of a court case, that it was incumbent on the paper to interview anyone mentioned in the article.

The issue of privacy is less straightforward. A judge's ruling, such as this one, would always have been a public document in the strict sense while being relatively inaccessible to the public but, with the advent of the web making it readily available on-line, it is, in a sense, much more public. To have used initials in the story, rather than printing the names, as suggested by the complainant, could simply send readers to the on-line report. So the practical difficulties in the way of preserving privacy would be considerable. Nor was the story disrespectful to those mentioned; the complainant and her husband are shown in a very good light. The reporting of suicide, within certain limits, is less of an issue than it once was. One's reaction to reading of Mr Hughes' death is sadness and sympathy, not a feeling that its cause should be concealed. While understanding the plea for privacy, the Council greatly doubts the practical possibility of achieving it in this case, and even had this not been so is not satisfied that a clear case for privacy could be sustained.

Press Council Decision

The Council does not uphold the complaint.

Press Council members considering the complaint were Chris Darlow, Tim Beaglehole, Peter Fa'afiu, Jenny Farrell, Sandy Gill, John Roughan, Marie Shroff, Mark Stevens and Stephen Stewart.

CASE NO: 2387 – VANESSA ALEXANDER AGAINST RUGBY NEWS

Vanessa Alexander claims *Rugby News* failed to comply with Principles 1 (Accuracy, fairness and balance) and 11 (Photographs and graphics) of the Press Council Statement of Principles in relation to *Rugby News*' "Rugby Championship 2014 Special Edition". The edition referred to New Zealand's Prime Minister John Key and to the All Blacks.

Rugby News is not formally within Press Council jurisdiction and the editor has agreed to submit to the process.

The complaint was fast-tracked because of election-related content.

The Press Council does not uphold the complaint.

Background

The cover of the edition included a picture of the Prime Minister in All Black kit, standing in front of four well-known All Blacks, including the captain Richie McCaw. The cover carried the caption "Pack Leader John Key - #1 All Black Supporter". The edition included an article titled "All

Blacks #1 Fan".The article compared the Prime Minister's role and the importance of the All Blacks to New Zealand's standing particularly overseas.

The Complaint

Vanessa Alexander's complaint refers, she says, to the cover of the *Rugby News* edition. Ms Alexander says that the cover implies that the All Blacks have "endorsed" the Prime Minister and the National party. Ms Alexander says that the presentation of the Prime Minister's image in this way is a "cynical attempt to boost National's election result". Ms Alexander claims that this "breaches the rules of balance intended to help a functioning democracy" particularly given the edition has been published in proximity to the upcoming election. Ms Alexander says she has no complaint as to the article itself.

The Response

Rugby News responds by denying the connection Ms Alexander makes. *Rugby News* points to Mr Key's support for the All Blacks and to the All Blacks successes which have been for the country's benefit. The portrayal is appropriate. The connection Ms Alexander sees does not exist.

The Decision

The Press Council does not agree that *Rugby News*' use of Mr Key's image suggests that the All Blacks or the New Zealand Rugby Union have endorsed Mr Key or his party. The super-imposing of Mr Key's image is obvious and cannot on any objective view be regarded as any kind of endorsement. Nor can the cover be isolated from the article proper as Ms Alexander claims. The focus of the article is on Mr Key as New Zealand's prime minister and the relationship between his work and the achievement of the All Blacks. Indeed the caption to the article itself opens with the line "Whatever your politics...".

The magazine has acted responsibly in acknowledging, in two separate places, the manipulation of the cover photo (photoshop), and in flagging the fact it was not an ABS or NZRU endorsement. More was not required of the editor.

The Press Council does not agree with Ms Alexander when she says that the cover is unbalanced and prejudicial especially leading into an election.

The Press Council does not uphold the complaint.

CASE NO: 2388 – COMPLAINT AGAINST OTAGO DAILY NEWS

The Complaint

The *Otago Daily Times* carried a report on the sentencing of a woman for intentionally injuring her former flatmate and partner. The latter is the complainant. The accused had pleaded guilty to the charge and the report was based on her counsel's submission on sentencing and on comments by the judge.

The complainant, who did not attend the sentencing and was not legally represented, states she had asked Victim Support if they could ensure that she had name

suppression. For reasons which are not clear this was not given, and she was particularly upset that a statement relating to a condition she was said to have suffered from should have been reported. Not being represented, she had no opportunity to refute the statement, which she advises the Press Council is inaccurate. In any event, she advises that the judge said the attempt to bring the condition into the case was discriminatory and he declined to accept it as relevant.

She noted also that counsel had told the court that the accused had moved away from Dunedin while, in fact she, the victim/complainant, had been the one to move.

The Newspaper's Response

The editor, while responding sympathetically to the complainant's letter, and acknowledging that there is widespread concern about victims' rights, said he was unwilling to exercise discretion on matters such as name suppression which were properly the function of the court.

In his later response to the Council he stressed the principle of open government and the media's right to quote what is said in court. He reiterated his unwillingness to make decisions on name suppression while making it clear that the paper is prepared to consider cases in the light of particular circumstances.

He noted also that the report, which he believed to be accurate and not sensationalised, was published on page 32 of the newspaper, along with other court news from throughout the country.

Discussion

The complainant advises she asked Victim Support to apply for name suppression on her behalf. For reasons that are not clear this representation did not happen and that was unfortunate. There was no name suppression in place and the newspaper was entitled to publish the complainant's name.

The Ministry of Justice's Media Guide for Reporting the Courts, quoted by the editor, states 'freedom of the media is an integral part of our system of government'. There can be no dispute with this general principle, which is further guaranteed under the Bill of Rights Act.

In considering a complaint, however, the Council must also take into account its established principles; those relevant in this case would appear to be Principle 1 Accuracy, Fairness and Balance, Principle 2 Privacy, and Principle 6 Discrimination and Diversity. The weight given to these principles, in the particular circumstances of any case, may be a matter for ethical discussion.

The concern in this case, in relation to the named condition, is that the newspaper published only the comment from counsel. If the newspaper was determined to publish this statement, in the interests of fairness and accuracy it should also have printed the response the judge [reportedly] made. Unfortunately, on the information before it the Council is unable to determine the facts of the matter.

The Council acknowledges and endorses the media's right to report Court proceedings, and for this reason does not uphold the complaint. But the Council expresses concern that in this case the complainant has been

revictimised by a gratuitous reference to a condition she may or may not have. It is for this reason that the Council has chosen not to name the complainant.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Peter Fa'afiu, Jenny Farrell, Sandy Gill, John Roughan, Marie Shroff, Vernon Small, Mark Stevens and Stephen Stewart.

CASE NO: 2389 – CARON FLETCHER AGAINST STUFF

Caron Fletcher complained that *Stuff NZ* breached Principles 1 (Accuracy, Fairness and Balance), 5 (Headlines and Captions) and 8 (Subterfuge) in relation to the headline on a story about the Women's Refuge Symposium in Auckland on July 4.

Background

On July 4, 2014, *Stuff* published a story on a Women's Refuge Symposium on domestic violence which carried the headline: "David Cunliffe: I'm sorry for being a man".

The symposium followed the government's newly announced initiatives to curb domestic violence in New Zealand and gave political parties the opportunity to present their policies on domestic violence.

The story focused on Labour Leader David Cunliffe's address to the symposium, in which he criticised the government's approach to the problem and outlined Labour's policy on domestic violence. In his speech Mr Cunliffe stated: "I don't often say it – I'm sorry for being a man because family and sexual violence is overwhelmingly perpetrated by men."

The Complaint

Ms Fletcher cited Principles 1 (Accuracy, Fairness and Balance), 5 (Headlines and Captions) and 8 (Subterfuge) in her complaint about the story headline, which she described as "shocking" and "offensive".

She asserted that the whole point of the symposium had been lost because *Stuff* had taken a serious issue and made it "gutter press".

Ms Fletcher was highly critical of the journalist who wrote the report because she believed she had also written the headline. She said she was "disgusted" with the journalist, and accused her of bias.

She requested that the article be removed from the *Stuff* website immediately.

In email correspondence with Ms Fletcher, *Stuff* editor Glen Scanlon said the headline had not been written by the journalist but by a web subeditor. He agreed that headlines are a way to get people reading a story, and they were sometimes provocative, but said the headline in question reflected exactly what Mr Cunliffe had said at the symposium.

Ms Fletcher's response was that it was a "cheap shot at the extreme end of what is proper and right", and suggested the editor "should keep his bias to himself".

The Response

In the response to the Press Council *Stuff* denied there had been any breach of the Press Council principles.

Addressing Principle 1, Accuracy Fairness and Balance, the editor said the report was an accurate one that reflected what Mr Cunliffe said at the meeting.

The editor referred to the email exchange with the complainant, which pointed out that nearly 75 percent of original piece covered Labour's domestic violence policy.

He said the story had subsequently been updated to include comment from the Women's Refuge chief executive, Heather Henare, the government minister for social development, Paula Bennett, and later, from the prime minister. There was also a video link with reaction, a call for comments from readers, and a *Stuff Nation* writing assignment asking readers to present their solutions.

He submitted that this was evidence of the length *Stuff* had gone to ensure the story was accurate, fair and balanced.

On Principle 5, Headlines and Captions, the editor stated that the headline accurately reflected what Mr Cunliffe said at the meeting.

As noted in his original reply to the complainant, he said that headlines may be considered provocative at times, but that didn't make them wrong. He rebutted Ms Fletcher's claim that he had said the headline "was done to rile up readership".

On Principle 8, Subterfuge, the editor said Mr Cunliffe was speaking at a public event, and this was directly reported on. There was no subterfuge.

Discussion

David Cunliffe's apology to women at the Women's Refuge Symposium in July was controversial, and in the ensuing weeks it polarized the public and provoked considerable debate.

Mr Cunliffe's colourful language in his speech when he referred to the "bullshit, deep-seated sexism" prevalent in New Zealand, and the "I'm sorry to be a man" apology meant any journalist who attended the symposium would have reported it; such a strong statement from a senior politician was newsworthy and is of public interest.

The complainant criticizes the headline for being "a deliberate attempt to garner reaction". It was certainly provocative, but as the editor pointed out, that does not make it wrong.

Headlines frequently contain part quotes as a way to get readers' interest. That is their function. The full quote was in the third paragraph of the story, which also contained Mr Cunliffe's criticism of the government initiatives, outlined Labour's policies, and provided comment from other sources. It was a fair and accurate representation of the story. It did not breach any Press Council principles.

Decision

The complaint is not upheld.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Peter Fa'afiu, Jenny Farrell, Sandy Gill, John Roughan, Marie Shroff, Vernon Small, Mark Stevens and Stephen Stewart.

CASE NO: 2390 AND 2391 – LINDSAY LYONS AND FRANK MACSKASY AGAINST THE NEW ZEALAND HERALD AND HERALD ON SUNDAY

The Press Council received complaints from Lindsay Lyons and Frank Macskasy concerning articles published in the *New Zealand Herald* and *Herald on Sunday*.

The Council determined that these two complaints should be considered together. Mr Macskasy did not specify the principle alleged to be breached, while Mrs Lyons alleged breaches of Principles 1 and 4.

Background

The *New Zealand Herald*, and the *Herald on Sunday*, commenced an investigation into the relationship between a wealthy Chinese immigrant, Donghua Liu, and the two major New Zealand political parties, National and Labour. A significant number of articles were published in both the *New Zealand Herald* and the *Herald on Sunday* concerning these relationships. It is reasonable to categorise the articles as critical of the relationship between the wealthy businessman and both the major parties. The initial publications related to the relationship with the National Party, culminating in the resignation of Hon Maurice Williamson from his ministerial duties.

The Leader of the Opposition, Hon David Cunliffe, was critical of the activities of National Party Ministers and MPs in their relationship with Mr Liu.

Both newspapers then commenced a series of articles relating to Mr Liu's dealings with the Leader of the Labour Party in his role as an electorate MP; and with the former cabinet minister, Hon Rick Barker. First, the papers revealed a letter from Mr Cunliffe that had been written on April 11, 2003 to the Immigration Department relating to Mr Liu's application to that Department. This was published following Mr Cunliffe's denial that he had ever had any dealings with, or on behalf of, Mr Liu. Subsequent articles reported that Mr Liu purchased a book signed by Rt Honourable Helen Clark at a Labour Party function for \$15,000 and that the newspapers had come into possession of a signed statement from Mr Liu. They further reported that these revealed that Mr Liu had paid \$100,000 for a bottle of wine signed by Ms Clark, at a Labour Party function. Ultimately, stories reported that Mr Liu had hosted Mr Barker to a lavish dinner in China, and made a donation to a rowing club in the Hawke's Bay of which Mr Barker's daughter was a member.

The Macskasy Complaint

- i) That the June 18 story revealed the date of the letter as April 11, 2003. In several of the subsequent stories, he maintains, reference to the letter omitted this date, thereby suggesting to readers it was recently written.
- ii) An article claimed Mr Liu had paid \$15,000 for a book at a Labour Party fundraiser. He complains that there was no evidence to back the claim, and the Labour Party denied it.
- iii) That the claim that Mr Liu paid \$100,000 for a bottle of

wine lacked evidence to back up the claim, especially when the Labour Party stated no such event had taken place.

- iv) That the newspapers were obliged to publish the signed statement they said they held from Mr Liu, and it was unconscionable not to do so.
- v) On June 18, in a comment, the chief political commentator, John Armstrong, demanded Mr Cunliffe's resignation. The complaint alleges there was failure to refer to the fact the letter had been written in 2003; by omitting this, the commentator was able to reach an unreasonable conclusion; and finally, taken in context of subsequent stories, the paper had adopted an unfair and biased stance against Mr Cunliffe.
- vi) The bias was said to be emphasised by the reporting of thousands of dollars being spent on a social event for visiting Labour MP Rick Barker, which the complainant states, based on Mr Barker's statements, was simply a staff dinner. The same complaint states that there is innuendo relating to the donation to the Hawke's Bay Rowing Club.

The Lyons complaint

Mrs Lyons complains that the article on June 22, 2014 was in breach of Principles 1 and 4. She also complains of a follow up article on June 29. The complaint is the former article led readers to believe that Mr Liu had made \$150,000 of payments to the Labour Party, including \$100,000 for wine at a fundraiser and \$50,000 for a cruise in China. There is a further reference to an interview with the *New Zealand Herald* editor Tim Murphy with Radio New Zealand on June 23, 2012, where he said, "Well what's not to stand by? Donghua Liu made this claim, he signed it, we have the document, now whether he is correct is yet to be seen." The complaint is that the *New Zealand Herald* did not feel the need to check the veracity of Mr Liu's claims before printing them. It is accepted that since then, the *New Zealand Herald* has made clarifications regarding the amounts said to be spent and quoted Mr Cunliffe as saying the alleged events were six years before his time.

The Herald's Response

In relation to Mr Macskasy's complaint, the editor-in-chief of the *Herald* titles says that the date of the letter was prominently publicised when the story was first broken, and the fact that the residency application by Mr Liu was in the mid-2000s was referenced a number of times. He stood by the report the book was purchased, and accepted that the claim of \$100,000 for wine was mis-reported, but was soon corrected when further information became available from Mr Liu. This correction was clarified on all their channels and in the subsequent *Herald on Sunday*, and explained in an editorial in the *New Zealand Herald*. He says it is not an automatic thing to make public documents which a newspaper obtains in the part of an ongoing inquiry. He points out that the letter by Mr Cunliffe was obtained under the Official Information Act, released to all media, and was a public document. While Mr Macskasy accepted Mr Barker's claim that the function was a staff dinner, the newspaper did not. He further stated that it would be naïve to assume the donation to the rowing club associated with an

MP was unconnected to the MP.

In relation to Mrs Lyons' complaint, Mr Murphy responded that those complaining about the reporting of the relationship between Mr Liu and the Labour Party overlooked the *Herald's* coverage of the National Party and its donations and relations with the same person. He stated he did not suggest on National Radio that the *Herald on Sunday* had rushed into print without verifying the donations story. He said the paper had validated the source of the document and confirmed it was the view of Mr Liu, who was the central figure in the affair. He said the dollar figures stated were based on Mr Liu's signed statement. He accepted in hindsight that the statement was possibly ambiguous. Mr Liu was pressed to clarify the position and when he did a correction was published.

Decision

It is apparent that the *Herald* publications carried out an in-depth and ongoing investigation of the relationships between National and Labour and Mr Liu.

At the heart of Mr Macskasy's complaint is the failure of the *Herald* in later articles to continue to repeat the date of Mr Cunliffe's letter. The *Herald* has provided us with the full series of articles, which make it plain that the date was published, and a link to the full letter provided. It was a public document. We are satisfied that readers of these publications, in context, would be aware of the timing of the application for residency and the fact that Mr Cunliffe's letter was published some time earlier. The publication of the letter only followed Mr Cunliffe's denial of having anything to do with Mr Liu. We are not satisfied a reader would have been misled. As we have said previously where there is a series of linked stories it is not necessary in subsequent articles to repeat every detail. In any event the date of the letter and the fact it was written 11 years previously was repeated in a number of articles.

We accept in part the criticism from both Mrs Lyons and Mr Macskasy regarding the reliance on information from Mr Liu only, including his signed statement. It can correctly be distinguished from the Cunliffe letter released under the Official Information Act. We do not consider there is any obligation on a newspaper to publish it in full. While they were entitled to rely on such a statement as part of the factual basis when reporting the paper failed to adhere to a basic tenet of journalism... the need to have confirmation from a second source. As a result the reporting about which Mrs Lyons is complaining was incorrect. We accept the statement was ambiguous and could have been read to mean Mr Liu had paid \$100,000 for a bottle of wine when in fact he was attempting to convey he had spent \$100,000 in total for various matters relating to the Labour Party and Mr Barker. But if a second source had been sought to confirm the story the error would not have occurred.

However, we accept that the *Herald* assiduously pursued Mr Liu for clarification and when it came immediately published a correction. A number of subsequent articles repeated the correction. Principle 12 reads: "*A publication's willingness to correct errors enhances its credibility and, often, defuses complaint. Significant errors should be promptly corrected with fair prominence. In some circumstances it will be appropriate to offer an apology and a*

right of reply to an affected person or persons." Here it was the *Herald's* enquiries that revealed the error. It was corrected promptly with fair prominence and the correction was repeated. In those circumstances the Council does not uphold the complaint.

Neither complaint is upheld.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Peter Fa'afiu, Jenny Farrell, Sandy Gill, Marie Shroff, Vernon Small, Mark Stevens and Stephen Stewart.

John Roughan took no part in the consideration of this complaint.

CASE NO: 2392 – MALCOLM SCOTT AGAINST THE NEW ZEALAND HERALD

Background

On April 16, 2014 the *NZ Herald* published a front page article (also published online) on a decision by the Health Practitioners Disciplinary Tribunal (HPDT) where Dr Rose Streat was found guilty of professional misconduct. Dr Streat was an Auckland doctor training to be an anaesthetist. Based on the Tribunal's findings, the article catalogued Dr Streat's struggles with alcohol, her employer's responses over the years, and stated the reasons the Tribunal had found her guilty and therefore censured and suspended her from practice.

The Complaint

Dr Malcolm Scott, a GP from Tauranga, laid a complaint with the *NZ Herald* citing a number of elements which taken in totality he regarded as possibly having a detrimental effect on Dr Streat. His complaint included:

- Article is not newsworthy let alone justifies its position on the front page
- Dr Streat has a greater right over privacy over the public's right to know of her drink driving conviction
- Dr Streat is not an individual who holds public office and so does not justify the level of public attention
- There was no miscarriage of justice or threat to public safety from Dr Streat
- Article is simply tabloid journalism without any public value
- The possible negative impact the article might have on other doctors who might be struggling with the same addiction

In one of his emails to the Press Council, he reaffirms that his argument (therefore complaint) is that public's need or right to know the individual's name in this case is outweighed by the individual's right to privacy and by the potential damage the article might cause to that individual and those around her.

The NZ Herald Response

Cathy O'Sullivan, Head of News, responded for the *NZ Herald*. The *Herald* explained that its journalists regularly attend Health Practitioners Disciplinary Tribunal hearings. Findings can be found on the HPDT's website. Health practitioners care for the most vulnerable and *Herald* readers are keenly interested in outcomes of such hearings.

In the case of Dr Streat, Ms O'Sullivan argued that the *Herald* reported on the Tribunal's findings, steps taken by her employer to manage her alcohol struggles, her name

was not suppressed, and given health practitioners are held to a high standard, the finding of professional misconduct was an important story. In summary, the *Herald* reported on the matter (the Tribunal findings) in a “responsible manner.” The public interest was served by the publication of the story.

Dr Scott was not satisfied with the response and brought the matter to the Press Council citing breaches of principles related to privacy and confidentiality.

Decision

The Council acknowledges that anyone’s struggle with alcohol is a delicate situation. Even more so if one’s profession has high standards of conduct and the person is an important member of our society like our health professionals.

Dr Scott’s argument contains a number of threads. However, it centres on whether the individual’s right to privacy outweighed the public’s right to know. This statement and Dr Scott’s opening remarks of his complaint (“As I read the article, I was looking for information regarding patients’ lives put at risk...”) acknowledges that the media do have a responsibility to report on matters which are of public interest. Dr Scott believes that because no harm was done to a patient or that no ‘cover up’ had taken place during the disciplinary procedures, notwithstanding the publication of the decision and her name on the HPDT’s website, Dr Streat was entitled to her right to privacy through non-publication of those findings in the media.

The Privacy Principle is not absolute. The right should not interfere with publication of “significant matters of public record or public interest.”

The Tribunal’s findings were clear. Following a number of attempts by relevant authorities to support her through her struggles, Dr Streat failed the standards she agreed to uphold when she became a health practitioner. The public’s right to know does not only arise when something has occurred but can also act as a preventative measure raising awareness so no harm is caused. At the same time, the *Herald* exercised particular care with the situation through an accurate reporting of the Tribunal’s findings.

The publication of the story highlighted how the profession whom New Zealanders rely on in vulnerable situations is able to deal with its members in a disciplined and yet compassionate way. The article catalogued all safeguards and measures, put in place previously by Dr Streat’s employers, and highlights what measures the Tribunal has put in place to continuously protect public/patient safety when she does return to practice. As a former Chairman of the New Zealand national committee said to the *Herald* “safety is paramount.”

Dr Scott makes a point about other health practitioners with similar issues becoming at risk of their struggles being published. The Tribunal’s process showcases how the industry will deal with such discrepancies and misconduct. The reporting of that alone should remind health practitioners of the high standards expected of them and also reaffirm that its disciplinary system continues to provide measures and safeguards that is respectful to the professional and yet provides confidence for the public.

The story was a matter of significant public interest and so the privacy principle is not breached.

The Tribunal’s findings are a matter of public record so the confidentiality principle is not breached.

The Council does not uphold the complaint.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Peter Fa’afiu, Jenny Farrell, Sandy Gill, Marie Shroff, Vernon Small, Mark Stevens and Stephen Stewart.

John Roughan took no part in the consideration of this complaint.

CASE NO: 2393 – MAX SHIERLAW AGAINST WAINUIOMATA NEWS

Introduction

Max Shierlaw, a Hutt City Councillor, complained that the *Wainuiomata News* published:

- an article quoting anonymous player sources who said improvements to the local rugby ground were unsuccessful;
- an anonymous letter from a reader alleging local misuse of public funds.

Mr Shierlaw complained both made unsubstantiated allegations, in breach of aspects of Principle 8 (Confidentiality).

The complaint is not upheld in relation to the first element about the upgrade of the rugby ground. The complaint is upheld on the second element in respect of the anonymous letter.

Background

The *Wainuiomata News* on June 11, 2014 published a news story about the upgrade of William Jones Park to provide a durable playing surface for rugby. The story was headlined “Upgrade “not worth it” “ and quoted critical comments from players, who wished to remain anonymous, saying the upgrade had not improved things. The story also quoted the Wainuiomata Rugby Club Chairman who strongly defended the improvements and explained there was a second stage of the upgrade to come.

On June 11 *Wainuiomata News* also published an anonymous letter from a reader who made a number of vague but potentially serious allegations about local council members in the Hutt Valley.

The Complaint

For both parts of his complaint Mr Shierlaw cites Principle 8 which reads:

Confidentiality

Publications have a strong obligation to protect against disclosure of the identity of confidential sources. They also have a duty to take reasonable steps to satisfy themselves that such sources are well informed and that the information they provide is reliable. Care should be taken to ensure both source and publication agrees over what has been meant by “off-the-record”.

Principle 1 “Accuracy, Fairness and Balance” is also relevant, as is Principle 5 “Columns, Opinion and Letters”.

Taking first the article on the rugby ground, the

complainant believes that the use of critical comments from anonymous players was unjustified. Those quoted were going on hearsay rather than personal experience of playing on the field. The complainant believes that players who had recent experience of the ground should instead have been consulted.

The second element of the complaint concerns the published anonymous letter making allegations about Hutt Valley councillors, including knowledge of and failure to act on, misuse of public funds; lack of accountability; and a question about possible local body employment issues. The complainant regards these allegations as serious, says there “is not a shred of evidence to back them” and that the anonymous letter has caused distress and given rise to mistaken allegations in the local community about who authored it.

The Response

On the rugby ground story, the reporter explained to the complainant that he had personally checked the state of the ground after a match and believed this confirmed the players’ views about lack of improvement following the upgrade work. He noted that he had included in the story balancing comment from the rugby club saying further improvements would bring the ground up to a standard comparable with Hutt Rec.

On the anonymous letter, the reporter told the complainant the letter was published as “part of a public forum”. He further claimed that the allegations “were backed up and although being anonymous there was evidence behind them”. He apologised to the complainant on both issues and hoped to discuss the matters in person with him.

The complainant was not satisfied, rejected a meeting, and complained to the Press Council.

The publisher has subsequently responded to the Council that he upholds the paper’s position on the rugby ground story. He defends the protection of the identity of the players, who feared an adverse impact on their playing careers if they were quoted in the story.

On the anonymous letter the publisher responds that the journalist tried but failed to contact the author before the letter was published. The publisher says “The letter was cut but should not have been published without speaking with the correspondent”. The publisher now notes that “the journalist understands our criteria for letters”. The complainant rejected a further offer of a meeting from the publisher.

Discussion and Decision

The story on the rugby ground contained an account of views on both sides - those of the local rugby club and the criticism from players. While it would have been desirable to quote players who had personal experience of the upgraded ground rather than hearsay, the reporter claims that following a game he personally checked on the condition of the ground. An effort seems to have been made to check validity of the facts as required by Principle 8, and in the Council’s view overall balance as required by Principle 1 was achieved in the story through quoting contrasting views on the condition of the ground.

The anonymous letter was published without checking with the author. No evidence was advanced in the response of the newspaper that other checks to test the validity of, or that any other support or evidence existed for, the potentially serious allegations made in the letter. The publisher has effectively conceded in his response that the letter should not have been published.

The Council’s Confidentiality Principle requires reasonable steps to be taken to establish that confidential sources are well informed and reliable. Principle 5 on columns, opinion and letters provides in part that “Letters for publication are the prerogative of editors who are to be guided by fairness, balance and public interest.” In a ruling of October 2010 the Council repeated its view that “Letters published with a pseudonym are no longer appropriate in almost every case in modern journalism. A publication which is available for public subscription does a disservice to its readers and the general principle of robust editorial debate by concealing the letter writers’ names”. The Council went on to say that “The vast majority of newspapers now require correspondents to demonstrate the courage of their convictions by publishing their names.”

The Council finds that that the publication of the anonymous letter did not meet the requirements of its principles especially in relation to accuracy, fairness and balance.

The complaint is not upheld in relation to the story about the upgrade of the rugby ground.

The complaint is upheld in relation to the publication of the anonymous letter.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Peter Fa’afiu, Jenny Farrell, Sandy Gill, John Roughan, Marie Shroff, Vernon Small, Mark Stevens and Stephen Stewart.

CASE NO: 2394 – COMPLAINT AGAINST LUCKY BREAK

Lucky Break is a weekly magazine designed for a general readership with stories about the fortunes and misfortunes of ordinary New Zealanders. “It’s not about celebrities,” its website explains, “it’s about the person next door and their incredible triumphs and tragedies...” The complainant’s photograph was published in the June 9 issue as part of an illustration for a story of a gruesome murder. She had no connection to the crime apart from being a relative of the woman convicted.

The story described how in a fit of rage one woman killed another with whom she had been having an affair. Reportedly, an argument developed and the convicted woman stabbed her lover 33 times, cut her throat and severed both ears, stuffing one of them in the dead woman’s mouth. The next day she buried the body in bush some distance away. The illustration above the story was primarily of the crime scene investigation but a small inset photograph showed two women embracing. It was captioned, “Family members on both sides were distraught.”

The identifiable woman complained that the picture was printed without her knowledge and she did not want to be associated with an event that had caused so much

heartache. She did not want people finding out that it involved a member of her family. She had attended the court reluctantly to keep her family informed. She tried to avoid the media for her children's sake and on the day the photograph was taken she was escorted to her car by a police officer in an attempt to keep the media at bay. But the victim's daughter had been courting publicity and was waiting at the car with a reporter. The complainant called the picture a "set-up".

When the photo was published in *Lucky Break*, more than a year after the trial, the complainant said she cut and dyed her hair, could not sleep for three nights and did not leave her house for a week. She remained still nervous being anywhere that had magazines lying around. She believed the photograph to be a breach of the Press Council's principle of privacy which states in part: "Publications should exercise care and discretion before identifying relatives of persons convicted or accused of crime where the reference to them is not directly relevant to the matter reported."

For *Lucky Break*, the Bauer Media Group legal counsel Genevieve O'Halloran responded that the picture was taken in a public place and made widely available through a syndicated news service. While the caption identified the complainant as a "family member" associated with the case it did not specify whether she was related to the assailant or the victim. Ms O'Halloran did not believe the complainant warranted special consideration such as might be accorded a victim of trauma or a vulnerable child. There was no ethical or legal requirement in New Zealand to seek consent from subjects of images captured in public places and any such requirement would have "a chilling effect" on news gathering.

The Decision

Press and television coverage of criminal trials often includes photographs or footage taken outside the court of family and friends of those involved. They are not often named but they will be recognised by those who know them. The Council's principle of privacy requires the exercise of care and discretion in identifying relatives of those accused of crime where the relatives are not "directly relevant" to the subject matter. Though the complainant's name was not used, there is no question she was identifiable in the photograph. The question is, was she "directly relevant" to the matter reported?

She had no part in the magazine's account of events. Her name did not appear in the story, which included comments from the murdered woman's daughter but made no mention of the convicted woman's family. However, the Council recognised that the reactions of families of the accused or convicted, as well as families of victims, can be relevant to the story of a crime. Families of a guilty party are naturally not as willing to comment and it will frequently happen that their only presence in a report is in a picture, particularly of their reaction to a conviction or sentencing. Their visible reactions can speak clearly to the reader. The article simply stated that the family members on both sides were distraught.

It was also clear in her complaint that the crime caused great distress for the convicted woman's family and this

is a dimension of information in crime reports that the Council was reluctant to discourage.

While the Council needs to balance the interest of personal privacy against the interest of public information we need to be cognizant that this photograph was taken in a public place. Indeed, the privacy principle cited in this case also states, "the right of privacy should not interfere with publication of significant matters of public record or public interest."

The Council had sympathy for the complainant, particularly in view of the way she said the picture was taken, and the effect its publication has had on her, but did not uphold the complaint. To do so, it said, could create a precedent that would deny newspapers the ability to capture such images in a public place and portray the important fact that families of the guilty suffer too. Editors should always bear in mind the discretion they have in deciding whether or not to publish. It is an ethical not a legal decision.

Professor Tim Beaglehole would have upheld this complaint and dissented from this decision

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Peter Fa'afiu, Jenny Farrell, Sandy Gill, John Roughan, Marie Shroff, Vernon Small, Mark Stevens and Stephen Stewart.

CASE NO: 2395 – COMPLAINT AGAINST HERALD ON SUNDAY

The complainant alleges a breach of Principle 1 of the Press Council principles. Principle 1 requires accuracy, fairness and balance in publications.

Although the complaint relates to an article published by the *Herald on Sunday* on June 1, 2014, and to some extent to earlier articles on the same subject-matter, the complainant confines the complaint to her contact with a journalist on May 31, 2014.

The Press Council does not uphold the complaint.

Background

In January 2014 the New Zealand Teachers Disciplinary Council formally censured the complainant (a head mistress and classroom teacher) for serious misconduct and cancelled her registration as a teacher. The misconduct related to the complainant's relationship with a student with whom she was in contact at the school where she taught, at a time when the complainant was suffering from significant mental health issues. All parties, including the complainant, agreed that her conduct amounted to emotional manipulation and psychological abuse of the student.

The Tribunal declined to publish its decision in a form that would identify the parties to the case. The complainant later asked for the name suppression to be lifted, but the other party (or parties) objected and suppression remains in place. For that reason, the Press Council decided not to identify the complainant in this case.

The *Herald on Sunday* appears to have reported on the case on several occasions, both before and after the Tribunal hearing but the article relevant to this complaint was published immediately after the complainant appeared on a TV3 programme on May 28, 2014. The article largely

concerns the reaction of the student's mother to that appearance.

The Complaint

The complainant complains that the journalist in question

- a. Although the television appearance was three days earlier, left it until 6 pm on the day before publication to contact her for comment. She was then unwilling to tell the complainant enough about the content of the article to enable meaningful comment.
- b. Refused to meet her that evening to view the material that the complainant wished to present, putting personal expedience before journalistic integrity by saying she needed to get home
- c. Refused to consider delaying publication of the article until she had had time to consider the complainant's material.

During the course of the complaint process, the complainant also complained that one of the theme tags for the online version of the article was "crime". She had neither been accused nor convicted of any criminal behaviour.

The Herald on Sunday response

The editor of the *Herald on Sunday*, Miriyana Alexander, said that the journalist had interviewed the complainant at some length and "we believe we fairly and accurately reported those key points from the interviews that were relevant to the story". She explained that the bulk of the reporting of the story was done on Saturday May 31. She acknowledged, and apologised for, the late approach to the complainant but said that the reporter who had her contact details had left the paper and the country. As soon as Ms Alexander became aware that no contact had been made, she suggested attempting to contact the complainant through her parents, and this was how contact was made.

The contact consisted of two telephone conversations with the journalist, one of 25 minutes and one of 27 minutes. The complainant asked the journalist to consider material that, in the complainant's view, supported her beliefs about the motivation of the student's family in lodging the complaint and in their subsequent comments to the media. In Ms Alexander's opinion, that material was irrelevant to the charges considered by the Tribunal and reported by the *Herald on Sunday*. The published article reported the complainant's statements made on the television programme and otherwise reflected the Tribunal findings.

Ms Alexander later advised that the "crime" tag had been added to the story in error by an online content loader and was removed as soon as she became aware of it.

Discussion

It is unfortunate that the recordings of the two conversations of May 31, 2014 are of poor quality and it is only possible to hear one side of the conversation. They have therefore been disregarded for the purposes of this assessment. This means that it is not possible to assess how much the reporter told the complainant about the content of the proposed article. However both parties agree that the conversations were mostly about the material that the complainant wanted the reporter to view.

It is clear that the complainant's main concern is her

perception that she stands accused of a sexual relationship with her student or at least of grooming her for a sexual relationship. She denies that either is the case. The Tribunal decision mentions emotional manipulation and psychological abuse, and provides examples of both. It does not mention or cite examples of sexual contact or suggest that grooming took place. The complainant has supplied a copy of an email from the student's mother which appears to confirm that the relationship was not a sexual one.

It is also clear that although the complainant directs her complaint to the behaviour of the journalist, the June 1 article is very relevant to the complaint. If the complainant had not been concerned about the content of the article, there would have been no complaint. She refers to "innuendo" and "implication" in support of her view that it effectively accuses her of criminal conduct.

The article consists almost entirely of a report of an interview with the mother of the student and quotes her extensively. There is no suggestion that the quotations are inaccurate. There is very little editorial comment, and it is confined mostly to statements of fact. Only one sentence reflects the journalist's conversation with the complainant. This apparent imbalance is not unreasonable, since the article was written in the context of the May 28 TV programme, in which the complainant put forward her views at some length.

Ms Alexander has satisfactorily explained the delay in contacting the complainant for comment, and has also apologised for it. The complainant made the point that the *Herald on Sunday* had probably archived her telephone number and in any event had several ways of contacting her. It was one of these ways that was in fact used to make contact.

The remaining question, therefore, is whether the journalist ought to have seen the material offered by the complainant before completing her article. The complainant's view is that it confirms that her relationship with the student was not a sexual one and also sheds light on the mother's motivation for making the remarks reported in the article. However at no time did the article state or imply that the relationship was a sexual one. It uses the term "inappropriate relationship" which is the term used by the Tribunal in its decision. It also refers to "obsessing over" and "targeting" the student. None of these necessarily imply a sexual motive. In addition, it is difficult to see the relevance of the mother's possible motives in making statements which the complainant obviously considers inaccurate. The decision that the material was irrelevant was one that the journalist could reasonably make, and it did not result in any breach of the Press Council Principles.

The use of the "crime" tag on the online article is unfortunate, but has now been remedied and does not appear to have been the responsibility of the *Herald on Sunday*.

The complaint is not upheld.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Peter Fa'afiu, Jenny Farrell, Sandy Gill, Marie Shroff, Vernon Small, Mark Stevens and Stephen Stewart.

John Roughan took no part in the consideration of this complaint.

CASE NO: 2396 – LOUISE WICKHAM AGAINST NEW ZEALAND HERALD

Louise Wickham claims that an article published on *nzherald.co.nz* on June 18, 2014, was overly negative and unbalanced and, therefore, breached Principle 1 (Accuracy, Fairness and Balance).

The complaint is not upheld.

Background

The article published on *nzherald.co.nz* was provided by news service *BusinessDesk*.

It covered the response of Trans-Tasman Resources (TTR) to an Environmental Protection Agency (EPA) decision to reject its application to mine iron sand off the coast of Patea.

The article was based on a statement from TTR because the company responded before actual details of the EPA decision were made public.

TTR was “extremely disappointed with the decision”.

No reasons for the EPA decision were given in the body of the article, although it was reported to be a win for the lobby group Kiwis Against Seabed Mining (KASM) and a blow to the Government.

Subsequent to the *BusinessDesk* article being provided to *nzherald.co.nz*, the full EPA decision was embedded in the article.

Complaint

The article was unduly negative and did not mention any of the EPA’s reasons for rejecting TTR’s application to mine.

Although a full link to the decision was provided, readers would have been left with a negative impression of what was a balanced EPA decision.

The article went beyond bad reporting and smacked of advocacy.

A word count showed most space was given to TTR’s viewpoint, very little was given to KASM’s ‘victory’ and none was given to the reasons behind the EPA decision.

The article was biased and unfair.

Editor’s response

The response was provided by *New Zealand Herald* business editor Liam Dann but included additional comment from *BusinessDesk* editor Patrick Smellie.

BusinessDesk is a wire service providing content continuously as developments occurred.

The article was provided to the *Herald* before the EPA decision was available. *nzherald.co.nz* then included a link to the full decision.

At more or less the same time a separate version of the story - but including reaction and detail of the decision - was written by a *New Zealand Herald* staff reporter and published in a different, more prominent area of the website.

A further follow-up article - also including reaction and decision detail - was provided by *BusinessDesk* and published in full in the *New Zealand Herald* newspaper the following day.

Discussion

Herald coverage, online and in print, of TTR’s bid to mine iron sand off Patea had also included articles leading up to and after the EPA decision.

The Press Council principle on Accuracy, Fairness and Balance allows for balance to be judged over a number of stories, rather than a single report.

nzherald.co.nz did include a link to the full EPA decision, which included its reasons, within the *BusinessDesk* article.

Linking to relevant documents, reports etc within editorial content is now a normal part of modern digital storytelling. It should be viewed as an advantage to the reader.

Although it was odd to feature two different versions of the same story on the same day, the separate article by the staff reporter did also include EPA reasoning and KASM reaction.

nzherald.co.nz time stamps suggest the staff reporter’s version was published before the *BusinessDesk* copy.

The link in the *BusinessDesk* article, as well as the additional *Herald* reporting, made for fair and balanced coverage of the matter. The complaint is not upheld.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Peter Fa’afiu, Jenny Farrell, Sandy Gill, Marie Shroff, Vernon Small, Mark Stevens and Stephen Stewart.

John Roughton took no part in the consideration of this complaint.

CASE NO: 2397 – CAPITAL COAST DISTRICT HEALTH BOARD AGAINST THE DOMINION POST

Background

The Dominion Post on July 31, 2014 carried an article by its health reporter discussing the strain on the resources of the Wellington Hospital caused by winter sickness, most notably by the jump in the number of people turning up at the hospital’s emergency department, most of them with flu.

The article noted that in June the hospital had dealt with more than nine out of 10 such patients within six hours of arrival – a government-imposed target for all district health boards – which was a marked improvement from earlier years, but it also reported a claim by a member of staff that one patient had had to wait for more than 18 hours to be seen in the emergency department.

The Complaint

The Capital Coast District Health Board complained that the statement about the 18-hour wait was inaccurate and that the reporter had not checked the allegation (from a single source) with the Board prior to publishing the story. The Board asked the paper to prove the claim. The paper replied that they could not and it was agreed a ‘correction’ was appropriate. The ‘correction’ appeared on August 1 and under the heading Correction it read ‘Wellington Hospital says no patient had to wait 18 hours to be seen in the emergency department last week, contrary to an article yesterday’. The Board then added to their complaint the form of the correction, citing the Council’s principles of Accuracy, Fairness and Balance.

The Newspaper's Response

The Dominion Post editor, in her response to the complaint, suggested that the Council's Principle 12 (Corrections) was relevant, and that the paper had made a considerable effort to resolve the matter promptly with the District Health Board 'in accordance with Council guidelines'. In this case this consisted of publishing both the 'correction' and also a letter to the editor from two senior members of the department's staff. While the District Health Board had gained the impression that the paper was also going to publish an apology the editor stated that at no stage had this been agreed to. On the central point, the statement on the patient's 18-hour wait, the editor wrote that 'the staff member did not wish to be identified, for fear of repercussions by the DHB', adding that 'the staff member has not resiled from the detail provided'.

Discussion

The time taken for patients to be seen and attended to in hospital emergency departments has been a live issue for government in recent years and has also been a matter of continuing, often lively, public interest. The system of admission has been standardised across all hospitals to enable a careful audit to be made of whether or to what extent hospitals are meeting the national target for all emergency departments: that they must see, treat and either discharge or admit within six hours 95% of patients who come into the department. The times of the various steps should be recorded and entered into the computer system and the movement of all patients through the hospital, including time spent in the emergency department, is available live to all staff on the intranet. The central issue in judging this complaint is whether the reporter should have included the report of the 18-hour wait without further checking it (Accuracy) and putting it to the DHB for comment (Fairness).

When the District Health Board first complained, the reporter went back to his single source, the 'anonymous' staff member, but again apparently took no steps to have it checked against the hospital data. It was this failure which explains the wording of the 'correction' – 'Wellington Hospital says no patient had to wait 18 hours to be seen in the emergency department last week, contrary to an article yesterday' – which in any real sense is a comment rather than a correction and reflects a failure of the reporter to look more critically at the allegation.

Although the original story reported the marked improvement in the working of the Capital Coast Health emergency department, the '18-hour wait' comment could be seen to reflect extremely badly on the professional skills of the department's staff. The readers, and the Press Council, are left unclear as to what the comment was based on, how it could have arisen, what if any truth was in it. The 'correction' did nothing to clarify the issue.

The Council believes that it is a bad practice to base a report on a single source, particularly when there is no time pressure and ample opportunity to check it. In this respect, all Council members agreed the complaint should be upheld when judged against the Council's principles of Accuracy and Fairness. Council was divided on whether the newspaper's response met the Council's Principle

12 (Corrections). A minority of three Council members thought the correction and readiness to publish the staff letter was adequate, but the majority did not agree and again upheld the complaint.

Press Council members considering the complaint were Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Chris Darlow, Peter Fa'afu, Sandy Gill, Mark Stevens and Stephen Stewart.

CASE NO: 2398 – HEIKE AND RUDI HOFER AGAINST THE NEW ZEALAND HERALD

Heike and Rudi Hofer (the complainants) complained about an article published in the *New Zealand Herald* on July 5, 2014.

The complainants alleged that the article breached Principles 1 (Accuracy, Fairness and Balance) and 4 (Comment and Fact) of the New Zealand Press Council Statement of Principles.

The complaint was not upheld.

Background

The article was headlined "Tanning clinics warming to rule changes" was about how tanning clinics (clinics) were reacting to new rules being implemented by Auckland City Council (council) that included banning under-18s and unlicensed operators, mandatory staff supervisions and new hygiene benchmarks for tanning clinics.

The reporter and a 15yr old girl (with the consent of the girl's parents) went to five randomly selected tanning clinics to test how clinics were responding to the new rules. The article outlined the varied responses received at each clinic. It noted that one had not checked her age and appeared to accept the girl as a client, two said she could return under certain provisos despite her age, one recommended self-tanning products as an alternative and the last told her to not return until she was 18.

The article included comments from a council representative noting that there were no exceptions to the under-18 rule for tanning clinics and the fact that the new regulations also included new rules for tattoo parlours, nail salons, hair removal and body piercing clinics.

The clinics visited by the reporter and the young girl included The Sunworld Tanning Studio in Takapuna which is owned by the complainants and the article noted that a copy of the new rules was visible on the clinic's desk.

Complaint

The complainants alleged that the article was inaccurate and misleading and the information regarding their clinic, incorrect.

They stated that both the reporter and the young girl completed and signed the legal forms provided to clinics by the council to state they were over the age of 18.

They further stated that their clinic also used a second form where clients must put their date of birth (the young girl put her correct date of birth on this form) and their staff member did pick up the fact that the young girl was under age from that information; but before the employee could complete her procedure of advice to the pair, the reporter

and girl left the clinic. Despite this, the article still reported that their clinic had not checked the age of the young girl.

They said that the reporter allowed the girl to sign a false statement and was “complicit in this act of deceit and furthermore this deceit was the basis for the reporter’s story”.

The complainants provided copies of both forms signed by the young girl.

In a further submission commenting on the newspaper’s response to their complaint, the complainants stated that it is a contradiction to say that their employee didn’t check the young girl’s age when her correct date of birth was entered on the second form.

They also state that at no time did one of the complainants say “Unfortunately at the beginning she [the staff member] overlooked it”. They stated that what was actually said was that the staff member had no chance to come to the point of checking the clients’ cards, a fixed part of their introductory procedure, as the reporter and the young girl left the salon before this could occur.

They further stated that was hard to see how their employee could be criticised for giving detailed advice on tanning on sunbeds when at least one of the persons was clearly over 18yrs old.

The editor had stated that in a telephone interview with the reporter, one complainant had stated that “Unfortunately at the beginning she [the staff member] overlooked it” in relation to the age check but the complainants denied this had occurred and maintained that the reporter’s notes recording the telephone conversation were incorrect.

The Newspaper’s Response

In reply to the complaint, the associate editor said the newspaper believed the article was fair, accurate and not misleading. The newspaper had decided to see how quickly clinic operators were responding to the new rules and had visited five clinics in different parts of Auckland to test this. The article was about whether operators made the appropriate checks around the age of users, not whether they received sunbed sessions. Each of the clinics was given the opportunity to provide comment for the article.

The article noted that the complainants’ clinic “clearly explained all the risks and rules around sunbeds, but did not check [the young girl’s] age before running her through a tanning schedule and prices”.

He went on to state that given the fact that despite the young girl signing the form to say she was over 18, she did put her correct date of birth on the Client Card and this discrepancy should have been noticed by the clinic employee.

He felt that the most important aspect of the complaint was whether the complainants’ clinic had ample time to raise the fact that the young girl was under 18 as she declared on her Client Card and the newspaper believes this was the case. The complainants acknowledge that their staff member did discuss deals on the services offered and he was unsure why this would happen before making sure the person could use the sunbed.

The complainants have also been offered the opportunity to provide additional clarification around their understanding of events which could be added to the online

version of the story and this offer still stands.

There is no dispute that the young girl did provide her correct date of birth on the Client Card and the newspaper believes that there is no dispute that this was overlooked by the clinic.

He also pointed out that the article noted that the staff member did explain the rules and risks and that the clinic did have a copy of the new rules displayed.

The editor stated that in a telephone interview with the reporter, one complainant had stated that “Unfortunately at the beginning she [the staff member] overlooked it” in relation to the age check but now denied this had occurred.

Discussion and Decision

The article was clear about the subject content and why the investigative reporting was undertaken. To enable the reporter to test whether the age restriction was being adhered to, a young girl who was thought to look under age accompanied the reporter to each clinic.

From information contained in the article it was clear that four of the five clinics visited asked the young girl’s age before progressing any further and when finding that she was underage did not go any further although one suggested that she could come back if she had a note from her doctor and another that she could return with a guardian. Another declined tanning beds but gave recommendations for self-tanning products and the fourth told her she couldn’t use their services until she was 18.

The complainants’ clinic, while displaying the new rules, did get the young girl to complete the forms (including a declaration that she was over the age of 18) and also commenced a “procedure of advice” and to discuss “deals offered by the clinic” and appears to have done this without further checking the age of the young girl as is noted in the article.

Regardless of the disputes about the accuracy of comments made by one of the complainants to the newspaper, their clinic did begin what they call “a process of advice” which included completion of forms and discussion of “deals” before checking the age of the young girl which is in contrast to the other four clinics visited.

Given these factors, it is hard to see where the article is inaccurate or misleading.

The new rules regarding under 18’s are very clear and it could be reasonable to assume that an age check of both prospective clients would be undertaken prior to any assessment or service being offered despite one prospective client clearly being of age.

While the Press Council did not find the article breached Principle’s 1 and 4, it did note that the standard of journalistic practice fell below an acceptable level. While the article noted that an initial age check was not immediately carried out by the complainants’ business in contrast to the other four visited, it would have been better had the reporter allowed the staff member to complete the advice procedure to ascertain if an age check was in fact undertaken following that process.

The complaint is not upheld.

Press Council members considering the complaint were Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Chris

Darlow, Peter Fa'afiu, Sandy Gill, Mark Stevens and Stephen Stewart.

CASE NO: 2399 – ROY MYERS AGAINST NORTHERN OUTLOOK

Background

The *Northern Outlook* published an article on August 30, 2014 which covered a meeting of the five Waimakariri political candidates organised by the Rangiora Ministers Association. The piece includes specific information on NZ First candidate Richard Prosser's promotion on the party list and the front page banner has a picture of Mr Prosser drawing the reader to the piece.

The Complaint

Roy Myers laid a complaint with the *Northern Outlook* citing coverage biased in favour of Mr Prosser and light in terms of NZ First policy coverage compared to the other four candidates. Mr Myers was not satisfied with the response from *Northern Outlook* so took his complaint to the Press Council citing breach of principles 1 (Accuracy, fairness, balance), 6 (Headlines and captions) and 7 (Discrimination and diversity).

The Northern Outlook Response

Geoff Mein, Editor, *Press Communities* responded for *Northern Outlook*. Mr Mein explained that he had told the complainant that the story was focused on Mr Prosser's promotion in the NZ First Party list ranking, just a year after he had attracted considerable attention and controversy over some comments he had made about Muslims.

Given Mr Prosser's comments about Muslims at that time had gained national and international attention, the publication considered his promotion on the party listing, and high chance of returning to Parliament, was a matter of sufficient public interest to elicit Mr Prosser's explanation of his previous comments.

Mr Mein rejects the coverage of Mr Prosser as being biased in favour of the NZ First candidate, particularly given the specific focus on Mr Prosser's comments about Muslims a year earlier. Moreover, the coverage of the NZ First candidate was one of many *Northern Outlook* had run in the weeks leading up to the election. Mr Mein drew the Council's attention to its coverage of the other candidates. These articles were also brought to the complainant's attention.

In regards to the complainant's point about the skybox (front page banner picture), Mr Mein explained it was not promoting Mr Prosser but a promotion of the article inside.

Decision

Coverage of candidates leading up to an election can be a sensitive topic. Media organisations and publications fully understand this, and their responsibilities to provide balance. The Council agrees with Mr Mein. The August 30 article sits within a series of politically focussed articles that sought to provide coverage of candidates, including the five candidates vying for the Waimakariri electorate seat. The paper chose to focus on Mr Prosser's high list ranking, likely return to Parliament given that ranking, and

previous comments about Muslims.

Given the opportunity of the candidates meeting, the journalist has interviewed Mr Prosser with the aim of it being a part of that series of candidate-focussed articles. The article itself which covers Mr Prosser's comments about Muslims, and noted his late arrival at the meeting, cannot be said to be biased in favour of the candidate as Mr Myers alleges.

The Council agrees with the explanation put forward by Mr Mein about the skybox and notes it reflects industry practice.

On all principles cited by the complainant, the Council does not uphold the complaint.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Chris Darlow, Peter Fa'afiu, Sandy Gill, Mark Stevens and Stephen Stewart.

CASE NO: 2400 – DAVID SHAND AGAINST THE NEW ZEALAND HERALD

David Shand claims that *The New Zealand Herald* failed to comply with Principle 1 (Accuracy, fairness and balance) of the Press Council Statement of Principles in relation to articles published in its newspaper on 8 and 14 July 2014. Both stories, by the same reporter, covered funding issues confronting the Auckland Council. The 8 July story was headed "Big cuts loom in bid to keep cap on rates rise". This article incorporated an opinion piece by the reporter titled "Hey big spender, you're in a deep financial hole". The 14 July article was headed "How city finances hit crisis point".

The Press Council does not uphold the complaint, with one member dissenting.

Background

The articles, broadly, covered the current 10-year budget debate within the Auckland Council and the issues arising. While the Auckland Council has large projects planned, particularly the City Rail Link, debt has grown substantially and promises have been made to keep rate increases capped. The 8 July story concentrated on likely spending cuts, on the probable cancellation of various projects and the consequential effects on citizens. The opinion piece accompanying the 8 July article expressed the view that the city "has been living well beyond its means and got itself in deep financial trouble". The 14 July story purported to explain why the city has found itself in this position. The 14 July story referred to comments from people who are critical of the Mayor. The articles referred to the need for the Council to "slash" \$2.8b in spending over 10 years with cuts of \$486m each year.

The Complaint

Mr Shand essentially says that the stories are inflammatory and inaccurate. Mr Shand refers to the value of the Auckland Council's gross assets (\$37b), the amount of the current Council debt (\$7b) and the Council's operating surplus for the last financial year (\$246m). Mr Shand says that, far from the Auckland Council's finances being "in crisis", the

finances are in fact under control. With proper management the Council can meet its long term objectives in providing the required infrastructure and services for Auckland's growing population. Mr Shand refers in particular to Auckland Council's debt being within "prudent limits" with it having operated according to applicable legislative constraints.

Mr Shand says that articles are unnecessarily alarmist. He says the stories are based on facts which are wrong. Mr Shand says the *Herald* has been neither accurate, fair, nor balanced in its reporting.

The Response

The *Herald* responds by saying its treatment of the budgetary issues has been accurate, fair and balanced. The *Herald* has referred the Press Council to a series of pieces it has published including a piece from Mr Shand himself, a letter from the Mayor printed on 11 July (straight after the first article was published on 8 July), several follow-up stories over the next six weeks and letters from readers on both sides of the divide. The newspaper says that on any analysis Auckland rate payers are likely to be facing either substantial rates increases or cuts in services. The *Herald* makes no apology for reporting the difficulties facing the Council and the hard decisions which will have to be made around long-term funding and infrastructure and services provision.

The Decision

The majority of the Press Council does not agree with Mr Shand. While the 8 July and 14 July articles were robust and while they did not specifically refer to the asset values, debt levels and operating surpluses Mr Shand points to, the stories dealt with issues which were certainly topical and likely of considerable interest to most Auckland residents.

The Press Council notes in particular Mr Shand's commentary published by the *Herald* in its 16 July edition. There Mr Shand set out his views which are similar to the matters he now raises with the Press Council. The Press Council is also notes the Mayor's acknowledgement (printed on 11 July) that the City is facing "tough decisions".

Mr Shand, in commenting on the newspaper's response to his complaint, concedes that his key objection relates to various headings and subheadings included in the articles. Mr Shand says the phrases "living beyond its means", "financial mess", "deep financial hole" and "crisis point" are emotive, inaccurate and inappropriate. Mr Shand acknowledges that the *Herald* acted properly by prominently publishing his views on 16 July.

Some of these phrases are contained in the opinion piece published with the 8 July article. The Council has made it clear many times that opinion pieces can be expressed in strong terms. Opinion pieces need not be balanced. Such pieces frequently prompt strong opposing views. The Press Council will only find that an opinion piece breaches the Principles in the most egregious of cases (for example where extreme and offensive views are expressed and where there is no rational basis for the opinion). This is not one of those cases.

Importantly though the Press Council is satisfied the *Herald* has presented a balanced picture. It has done so

by publishing material, albeit over several weeks, which sets out opposing views on issues which will have currency for some time. While not strictly relevant Mr Shand has referred the Press Council to opinion pieces on the issues and published in rival newspapers. There is no doubt Auckland Council's budgetary problems are being given a wide airing. It could be said that these are difficult times for Auckland Council. The possible solutions are controversial. It is inevitable that what whatever is reported by the media will prompt heated debate.

The majority of the Press Council does not uphold the complaint.

Minority opinion from Peter Fa'afiu

The Auckland Council's current 10-year budget debate is a highly sensitive matter for the Council and its ratepayers. The *Herald* makes no apology for reporting on the challenges facing the Council and the hard decisions to be made around long term planning and funding. I concur, the *Herald* should not. However, given the importance of the issue to its readers, it is incumbent upon the *Herald* to ensure that its coverage is bound at all times by fairness, accuracy and balance. On this occasion, the publication has failed its readers.

I agree with Mr Shand's views that both the 8 and 14 July articles were based on generalisations without factual basis. The emotive language used by the publication for its 14 July article gave an overall impression to its readership of financial mismanagement by the Council. The editor argues that Mr Shand might be the only person to have taken that view. This Council member was another.

The mixing of article and comment for its 8 July article (and again used on 29 August) is slowly creeping into industry practice. It does not however provide clarity to the public as to what should be treated as an article by the publication or comment by a journalist.

The *Herald* argues that the wider context facing the Council is its spending and impact on the ratepayers. Agree, however the ballast for such an argument sits with key financial facts. The *Herald's* starting point on this important issue is that the Council finds itself in an unsound financial position. This is not the case. Mr Shand's views are not purely an "accountancy view" as the *Herald* outlines, it is a view based on significant experience in the sector and understanding of financial analysis. The journalist might understand Council but he does not provide confidence to the reader that he knows key financial matters.

The *Herald* argues that the coverage over a number of weeks provides balance. An imbalance was created with the publication of the first article. The imbalance was perpetuated when that article was used as a basis for further coverage both in print and on radio and TV. Mr Shand's Opinion Piece should be treated as filling the factual gaps for the publication's readers.

Whilst I agree with the view of the majority of the Press Council that media reporting on this issue is critical, I disagree that it should be left to members of the public to provide balance to a misinformed readership. This responsibility sits with the publication.

The issue is worthy of an informed debate based on facts and reason not inaccurate claims. For those reasons,

I believe Mr Shand's complaint should be upheld.

Press Council members considering the complaint were Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Chris Darlow, Peter Fa'afiu, Sandy Gill, Mark Stevens and Stephen Stewart.

CASE NO: 2401 – SIMON TOWNSEND AGAINST HERALD ON SUNDAY

Simon Townsend complained initially of a breach of Principle 9 of the Press Council principles. Principle 9 prohibits the use of subterfuge unless there is an overriding public interest and the information cannot be obtained by any other means. He later extended his complaint to include breaches of Principles 1 (Accuracy, fairness and balance), 2 (Privacy), 4 (Comment and fact), 6 (Headlines and captions), 8 (Confidentiality) and 12 (Corrections).

The complaint relates to an article published by the *Herald on Sunday* on August 17, 2014 and, as a complaint of a breach of Principle 9, was made before the article was published. The further complaint was lodged after publication

The Press Council does not uphold the complaint.

Background

The complainant is associated with an organisation known as Avatar which, according to its website www.theavatarcourse.com, provides self-empowerment training. His precise involvement is unclear from the material provided to the Press Council, but clearly he assists in the organisation and promotion of Avatar courses in New Zealand.

On August 7 a reporter from the *Herald on Sunday*, using a pseudonym, enquired about attending an Avatar course and a few days later attended an introductory session. He later contacted the complainant and Shona Macdonald, the person responsible for Avatar in New Zealand (and Australia), explained that he was a reporter with the *Herald on Sunday*, and discussed the article he proposed to write. It appears that during the discussion he offered them the opportunity to put their views in a letter or short article.

The complainant and Ms Macdonald were concerned about both the proposed content of the article and the manner in which the information had been obtained. There followed some inconclusive email correspondence.

On August 17 a double-page article on Avatar was published in the *Herald on Sunday*. It was entitled "We'd like to welcome you to 'enlightenment'" with the sub-title "Avatar claims its self-improvement course can fix life's struggles but critics say the mumbo jumbo comes at a cost." It consisted largely of a description of the reporter's experience at the Avatar session, but also included some information about the origins and nature of Avatar, some comment from the complainant (presumably from the pre-publication discussion) and some comment from a lecturer in psychology at Otago University. Accompanying it was a picture of an unidentified young woman and a story relating the experience of an Auckland couple whose relative, they said, had undergone a significant personality change after

attending an Avatar course and had incurred substantial debt in order to attend Avatar courses overseas.

The Complaint

The complainant's first complaint is that the *Herald on Sunday* obtained information by subterfuge and that its actions fall outside the scope of Principle 9 which permits the use of subterfuge only when there is an overriding public interest and the information cannot be obtained by other means. He says that as there was no approach to Avatar for information, the reporter could not have established that the information could not be obtained direct from Avatar.

The second complaint is of breaches of a further six of the Press Council principles:

a. Accuracy, fairness and balance

In three separate emails the complainant lists 20 points under the heading "Itemisation of errors of fact". Some of the points are directly about the accuracy of the content of the article but others relate more to the complainant's perception of a lack of fairness or balance or to other principles. In general he is of the view that the inaccuracies reflect an unfair bias against Avatar.

b. Privacy, Comment and fact, Confidentiality

The complainant cites these principles but does not specify the way in which he believes they were breached.

c. Headlines and captions

The complainant says that the title is misleading and "... is leading people's attention in the direction of what the course is not rather than what it is." The sub-title again directs attention away from the true nature of Avatar and is "... part of the suggestive, manipulative, mind twisting spin of this type of media."

d. Corrections

The detail of this aspect of the complaint is not clear, but it seems to be directed at a perceived absence of any genuine opportunity to correct inaccuracies, both before and after publication, or to present Avatar's viewpoint.

The Herald on Sunday response

The *Herald on Sunday* agrees that it obtained information by subterfuge. It was of the view that there was an overriding public interest, given that Avatar was running open programmes for members of the public at a cost of up to \$3050, and given the serious allegations that had been made against the organisation. A direct approach would probably have resulted in "corporate" answers when the *Herald on Sunday* wanted a "genuine experience" to test some of the allegations that had been made. It notes that it contacted the complainant and Ms Macdonald before publication to advise what it had done and to give an opportunity for rebuttal.

The inaccuracies identified by the complainant were not of material significance. As to questions of balance and fairness, the *Herald on Sunday* solicited and published the complainant's responses to criticisms levelled at the organisation. Further opportunities for comment and correction were given both before and after publication.

Although there is no detail to the complainant's

complaint about breaches of principles 2, 4 and 8, the *Herald on Sunday* commented generally on them. It said that:

- a) Any right of privacy enjoyed by Avatar as an organisation was outweighed by the publication of significant matters of public record or public interest. There was no publication of personal information about identified individuals apart from brief background information.
- b) A clear distinction was drawn between the factual elements of the article and elements of opinion and comment. The only personal bias was on the part of those whose positions were made clear in the article.
- c) It has protected and will continue to protect the confidentiality of its three independent sources for the story. It took steps to satisfy itself that all three sources were reliable, but will not detail those steps as to do so would identify the sources.

The headlines, sub-headings and captions fairly and accurately convey the substance of the article and “this does not reflect bias but reflects the conflict within the article.”

There were no significant inaccuracies that required correction. Before publication the complainant and Ms Macdonald were asked to identify any incorrect information, but neither replied. Post-publication they were given further opportunities to comment or correct. Seven letters critical of the article were received from third parties and two of these were published.

Discussion

Subterfuge

There is no doubt that subterfuge was used to obtain much of the information used in the article, and given the serious nature of the allegations that had been made about Avatar, there is also no doubt that there was a sufficiently strong public interest to warrant the use of subterfuge. The only real question is whether the information could have been obtained by other means. The Press Council is satisfied that it could not have been obtained by a direct approach to the Avatar representatives and there is no other obvious means by which it could have been obtained. In order to test the allegations, the reporter needed to experience at least part of the Avatar process as an ordinary member of the public. If he had presented himself as a reporter, then consciously or unconsciously, the attitude of the Avatar representatives would have been affected.

Accuracy, fairness and balance

Some of the complainant’s 20 points are comments rather than complaints of inaccuracy, unfairness or imbalance, and some appear irrelevant to the complaint. For example, his point 13 reads as follows:

“Para 32 – re the cease and desist claim. See <http://aboutharrypalmer.com/bio.html>.” This sentence is followed by a quote from the web page about Harry Palmer’s background but there is no mention of the cease and desist claim or order. Similarly some of his concerns appear to be directed at critics of Avatar as quoted in the article rather than at the article itself.

Most of the inaccuracies identified by the complainant are minor in themselves and do not warrant correction. For

example, he complains that his text to the reporter “Hi, Stuart, Simon here. What do you feel is your next step?” was misquoted as “What do you feel is your next step.” It is understood that to some extent he accepts that the inaccuracies are generally minor but remains concerned that there are underlying implications which reflect bias against Avatar and its representatives. This concern is discussed below.

There are two possible inaccuracies of slightly more substance. The first is the implication that Avatar is new to New Zealand when in fact it has been operating here for some years. The article does say “and now it’s in New Zealand” when referring to Avatar, with the implication that it is a new arrival. It also says “last week, Avatar brought the courses to New Zealand”. However the accompanying story is about a person who had clearly taken an Avatar course in New Zealand some time ago. In any event, there is no suggestion that the date of Avatar’s arrival in New Zealand is relevant to the criticisms of its operations. Similarly the complainant questions the phrase “Townsend, who said he was from a medical background.” The complainant explained that the reporter appeared to disbelieve him when he said he was not a psychologist, even though the reporter had accessed the complainant’s “Linked-in” profile which clearly lists the complainant’s qualifications as a qualified medical doctor. The complainant is of the view that the reporter’s description of his qualifications is calculated to shed doubt on his authority. However it is not actually inaccurate.

The complainant’s main concern appears to be that the cumulative effect of the inaccuracies and of other comments in the article is to create an unfavourable impression of Avatar and to bias the reader against it. There are four main elements in the article:

- Factual description, most of which is not in question such as the description of the origins of Avatar
- The reporter’s impressions of and reaction to his experience
- Criticisms of Avatar by third parties including the opinion of an academic psychologist
- The complainant’s response to some of the criticisms.

This fulfils the requirement of Principle 1 that in matters of controversy or disagreement a fair voice must be given to the opposition view.

There is a reasonable balance between the last two items, and it is noted that in addition there is a brief reference to both positive and negative perceptions of the founder of Avatar, Harry Palmer. Most of the factual description is unquestioned. There remains the reporter’s impressions and the minor inaccuracies. While the reporter makes it clear that he is unimpressed by his experience with Avatar’s introductory course and is sceptical about its benefits, he has also made it clear that this is his opinion and not objective fact. In this context, the minor inaccuracies do not carry the implications attributed to them by the complainant. There is neither unfairness nor imbalance.

Privacy, comment and fact, confidentiality

The complainant has given insufficient detail to form the basis of a complaint about the breach of any of these three principles, and there is no obvious breach to be found in the article.

Headlines and captions

Principle 6 requires that headlines, sub-headings and captions should accurately and fairly convey the substance or a key element of the report they are designed to cover. In complaining about the headline and sub-title to the article, the complainant is taking issue with some of the material that can be found in the article and is reflected in the headline and sub-heading. He is not saying that the headline and sub-heading do not convey the substance of the article. It is clear that they do convey that substance, and there is no breach of principle 6.

Corrections

Principle 12 requires a publication to correct significant errors. There were no significant errors in the article in question. In addition, the complainant was offered several opportunities to correct errors or to express views contrary to those of the reporter both before and after publication. He has explained that he felt unable to take up those offers, but this does not negate the fact that they were made, and there is no reason to believe they were not made in good faith.

The complaints are not upheld.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Chris Darlow, Peter Fa'afu, Sandy Gill, Mark Stevens and Stephen Stewart.

CASE NO: 2402 – ZOE DRYDEN AGAINST HERALD ON SUNDAY

Zoe Dryden complains of breaches of Principles 1 and 4 of the Press Council principles. Principle 1 requires accuracy, fairness and balance in publications as well as a fair voice for the opposition view in articles of disagreement or controversy. Principle 4 requires a clear distinction between factual information and comment or opinion. Material facts on which opinion is based should be accurate.

The complaint relates to an article published by the *Herald on Sunday* on August 17, 2014,

The Press Council does not uphold the complaint.

Background

On August 17, 2014, the *Herald on Sunday* published an article on an organisation named Avatar which runs self-improvement courses. It was entitled “We’d like to welcome you to ‘enlightenment’” with the sub-title “Avatar claims its self-improvement course can fix life’s struggles but critics say the mumbo jumbo comes at a cost.” It consisted largely of a description of the reporter’s experience at an Avatar introductory session, but also included some information about the origins and nature of Avatar, a reference to websites concerned with cults, some comment from a representative of Avatar and some comment from a lecturer in psychology at Otago University. Accompanying it was a picture of an unidentified young woman and a story relating the experience of an Auckland couple whose relative, they said, had undergone a significant personality change after attending an Avatar course and had incurred substantial debt in order to attend Avatar courses overseas.

The complainant is not specific about her involvement with Avatar, but says that she is involved and that she has

participated in Avatar courses. She has clearly discussed the issues in her complaint with representatives of Avatar.

The Complaint

The first complaint is that the article contains inaccuracies, specifically in implying that Avatar is new to New Zealand when it has been running here for years, and in alleging that Avatar is trying to penetrate companies when the courses are aimed at individuals and the complainant has known it to decline corporate uptake.

She also complains of imbalance and unfairness in the use of the “Cultwatch” (or “Cult List”) website as a reference without disclosing that it is a Christian-based website, in presenting material from a psychologist who views those involved in personal development courses as lonely and vulnerable, and in writing the article from the single viewpoint of an unnamed person who may not agree with the viewpoint described. She objects to the implication that Avatar requires large sums of money from its adherents, saying that while attending overseas courses can be expensive, her own experience is that she spent more for less value on academic studies in New Zealand.

At a later stage she added a complaint that not all the serious allegations about Avatar were put to its representatives for comment, nor were the psychologist’s criticisms, and that generally a fair voice was not given to the opposition view.

The Herald on Sunday response

The *Herald on Sunday* says that the article did not say that Avatar was new to New Zealand. The reference to “now in New Zealand” was in relation to the course then running in Auckland.

It was correct to say that NZ Cult list warned that Avatar was keen for large companies to adopt its methods. The claim was put to Avatar organisers who responded in the article and have later said that the programme is tailored for individuals rather than companies. The *Herald on Sunday* accepts this, but does not believe it to be of material significance.

The Christian leanings of Cultwatch and NZ Cult List were not considered relevant. The independent psychologist gave his honest opinion and his criticisms were put to Avatar organisers for a response. The *Herald on Sunday* also says that “serious allegations were put to the organisers of Avatar who were quoted from one interview. They were given opportunity for two other phone interviews and invited to write a piece for publication to run with the article.”

The article was not written from a single viewpoint but drew on one overseas and three New Zealand sources. A reporter experienced the introduction for himself and others were contacted for their viewpoints.

Criticisms were put to the organisers of Avatar, though not necessarily with the identity of those making the criticisms.

Discussion

Ms Dryden complains of two specific inaccuracies. The first is the implication that Avatar is new to New Zealand when in fact it has been operating here for some years.

The article does say “and now it’s in New Zealand” when referring to Avatar, with the implication that it is a new arrival. It also says “last week, Avatar brought the courses to New Zealand”. However the accompanying story is about a person who had clearly taken an Avatar course in New Zealand some time ago. In any event, there is no suggestion that the date of Avatar’s arrival in New Zealand is relevant to the criticisms of its operations. It is not clear that there was an inaccuracy, and if there was, it was not of any material significance.

The second inaccuracy relates to the statement that Avatar is keen for large Kiwi companies to adopt its training methods. This is not a statement made by the author of the article but an accurate report of material on the NZ Cult List website. The Avatar organisers say, and it seems the *Herald on Sunday* accepts, that the programmes are in fact designed for individuals only. Once again, given that the focus of the article was on the nature and effect of the Avatar courses, it is difficult to see the relevance of this inaccuracy, and it does not appear to be of any material significance.

The NZ Cult List website describes itself as Christian-based, and does not confine its listings to cults in the normally accepted sense of the term. It includes a number of institutions, individuals and practices, such as forms of alternative medicine, and accords most of them ratings from a particular Christian point of view (it says the Roman Catholic Church has several doctrinal problems, and rates “Atheism” as “Danger”, for example). Neither the NZ Cult list nor the Cultwatch website is a neutral source of information or opinion, but the *Herald on Sunday* does not claim that they are such a source. It merely reports (accurately) that they warn against Avatar. In the same way, it reports the views of an independent psychologist, who has reservations about Avatar’s techniques. It is not unfair to present views contrary to those of an organisation that is the subject of a newspaper article, provided the subject is given a reasonable opportunity to answer them.

The article was not presented from the single viewpoint of an unnamed individual. In fact it did not mention her viewpoint at all although it covered the views of her family. It also reported the views of its own reporter, of a psychologist, of the two websites and to some extent, the Avatar representatives.

The organisers of the Avatar courses were given some opportunity to respond to the article, both before and after publication, and three paragraphs of the article consist of the response of one of them. Before publication they complained that some information was incorrect but did not respond to a request to identify the incorrect information. After publication they were again offered an opportunity to comment, but declined to take the opportunity.

After having read the *Herald on Sunday* response to her complaint, the complainant appears to have consulted the Avatar organisers involved in the article about the extent to which they were given a right of reply to the allegations in it. They advised her that there was one interview prior to publication, and that the psychologist’s opinion was not put to them for a response, nor were all the allegations that were made in the article. In view of their experience with its staff, they chose not to accept the *Herald on Sunday*’s offer

of a further interview or interviews or of writing a short item or letter putting their viewpoint.

It is not at all clear precisely what information was disclosed to the Avatar organisers for comment pre-publication. The complainant says that specifically the psychologist’s opinion was not put to them and nor was the claim that Avatar was targeting large corporations. The *Herald on Sunday* says that all serious allegations were put to them, including the psychologist’s opinion, although the psychologist was not identified at that stage. There is also a lack of clarity about precisely what offer was made to the organisers of Avatar both pre- and post-publication. It has variously been described as an offer of an interview or interviews, of a letter for publication, of a short (200 word) article, or simply as “having their say”. This was poor practice on the part of the *Herald on Sunday* and exacerbated the existing suspicion and mistrust on the part of the Avatar representatives so that they eventually declined all further offers. Even so, the offers were made, and it was open to the Avatar representatives to correct any information they considered to be incorrect or misleading.

The complainant has complained of a breach of Principle 4, but she has not said that there has been a failure to distinguish between fact and opinion. To the extent that her complaint is about the accuracy of the article, the issues have been covered in considering Principle 1.

The complaint is not upheld.

Press Council members considering the complaint were Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Chris Darlow, Peter Fa’afiu, Sandy Gill, Mark Stevens and Stephen Stewart.

CASE NO: 2403 – PETER WARING AGAINST THE DOMINION POST

A complaint by Peter Waring, about a television review in *The Dominion Post*, has not been upheld by the Press Council.

Background

The review, by veteran columnist Jane Clifton, appeared in the newspaper on July 31 and was sparked by a programme featuring psychologist Nigel Latta. One of a series by the well-known commentator on aspects of New Zealand society, it focused on equality and its relation to the economy. It particularly focused on the gap between rich and poor.

It was the opening episode of Latta’s most recent series, which went on to look at issues which have included alcohol, incarceration and the harm of sugar in people’s diets.

The Clifton review did not focus exclusively on the opening programme, but criticised the fact that Latta was an “unqualified” person who was using television to tell the public what to do. She said he was effectively telling New Zealanders how to live, how to vote, and what to think. “We need to ask: who made him the oracle?”

She also cited attempts by other commentators, such as Gareth Morgan and Kim Dotcom, to use television to try to influence public opinion.

The Complaint

Mr Waring said Clifton's column failed to focus on the content of the programme but was largely a personal attack on Dr Latta and to a lesser extent Dr Morgan, who did not feature in it. Her comments could have been coloured by the approach of the general election and that the present government might not want to see information on television about poverty at this time.

The Dominion Post later published two letters supporting Clifton's column, but did not publish letters that he wrote criticising the column for its lack of balance.

In a letter of complaint to *The Dominion Post*, Mr Waring said if Clifton's column had been published in one of her political commentaries it would have largely escaped notice as her political background was well known. But as a TV review it should have tried to discuss the programme's content. It should not have been "a diatribe attacking the people involved in a programme's production".

The Response

Dominion Post editor Bernadette Courtney said television reviews, by their very nature, were clearly understood to be matters of opinion, not an unvarnished report of content. Opinion pieces were not required to be balanced in the same way as a news report.

The review was a robust expression of Clifton's views questioning the wisdom of television featuring someone she believed was unqualified to comment in a specific area.

Mr Waring was entitled to disagree with Clifton's view and even to speculate on her political inclinations. However, Clifton was equally entitled to hold a view, and *The Dominion Post* was entitled to publish it.

The newspaper's website had published a different view on the column, by Jimmy Ryan. Another of the newspaper's television critics, Jane Bowron, had also commented on the Latta series without taking the same line as Clifton.

Letters to the editor expressing differing views on the Clifton column had also been published. Mr Waring's letters were not accepted for publication, but he had had 11 other letter to the editor published this year.

Press Council Decision

The Press Council's fourth principle, Comment and Fact, states that a clear distinction must be drawn between factual information and comment or opinion. An article that is essentially comment or opinion should be clearly presented as such. The report was clearly entitled "Jane Clifton Televise" and therefore is obviously a column. Columnists are entitled to robustly express their views and normal criteria such as balance do not apply. Clifton's longstanding reputation as a TV and political columnist is also well known. Moreover the newspaper has published differing commentaries, and letters, on this and other Latta programmes in the series. The complaint is not upheld.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Chris Darlow, Peter Fa'afiu, Sandy Gill, Mark Stevens and Stephen Stewart.

CASE NO: 2404 – DAWSON BLISS AGAINST NZ FARMER

Dawson Bliss complains about an article that appeared in *NZ Farmer* on September 16, 2014. He alleges breaches of the principles of Accuracy, fairness and balance; Comment and fact; Headlines and captions; and Subterfuge.

The Article

The article deals with illegal poaching in forestry blocks. It features an interview with Phil De La Mare, the Otago Regional Manager for forestry plantation owner, Ernslaw One. It raises concerns about unpermitted hunters targeting wild pigs illegally released in private forests. It quotes Mr De La Mare that illegal hunters go shooting even when people are working, and their actions are putting staff and contractors in a risky situation. Staff had come face-to-face with poachers, but are instructed not to confront them. It reports that security cameras had provided images of poachers, which resulted in an arrest and one person being convicted and having his vehicle confiscated. Mr De La Mare also said the releasing of wild pigs from unknown sources was undermining efforts to eradicate TB in Otago, which could have major consequence for farmers.

The Complaint

Mr Bliss complains that to claim people have been shot, and offer no facts to that statement, is admitting the article cannot back up such serious actions. He said reporting hearsay news and not being able to back up the facts should not be allowed in the New Zealand press. He goes further in saying that the reporting of people being shot at is a serious matter, one in which the New Zealand Police would consider laying attempted murder charges if the facts alluded to were true. He says the article is a lie, and the matters reported never happened.

NZ Farmer response

Fairfax Head of Rural Content, Tim Cronshaw, referred to the fact that Mr De La Mare is the manager of a forestry owner and in a position to know when his staff have been placed in danger. The illegal hunters referred to had no permission to be on company land, and as the article states, the police have been involved with some incidents and charges have been laid.

He went on to say that poaching had been the subject of other articles in *NZ Farmer*, and with such a reputable source as in this case, he had no doubt the incidents had occurred and the article was justified. The issue was that Mr De La Mare feared for the safety of his staff because of indiscriminate and highly dangerous shooting by people who have no legal right to be hunting on the property. He points out that Mr Bliss seems to be alleging that unless there was evidence of actual injury, or worse, the incidents could not have taken place. He said the fact that unauthorised hunters were shooting near people going about their work was a cause for serious concern.

Decision

The article addresses a matter that is clearly of concern to the rural community. The dangers of unpermitted and illegal

hunting on forestry blocks are obvious, particularly when workers and contractors are working within the blocks, not knowing where the hunters are. The reverse could often apply with illegal hunters being unaware where workers and contractors were carrying out their lawful business. The publication has approached the person who is the regional manager of a forestry owner with a number of forestry blocks. It is a company that has allocated a number of blocks for legal weekend hunting, but noted that demand outstripped supply. The manager is directly quoted, and it is clear they are matters he would have personal knowledge of. The dangers and concerns he raises are well-founded.

However the Council recognised that the opening of the article could be taken to suggest that illegal hunters were deliberately targeting forestry workers. That is not the case as is made abundantly clear by reading the whole article in context. The subject is clearly the dangers created by illegal hunters being unaware of the whereabouts of forestry workers and vice versa.

Mr Bliss, while complaining that four principles of the Press Council had been breached, made little effort to relate his complaints above to specific principles. In our view the article is accurate, fair and balanced. It does not mix comment and fact, and there is no subterfuge. The headline in the *NZ Farmer* accurately and fairly conveys the key elements of the story. We do not consider there are any breaches of those principles.

Indeed, we consider this to be a complaint without merit, and it is not upheld.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Chris Darlow, Peter Fa'afu, Jenny Farrell, Sandy Gill, John Roughan, Vernon Small, Mark Stevens and Stephen Stewart.

CASE NO: 2405 – SIMON BOYCE AGAINST THE DOMINION POST

Simon Boyce complained about a letter printed in *The Dominion Post* four days after the general election. He believed it breached the principle that editors should be guided by fairness, balance and public interest in publishing letters sent to them.

The letter, by John Ansell of Martinborough, praised the election night concession by Kim Dotcom and contrasted it with the performance of “the rest of the Left”. Mr Boyce called the letter a tirade of invective and abuse directed at people Mr Ansell was not prepared to name. He believed fairness implied the reader should not have to guess who was being attacked. The author of the book ‘Dirty Politics’, Nicky Hager, deserved better than to be called “a tame muckraker” in Mr Boyce’s view, and he added, “epithets and caricatures cannot possibly be in the public interest”.

Fairfax Newspapers’ Regional Editor in Chief replied that *The Dominion Post’s* opinion pages represented a balance of views over a period. In the week that John Ansell’s letter was published letters of the opposing point of view had appeared. Some had been expressed, like Mr Ansell’s, in “flamboyant language”. Mr Boyce clearly disagreed with the stylistic device of referring to people by description, not name, but it was a device Mr Ansell

should be allowed to use. Mr Boyce could have submitted a letter to the editor in similarly robust language but had not done so.

Mr Boyce responded that Mr Ansell had resumed an attack on “Dotcom and his henchmen, to borrow the abusive term that John Key used”. But when the Prime Minister had used that term the media had to make it clear who the “henchmen” were. Mr Ansell should also have to name those who were being “defamed”. The language of letters cited by the editor that were critical of Mr Key did not use the name-calling “now associated with the political right”. Mr Boyce did not believe *The Dominion Post* would publish a letter from him in robust language since it had not printed one he wrote in moderate language on a different subject.

The Press Council found the letter to be a strongly worded comment on a subject of public interest. Those it criticised were not referred to by name but were easily identifiable by any reader who had been following the election campaign. Clearly the complainant had no difficulty identifying them. He believed Mr Ansell was obliged to identify them by name because he was “defaming” them. Defamation is a question for a court not the Press Council, but Mr Ansell had not breached the Council’s principles of fair comment.

The case appeared to reflect a debate in the recent election campaign about so called “attack politics” from the Government and right wing online blogs. That debate played no part in the Council’s consideration of the complaint. In the Council’s view the language of the letter was within the bounds of robust political argument and its publication was well within the prerogative of an editor guided by fairness, balance and public interest. The complaint was not upheld.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Chris Darlow, Peter Fa'afu, Jenny Farrell, Sandy Gill, John Roughan, Vernon Small, Mark Stevens and Stephen Stewart.

CASE NO: 2406 – REUBEN CHAPPLE AGAINST HERALD ON SUNDAY

Background

On September 14, six days before the 2014 general election the *Herald on Sunday* published a spread across two pages under its Vote 2014 banner of “redesigned” political billboards poking fun at the political parties under the headline “Billbored? Comedians take over the campaigns.” It said the billboards were put together by the team at TV3 satire and comedy show 7Days - an irreverent late Friday show that concentrates on political events of the week.

The Complaint

Reuben Chapple lodged a complaint, initially directly with the Press Council. Mr Chapple took this route because he said there was no point taking the matter up with the *Herald on Sunday* in the first instance since any investigation and subsequent retraction or rebuttal could not occur in the time frame - that is before the election.

However after advice from the Council that the

complaint would not be accepted and a request he follow the procedure and lodge it with the publication he did so.

The substance of his complaint is that while the other redesigned billboards were satirical and would be seen by readers as humorous commentary the one aimed at the ACT Party, with a picture of its leader Jamie Whyte and the words “For a Whyte New Zealand”, was not.

He said the “enlightened reader’s thought bubble” was meant to register the word “racism” and the editorial intent was to convey a politically damaging view of ACT and its leader.

He said he had been involved with ACT since 1993 and it had consistently stood for one law for all, colour-blind government and equality in citizenship.

So it was highly inaccurate and misleading of the *Herald on Sunday* to state or imply, less than a week out from the election, that ACT was a racist party.

It was also a slur on Dr Whyte “who is married to Xainab, a black West African woman, with whom he has two children.” He said Dr Whyte was not racist in his personal or political life. He also pointed out that former ACT leader Richard Prebble’s wives were “non-whites” and his successor Rodney Hide was married to a Malaysian Chinese.

In response to the *Herald on Sunday* reply to him Mr Chapple said labelling the billboards as satire changed nothing and “a Leftist media had for years spun a carefully crafted narrative that opposition to Treatyism and insistence on colourblind government equals ‘racism’” and that publication of the billboard deliberately fostered such a perception of ACT on the public mind.

The Herald on Sunday’s Response

The newspaper’s editor Miriyana Alexander responded directly to Mr Chapple and deputy editor Stuart Dye responded to the Council on her behalf after Mr Chapple went ahead with his complaint.

In summary their argument was that the headline labelled the billboards as satire and it would be clear to readers they were satire. They were not designed to create a false or misleading view of ACT or its leader. They were in fact “designed to entertain readers” and were one component of the newspaper’s campaign coverage.

Addressing the principles raised by the complaint Mr Dye said the article called for special consideration as it was satirical and clearly labelled as such, that the headline and explanation clearly drew a distinction from fact, and that the technical manipulation of the billboards was clearly signposted as part of the satire.

Discussion and Decision

The Council rejects the complaint and agrees with Mr Dye that the headline, blurb and context made it clear the billboards were intended as satire and humorous. As such they should be given the special consideration envisaged in the Council’s Principles

The spread is similar in effect to a cartoon and the Council has consistently upheld the rights of cartoonists to be provocative and noted they should enjoy considerable freedom in their role. That may even extend to causing

offence to some people. Any offence taken in this case is likely to be in the eye of the beholder - supporters of different political parties may find a particular depiction uncomfortable while seeing the humour in others.

Given *Herald on Sunday* is a Sunday publication nothing it published the week before the election could be subject to clarification before polling day, but there is no evidence this was part of its thinking in publishing the piece on the day it did. It is noted there is an embedded plug in the spread for 7Days’ election special the following Friday and the timing seems to have more to do with that than anything. By analogy with a cartoonist’s work it relates the humorous and satirical view of the 7days team and there is no suggestion it necessarily reflects the view of the newspaper.

Satire often includes elements of caricature, exaggeration and implication and can draw on simplified views or people and organisations.

In the billboard aimed at ACT there is a possible pun on Dr Whyte’s name that may invite readers to recall the controversy surrounding ACT’s policies in areas related to the Maori seats, the Treaty process and others. But it could also be read as calling for a New Zealand with Dr Whyte as leader - an unlikely event given polling before the election.

Further it is no different in substance from the other redesigned billboards, despite Mr Chapple’s attempt to distinguish them. In particular the one in NZ First colours reading “we don’t like Asians but love old people” is similarly provocative and arguably more so.

Similarly Conservative voters supporting Colin Craig could argue that while he expressed an open mind about moon landings and chem trails he at no stage allowed for the earth to be flat.

But all of the billboards, including the subject of this complaint, are an expression of free speech, within the bounds of robust political debate and opinion in a satirical context.

The complaint is not upheld. However three members of the Council expressed some discomfort with the particular billboard and the personal reference in it.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Chris Darlow, Peter Fa’afiu, Jenny Farrell, Sandy Gill, Vernon Small, Mark Stevens and Stephen Stewart.

John Roughan took no part in the consideration of this complaint.

CASE NO: 2407 – ANDREW PARSONS AGAINST HERALD ON SUNDAY

Andrew Parsons (the complainant) complained about a photo published in the Spy section of the *Herald on Sunday* on October 5, 2014.

The complainant alleged that the photo was completely irrelevant to the content of Spy and was indecent and breached Principle 5 – Headlines and Captions and Principle 10 – Photographs and Graphics.

The complaint was not upheld.

Background

The *Herald on Sunday* was celebrating its 10th anniversary edition and used this theme throughout that edition.

The photo was on the front page of Spy section of the newspaper and was of a naked female covered strategically by red balloons with the newspaper logo on them and multiple similar- balloons around her and the words “Happy Birthday” included. The balloons were large and a person would have to look very closely at the photo to ascertain whether the female was wearing any form of attire such as a bikini or not.

The Spy section is the newspaper’s social pages section and contains coverage of parties, celebrities, gossip and social news. The caption read “Happy Birthday. The hottest people to party with” which was a reference to the fact that the newspaper was celebrating its 10th anniversary.

Complaint

The complainant alleged that the photo breached Principle 5 – Headlines and Captions which states that Headlines, sub-headings, and captions should accurately and fairly convey the substance or a key element of the report they are designed to cover.

He also alleged a breach of Principle 10 – Photographs and Graphics which states Editors should take care in photographic and image selection and treatment. Any technical manipulation that could mislead readers should be noted and explained.

He alleged that the photo was irrelevant to the fact that it was the newspapers 10th anniversary, was indecent and involved the use of “sexualisation”. He explained sexualisation as “A naked body is not a “fun way” to illustrate a point but is designed to titillate”.

He complained to the newspaper and received a reply stating that it did not agree with his opinion and giving reason for this.

When given the opportunity to comment on the submission made to the Press Council by the newspaper, the complainant reiterated his grounds for complaint.

The Newspaper’s Response

In reply to the complaint, the editor said the newspaper believed the photo was relevant to their 10th anniversary celebration in that it was a female surrounded and covered with balloons signifying a party with the words “Happy Birthday” included.

The editor rejected the allegation that the photo was indecent and noted that balloons were used to ensure decency. The balloon theme was used throughout the newspaper on every page containing special anniversary coverage to signal the newspaper’s anniversary edition.

The Spy section of the newspaper are the social pages covering events, celebrities and gossip, and while the photo at the beginning of that section signified a party, there was also information on that same page as to the rest of the content in Spy.

The editor believed that everything on the front page was in keeping with the Spy content and the balloon theme used throughout that edition.

She stated that she was unable to comment on the

allegation of “sexualisation” as she was not entirely sure what the complainant’s meaning was but reiterated that her view was that the photo and caption were “simply a fun way to illustrate the content [10th anniversary] pertaining to it”.

Discussion and Decision

The complaint related to the photo appearing on the front page of Spy and the complainant’s opinion of that photo.

The photo in fact showed less naked flesh than one would see on a beach and it is hard to see how it could be termed indecent. Any person looking at the photo would have to study it closely to ascertain if the person posing for the photo was in fact completely naked or not.

The photo showed a smiling female surrounded by balloons along with the words “Happy Birthday” and invited the reader to celebrate a birthday. The page also included information about the content of Spy along with other photos.

The newspaper asserted that the smiling model and balloons were in keeping with a birthday theme and it is hard not to see some validity in this argument. The balloon theme was used throughout that issue to signify the newspaper’s 10th anniversary content.

Neither Principle 5 nor Principle 10 have been breached.

The complaint is not upheld.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Chris Darlow, Peter Fa’afu, Jenny Farrell, Sandy Gill, Vernon Small, Mark Stevens and Stephen Stewart.

John Roughan took no part in the consideration of this complaint.

CASE NO: 2408 – EILEEN SMITH AGAINST VIVA (NEW ZEALAND HERALD)

Introduction

Eileen Smith claims the front cover of *viva* magazine (inserted into the *New Zealand Herald* newspaper) on May 28, featuring a semi-naked Virgin Mary, was out-of-context and insensitive to Catholics.

No specific Press Council principles were cited in the complaint, and nor were any breached.

The complaint is not upheld.

Background

viva is a newspaper inserted lifestyle magazine which is carried in the *New Zealand Herald* newspaper.

The *viva* cover in question used a supplied image to promote an article about a home and business promoting New Zealand-designed products in Paris, France. The image featured a painting above a table that had a camera and two religious figurines on it.

One of the figurines depicted the Virgin Mary, but naked from the waist down.

Complaint

Eileen Smith’s complaint raised the following issues:

The depiction of the Virgin Mary was used out-of-context and to sell newspapers.

Depicting the Virgin Mary in a semi-naked way was culturally insensitive to Mary and all Catholics.

The cover should never have been published and reflected poor editorial decision making.

viva singled out a sacred Christian icon for ridicule.

The depiction of Mary was in colour, on a front cover and of a size which made it stand out in contrast with other elements in the image.

Editor's response

The response was provided by *New Zealand Herald* editor Shayne Currie.

The image, supplied from France, elegantly illustrated the Paris homeowner's art collection.

It was not meant to cause offence, and Mr Currie was sorry if it did. But the figurine was art and, as such, could be confronting.

The piece of art in the photo was so small that the semi-naked detail, on an A3-sized cover, would have gone unnoticed by most readers.

Mr Currie went on to apologise for the newspaper failing to respond to Smith's initial complaint and was to remind his staff of the importance of doing so.

Discussion

The image of the figurine was used in context alongside other art/items belonging to the homeowner.

It was a piece of art and, as the editor suggested, some readers may have found it confronting. Even if they did, being confronting is not in itself a breach of the Press Council's principles.

Although not directly referenced, Principle 7 in the Press Council's Statement of Principles says publications should not place gratuitous emphasis on religion in their reporting.

viva was not gratuitous in the emphasis it placed on the figurine in the cover image.

A piece of art, featured alongside other household items in the cover shot, was an entirely appropriate way to illustrate the home feature.

The complaint is not upheld.

Press Council members considering the complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Chris Darlow, Peter Fa'afiu, Jenny Farrell, Sandy Gill, Vernon Small, Mark Stevens and Stephen Stewart.

John Roughan took no part in the consideration of this complaint.

CASE NO: 2409 – RODERICK WELLWOOD AGAINST HAWKE'S BAY TODAY

The Press Council has not upheld, by a 6:4 majority, a complaint against *Hawke's Bay Today* by Rod Wellwood.

Background

The complaint concerned a report published on September 17, 2014 following court proceedings concerning Mr Wellwood's son, Michael Justin Wellwood. The former Hawke's Bay orchardist had pleaded not guilty to 10 counts of rape and indecent assault, while remaining in Australia on bail.

The son, who now lives in Queensland, was excused from attending the court. The charges relate to alleged offences in Hastings, Havelock North, Anaura Bay and Puketapu between January 2008 and December 2014.

The newspaper report said the son's name suppression had lapsed and there was no new application for name suppression by his counsel. The case would next be heard in Napier District Court on November 27.

The report then went beyond covering the court proceedings and said he was the son of former Puketapu orchardist Rod Wellwood (the complainant). They had helped run the business together and had made headlines in 2011 and 2012 after a "stoush" with the Bank of New Zealand relating to the sale of their home and orchard to clear the mortgage.

The BNZ sold the kiwifruit orchard, but because kiwifruit prices had dipped and the orchard's value had plummeted the sale was not enough to clear the mortgage. The Puketapu lifestyle property, which had been offered as security, was eventually placed on the market by the family.

The Complaint

Rod Wellwood said the report contained historical references to himself which grossly invaded his privacy, were vindictive and unethical. He also said his son had pleaded not guilty and had to be seen as innocent of the charges until proven otherwise.

He and the editor of *Hawke's Bay Today* discussed the issues after the Press Council received his complaint. The editor then said he believed the issue had been resolved, and that any subsequent reports were unlikely to mention Mr Rod Wellwood.

However, Mr Wellwood then told the Press Council he remained unsatisfied. The extra material published had nothing to do with the court proceedings and had raked over historic parts of his life. It was unethical.

The report had breached Press Council principles relating to accuracy, fairness and balance; privacy; comment and fact; and subterfuge.

The "vindictive" reporting showed knowledge of the case beyond that of unbiased reporting. The reporter appeared to have a personal agenda. Mr Wellwood said he had nothing to do with the court charges and should not have been linked to the report. He also disputed the reported facts about his association with his son, and the facts as reported about his dealings with the bank and the sale of his home.

His privacy had been grossly breached as his affairs had very little to do with the reported court process.

He did not accept the editor's attempts to justify why his privacy had been breached. They were not valid or relevant to the public interest, as claimed. "Common decency as part of everyday life should also apply to ethical journalism."

The inclusion of his details in the report were "comment" and not relevant to the charges his son was facing.

Citing the Press Council's subterfuge principle, he failed to see the "overriding public interest" in rehashed details of a past episode of this life. Reporters and editors should be aware of the hurtful effect they could have on the people about whom they wrote, and their extended families.

Newspaper's Response

Editor Andrew Austin said the court report was accurate, fair and balanced. "Having spoken to Mr Wellwood, we do not understand him to allege that any aspect of the court report was in any way inaccurate."

The report's opening line noted that the accused had pleaded not guilty to the charges. The second sentence repeated that he had denied the allegations. "The report is in all respects a fair and balanced report of an on-going criminal court proceeding affecting a prior inhabitant of the region, which is entirely standard and in accordance with court reporting standards."

The newspaper did not believe the report was in breach of the Accuracy principle.

In terms of the Privacy principle, it was appropriate and necessary to include Mr Wellwood's name in the report concerning the allegations against his son as the Wellwood name was known in parts of Hawke's Bay and readers would have recognised it in the court report.

Michael Wellwood was also involved in the running of the family business in the Hawke's Bay area with his father and the last time Michael Wellwood was mentioned in *Hawke's Bay Today* was in respect of his involvement in the family dispute with the BNZ bank. Michael and Rod Wellwood were parties to the dispute with the BNZ bank relating to the sale of their home and orchard to clear the mortgage.

"As Mr Rod Wellwood was also involved in the family dispute with the bank, his name was mentioned as well.

If the link between Michael and Rod Wellwood were omitted, we believe we could have been accused of trying to cover up the familial relationship.

"We believe that the criminal court report clearly conveys that Michael Wellwood has pleaded not guilty to the charges he faces. Given that Michael is currently deemed innocent and taking account of the factors above, we consider that the inclusion of his father's name in respect of the earlier matter concerning them both is warranted in the circumstances. We do not believe the report breaches this principle."

On the Comment principle, the editor said the report did not contain any comment. It was a factual report of the on-going criminal court proceeding against Mr Wellwood's son and recounted the facts surrounding the prior dispute between the Wellwood family and the BNZ bank. "We do not consider the report to breach this principle."

Rejecting the claim about Subterfuge, he said none of the information in the report was obtained by subterfuge or other dishonest means. The court proceedings were open to the public and no longer subject to any suppression orders. Details of the dispute between the Wellwood family and the BNZ bank were published in an article which appeared in November 2011.

There was never any intention to cause Mr Wellwood any embarrassment. After speaking to him, the editor said he was prepared to assure him that his name would not be printed in any future stories relating to the on-going criminal proceeding against his son.

"This newspaper takes a very cautious approach to identifying people in circumstances like this and we are respectful of privacy rights. In this case we believe

publication of Mr Wellwood's name was justified and within the parameters of the Press Council principles."

Press Council Decision

This issue arose from reporting of the Hastings District Court's decision to remove the name suppression of Mr Wellwood's son, Michael, who was facing a number of sex charges, and the newspaper report's inclusion of previously publicised material about Mr Rod Wellwood and his son. This publicity, in 2011 and 2012, was unrelated to the charges.

Mr Wellwood disputed some of the reported facts about the previous controversy. He also said his son had pleaded not guilty and had to be seen as innocent of the charges until proven otherwise. However, these issues are not the nub of the complaint.

Principle: Accuracy, fairness and balance: Mr Wellwood was upset that the newspaper used the lifting of his son's name suppression to revisit the previous unrelated controversy. However, their identities were well known in the district because of the previous publicity. Anyone with local knowledge who read the court report including Michael Wellwood's name could have made the connection. The newspaper merely reported what was publicly known.

Although Mr Wellwood questioned some aspects of reporting of historic facts, he did not challenge the newspaper to correct these details.

The report did not need more "balance" (presumably comment from Mr Rod Wellwood). The editor contends that the court report was accurate, fair and balanced and the Press Council supports this.

Principle: Privacy: The Press Council's principle of privacy states in part: "Publications should exercise care and discretion before identifying relatives of persons convicted or accused of crime where the reference to them is not directly relevant to the matter reported." However, in this case the name Wellwood was well known in the district, and the newspaper was merely reporting what had been publicised before. As name suppression for the accused had lapsed and the Wellwood name was "known", the newspaper felt it was relevant to refer to the previous controversy. The majority of the Press Council agrees

The Press Council's privacy principle also states, "the right of privacy should not interfere with publication of significant matters of public record or public interest."

Principle: Comment and fact: There was no comment, it was a report of the court proceedings and reuse of previous publicity. The editor has also denied any personal "vendetta" or bias by the reporter.

Principle: Subterfuge: The Press Council cannot see any evidence of subterfuge by the newspaper since it merely reported what was publicly available.

The complaint is not upheld by a majority.

Dissenting Opinion

While members of the Press Council were unanimous in the opinion expressed on most aspects of Mr Wellwood's complaint, four members were of the view that there had

been a breach of Principle 2 of the Press Council Principles and to that extent the complaint should be upheld.

Principle 2 relates to privacy and states (in part) that publications should exercise particular care and discretion before identifying relatives of persons convicted or accused of crime where the reference to them is not relevant to the matter reported.

While it is no doubt accurate to say that Mr Wellwood and his son had been in dispute with the BNZ, that dispute had no connection with or relevance to the charges against Michael Wellwood. The dispute had occurred some years previously and the subject-matter was completely different. There is no suggestion that Mr Wellwood was involved in the events that led to the charges or that his part in the earlier dispute was relevant to the alleged offending.

While it is accepted that the reporter was not acting vindictively and had no personal interest in targeting Mr Wellwood, the mention of Mr Wellwood's name and his part in the earlier dispute was unnecessary, irrelevant, and no doubt caused him distress by giving further publicity to matters he thought he had put behind him.

It is acknowledged that the editor of *Hawke's Bay Today* sought to remedy matters by agreeing to keep Mr Wellwood's name out of further reports on the prosecution, but it should never have appeared in that context in the first place.

The majority of the Press Council members who did not uphold the complaint were Sir John Hansen, Jenny Farrell, Sandy Gill, Vernon Small, Mark Stevens and Stephen Stewart.

The Press Council members who dissented in part were Tim Beaglehole, Liz Brown, Chris Darlow and Peter Fa'afiu.

John Roughan took no part in the consideration of this complaint.

CASE NO: 2410 – CHRISTINE BANKS AGAINST GREYMOUTH STAR

Christine Banks' complaint arises from a series of letters published by the *Greymouth Star* in October 2014. She does not complain specifically of a breach of one or more of the Press Council principles but says that the *Greymouth Star* should not have published letters that opened her to "unfair, unbalanced, inaccurate and malicious personal attack" that she could not defend. She also complains about closure of the correspondence and about abridgement of a letter.

The Press Council does not uphold the complaint.

Background

There has been long-running and costly litigation between Mr and Mrs Banks and the Grey District Council over matters to do with leasehold land at Blaketown. From time to time, the *Greymouth Star* has reported on the dispute and it has also published letters to the editor on the subject.

Mrs Banks' complaint relates to a series of four letters criticising the Grey District Council and published by the *Greymouth Star*, beginning with one dated October 1, 2014 from a Peter Balloch. The other three letters were written by Mrs Banks. The *Greymouth Star* has a practice of

referring letters of this kind to the Grey District Council for comment. Alongside the letter from Mr Balloch and two of Mrs Banks' letters the *Greymouth Star* published some lengthy comment, in one case from the Mayor and in two from the Chief Executive of the Council. The complaint is largely directed at this comment.

After Mrs Banks' letter of October 10, the editor declared the correspondence closed. He did, however, on October 11, publish a correction to an incorrect statement made by the Mayor in his response to one of Mrs Banks' letters

Also on October 10, 2014 the *Greymouth Star* published a letter from a Neil Messenger. This letter criticises Mrs Banks, and despite having earlier declared the correspondence closed the editor published her response on October 17. Two paragraphs were deleted from this letter before publication.

The Complaint

Mrs Banks complains in general that she has been subjected to personal attacks and has not been allowed to defend herself. She remarks on a potential conflict of interest as the Mayor of Greymouth has a financial interest in the *Greymouth Star* and on the nature of the public interest in the subject matter of her complaint. Specifically she says:

- A letter she received from the Council after closure of the correspondence confirms that a statement made by the Chief Executive is "dishonest and misleading". Closure of the correspondence means that she is unable to respond, and the *Greymouth Star* has not published a correction.
- She had inadequate opportunity to respond to inaccurate comment made by the Mayor on her letter of 8 October 2014 and the *Greymouth Star* has only published a correction to one of his statements. By closing the correspondence, the *Greymouth Star* protected the Mayor and Council from public scrutiny.
- Neil Messenger's letter was factually incorrect and harmful. It should not have been published without seeking a full and proper response. The editor deleted "credible, factual and public" information from Mrs Banks' response before publication and did not acknowledge that the letter had been abridged.
- In general, it is unfair to close off correspondence on a long-running issue of substantial public interest involving a large amount of ratepayers' money. The *Greymouth Star* has allowed similar issues to run for many years.

In connection with her complaint, Mrs Banks mentions an article published by the *Greymouth Star* on October 9, 2014, but does not specifically complain about its contents. It has been considered in the context of her general complaint.

The Greymouth Star Response

The editor of the *Greymouth Star*, Paul Madgwick, makes it plain in his response that he has lost patience with the long-running dispute, describing the October exchange of letters as "letter ping-pong between Mrs Banks and the Council". He says that over the past 10 years "every letter generates another volley, every council action is met with

counter action, on and on and on . . . Slowly but steadily it wears everyone down to the point where they have neither the time nor the inclination to engage in a never-ending war of words.” He closed the correspondence because it had become tedious and had run its course. In fairness, he allowed her to respond to the letter from Mr Messenger, which was published the day the correspondence was closed.

Mr Madgwick strongly denies any suggestion that he has allowed his editorial judgement to be influenced by the Mayor.

In relation to the complaint of abridgement, Mr Madgwick says that letters to the editor are always subject to abridgement, though this is usually very slight. Over the years, Mrs Banks has enjoyed substantial leeway in terms of length and lack of abridgement. However “I draw the line when a letter outrightly accuses the Mayor and/or council chief executive of lying and questions the judiciary.”

Discussion and Decision

This complaint falls to be considered mainly under Principles 5 and 12 of the Press Council Principles. The relevant part of Principle 5 states that:

Letters for publication are the prerogative of editors who are to be guided by fairness, balance and public interest. Abridgement is acceptable but should not distort meaning.

Principle 12 states:

A publication’s willingness to correct errors enhances its credibility and, often, defuses complaint. Significant errors should be promptly corrected with fair prominence. In some circumstances it will be appropriate to offer an apology and a right of reply to an affected person or persons.

The Principles relating to fairness and balance are also relevant to some extent.

In this case, the editor of the *Greymouth Star* has been entirely fair and balanced in referring correspondence for comment. The Grey District Council was invited to comment on Mr Balloch’s and Mrs Banks’ criticisms, and Mrs Banks was invited to respond to Mr Messenger even though the correspondence had been declared closed. There is no evidence of bias towards the Mayor or Council and Mr Madgwick has given an assurance that in view of the Mayor’s shareholding in the *Greymouth Star*, the relationship with him is “at more than arm’s length”. In addition Mrs Banks’ letters responding to the Council’s comment were published in full. The only real questions for consideration relate to the closure of the correspondence (including the refusal to publish a further correction) and the abridgement of Mrs Banks’ letter of October 17.

An editor has considerable discretion over letters submitted for publication, especially when deciding whether to publish a letter, publish an abbreviated version or to decline publication. The same applies to a decision to declare correspondence closed. In general, an editor is free to decide when correspondence has run its course, unless it is manifestly unfair to close it. It is noted that the correspondence was closed after the publication of Mrs Banks’ letter of October 10, without any response from the Council to that letter. If there is any unfairness here,

it is unfairness to the Council, not Mrs Banks who had opportunities to respond to all Council comments.

An editor is not responsible for inaccurate statements in letters unless she or he should have known about the inaccuracy. However the inaccurate statement that Mr and Mrs Banks had ceased to pay rent was repeated in the October 9 article, and for that reason it was appropriate to publish a correction once the facts had been established. The other inaccuracies mentioned by Mrs Banks occur only in the comment on her letters, to which she had an adequate opportunity to respond.

It is normal practice for some letters to the editor to appear in abridged form. While the information that the *Greymouth Star* provides about letters to the editor does not use the word “abridgement”, it makes it clear that letters may be edited at the editor’s discretion because of their content or length. The material edited out of Mrs Banks’ letter consists of examples that illustrate points she is making and is not essential to the argument she puts forward or the general meaning of the letter.

The complaint is not upheld.

Press Council members considering the complaint were Chris Darlow (Acting Chair), Tim Beaglehole, Liz Brown, Peter Fa’afiu, Jenny Farrell, Sandy Gill, John Roughan, Marie Shroff, Vernon Small, Mark Stevens and Stephen Stewart.

CASE NO: 2411 – AARON LETCHER AGAINST WAIKATO TIMES

The Press Council has upheld, by a majority of 8:3, a complaint against the *Waikato Times* over a front page report of a claim that Young Nationals had bought hundreds of copies of the book *Dirty Politics*, intending to burn them.

The Complaint

Aaron Letcher, president of the Waikato University Students’ Union and a former member of Young Nationals, complained that the story was factually wrong, unsubstantiated, based entirely on rumour and damaging to him.

The story was spread across the front page on August 21, eight days after the publication of the book which alleged collusion between the Prime Minister’s Office and an aggressive online blog. The report was accompanied by a graphic illustration of books being set alight and it cited “rumour” that Mr Letcher had bought 202 copies to burn.

The rumour had originated on the Facebook page of a person identified as the NZ First Youth leader. The *Waikato Times* reported that it also had confirmation from “a Waikato University source who asked not to be named”. It said the student had seen the books in Mr Letcher’s possession and understood he had been given money from someone in the National Party to buy them.

Mr Letcher told the Press Council that when contacted by the reporter he had assured her the rumour was not true, as did a number of other people she approached. The suggestion that the party would buy books to burn them was ridiculous.

The Response

Fairfax Media Regional editor Wayne Timmo said the *Waikato Times* stood by the substance of its story. It was reporting allegations, not stating as fact that Mr Letcher was involved in plans for book burning. Mr Letcher's denial had been given prominence.

Mr Letcher's belief that his denial should have prevented publication was, in Mr Timmo's view, "dangerous to robust reporting of political issues our democracy requires to function". There were many denials of matters raised in the book *Dirty Politics* but those denials had not prevented them being reported.

As president of a students' union and a member of the Young Nationals, Mr Letcher should expect allegations raised about him to receive coverage.

The *Times* did not base stories solely on social media but those media often provided tips or starting points for stories. In this case the allegation on social media was supported by a source the *Times* considered credible and agreed not to name, which is standard practice for news organisations.

The Decision

The Press Council recognises that social media are a frequent source of information that can be checked and developed into stories capable of meeting the standards of accuracy, fairness and balance expected by readers of a reliable newspaper.

In this case the Council does not believe the newspaper had sufficient corroboration of the claim on Facebook. The *Times'* additional source, a student who would not be named, claimed to have seen Mr Letcher with more than 200 books. If that statement were true, it does not establish that Mr Letcher intended to burn them.

The Facebook posting as reported by the *Times*, said, "So apparently the CNI Young Nats (and presumably the NZ Young Nats) are buying up copies of Nicky Hager's # Dirty Politics....and burning them." The word "apparently" should be noted. It suggests the information was at best hearsay, at worst an assumption by a person associated with a rival political party.

The *Times* called it "rumour" but its report also claimed to have confirmed part of the rumour. It is therefore difficult to accept the Regional Editor's response that the paper was merely reporting an allegation. Its confidence in its own source and its decision to splash the book burning allegation across its front page would have given the story credibility in the minds of some readers.

While Mr Letcher's denial was also reported prominently, this does not redeem the report. Newspapers need to be careful when dealing with rumour that is denied. A false accusation can easily be made for the purpose of forcing a political opponent to deny it publicly. That indeed is said to be a device of "dirty politics". Newspapers should take care to ensure they are not unwitting instruments of it.

The *Waikato Times* could not substantiate this rumour to a standard that meets the Press Council's principles of accuracy and fairness. Mr Letcher's complaint is upheld.

Dissent

Three members of the Press Council Liz Brown, Sandy Gill and Peter Fa'afiu would not have upheld the complaint. They noted that the article was balanced; two sources had been cited; the reporter had gone to Mr Letcher for his denial; two MPs had spoken as to the good character of Mr Letcher. They expressed some concern at the front-page treatment, and the subsequent articles referring to the initial story, but on balance would not uphold the complaint.

Press Council members upholding the complaint were Chris Darlow (Acting Chair), Tim Beaglehole, Jenny Farrell, John Roughan, Marie Shroff, Vernon Small, Mark Stevens and Stephen Stewart.

Press Council members who would not have upheld the complaint were Liz Brown, Peter Fa'afiu and Sandy Gill.

CASE NO: 2412 – JOY SUTTON AGAINST THE NEW ZEALAND HERALD

The Article

The article is a comment piece that appeared in the *New Zealand Herald* on October 25, 2014. The writer Verity Johnson gives a personal account of her experience when she visited a doctor for advice about her fragile mental state at the time. The writer has chosen to make public a very personal and intimate description of her feelings at a vulnerable time. She was unhappy with the advice she received from the doctor and describes vividly how he appeared to her.

"The doctor looked like an old, evil-tempered elephant. His face looked like it had melted, dripped off his skull and hardened like candle wax."

The Complaint

Joy Sutton thinks that the article breaches Press Council Principle 7 relating to discrimination and diversity. Ms Sutton says that the article contains hateful and irrelevant adverse comment about the age and appearance of the doctor, which is gratuitous, and is therefore in breach of Principle 7, which states:

Discrimination and Diversity

Issues of gender, religion, minority groups, sexual orientation, age, race, colour or physical or mental disability are legitimate subjects for discussion where they are relevant and in the public interest, and publications may report and express opinions in these areas. Publications should not, however, place gratuitous emphasis on any such category in their reporting.

Editor's Response

In response the Editor made a number of points:

The article was clearly labeled as comment and used colourful language; the doctor could not be identified; the article made a number of points of public interest and importance around the medical profession's handling of mental illness; and finally the editor noted the importance of freedom of expression.

The complainant rejected the *Herald's* offer to publish a letter in response to the article.

Decision

The writer in this case is a (self advised) young woman, based in Melbourne, who has contributed a series of colourful comment pieces published in the *Herald* over the last couple of years. She therefore has a track record with *Herald* readers of giving her personal point of view and that of her age group. In the process she often reveals some of her very personal thoughts and feelings.

The words complained of are undoubtedly an unpleasant description of the doctor who advised Ms Johnson. However, unflattering descriptions and words often appear in media stories, especially comment pieces, about other individuals and classes of people (e.g. “pimpily youth”). Principle 7 allows for legitimate discussion of age and other discrimination issues, and the writer clearly feels that age of the doctor was relevant to her treatment by him. While the words complained of are strong, they are in the context of a personal comment piece using colourful language. The reader is likely to observe that the young writer is using language relevant to her mental state at the time, rather than to conclude that this is a general attack on older people.

The Council does not believe that the words in question, in the context of this article, breach the principle cited by the complainant. The complaint is not upheld.

Press Council members considering the complaint were Chris Darlow (Acting Chair), Tim Beaglehole, Liz Brown, Peter Fa’afiu, Jenny Farrell, Sandy Gill, Marie Shroff, Vernon Small, Mark Stevens and Stephen Stewart.

John Roughan took no part in the consideration of this complaint.

CASE NO: 2413 – DONNA VITASOVICH AGAINST THE NEW ZEALAND HERALD

The Complaint

Donna Vitasovich’s complaint related to a story published on nzherald online on October 3, 2014 on the government’s proposed Research and Development grants. The complainant was dissatisfied with the general standard of the reporting but her particular complaint focused on the use of the word ‘shitty’ (a direct quote from Sam Morgan) which she claimed, by placing sensation over proper analysis, showed no regard for the reader’s expectation of good journalism. The Council Principles she cited were 1. Accuracy, Fairness and Balance; 6. Discrimination and Diversity; 8. Subterfuge; and 9. Conflicts of Interest.

The Editor’s Response

The editor did not agree with the complaint, arguing that using the word in a direct quote, when Sam Morgan had clearly chosen it carefully for emphasis and effect, was not the same as a journalist simply using it as part of a story. ‘The *New Zealand Herald*’, the editor wrote, ‘does not use swear words lightly. Where a word is pertinent to the context of a story it is used’. He went on to suggest that the word is in fairly common usage in New Zealand and the reporter’s use of it added a colloquial emphasis to the discussion of the R and D proposals.

The Discussion and Decision

The Council found it difficult to link the complaint with the principles cited. If the Council was right in seeing the nub of the complaint as being the complainant’s belief that the use of the word shitty was incompatible with good journalism, it was not inclined to agree. It accepted the editor’s argument that the direct quote captured the tone of Morgan’s comments and that this was a valid part of the story. Nor is the word offensive enough to most readers to unbalance or detract from the general sense of the story.

The complaint is not upheld.

Press Council members considering the complaint were Chris Darlow (Acting Chair), Tim Beaglehole, Liz Brown, Peter Fa’afiu, Jenny Farrell, Sandy Gill, Marie Shroff, Vernon Small, Mark Stevens and Stephen Stewart.

John Roughan took no part in the consideration of this complaint.

Statement of Principles

Scope

The Press Council's scope applies to published material in newspapers, magazines and their websites, including audio and video streams, as well as to digital sites with news content, or blogs characterised by their news commentary. The Council retains the discretion to decline a complaint if the publication has limited readership or the circumstances make the complaint inappropriate for resolution by the Council.

The Council's adjudications are based on ethical considerations: it does not recover debts or seek monetary recompense for complainants. Its Principles and Complaints Procedures are set out below.

Preamble

The main objective of the New Zealand Press Council, established as an industry self-regulatory body in 1972, is to provide the public with an independent forum for resolving complaints involving the newspapers, magazines and the websites of such publications and other digital media. The Council is also concerned with promoting media freedom and maintaining the press in accordance with the highest professional standards.

An independent press plays a vital role in a democracy. The proper fulfilment of that role requires a fundamental responsibility to maintain high standards of accuracy, fairness and balance and public faith in those standards.

There is no more important principle in a democracy than freedom of expression. Freedom of expression and freedom of the media are inextricably bound. The print media is jealous in guarding freedom of expression, not just for publishers' sake but, more importantly, in the public interest. In dealing with complaints, the Council will give primary consideration to freedom of expression and the public interest.

Public interest is defined as involving a matter capable of affecting the people at large so that they might be legitimately interested in, or concerned about, what is going on, or what may happen to them or to others.

Distinctions between fact, on the one hand, and conjecture, opinion or comment, on the other hand, must be maintained. This does not prevent rigorous analysis. Nor does it interfere with a publication's right to adopt a forthright stance or to advocate on any issue. Further, the Council acknowledges that the genre or purpose of a publication or article, for example blogs, satire, cartoons or gossip, call for special consideration in any complaint.

The Press Council endorses the principles and spirit of the Treaty of Waitangi and Bill of Rights Act, without sacrificing the imperative of publishing news and reports that are in the public interest.

Editors have the ultimate responsibility for what appears in their publications, and for adherence to the standards of ethical journalism which the Council upholds. In dealing with complaints, the Council seeks the co-operation of editors and publishers. News bloggers and digital media

are similarly required to participate responsibly.

The following principles may be used by complainants when they wish to point the Council to the core of their complaint. However, a complainant may nominate other ethical grounds for consideration.

Principles

1. Accuracy, Fairness and Balance

Publications should be bound at all times by accuracy, fairness and balance, and should not deliberately mislead or misinform readers by commission or omission. In articles of controversy or disagreement, a fair voice must be given to the opposition view.

Exceptions may apply for long-running issues where every side of an issue or argument cannot reasonably be repeated on every occasion and in reportage of proceedings where balance is to be judged on a number of stories, rather than a single report.

2. Privacy

Everyone is normally entitled to privacy of person, space and personal information, and these rights should be respected by publications. Nevertheless the right of privacy should not interfere with publication of significant matters of public record or public interest.

Publications should exercise particular care and discretion before identifying relatives of persons convicted or accused of crime where the reference to them is not relevant to the matter reported.

Those suffering from trauma or grief call for special consideration.

3. Children and Young People

In cases involving children and young people editors must demonstrate an exceptional degree of public interest to override the interests of the child or young person.

4. Comment and Fact

A clear distinction should be drawn between factual information and comment or opinion. An article that is essentially comment or opinion should be clearly presented as such. Material facts on which an opinion is based should be accurate.

5. Columns, Blogs, Opinion and Letters

Opinion, whether newspaper column or internet blog, must be clearly identified as such unless a column, blog or other expression of opinion is widely understood to consist largely of the writer's own opinions. Though requirements for a foundation of fact pertain, with comment and opinion balance is not essential. Cartoons are understood to be opinion.

Letters for publication are the prerogative of editors who are to be guided by fairness, balance, and public interest. Abridgement is acceptable but should not distort meaning.

6. Headlines and Captions

Headlines, sub-headings, and captions should accurately and fairly convey the substance or a key element of the report they are designed to cover.

7. Discrimination and Diversity

Issues of gender, religion, minority groups, sexual orientation, age, race, colour or physical or mental disability are legitimate subjects for discussion where they are relevant and in the public interest, and publications may report and express opinions in these areas. Publications should not, however, place gratuitous emphasis on any such category in their reporting.

8. Confidentiality

Publications have a strong obligation to protect against disclosure of the identity of confidential sources. They also have a duty to take reasonable steps to satisfy themselves that such sources are well informed and that the information they provide is reliable. Care should be taken to ensure both source and publication agrees over what has been meant by “off-the-record”.

9. Subterfuge

Information or news obtained by subterfuge, misrepresentation or dishonest means is not permitted unless there is an overriding public interest and the news or information cannot be obtained by any other means.

10. Conflicts of Interest

To fulfil their proper watchdog role, publications must be independent and free of obligations to their news sources. They should avoid any situations that might compromise such independence. Where a story is enabled by sponsorship, gift or financial inducement, that sponsorship, gift or financial inducement should be declared.

Where an author’s link to a subject is deemed to be justified, the relationship of author to subject should be declared.

11. Photographs and Graphics

Editors should take care in photographic and image selection and treatment. Any technical manipulation that could mislead readers should be noted and explained.

Photographs showing distressing or shocking situations should be handled with special consideration for those affected.

12. Corrections

A publication’s willingness to correct errors enhances its credibility and, often, defuses complaint. Significant errors should be promptly corrected with fair prominence. In some circumstances it will be appropriate to offer an apology and a right of reply to an affected person or persons.

Membership

The following organisations have agreed to abide by these principles.

Metropolitan

The New Zealand Herald
The Dominion Post
The Press
Otago Daily Times

Regional

Ashburton Guardian
Bay of Plenty Times
The Rotorua Daily Post
Dannevirke Evening News
The Gisborne Herald
The Greymouth Evening Star
Hawkes Bay Today
Horowhenua Kapiti Chronicle
Manawatu Standard
The Marlborough Express
The Nelson Mail
The Northern Advocate
The Oamaru Mail
The Southland Times
Taranaki Daily News
The Timaru Herald
Waikato Times
Wairarapa Times-Age
Wanganui Chronicle
The Westport News
Northern News
The Wairoa Star

Sunday

Herald on Sunday
Sunday Star-Times
Sunday News

Community

APN Community Newspapers
Fairfax NZ Community Newspapers
Community Newspaper Association of New Zealand member newspapers

Business Weekly

National Business Review

Magazines

New Zealand Magazines (APN)
Fairfax Magazines
Bauer Media
Magazine Publishers’ Association
New Zealand Doctor
Pharmacy Today

Digital Members

Billbarcblog
Pundit.co.nz
Business Desk
EveningReport.nz
Scoop.co.nz

Complaints procedure

1. A person bringing a complaint against a publication (namely newspapers, magazines and their websites as well as other digital sites with news content, including blogs characterised by news commentary) must, unless exempted by the Executive Director of the Council, first lodge the complaint in writing with the editor of the publication.
2. The complaint (to be clearly marked as a letter of complaint) is to be made to the editor, online author or publisher within the following time limits:
 - a. A complaint about a particular article, within one calendar month of its publication.
 - b. A complaint arising from a series of articles, within one calendar month of the earlier of the date from which the substance of the complaint would have been reasonably apparent to the complainant, or the publication of the last article in the series.
 - c. A complaint concerning non-publication of any material, within two calendar months of the date on which the request to publish was received by the publication.
 - d. A complaint about an online article or blog, within one calendar month of the date of first publication, with the complaint option kept open for two years if the offending article remains uncorrected electronically, or longer at the Chairperson of the Council's discretion.
 - e. A complaint which does not arise from the publication or non-publication of any material, within one month of the incident giving rise to the complaint.
3. If the complainant is not satisfied by a publication's response or receives no response within 10 working days from the date on which the editor or online publisher received the complaint, the complainant should then complain promptly to the Council.

refer it to the complainant. The complainant may then, within 10 working days, in approximately 200 words, reply to any new matters raised by the publication. The complainant should not repeat submissions or material contained in the original complaint

Complaint Form

1. Complainants are requested where possible to use the online complaint form available on the website or on a form provided by the Council. The Council will, however, accept complaints by letter. All complaints must be accompanied by the material complained against and copies of the correspondence with the publication. The main thrust of the complaint is to be summarised in up to 500 words. Other supporting material may be supplied. Legal submissions are not required.

Time limits

1. The time limits which will apply on receipt of a complaint are:
 - a. After the Council refers the complaint back to the publication, the publication has 10 working days from receipt of that complaint to reply.
 - b. On receipt of the response, the Press Council will

2. The Executive Director of the Council has the power to extend time limits but will not do so without compelling reason.
3. In appropriate circumstances, guided by rules of natural justice, the Council may request or receive further information from one or both of the parties
4. Once submissions have been exchanged the Press Council will at its next meeting consider and usually determine the complaint. Most complaints are determined on the papers but, if wishing to make a personal submission, a complainant may apply to the Executive Director of the Council for approval to attend. If approval is given the editor, or representative of the editor or publisher of an online article will also be invited to attend the hearing. No new material may be submitted at the hearing without the leave of the Council.
5. Timeliness of a publication's response will be taken into account in a judgment, and may itself be the subject of a Council ruling.

Publication of adjudications

1. If a complaint is upheld the publication, print or online, must publish the adjudication giving fair prominence. Where an offending print article has been published on pages 1-3, the Council may direct the adjudication to run on page 3, to a maximum of 400 words. If the decision is lengthy the Press Council will provide a shortened version.
2. A short pointer is to run on page 3, with the full adjudication further back if it relates to an article published on a later page.
3. A website or blog should publish the adjudication in the section in which the original story ran.
4. Magazines should publish a pointer on the first available editorial page with the full adjudication appearing on a later page.
5. The decision must be published unedited and unaccompanied by editorial comment, though publications are not proscribed from commenting on the decision elsewhere. If a complaint is not upheld the publication may determine whether to publish the decision and where it should be published.
6. All ruled-against electronic copy that is enduring and deemed to be conveying inaccuracy must be noted as having been found incorrect and why. In cases where a potential harm outweighs the need to keep public record intact, the Council may require the removal of story elements or the taking down of a story in its entirety.

7. If a ruled-against article has been further published on a publication's website, or distributed to other media, the Council requires that:
 - a. In the instance of a website, the article is to be flagged as having been found to have breached Press Council Principles, and a link provided to the decision on this website.
 - b. Where there has been further distribution to other news media, the Press Council will provide a short statement to be published in each publication known to have published the original item.
8. The Council reserves the right to direct a right of reply, correction, or retraction. In egregious circumstances, with a unanimous decision, the Council may censure a publication. Such a censure must be published in the publication or website giving due prominence.
9. All decisions will be available on the Council's website and published in its relevant annual report, unless the Council, on its own volition or at the request of a party, agrees to non-publication. Non-publication will be agreed to only in exceptional circumstances.

Other requirements

1. Where the circumstances suggest that the complainant may have a legally actionable issue, the complainant will be required to provide a written undertaking not to take or continue proceedings against the publication or journalist concerned.
2. The Council may consider a third party complaint (i.e. from a person who is not personally aggrieved) However, it reserves the right to require the complainant to first seek written consent from the individual who is the subject of the article complained of.
3. Publications, websites and blogs must not give undue publicity to a complaint until it has been resolved or adjudicated. However, the fact a complaint has been made can be reported.
4. Editors are to publish, in each issue of the publication, the Council's complaints process. This should be by way of a brief at either the foot of a news briefs column, or on the editorial or letters page; on the contacts page for websites and blogs and on the imprint page for magazines.

NZ Press Council
Trading Account
For the Year ended 31st December 2014

	<i>2014</i>	<i>2013</i>
	\$	\$
REVENUE		
Union	2,700	2,700
NPA Contribution	240,000	240,000
Community Newspapers	7,599	2,768
Magazines Contribution	12,647	11,206
Digital Membership	<u>87</u>	<u>-</u>
Total Sales	263,033	256,674
GROSS SURPLUS FROM TRADING	<u><u>\$263,033</u></u>	<u><u>\$256,674</u></u>

NOTE: This statement is to be read in conjunction with the Notes to the Financial Statements on page 66

NZ Press Council
Statement of Financial Performance
For the Year ended 31st December 2014

	2014 \$	2013 \$
Gross Surplus from Trading	263,033	256,674
SUNDRY INCOME		
Interest Received	2,871	2,482
Total Income	265,904	259,156
Less Expenses		
Accident Compensation Levy	734	410
Accountancy Fees	1,140	1,140
Advertising & Promotion	1,377	640
Audit Fees	1,000	1,085
Bank Charges	56	17
Cleaning & Laundry	498	544
Computer Expenses	1,225	503
Postage & Courier	2,012	3,304
General Expenses	5,864	6,925
Insurance	3,305	3,255
Legal Expenses	11,437	-
Office Relocation Expenses	1,272	-
Printing & Stationery	991	8,960
Rent	9,799	10,487
Rent - Carparking	1,920	1,920
Internet Expenses	-	94
Power & Telephone	1,620	1,893
Travel & Accommodation	21,608	20,137
Annual Leave owing	5,433	5,732
Board Fees	28,730	29,632
PAYE & Student Loan	-	34,065
Wages & Salaries	147,392	109,939
Total Expenses	247,413	240,682
Net Surplus Before Depreciation	18,491	18,474
Less Depreciation Adjustments		
Depreciation as per Schedule	1,132	1,644
Depreciation - Loss on Sale	214	-
Net Depreciation Adjustment	1,346	1,644
NET OPERATING SURPLUS BEFORE TAX	17,145	16,830
Less Taxation Provision	196	156
SURPLUS AFTER TAX	16,949	16,674
NET SURPLUS/(DEFICIT)	<u>\$16,949</u>	<u>\$16,674</u>

NOTE: This statement is to be read in conjunction with the Notes to the Financial Statements on page 66

NZ Press Council
Statement of Financial Position
As at 31st December 2014

	<i>2014</i>	<i>2013</i>
	\$	\$
CURRENT ASSETS		
Bank - Cheque Account	18,829	17,408
Bank - Savings account	85,926	90,378
Accounts Receivable	14,519	9,718
Shareholders' Overdrawn Current Accounts	-	-
Total Current Assets	<u>119,274</u>	<u>117,504</u>
NON-CURRENT ASSETS		
Fixed Assets as per Schedule	<u>11,778</u>	<u>4,589</u>
TOTAL ASSETS	<u>131,052</u>	<u>122,093</u>
CURRENT LIABILITIES		
GST Due for payment	8,657	11,642
Taxation	640	617
Accounts Payable	12,092	17,120
	-	-
	-	-
	-	-
Shareholders' Current Accounts	-	-
Total Current Liabilities	<u>21,389</u>	<u>29,379</u>
TOTAL LIABILITIES	<u>21,389</u>	<u>29,379</u>
NET ASSETS	<u>\$109,663</u>	<u>\$92,714</u>
Represented by;		
EQUITY		
Share Capital	-	-
Reserves	-	-
Retained Earnings	<u>109,663</u>	<u>92,714</u>
TOTAL EQUITY	<u>\$109,663</u>	<u>\$92,714</u>

The accompanying notes form part of these Financial Statements and should be read in conjunction with the reports contained herein.

For and on behalf of the Board ;

Director _____ Director _____

Date

NOTE: This statement is to be read in conjunction with the Notes to the Financial Statements on page 66

NZ Press Council
Schedule of Fixed Assets and Depreciation
For the Year ended 31st December 2014

Asset	Private Use	Cost Price	Book Value 01/01/2014	Additions Disposals	Gain/Loss on Disposal	Capital Profit	Mth	---- Depreciation ---- Rate	Accum Deprec 31/12/2014	Book Value 31/12/2014
BUILDINGS										
Fitout		22,397	3,157				12	11.4% DV	19,600	2,797
Sub-Total		22,397	3,157						19,600	2,797
FURNITURE & FITTINGS										
Leather Hiback Chair		1,453	78	0	(78)					0
4 Drawer Black Filing Cabinet		388	16	0	(16)					0
Wallunits, 2 x 3 dr		1,510	75	0	(75)					0
5 Drawer Desks x 2		883	45	0	(45)					0
Side Chairs x 2		878	36				12	18.0% DV	848	30
Crestline Desk				1,598			2	13.0% DV	35	1,563
Boardroom Furniture (share of)				2,482			2	16.0% DV	66	2,416
Dexion Storage Unit				4,455			2	10.0% DV	74	4,381
Sub-Total		5,112	250	8,535	(214)				1,023	8,390
OFFICE EQUIPMENT										
Printer		876	1				12	48.0% DV	875	1
Computer		2,467	1,182				12	50.0% DV	1,876	591
Sub-Total		3,343	1,183						2,751	592
TOTAL		30,852	4,590	8,535	(214)				23,374	11,779

NZ Press Council

Notes to the Financial Statements

For the Year ended 31st December 2014

1. STATEMENT OF ACCOUNTING POLICIES

The financial statements presented here are for the entity NZ Press Council,

NZ Press Council qualifies as a registered society under the Incorporated Societies act 1908.

The accounting principles recognised as appropriate for the measurement and reporting of earnings and financial position on an historical cost basis have been used, with the exception of certain items for which specific accounting policies have been identified.

(a) **Changes in Accounting Policies**

There have been no changes in accounting policies. All policies have been applied on bases consistent with those used in previous years.

(b) **Fixed Assets & Depreciation**

The entity has the following classes of fixed assets;

Buildings

Furniture & Fittings

Office Equipment

All fixed assets are initially recorded at cost with depreciation being deducted on all tangible fixed assets other than freehold land, in accordance with rates set out in the Income Tax Act 1994.

(c) **Goods & Services Tax**

The Statement of Financial Performance and Statement of Cashflows (where included) have been prepared so that all components are stated exclusive of GST. All items in the Statement of Financial Position are stated net of GST, with the exception of account receivables and payables.

(d) **Receivables**

Receivables are stated at their estimated realisable value. Bad debts are written off in the year in which they are identified.

2. CONTINGENT LIABILITIES

At balance date there are no known contingent liabilities (2013:\$0). NZ Press Council has not granted any securities in respect of liabilities payable by any other party whatsoever.

26 March 2015

To Whom it May Concern

The New Zealand Press Council

We have reviewed the accounts of The New Zealand Press Council for the period ended 31 December 2014 (12 Months).

In our opinion:-

- Proper accounting records have been kept by the organisation as far as appears from our examination of those records, and the organisations 2014 Financial Statements.
- The accounts comply with generally accepted accounting practice, and give a true and fair view of the financial position as at 31 December 2014 and financial performance and cashflows for the year ended on this date of the organisation.

Our review was completed on 25th March 2015 and our unqualified opinion is expressed at this date.

CORNISH & ASSOCIATES LTD.

