



NEW ZEALAND
**PRESS
COUNCIL**

2016

44th Report
of the
New Zealand Press Council

NEW ZEALAND PRESS COUNCIL

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Chairman's Foreword

The major event in 2016 affecting the Press Council and its members was the application by Fairfax Media and NZME to the Commerce Commission for approval to their merger. These two companies represent a very large proportion of the print news media in New Zealand. While a decision is still awaited from the Commerce Commission, both parties made their commitment to the Press Council clear to that body.

Both the Executive Director and I were involved, over the course of the year, with regulatory matters. Initially we responded to Minister Adams' paper on Content Regulation in a Converged World at the end of 2015. Ms Major and I met with officials from the Ministry of Culture and Heritage, and communications continue with them.

In August, the Minister announced that the Broadcasting Standards Authority would assume regulation of on demand content, excluding news and current affairs, to ensure it met relevant classification and content standards. At the moment it remains unclear where the boundary lies between news and entertainment items posted on our members' online news sites such as Stuff, New Zealand Herald.co.nz and others. We were advised by officials that it was not intended to define the term "news and current affairs". Rather, we were advised that such jurisdictional issues should be worked out informally between the BSA and the Press Council. Ms Major and I met with the Chair and Executive Director of the BSA to discuss these issues. It was agreed between Chairs that a Memorandum of Understanding would be prepared and agreed to setting out the procedural steps necessary to deal with any border line jurisdictional matters. This document was to be drafted by the BSA, and at year's end it had not been received (it has since been received, and discussions as to the final form continue).

Against this regulatory background, it is worth reminding ourselves that the Press Council is a self-regulatory organisation formed by newspaper publishers and the journalists' union 45 years ago. For most of its life it has been fully funded by members of the Newspaper Publishers Association, but in more recent times with contribution from other print and online media organisations (although the bulk of funding continues to be received from members of the NPA). Initially the Council was concerned with complaints against the print media, but for the last 18 years, since 1999 it has dealt with online media content as well. The Council considers published complaints (both in print and on-line) against a set of 12 principles. These principles are based on the best journalistic practice and the highest long standing journalistic ethics. The Principles also give due regard to The New Zealand Bill of Rights.

The Online Media Standards Authority (OMSA) was formed by television and broadcasting interests to regulate online content created by those organisations. OMSA approached the Press Council to see whether it would consider taking over their complaints. After consultation, an agreement was entered into, and from 1 January 2017, TVNZ, Radio New Zealand, Sky/Prime, Media Works, M ori Television and NZME became associate members of the Council. From that date, complaints against their members'

online content will be dealt with by the Press Council, and its processes, rather than the previous OMSA process.

During the year the Council issued rulings on 73 complaints, of which 19 were upheld in full or part, and 53 not upheld. Full statistics are on page 9.

In some years there is almost a theme to complaints received. During 2016 there was such a theme, as the Council received a number of complaints where articles were either based entirely on a press release, or where information imparted by one party had been taken at face value without going to the other party for either comment or corroboration.¹ The Council is concerned that, as well as often being unfair to a party that should have been consulted, a partly-told story is not in the reader's best interest, and we would hope that the decisions just referred to will lead journalists to seek comment or corroboration before publication.

Over the years there have been but a few complaints against student magazines, but we received five in 2016. The Massey University magazine, Massive, received several complaints about the cover of the March edition, which showed a cartoon image that some readers considered to depict "non-consenting sexual violence", as one complainant put it. The Council decided first, that the image was not at all realistic, and, secondly, that no member of the Council saw the image as depicting an act of sexual assault.²

A further complaint relating to the March issue of Massive related to an article headlined "Massey University Bans Ginger Students for 2017". Three complaints proceeded to the Press Council for determination. The feature was clearly tagged 'satire', and included "fictitious quotes" from politicians, parents, students and university personnel. The complainants considered that the article could have caused hurt and distress to redheads by such "stigmatisation and demonisation (sic)". The Council, noting that student magazines were well known for pushing boundaries and not a media channel for the faint-hearted, rejected the complaints. The "genre provision", where the Council can allow for a particular readership, was called into play, as was the acceptance of satire as a means of entertainment.³

Finally, in relation to student publications, the Dunedin City Council complained about pre- local body election coverage in Critic Te Arohi (Otago University). In its decision the Council noted this was a straight news report of the placement of special polling booths on campus and the provision of enrolment forms. In such circumstances the genre provision did not apply. The magazine had made an error of fact and had failed to correct it when it was pointed out. That aspect of the complaint was upheld.⁴

The Council received two complaints about the mentioning of race (specifically Chinese) in reports concerning poor driving incidents amongst tourist drivers. Neither of these complaints was upheld, the Council noting that it was nationality, not race that was being referred to. Reference was made to other reports recording poor driving

1 Cases 2483, 2491, 2506, 2510 and 2522.

2 Case 2496.

3 Cases 2507, 2508 and 2509.

4 Case 2533.

by German, American, Indian and other nationals. The Council also held that there was a public interest in reporting on the concern about the driving ability of tourists on New Zealand roads.

Previously, the Council has ruled photographs publicly circulated on Facebook could not then be claimed to be private.⁵ That case also noted that publications should make a reasonable attempt to obtain permission.

One complaint in 2016 related to the publication of a Facebook photograph.⁶ The article related to the tragic accidental death of a young woman, whose photograph was uplifted and published. The Council held the publication had not taken sufficiently into account the provision within the privacy principle of special consideration of those suffering from grief or trauma. The Council further upheld the complaint under the same provision, as the publication had been persistent in contacting the family after being advised they did not want any contact with the media.

Finally, the Council ruled children should not have been named in a story published by NZ Women's Weekly which detailed aspects of the parents' marital dispute. This echoed a finding in the previous year,⁷ and the Council again reminded editors that they must be able to "demonstrate an exceptional degree of public interest to override the interests of the child or young person".⁸

We had previously said, and repeated it twice this year,⁹ that the same standards apply to print as to online content. Furthermore, if a correction is required to an online version it should also be published in the print edition. The Council

5 Case 2173.

6 Case 2487.

7 Case 2440.

8 Case 2530.

9 Cases 2499 and 2550.

is emphatic that readers of both formats deserve to have the correct information put before them.

As with previous years, there were a number of complaints related to opinion pieces. It is unnecessary to repeat earlier findings in this regard, but it would always be helpful if publications, both print and online, clearly labelled opinion pieces. And where, in fact, a page is all opinion, a bold heading at the top of the page would assist.

The Council was fortunate to attend the 40th anniversary conference of the Australian Press Council. With astute budgeting by the Executive Director, we were able to attend the conference and hold our regular meeting in Sydney, almost for the same sum as convening the meeting in Wellington. The Australian Press Council had assembled an outstanding list of speakers, and a number outlined the real dangers they experienced in maintaining the freedom of the press and the best of journalistic traditions. It was a useful reminder to all of us that, in many parts of the world, freedom of the press is not the given it is in New Zealand. It was also a reminder that we must be constantly vigilant.

I would like to thank all Council members for their dedication and enthusiasm in 2016. Press Council decisions are dealt with timeously and efficiently due to the dedication Council members bring to the table.

I am also grateful to the Executive Director, Mary Major, for her efficiency in assembling complaints and in issuing the Council's decisions when they are made. Her lengthy knowledge of the Council's affairs assists the efficient running of the Council. Her intimate knowledge of previous decisions assists Council members in reaching decisions and saves them significant time in searching the data base.



Left to right John Roughan, Tiumalu Peter Fa’afiu, Jo Cribb, Tim Watkin, Jenny Farrell, Liz Brown, Sir John Hansen, Mary Major, Vernon Small, Sandy Gill, Marie Shroff, Ruth Buddicom and Mark Stevens. Absent Chris Darlow.

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 and Mrs Gill. Ms Shroff is the alternate public member. Ms Buddicom has returned to the Press Council while Christina Tay is on leave of absence. Ms Cribb was appointed in December 2016 and will take up her appointment in 2017.

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 represents journalists, nominated by E Tu, the journalists’ union.

Mr Watkin represents digital media.

Mary Major is the Executive Director.

Press Releases / Single Sources

It's easy to feel overwhelmed as a journalist these days, with news media seeming to be under attack from nearly every angle – be it fake news, declining resources and shrinking newsrooms, well-endowed public relations and political spin and even a lack of public trust in journalism, it's a difficult time for the profession.

News bosses are trying to all sorts of ways to deal with the sure and simple fact that they don't have the money and the staff they had only a few years ago, even though the demand for content, if anything, is growing. Sub-editors have largely been dispensed with, newsrooms are sharing content, and new online vehicles are being tried. Amidst this staff are simply not being replaced, or are being replaced by increasingly junior journalists.

But one trend, especially at smaller papers, is raising real concern at the Press Council.

We're seeing more news articles that are little more than press releases masquerading as news. And the Council has sent some clear signals this year that we will uphold complaints against such articles on the grounds that they are not fair and balanced.

There's a tradition of smaller papers running chunks of releases from local councils and organisations as a way of informing readers of public events and basic, straight information. But – perhaps because of a lack of time and journalists, perhaps because of financial pressures and the advertising heft of these councils and local organisations – we're concerned to be seeing this reaching into much more contentious local issues.

One of the most striking examples was a story in the Horowhenua Chronicle, late in 2015. It was about the long and hotly debated question of the water quality in Lake Horowhenua. On the face of it, the story looked like a multi-source story; three people were quoted and the story ran to almost 20 paragraphs. However it was soon clear that – a few run together sentences aside – this was almost a verbatim reprinting of a Horowhenua District Council press release. All three sources were on the same side of the debate and all from the release.

A senior editor admitted the paper “can do better”, but defended the article as accurate and challenged the complainant to identify any errors of fact. That response misses the point, in the Council's view. A press release is the view of one person or organisation. It may be accurate, but by definition, it cannot be fair and balanced.

The concern about using one-sided press releases is essentially sensitive when reporting on issues that involve questions of science, such as the fluoridation of water. The Council upheld complaints against both the Whakatane Beacon and SunLive in 2016 for biased news reports on this issue. The Beacon ran a story that was almost entirely a reprint from a release by an anti-fluoridation group, which included criticism of local DHB staff member. No effort was made to give that staff member right of reply or check its scientific claims with relevant experts.

SunLive wrote a story promoting a speech by an anti-fluoride campaigner, but went further to give her a platform to lay out her heavily contested views. While the editor claimed

the paper was a forum for the community members to voice opinions, any article claiming to be news must canvass more than one side of the story. Otherwise it is propaganda.

The Council ruled: “To be blunt, it reads like a regurgitated press release”, and went on to compare it to the earlier Beacon ruling. “While not exactly the same, the article presents as fact a number of matters that are highly contentious and disputed by the other side of the debate. It in no way brings balance, nor do we consider it fair in the circumstances.”

Some editors have tried to hide behind the principle that perennial topics covered exhaustively over the years do not need balance every single time they are covered; that is, balance over time. While the Council supports that principle, it is most comfortably applied to opinion pieces. For example, while opinion pieces must be based on fact, according to Press Council principles, not every column dealing with abortion or climate change needs to rehearse both sides of the argument. Sometimes, news stories can be treated the same way; for example a news report on a personal story revealed at a select committee hearing into abortion issues, does not need to unpick all the issues around when life begins or include a personal story that supports the other side of the argument.

However, ‘balance over time’ should not be used as an excuse to not pick up the phone and seek a different, balancing viewpoint for a news story. The Council would expect all journalists to agree that it's not good enough to allow questionable facts to be reported unchallenged, to permit attacks on people or organisations without offering a right of reply and to report one point of view and call it news.

The close cousin of the masquerading press release is the single source story; we've also seen more of these than we'd like in recent times

A complaint about a Stuff story covering cancer patients protesting about the funding of melanoma drugs was not upheld, but only because prompt corrective action was taken. The reporter had relied on a single source and, without checking a claim, had misunderstood it. However the Council noted that it “that this rather sloppy piece of reporting, with reliance on a single source and without elementary fact-checking, was hurtful to the patients who made the trip to Wellington.”

Similarly, New Zealand Woman's Weekly was criticised for reporting only one side of an abuse allegation which had never been tested in court. The Council ruled, “Although the Council cannot determine whether Ms Roderick or the complainant are telling the truth as to the abuse allegations, one aspect is clear. NZWW did not seek the complainant's response when writing the story. Nor did NZWW undertake any independent background checks as to the veracity of Ms Roderick's account at least as far as her abuse allegations are concerned. While the Council accepts it was not necessary for NZWW to record the complainant's version of events in any detail, Principle one required the magazine to at least try to communicate with him and, assuming he would have denied the claims, record the denial. In referring to the marriage and the children in its story NZWW had a duty to

also give the complainant the opportunity to comment. By not seeking and mentioning such comment the story lacked balance.”

What’s frustrating, from the Council’s view, is that seeking balance is not that hard. As we wrote in a decision on a complaint against KapiMana News, “this appears to have been a story based on a single source, whose reliability was questionable, when the reporter could easily have obtained balancing information from the complainant, the other executor(s) and/or from court documents. This is poor journalism and a clear breach.”

These sloppy shortcuts may be the result of the added

stresses newsrooms are facing these days, especially at those smaller papers and websites. But in the ongoing struggle to figure out how to sustain news coverage in these straightened times, abandoning fairness, balance or the right of reply is one cut that can never be sanctioned. We urge the industry to stay true to those most basic values, in the interests of protecting whatever remains of the trust the public still has in journalists to be straight-shooters and fair-dealers.

One of the most basic parts of the craft is simply picking up the phone or knocking on someone’s door to ask a few questions and get another point of view. And if that’s not being done, then it’s really not news at all.

An Analysis - 2016

Of the 73 complaints that went to adjudication in 2016 thirteen were upheld in full; three were upheld by a majority; three were upheld in part; one was part upheld by a majority; two were not upheld by a majority; and 51 were not upheld. A further 12 complaints were resolved informally.

Thirty eight complaints were against daily newspapers; four were against Sunday newspapers; twelve were against community newspapers; eleven were against online news sites; three were against magazines; and five were against student magazines.

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 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 2016 there were 24 occasions where a member declared an interest

and left the room while the complaint was considered. There were also three occasions when an industry member 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 2495, 2497, 2498, 2500, 2530 and 2537.)

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. This year no complainant asked to attend the meeting.

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. No lawyers appeared in 2016.

Press Council Complaints Statistics

Year ending 31 December	2013	2014	2015	2016
Complaints Determined	67	61	77	85
Decisions issued	61	49	68	73
Upheld	9	2	20	13
Upheld by majority	2	2	1	3
Part upheld		1	2	3
Part Upheld by majority				1
Not Upheld by majority	3	5	6	2
Not upheld on casting vote of Chairman	1			
Complaint declined				
Not upheld	46	40	39	51
Mediated/resolved	6	12	9	12
Complaints received and not determined	75	95	96	99
Withdrawn	9	3	2	3
Withdrawn at late stage			1	
Not followed through	37	38	62	53
Out of time	2	3	5	3
Not accepted	14	15	4	17
Outside jurisdiction	7	22	14	17
In action at end of year	6	14	8	6
Total complaints	142	156	173	184

Decisions 2016

Complaint name	Publication	Adjudication	Date	Case No
Simon Coffey	<i>Southland Times</i>	Not Upheld	February	2482
Jackie Elliott	<i>Kapiti News</i>	Upheld	February	2483
Aarron Jacobsen	<i>Taranaki Daily News</i>	Not Upheld	February	2484
Cheryl Megchelse	<i>New Zealand Herald</i>	Not Upheld	February	2485
Right to Life NZ Inc	<i>The Press</i>	Not Upheld	February	2486
Bob Rivett & Family	<i>The Press</i>	Upheld	February	2487
Susan Benton	<i>Stuff</i>	Not Upheld	March	2488
Duncan Campbell	<i>New Zealand Herald</i>	Not Upheld	March	2489
Michele Consalvo	<i>Stuff</i>	Not Upheld	March	2490
Andrew Frazer	<i>Kapi-Mana News</i>	Upheld	March	2491
Rodney Hide	<i>New Zealand Herald</i>	Part Upheld	March	2492
Alwyn Hunt	<i>Herald on Sunday</i>	Not Upheld	March	2493
Damien Klavs	<i>Stuff</i>	Not Upheld	March	2494
Trish Lambert	<i>New Zealand Herald</i>	Not Upheld with dissent	March	2495
Sarah Miller	<i>Massive Magazine</i>	Not Upheld	March	2496
Mitre 10	<i>Southland Times</i>	Part Upheld with dissent	March	2497
John Armstrong	<i>Rotorua Review</i>	Upheld with dissent	May	2498
Warren Davidson	<i>Wairarapa Times-Age</i>	Upheld	May	2499
Warren Davidson	<i>Bush Telegraph</i>	Upheld with dissent	May	2500
Jenny Kirk	<i>Stuff</i>	Not Upheld	May	2501
Liz Manson	<i>New Zealand Herald</i>	Not Upheld	May	2502
Rod Oram	<i>New Zealand Herald</i>	Not Upheld	May	2503
Rob Paterson	<i>New Zealand Herald</i>	Not Upheld	May	2504
Leisa Renwick	<i>Stuff</i>	Not Upheld	May	2505
Katherine Rich	<i>Nelson Mail</i>	Upheld	May	2506
Elsbeth Tilley	<i>Massive Magazine</i>	Not Upheld	May	2507
Louise Collins	<i>Massive Magazine</i>	Not Upheld	May	2508
Marise Murrie	<i>Massive Magazine</i>	Not Upheld	May	2509
Toi Te Ora Public Health Service	<i>Whakatane Beacon</i>	Upheld	May	2510
Hilary Butler	<i>New Zealand Herald</i>	Not Upheld	June	2511
Vincent Calzone	<i>New Zealand Herald</i>	Not Upheld	June	2512
Stephen Graham	<i>The Press</i>	Not Upheld	June	2513
Mike Houlding	<i>New Zealand Herald</i>	Not Upheld	June	2514
MBIE	<i>The Dominion Post</i>	Upheld	June	2515
Deborah Stokes	<i>New Zealand Herald</i>	Upheld	June	2516
Adith Stoneman	<i>Sunday Star-Times</i>	Not Upheld	June	2517
Matthew Thredgold	<i>Rotorua Daily Post</i>	Not Upheld	June	2518
Richard Watts	<i>New Zealand Herald</i>	Not Upheld	June	2519
Tony Baird	<i>North & South</i>	Not Upheld	August	2520
Mark Beckett	<i>Otago Daily Times</i>	Not Upheld	August	2521
Sarah Bronte	<i>SunLive</i>	Upheld	August	2522
Canterbury DHB	<i>The Star</i>	Upheld	August	2523
Peter Croft	<i>The Press</i>	Not Upheld	August	2524
Miles Davis	<i>The Spinoff</i>	Upheld	August	2525
Andy Espersen	<i>The Press</i>	Not Upheld	August	2526
John McCarthy	<i>Rural News</i>	Part Upheld	August	2527
Right to Life NZ Inc	<i>New Zealand Herald</i>	Not Upheld	August	2528
Right to Life NZ Inc	<i>Otago Daily Times</i>	Not Upheld	August	2529
Complaint	<i>NZ Woman's Weekly</i>	Upheld with dissent	August	2530
Karl Bowers	<i>Western Leader</i>	Not Upheld	September	2531
Peter Day	<i>Waikato Times</i>	Not Upheld	September	2532
Dunedin City Council	<i>Critic Te Arohi</i>	Upheld in Part	September	2533
Sharyn Green	<i>Waikato Times</i>	Not Upheld	September	2534
Adam Greenwell	<i>interest.co.nz</i>	Not Upheld	September	2535
Adam Lang	<i>Stuff</i>	Not Upheld	September	2536
Right to Life NZ Inc	<i>The Dominion Post</i>	Not Upheld with Dissent	September	2537

Decisions 2016 cont.

Complaint name	Publication	Adjudication	Date	Case No
Daniel Ryan	<i>Herald on Sunday</i>	Not Upheld	September	2538
Hayden Woods	<i>Te Awamutu Courier</i>	Not Upheld	September	2539
Natasha Benfell	<i>Rotorua Daily Post</i>	Not Upheld	October	2540
Paul Douglas	<i>The Wellingtonian</i>	Not Upheld	October	2541
Michael Edgar	<i>New Zealand Herald</i>	Not Upheld	October	2542
Ajay Gaur	<i>The Blenheim Sun</i>	Not Upheld	October	2543
Emma Hurley	<i>Herald on Sunday</i>	Not Upheld	October	2544
Nick Pak	<i>Waikato Times</i>	Not Upheld	October	2545
S	<i>New Zealand Herald</i>	Upheld	October	2546
Sky TV	<i>New Zealand Herald</i>	Not Upheld	October	2547
Sky TV	<i>Stuff</i>	Not Upheld	October	2548
Complaint	<i>The Weekend Sun</i>	Not Upheld	October	2549
Akaroa Harbor Recreational Fishing Club Inc	<i>The Press</i>	Upheld	December	2550
Chris Brady	<i>Ruapehu Press</i>	Not Upheld	December	2551
Emma Brewerton	<i>The Dominion Post</i>	Not upheld	December	2552
Peter Chapman	<i>Blenheim Sun</i>	Not Upheld	December	2553
Chris Lee	<i>Stuff</i>	Not Upheld	December	2554

Adjudications 2016

CASE NO: 2482 – SIMON COFFEY AGAINST THE SOUTHLAND TIMES

Background

Simon Coffey has complained about an article published on *Stuff* on January 14, 2016 and in *The Southland Times* on January 15, 2016.

The article is headed “Invercargill teacher ‘king-hit’ man” and is a court report of a guilty plea by Brandon Jordan Hiko for an assault on Stephen Jack Blair-Edie last year. The story is based on the police summary of facts, which says the attack took place on Dee St in Invercargill in the early hours of November 7. The headline and opening line describe Hiko as an “Invercargill teacher”.

Complaint

After reading the story, Mr Coffey went to the Education Council website, where registered teachers are listed, in line with the Education Act. Hiko was not listed (and is still not). The complainant says that readers seeing someone described as a teacher would make “the automatic assumption... that the individual is a teacher at a school”.

Mr Coffey is concerned that the description of Hiko as a teacher undermines the professional integrity of the teaching profession and felt the report amounted to an “attack” on the profession.

He alerted *Stuff* to Hiko’s lack of registration via email. *Stuff* Editor Patrick Crewdson forwarded the complaint to *Southland Times* News Director Blake Foden, who indicated the headline and story would not be changed.

The complainant argues that the journalist should have checked Hiko’s job status before publishing and that, once alerted to “the error in the headline”, it should have been amended. To not do so is “sensationalist” and “spurious reporting”. His complaint is based on Principles 1 (accuracy, fairness and balance), 6 (headlines and captions) and 12 (corrections).

Editor’s Response

Mr Foden replied promptly to Mr Coffey, saying “The police prosecutor read a summary of facts to the court today, in which he said Brandon Jordan Hiko worked as a teacher. Our reporter has also read the summary of facts, which lists Hiko’s occupation as ‘teacher’.”

Responding to the Press Council, *Southland Times* Editor Natasha Holland quotes from that summary of facts, which reads “The defendant is a 22 year-old teacher who usually resides locally”. She says describing the defendant’s name, age, occupation and where they live ensures there is no confusion over the identity of the person who is the subject of the case.

She denies attacking the teaching profession. She explains that the paper relies on legal documents (e.g. charge sheets, summaries of fact and evidence in court) in its reportage. Journalists “have strong qualified privilege” to report on

court, whereas they could be “exposed” by relying on a website, where the information may be out of date.

She concludes: “Our view is that we reported information that was reported in court and is now on the legal record”.

Discussion and Decision

The Press Council agrees that many, though not all, readers would assume that someone described in the media as a teacher would be employed by a school, kura, kindergarten or pre-school. Yet, the fact Hiko’s name is not listed on the Education Council’s register is not definitive proof he is not a teacher at one of those institutions. He may be an unregistered teacher in an early childcare centre. Further, some readers may reasonably believe him to be a martial arts teacher or swimming instructor, for example.

Therefore, while the lack of registration raises questions, there is no certainty that the police, court records, or indeed the article and headline, are inaccurate, and so no obligation to correct.

As Holland and Foden say, the reporter rightly relied on the police summary and testimony from court. It is reasonable for the *Times* and *Stuff* to rely on what is revealed in court and legally required for journalists to accurately report the legal documents and evidence presented there. They can do no other. If Hiko’s occupation has been wrongly recorded that is for the police and court to correct.

Finally, it seems a stretch to suggest the actions of one young man would cause most readers to think less of an entire profession or question the integrity of the 48,000 other teachers in New Zealand.

The complaint is not upheld.

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

CASE NO: 2483 – JACKIE ELLIOTT AGAINST KAPITI NEWS

Jackie Elliott complained about lack of balance in the reporting by *Kapiti News* of a story about the relationship between Kapiti Coast District Council (KCDC) and the White Ribbon Campaign (WRC) organisation.

The complaint is upheld.

Background

White Ribbon is an international campaign to end men’s violence towards women, run by the WRC Trust in New Zealand. Rob McCann is the Trust’s campaign manager and Ric Odom is the Auckland-based National Chair of WRC.

The KCDC first described itself as a “White Ribbon Council” and a supporter of the WRC in 2007, under a previous Council and Mayor. Apparently following a request from the complainant, Mr McCann wrote to KCDC around October/November, 2015, to ask the Council to stop using the White Ribbon Council description for the time being. He asked the KCDC to wait until it had been authorised to use the title by the WRC, through a “workplace strategy” process, which is being trialled by WRC. The complainant had made

a number of complaints about bullying against the KCDC.

In early November, 2015, KCDC issued to the media an account of a visit to the Council by Mr Odom, of the KCDC's past support of WRC and of the intention of Mr Odom and KCDC to continue co-operation on WRC work. The release did not mention the letter from Mr McCann asking the Council to stop using the term "White Ribbon Council".

Kapiti News (an NZME, free community newspaper, widely distributed in Kapiti) reported the KCDC media release on November 11 with a headline "Collaborative Approach to Campaign". The *Kapiti News* report did not mention the complainant's views and allegations about KCDC, which she had earlier (apparently also in early November) provided to the newspaper and other media outlets. Nor did it mention Mr McCann's letter or any of its content.

On November 12, Stuff.co.nz ran a story headlined "Kapiti Coast District Council's White Ribbon Status Questioned", reporting the content of Mr McCann's letter and saying that the letter was leaked to news media.

In addition to the stories about the White Ribbon issue in the *Kapiti News* and on Stuff, there was reporting of the issue in *Kapiti Independent*, an online site, which inter alia said KCDC had released a "cleverly crafted press release that attempted to downplay and ignore the contents of the original White Ribbon letter".

The *Kapiti Observer* (also a widely distributed, free, Kapiti community newspaper, linked to Fairfax/Stuff) reported both sides of the story on 12 November, with the headline "Council's White Ribbon Status Questioned", covering the McCann letter and the complainant's allegations of bullying against the KCDC.

It also reported Mr McCann as saying "White Ribbon had been reluctant to get involved in the council dispute, hoping it would be sorted out in chambers". Mr Odom was reported as saying "We are working with the Council as we always have, and are looking forward to signing our mutual commitment to the white ribbon pledge".

The Complaint

Ms Elliott, who is a KCDC Councillor, complained to the Press Council in a letter received on December 4, 2015. She has not cited breaches of specific Principles. Her complaint against *Kapiti News* mainly concerns the issues of accuracy, fairness and balance in reporting the White Ribbon issue.

Her complaint is about the KCDC's failure to mention in its press release the request from Mr McCann to KCDC to stop using the White Ribbon Council description in the meantime, and the failure of *Kapiti News* to mention in its story Mr McCann's letter, her own views and allegations or to investigate further.

In her public communications and those with the Press Council, the complainant has also made a variety of charges against the KCDC, including alleged incidents of intimidation, bullying, harassment of herself, threats of withdrawal of advertising revenue from *Kapiti News* and lack of transparency. These matters are largely outside the brief of the Press Council. She has also subsequently

suggested that the *Kapiti News* might have received an offer of "treating" in return for positive coverage of the WRC.

The Editor's Response

The editor responds that *Kapiti News* received an open letter to various media from the complainant (Ms Elliott says it was sent on 4 November) about the White Ribbon Campaign and further allegations about KCDC bullying.

The editor regarded the allegations as unsubstantiated and chose not to print them. He says he subsequently received a leaked email, containing a letter from Mr McCann about the suspension of KCDC's WRC status. Although he says he prepared a story based on the leaked email it did not go to print because the timeframe was too tight to get a balancing response from KCDC.

Instead, in the issue of November 11, *Kapiti News* reported the KCDC media release. The editor says he then asked Mr McCann if he would write a public statement clarifying the KCDC's status in relation to the WRC. Although he agreed initially, in the end Mr McCann declined to provide a statement. Mr McCann told the editor (as he had said in the now public letter to KCDC) that the issue was something they wanted the Council to deal with in-house and to focus coverage of WRC on the actual message and not on councillors using White Ribbon as a tool in a council dispute. *Kapiti News* did not cover the matter further.

The editor then received the complaint. On November 12, he responded directly to Ms Elliott that, just because he was sent something, it should not be assumed that it would automatically get published. He said many news related emails were received every day and they could not all be covered. The editor completely refuted her allegation that *Kapiti News* was appeasing KCDC to maintain an advertising contract. The editor also rejected the complainant's subsequent query whether favourable coverage was available in exchange for 'treating' for *Kapiti News* staff.

Discussion and Decision

Press Council Principle 1 says:

"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."

The *Kapiti News* ran a story quoting heavily from a KCDC media release about its White Ribbon activities when there was some suggestion, as confirmed by the leak of the McCann letter, that there was a further and less positive element to the story.

Exchanges with the WRC apparently led the editor not to pursue the story, and thus not to cover the McCann letter asking KCDC to cease using the "White Ribbon Council" tag.

The resultant coverage lacked balance. Although the complainant's general allegations about the KCDC could perhaps be considered a long-running issue where balance had been achieved over previous stories, the involvement of the WRC was a new and significant factor.

While it would have been reasonable for the *Kapiti News* to make an editorial decision not to cover the story, it was unreasonable to cover only one side.

The complaint is upheld.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Chris Darlow, Jenny Farrell, Sandy Gill, Tiumalu Peter Fa'afiu, John Roughan, Mark Stevens and Tim Watkin.

Marie Shroff did not vote on this complaint.

CASE NO: 2484 – AARRON JACOBSEN AGAINST TARANAKI DAILY NEWS

Background

Aarron Jacobsen complained about an article published by Fairfax Media on Stuff.co.nz (online) and *Taranaki Daily News* (print) on 9 September 2015. He said that the article breached Principle 2 (Privacy), 7 (Diversity and Discrimination), 8 (Confidentiality) of the New Zealand Press Council Statement of Principles.

The articles covered the Human Rights Review Tribunal decision on a complaint made by Mr Jacobsen against a dental technician Mr Zhou, who refused to treat him. Mr Jacobsen alleged that the service was not offered because of his HIV status. The complaint was dismissed by the Tribunal and the articles covered the background to the complaint and decision by the Tribunal.

The Complaint

Mr Jacobsen complained that he was not made aware by the Human Rights Review Tribunal that details of his case and subsequent decision would be made public. He believed that his privacy in relation to his health issues had been breached by the Tribunal publishing it on their website. Fairfax Media then covered the Tribunal decision in its articles. Mr Jacobsen argued that Fairfax therefore breached a number of Press Council principles particularly in relation to privacy. Notwithstanding the decision to publish made by the Tribunal, there was no public interest in his case or his health situation.

The Response

Mr Jacobsen complained to the *Taranaki Daily News* and an email exchange occurred between the complainant and Ryan Evans, Taranaki Regional Editor, Fairfax Media.

The regional editor had considered the complaint and advised Mr Jacobsen of Fairfax's view on 19 November that they did not consider they had breached the complainant's privacy. The Human Rights Review Tribunal and its decisions are publicly available on its website. The ruling of the Tribunal does not mention name suppression and Fairfax would not, as a rule, self-suppress judicial information.

Moreover, the regional editor argued that the matters raised in the Tribunal decision were of public interest, and in the

public interest Fairfax should report on it. The case raises important questions for both medical practitioners and those patients suffering serious illnesses or disabilities.

He noted that Mr Jacobsen felt that if the decision had been reversed it may have been in the public interest to publish, but surely the issue Mr Jacobsen raised is either in the public interest or not in the public interest regardless of the outcome.

In regards to the complaint about breaching Press Council principles 7 and 8, the regional editor argues that Mr Jacobsen is not a confidential source. Moreover, the Tribunal case was already in the public domain and the article was reporting on the details of the case. The article therefore did not breach the discrimination and diversity principle.

The Decision

The Council acknowledges the challenges that come with Mr Jacobsen's health status and also for it now being in the public arena. The case brought to the Human Rights Review Tribunal by Mr Jacobsen was dismissed because the Tribunal ruled Mr Zhou did not unlawfully discriminate taking into account Mr Jacobsen's health status but rather that health status was relevant to Mr Zhou making a medical decision. That medical decision was based on Mr Zhou recognising he did not have the appropriate experience or skills to undertake the procedure.

It is unfortunate that the process around the Tribunal's judgments was not fully understood by Mr Jacobsen. He believes if he had, he would have asked for name suppression

The Press Council does not have any jurisdiction over the Human Rights Review Tribunal. It can only deal with the complaint made to Fairfax Media about its articles which cover the Tribunal's decision.

It is important to note the open justice principle in which Tribunal hearings operate unless requests for name suppression are successful. It is with this in mind that Fairfax media covered the decision in its articles. We agree with the regional editor that self-suppression of legal decisions is not appropriate.

Notwithstanding the Tribunal decision being made public, the Council is of the view that the case does raise very important medical questions for medical practitioners and those with serious illnesses and there was a public interest in publishing this finding.

We acknowledge that the publication did seek comment from Mr Jacobsen although without response. The Council believes this might have provided an opportunity for Mr Jacobsen to make his case.

The articles do not breach principles 2, 7 and 8.

The complaint is not upheld.

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

CASE NO: 2485 – CHERYL MEGCHELSE AGAINST NEW ZEALAND HERALD

Cheryl Megchelse (the complainant) complained about an article published in the *New Zealand Herald* on October 29, 2015.

She alleged that the article was objectionable because it used a word, both in the headline and the body of the article that showed a complete disregard for decency and good taste. She believed that the use of that word should never become acceptable in mainstream society in New Zealand.

The complaint is not upheld.

Background

The article was headed “Chris Cairns: “I don’t want to go into conspiracy theories ... I’m getting f***ed over””. The headline was taken from a comment made by Cairns also included in the body of the article.

The article covered comments made by Chris Cairns relating to his trial for perjury in the United Kingdom and his feelings about what was happening to him.

Complaint

The complainant alleged that in her opinion the use of “f***ed” showed a complete disregard for decency and good taste and should not have been used at all.

She believed that the gradual increase in the use of that word by media, desensitised people to “it’s vulgarity, causing it to be more and more accepted as the “norm” in today’s world.

She requested that the newspaper refrain from the use of what she described as obscenities to catch people’s attention and use the influence it had in a more responsible manner.

The Newspaper’s Response

Murray Kirkness, the Weekday Editor, replied on behalf of the newspaper.

He stated that the newspaper did not use the word without a lot of prior thought. The article was one of many during the eight week trail of Mr Cairns.

It was felt that the newsworthiness of the quote over-rode concerns about the use of such language in both the headline and the article in that it portrayed exactly how Cairns was feeling about what was happening to him.

The quotes used in the article were taken directly from an interview with Cairns by Metropolitan Police, played in the Court, and an important part of the trial.

However, the newspaper did, as standard practice, recognise the concerns about good taste and other sensitivities by the use of asterisks.

The newspaper had also invited the complainant to make her views known by submitting a comment or letter for consideration for publication.

Discussion and Decision

Press Council has previously noted that it does not set itself up as an arbiter of taste or of what meets or does not meet ever-changing and evolving notions of decency and acceptability in the public discourse. There are lines which should not be crossed. But it is the prerogative of editors

to make judgments on such matters, in the interest of their newspaper.

While the use of the word is objectionable to many, the newspaper did use asterisks to show that the word was not one used as a matter of course in everyday life. But it is also a word used by many in everyday life regardless of the rights or wrongs of such use.

The article was clearly part of ongoing coverage of the Cairns trial and the headline and comment were taken directly from comments made by Cairns himself.

While the use of that word in the headline and article may be upsetting for some, its use conveyed the deep emotions felt by Cairns at that time.

The complaint is not upheld.

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

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

CASE NO: 2486 – RIGHT TO LIFE NEW ZEALAND INC AGAINST THE PRESS

The Right to Life organisation complains that a story published in *The Press* on November 30, 2015 headlined *Abortion clinic staff ready for attacks* breached the Press Council’s Principle one (accuracy, fairness and balance).

The story, sourced from the Reuters agency, reported the attack by a lone gunman on a Planned Parenthood abortion clinic in Colorado. Three people were killed in the incident with nine others injured. The story provided details of the tragedy and referred to Planned Parenthood’s determination to continue its activities. The report referred to the centre as having previously been the target of “anti-abortion” protests.

The complaints are not upheld.

The Complaint

Right to Life has three essential concerns. First, it claims the use of the phrase “anti-abortion” by the media generally and by *The Press* in this story is inaccurate and derogatory of members of the “pro-life” movements (as Right to Life and similar groupings are).

Secondly, while major pro-life movements in the US and in New Zealand denounced the Colorado clinic attack the story failed to refer to the “daily scene of violence perpetrated against innocent and defenceless children before birth” by this and other clinics.

Thirdly, Right to Life maintains that the article infers that pro-life groups have been responsible for this and other similar attacks going back to 1977, an inference which is completely wrong.

The Response

The Press responds by denying Right to Life’s claims. The newspaper says that the term “anti-abortion” is neither incorrect nor offensive. The phrase accurately describes

those who do not support abortion. It can be applied equally to “peaceful protesters” as well as to those “with violent intent”. The term does not carry the derisory connotations claimed by Right to Life.

The Press rejects the claim the story was unbalanced because it failed to refer the violence inflicted by abortion clinics on women and their unborn. The story was simply a “straightforward news account of a crime”. The story did not call for balance by publication of the views of pro-life movements towards abortion. The newspaper says this factual account does not “[taint] all those opposed to abortion by the actions of a “deranged murderer” nor imply [members of the pro-life movements] are “radicals, hatemongers, fools or criminals”” as Right to Life maintains.

The Decision

The Press Council agrees with the newspaper. This story reported yet a further tragic, random shooting in the US. While this event took place in an abortion clinic the story did not require an analysis of the much deeper issues at play around abortion. The Council notes the phrase “anti-abortion” was used only once in the story and then in a context which does not suggest the term is derogatory of those who are pro-life. Nor is there anything in the story suggesting the pro-life movement was somehow behind the Colorado clinic attack or that the pro-life members supported it and other similar incidents.

Putting it simply this was not a story which, as Right to Life claims, brings opprobrium on the many sincere, law-abiding people who passionately support life from conception to natural death.

The complaint is not upheld.

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

CASE NO: 2487 – BOB RIVETT AND FAMILY AGAINST THE PRESS

1. Bob Rivett, on behalf of himself and his family, complains that action taken by *The Press* and an article published by it (and on the Stuff website) were in breach of the Press Council’s Principle 2 (privacy) and in particular of the part of the principle that calls for special consideration for those suffering from trauma or grief.
2. The Press Council upholds the complaint.

Background

3. On January 3, 2016, the complainant’s daughter-in-law, Isabel Rivett, died in a tramping accident. Two days later, with the family’s consent and approval, NZ Police issued a media statement about the accident, concluding with the statement that “the victim’s family are naturally grieving so Police and Victim Support urge media to give them privacy at this time.”
4. Shortly after the release of the media statement, and again the following morning, *Press* reporters attempted unsuccessfully to contact Mr Rivett’s son via Facebook.

At some point there was also contact with the Canterbury District Health Board, Ms Rivett’s employer.

5. On January 6, *The Press* published an article about the accident. The article was accompanied by a photograph of Ms Rivett, downloaded from her Facebook page. Personal information in the article was:
 - Ms Rivett’s name and age,
 - her occupation (as a doctor at Christchurch Hospital)
 - the fact that she and her partner both worked for the Canterbury District Health Board.

The Complaint

6. Mr Rivett complained that despite the Police request for privacy, reporters had attempted to contact his son. Without permission from her family, *The Press* then went on to publish Ms Rivett’s photograph and personal details that had not been included in the Police media release.
7. Mr Rivett says “we understood the need for a press release, especially to reassure anyone who had heard about the accident and was concerned that a loved one of theirs might have been involved.” He considered, however, that the Police media release contained all the information that was necessary.
8. The uninvited intrusion by the media caused the family enormous additional distress and the time and energy required to cope with it had a detrimental effect on their ability to cope with their loss. Mr Rivett acknowledges that their reaction came at a time of increased sensitivity, but makes the point that the protections in the Press Council Principle 2 are intended to apply at precisely such times.

The Press Response

9. The deputy editor of *The Press*, Kamala Hayman responded to Mr Rivett, saying “I am sorry your family feels we have intruded on your privacy”. She explained that a senior reporter had been asked to make contact because of the belief that it would be disrespectful to publish an article about Ms Rivett’s accident without “offering those closest to her a chance to have their say”. Many families in such a situation wanted to pay public tribute in some way.
10. She further explained that the privacy request in the Police media release “is a standard sentence and does not indicate to us that a family has asked not to be contacted.” She also arranged for the photograph of Ms Rivett to be removed from the Stuff website.
11. In a later response to the complaint, Ms Hayman expanded on her original response. In particular she acknowledged that after the first attempt to contact Mr Rivett’s son, a police officer had spoken to the reporter and told him that the contact had been unwelcome. The second attempt at contact was the result of a failure in communication and should not have been made. She apologised for the added distress these messages caused.

Discussion

12. There is absolutely no doubt that Mr Rivett and his family are entitled to the protection of the “trauma and grief” clause in Principle 2. They were in a particularly vulnerable situation and should have been treated with the utmost care and consideration by the media.
13. As regards the first attempt to contact the family, the Press Council accepts that the Police request for privacy for the family could have been more strongly worded and could specifically have asked that the media refrain from contacting them. The attempted contact was not of a particularly intrusive nature, and if it had been the only attempt, the Press Council would not have upheld the complaint in this respect.
14. However there should never have been a second attempt to contact Mr Rivett’s son. *The Press* has acknowledged its fault in this respect and says it has reminded staff of the necessity of critical information handovers. It should also review any guidance it gives to staff in this respect and any process it may have established for such handovers.
15. Although *The Press* was clearly at fault in the way it went about attempting to collect information, it is difficult to see any breach of privacy on its part in publishing the limited amount of personal information in the article. Some of the information was in the Police media release, and the remainder was obtained from the Canterbury District Health Board. If there is any question about the status of the latter information, it should be directed at the Board.
16. There remains the question of the photograph taken from Ms Rivett’s Facebook page. Ms Hayman has noted a 2010 Press Council determination where the Council considered the use of a photograph from a Facebook page and stated that the publication of a photograph on an open page could be taken as an implication that it is available for use for news purposes. Even then, the Council added that it would be wise to make some effort to obtain permission, particularly if the picture is of a sensitive subject.
17. While photographs on an open Facebook page can generally be regarded as publicly available (subject to any intellectual property issues, on which the Press Council is not competent to rule), this does not exempt a publication from its obligations under Principle 2 to give special consideration for those suffering from trauma or grief. Grief and trauma are expressed in different ways, and while some families may agree to, or even welcome, a request to publish a photograph, others would find it a cause of additional distress.
18. In this case, by the time of the decision to publish the photo the family had made it known that they required privacy and did not want any contact with the media. *The Press* had easily available contact details for a Police representative who could have acted as an intermediary. At the very least, there should have been a check to determine whether the family had objections to the publication of the photograph.

Decision

19. The complaint is upheld.

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

CASE NO: 2488 – SUSAN BENTON AGAINST STUFF

Susan Benton complained that coverage by Stuff.co.nz of an alleged lewd act by Australian rugby league player Mitchell Pearce unnecessarily publicised behaviour that was perverted, unlawful and highly offensive, and breached Press Council Principles 3 (Photographs and Graphics) and 11 (Children and Young People).

Background

On January 27, Stuff.co.nz published a story on its website headlined “Rugby league star Mitchell Pearce accused of lewd act”, which covered an incident during which the Roosters captain was filmed simulating a sex act with a dog. The story was accompanied by a video headlined “Mitchell – I wanna **** your dog, I don’t even care anymore”.

The story details the fallout after the video was shown on Nine Network’s *A Current Affair* and promoted as “some of the most disgraceful behaviour you have ever seen from a footy star”.

It quoted an NRL spokesman, who said they would be working with the player to ensure the matter was dealt with appropriately. Roosters’ management released a statement saying it was conducting an investigation.

The story detailed other similar incidents involving rugby league players as well as previous scandals involving Mitchell Pearce. It said the NRL had cracked down on inappropriate behaviour towards women, and the fact that Pearce is a repeat offender could end his career.

The Complaint

In her complaint, Ms Benton objected to the “continual coverage” of the incident. “This perversion is not newsworthy or worth reading. It is an unlawful act and is highly offensive,” she said. She objected to the headline on the video footage, which she described as highly inappropriate.

She believed “sport stars should be shown as good role models for young people”.

In response to the editor of Stuff’s defence of the coverage, the complainant said: “I am not interested in his opinion, this article is offensive sexual perversion.”

The Response

The editor of Stuff.co.nz Patrick Crewdson, disagreed with the complainant’s contention that the incident was not newsworthy. Mitchell Pearce is the captain of a high-profile sports team, he said, and “for him to have committed a lewd act that is under investigation by both his team and by the NRL’s integrity unit and is likely to have repercussions for his career is certainly newsworthy.”

He said that by the time the complainant made contact with him on January 29, Stuff had published 14 related articles. He said Stuff was not alone in having covered the story. “I would suggest it would be difficult to find a major media outlet in New Zealand or Australia that did not run it,” he said.

He maintained that Stuff’s coverage was straightforward and

factual, and did not revel in gratuitous detail. In the interests of good taste, the video clip did not include the actual incident in question even though footage was available and had aired unabridged in Australia.

The editor said the story did not breach Principle 3 as it did not involve children or young people. In his opinion, there was nothing in the visual aspect of Stuff's coverage that contravened Principle 11.

Discussion

The Mitchell Pearce incident on Australia Day received extensive coverage in news media on both sides of the Tasman where rugby league attracts a huge following. While it is perhaps unfortunate that the video included in the Stuff coverage was accessible to anyone, including children, who clicked on it, it did not show the alleged lewd act, and the fact remains that the incident was newsworthy because it involved one of the sport's highest profile stars who has already been involved in scandals involving alcohol and women.

The complainant believes sports stars should be portrayed only as good role models for young people, which is an idealistic but ultimately unsustainable argument. In a perfect world there would not be such incidents for the media to report on, but bad behaviour by highly paid professional sports people is an all too common theme in the 21st century. To suggest that Stuff, or any other media outlet, should filter out the unsavoury side of sport is to task the media with censoring the news, which goes against journalistic ethics.

The Press Council agrees with the editor's defence that "while the behaviour reported on was offensive, the coverage was not."

The complaint is not upheld.

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

CASE NO: 2489 – DUNCAN CAMPBELL AGAINST NEW ZEALAND HERALD

Duncan Campbell (the complainant) complained about an opinion piece published in the *Weekend Herald* February 20, 2016.

He alleged that the opinion piece was an advertisement for RTD's or "alcopops" and breached Principle 1 (Accuracy, Fairness and Balance) and Principle 3 (Children and Young People)

The complaint is not upheld.

Background

The opinion piece was headed "Vodka hit gets tick for detail and taste" and outlined the ingredients in the product, Long White RTD, and the writers opinion of the product.

The opinion piece was part of a regular series written by Wendyl Nissen analysing what is in food and drink products.

The Complaint

The complainant alleged that in his opinion, the "article" was basically an advert for the RDT.

He believed that given the columnist is a "respected role model for mothers and family values", her "enthusiastic

endorsement" of the product had given it "an extremely positive connotation for both mothers themselves and their daughters".

The Editor's Response

Editor Miriyana Alexander replied on behalf of the newspaper.

She stated that the opinion piece was part of a long-standing column in the newspaper that dissected the contents of food and drink items. Each week the columnist analyses different products and their contents/labelling.

Consumers are becoming more interested in the ingredients, and labelling, of products wanting to make good choices about what they consume.

This was the first time an alcohol product had been analysed as ingredient labels are not required on alcohol.

The writer had decided to examine the RDT as the maker had used a label that included ingredients despite not being required to do so.

The writer also included a message about safe and responsible consumption of alcohol in the body of the opinion piece, and noted that the RDT was consumed at her daughter's 18th birthday party, 18 being the legal drinking age.

The editor denied any lack of accuracy, fairness and balance, and stated that Principle 3 (Children and Young People) did not apply in this case as this was not a column that was about, or targeted, children or young people.

The article was an opinion piece that analysed a particular product and was in fact part of a regular column which analysed different products each week.

Discussion and Decision

The opinion piece was clearly written as the writer's own opinion and contained factual information about the RDT ingredients and labelling. It also included a message about safe drinking and did not in any way encourage the consumption of alcohol by underage young people.

The column is a regular feature in the newspaper and each week analyses different products and provides the reader with the columnist's thoughts and conclusions.

Principle 1 (Accuracy, fairness and balance) is not breached. The article contains factual information and the writer's own opinion.

Principle 3 (Children and Young People) is not applicable to the article as it is not targeted at, nor about, children or young people.

The complaint is not upheld.

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

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

CASE NO: 2490 – MICHELE CONSALVO AGAINST STUFF

Background

Michele Consalvo has complained about an article published on Stuff on February 7, 2016, and in the *Timaru Herald* titled, 'Road madness in Mackenzie over holiday weekend'.

The story, published on a Sunday, reports the number of driving complaints recorded since Friday on that Waitangi Day weekend and is based on a single interview with a senior constable in the district. Thirty complaints had been received on the *555 line

The story details one incident the officer described as the most serious of a "crazy" weekend, which was caused by "a Chinese couple too inept to be allowed to continue driving".

While the story itself was headlined as noted above, the headline on the Stuff section or homepage (known as the index headline) was 'Chinese couple's keys confiscated'.

Complaint

Ms Consalvo complains under several principles; 1) Accuracy, Fairness and Balance, 2) Privacy, 6) Headlines and Captions, and 7) Discrimination and Diversity. The essence of her concern though is, in her words, that "the article...is racist".

Ms Consalvo argues that the couple isn't named, so "it's highly ignorant and offensive to point out their race". In reply to the editor, she disagrees "that stating the couple's race was relevant to the recent errors of foreign drivers. Why do we need to know if they are Chinese specifically? ... The public do not need to know which race of foreign driver as that creates something called "confirmation bias" in some members of the public".

Editor's Response

On behalf of Stuff, editor Patrick Crewdson said the couple's ethnicity was relevant and accurate (not gratuitous, as per the principle) both because of the ongoing debate over whether foreign tourists are equipped to drive on New Zealand roads and because of the number of tourists in New Zealand for Chinese New Year.

Crewdson adds that that abilities of foreign drivers has been a story for several years. He says Stuff, and other media, typically specify a driver's ethnicity not to encourage stereotypes but because country of origin suggests how likely they are to be familiar with local road conditions and rules.

Finally, he notes that the complainant has not raised any issues under principles 1, 2 and 6, despite mentioning them in her complaint.

Discussion and Decision

To clarify - despite the use of the terms race and ethnicity, it is the driver's nationality that's reported.

The complainant offers no evidence regarding fairness, balance, accuracy or privacy, so the complaints against Principles 1 and 2 are not upheld.

A random review of news stories from the past two years about foreign driver crashes carried on New Zealand news websites reveals that the driver's nationality was mentioned

every time, be it Chinese, American, German, Indian and so on. There is nothing inherently racist in pointing out a driver's nationality, specifically when the issue underpinning the story is the driving ability of tourists on local roads.

Any reporter will want to give as many details as possible about those involved in a crash so as to be accurate, provide context and avoid reader assumptions. Nationality is useful information, although it's noted that only nationality was reported in this case; not age, gender or other potentially helpful facts.

The fact the police officer pointed out that weekend was "crazy" because it was both a celebration of Waitangi Day and Chinese New Year, makes this couple's nationality more relevant.

The Council has upheld discrimination complaints in the past (June 2013: Case 2332) where ethnicity was mentioned without any context given in the story. However as noted, this story did contain relevant context. The complaint against Principle 7 is not upheld.

On Principle 6, the headline fairly represented a key element of the article, but the Council notes that the use of couple's nationality in the index headline was edging towards gratuitous. The complaint against Principle 6 is not upheld.

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

CASE NO: 2491 – ANDREW FRAZER AGAINST KAPI-MANA NEWS

Andrew Frazer complains that a story in the *Kapi-Mana News*, "Problems persist for Pauatahanui cafe", published on February 23, 2016, was misleading and lacked balance.

The complaint is upheld.

The Article

The newspaper carried a report on the costs faced by the cafe owner, Darryl Ellis, for resource consent from the Porirua City Council for extensions to his premises, comprising additional seating and a car parking area. Alongside a picture of Mr Ellis in the cafe, the story quoted him saying, "I've been treated terribly. I feel like I have been bullied." The consent had taken two years and increased the cost of his extensions from \$40,000 to \$120,000.

The bulk of the report was devoted to Mr Ellis' frustrations with the council. "I don't know what Porirua City Council is doing to local business but it is ridiculous," he said. A response from the council's acting general manager was included. He said the consent process had been difficult and he considered the costs reasonable. "Getting to the point where the proposed plan matched what was required by the resource consent was more involved than in some other consents."

The Complaint

Mr Frazer, a Porirua resident, complains that the report has ignored information provided to the newspaper which explains that it was the actions, or non-actions of Mr Ellis, not the council, that caused his application to take so long and become so costly

for him. An Independent Commissioner had reviewed the case and concluded the council had acted correctly and its charges were reasonable. Mr Frazer says the commissioner's report was provided to *Kapi-Mana News*' reporter.

The Response

The editor of the *Kapi-Mana News*, Joseph Romanos, contends the story is fair, balanced and accurate. It accurately conveys that Mr Ellis is unhappy with his treatment by the council and that the council is satisfied it dealt properly with the case. The newspaper was taking a neutral position on the story, it merely presented two sides of a dispute.

In his initial response to the complainant, Mr Romanos says his reporter, "was indeed supplied with some information by the council. He was also supplied with some information by Mr Ellis. He read it all, discussed it and produced his story." Mr Romanos did not repeat that information in his response to the Press Council, which does not address the Independent Commissioner's report.

The Decision

Readers of the newspaper would not have realised from its report that the cafe owner was largely to blame for the time and costs of his resource consent. This was the finding of an Independent Commissioner, which the *Kapi-Mana News* did not mention in its story. The tenor of the newspaper's report was this was a business facing unfair expense at the hands of an unreasonable council. The vague, cautious comments of the council's general manager would not have altered this impression.

A longer version of the newspaper's story was published on the Stuff website. This version did mention the Independent Commissioner's finding, albeit well down the story. Mr Frazer says that had the online version appeared in the newspaper he would not have brought his complaint.

He has supplied the Press Council with a copy of the Independent Commissioner's report on Mr Ellis' objection to the council's fees. The report makes it clear Mr Ellis sought retrospective consent for work already done, that more construction started before a building consent was granted, and an abatement notice was issued, that senior council officers spent considerable time trying to persuade Mr Ellis to apply for consent and provided him with advice. He was not charged for any of that time.

The council made the decision to notify the application because the applicant had not provided sufficient further information when asked. The Independent Commissioner reports that there were also multiple changes to the application during the process, which forced council officers to reconsider aspects of the consent.

A newspaper that sought to give its readers an accurate account of Mr Ellis' dealings with the council would have made reference to these aspects of the case, readily available to it in the Independent Commissioner's report. The comments of the council's general manager were not sufficient to alert readers to the other side of the story. The *Kapi-Mana News*' failure to do so left its readers with an inaccurate impression from an unbalanced report that was unfair to them and to the council.

The complaint is upheld.

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

CASE NO: 2492 – RODNEY HIDE AGAINST THE NEW ZEALAND HERALD

1. Rodney Hide complains that an article published by the *New Zealand Herald* was unfair and inaccurate, in breach of Press Council Principle 1. He also complains about a tweet by the author of the article.
2. The Press Council does not uphold the first complaint. It upholds the second complaint, noting that appropriate action has been taken to remedy it.

Background

3. On January 16, 2016 the *New Zealand Herald* published an article reporting and commenting on proceedings in the High Court involving David Henderson.
4. Mr Hide had supported Mr Henderson in earlier litigation and was taking an interest in the proceedings. They were relevant to his concerns about access by authorities such as IRD and the Official Assignee to customer information held by Xero. He had expressed those concerns in material written for the *National Business Review* (NBR), and he also wrote more widely on related issues for the *Herald on Sunday*.
5. Before publication, Mr Hide was consulted by the author of the article and explained his views on the proceedings and their effect.
6. The article gives brief details of the background to the proceedings before reporting on remarks made by Associate Judge Osborne both in hearing (and allowing) an application by the Official Assignee to lift a non-publication order and in the earlier proceedings to which the non-publication order related. It goes on to report comment by Mr Hide and by the parties to the proceedings.
7. Referring to the earlier proceedings, the article said "But this hearing, undercutting many of Hide's claims, was suppressed and covered by a non-publication order . . ."
8. On January 13, shortly before publication of the article, its author tweeted "Short write-up of court ruling morphed into 1600-word Greek-style epic featuring crimes, c*nts, lulz and ex-MPs. In @nzheraldbiz Saturday".

The Complaints

9. Mr Hide complains that it is untrue to say that his claims were undercut. He says those claims were not identified in the January 16 article, but when he sought clarification from the reporter he was told that they were claims made in NBR articles. Mr Hide then identified his article published on November 6, 2015 as the main source of the "claims".

10. In complaining to Fran O’Sullivan, Editorial Director - Business of the *New Zealand Herald*, Mr Hide set out in some detail the claims he considers he made in that article and states that not one of them was undercut by the judgement. He says “Ahead of publishing my column I consulted two barristers to reassure myself that my interpretation was correct.” He went on to say that while the two judgements were critical of him, they did not undercut any claim made in his article of 6 November. The reporter knew the claim of undercutting was false as Mr Hide had supplied him with repeated explanations prior to publication.
11. Commenting on Ms O’Sullivan’s statement (in response to his complaint of factual inaccuracy) that the article was “clearly written as a feature read including a substantial component of interpretation and analysis.” Mr Hide says he considers the *New Zealand Herald*’s response to his complaint constitutes an admission of factual inaccuracy and the only remaining question is whether the statement about undercutting was one of fact or opinion.
12. Referring to the pre-publication tweet, Mr Hide says it lacks accuracy, fairness and balance. He considers it offensive and displaying a lack of professionalism by a senior journalist.

The New Zealand Herald Response

13. The first response to Mr Hide’s concerns about the article came from the author of it. He notes that he and Mr Hide clearly came to different interpretations of the two Court rulings and then set out at some length the excerpts from those rulings which led him to the conclusions expressed in the article.
14. After Mr Hide had complained to the Press Council, Ms O’Sullivan provided a further response. On the question of accuracy, she largely repeated the contents of the earlier response. She noted that the article was written to include a substantial component of interpretation and analysis, and expressed the view that the reporter’s choice of words amounted to a fair and reasonable assessment of the Judge’s rulings.
15. Turning to the tweet, Ms O’Sullivan explained that the strong language reflected a quote (deleted before publication) in the draft of the article. The quoted remarks were made by Mr Henderson and the tweet was neither directed at Mr Hide nor was there any suggestion that it was directed at him. In her view the tweet was regrettable. It has been deleted and the reporter has been reminded of social media policy and acceptable use.

Discussion

16. As Mr Hide has noted, factual material published by the media must be fair, accurate and balanced, but the standard is different for opinion material, so long as it is clearly presented as such. Ms O’Sullivan submits that “while there is some degree of interpretation in the reporter’s choice of words, we stand-by that choice as a fair and reasonable assessment of the judge’s ruling”.
17. The Press Council has been supplied with a full copy of

Associate Judge Osborne’s ruling on the application to lift the non-publication order, and of the earlier ruling. Mr Hide was not a party to either proceedings and any reference to him and his views is peripheral. However, in the second ruling there is a reference to Mr Hide’s NBR article. The Judge recorded that the article set out Mr Hide’s view of factual matters and the law, and continued “He concludes that the Assignee, in obtaining information from Xero, acted outside her powers and that Xero did not act as a custodian of its customers’ data”. Mr Hide has not disputed that summary of his views. The Judge later refers to his earlier ruling (to which the non-publication order related) as “a judgement of this Court which upheld the lawfulness of the Assignee’s s171 notice”. The s171 notice was the means by which the Assignee obtained information from Xero. On any reasonable interpretation, that is a finding that the Assignee did not act outside her powers.

18. It seems clear that while the Judge may not have gone through each individual claim made by Mr Hide and assessed its validity (and there is no reason why he should have done so) his conclusions generally support the view that Mr Hide was wrong at least in his argument that the Assignee had acted unlawfully. In this context it seems both accurate and reasonable to say that Mr Hide’s claims were undercut.
19. The article in question was not an opinion piece. However, in reporting on complex and contentious issues in an area where complete comprehension requires specialist knowledge – and this is such a case – it is inevitable that even when not expressing an opinion reporters will select, shape and interpret their material to make it meaningful to their readers. Simplification is not necessarily inaccuracy, and the fact that the reporter did not enumerate Mr Hide’s claims and the arguments for and against them before saying generally that they were undercut does not amount to inaccuracy.
20. Mr Hide was consulted before the publication of the article and the final article included some of his comments – certainly enough to provide balance and to indicate to a reader that he did not accept that his arguments had been undercut.
21. Turning to the complaint about the tweet, it is worth noting that this is one of the first times the Press Council has been called on to determine a complaint about this form of communication.
22. The tweet was effectively advance publicity for the article in the same way that a poster or headline is advance publicity, with the difference that the tweet was made before the article was in final form and did not go through any sort of editorial process. However, it was clearly made by the reporter in his capacity as a reporter for the *New Zealand Herald* and the editor has properly taken some responsibility for it and reminded the reporter of his obligations. Moreover the tweet has been deleted, although apparently it remained accessible for some weeks.
23. For the sake of clarity, the Press Council records that the

same standards apply to a tweet of this nature as apply to other published material. The tweet in question in this case was unprofessional in its inaccuracy and use of unacceptable language and certainly did not conform to the highest professional standards.

Decision

24. The complaint of a breach of Principle 1 is not upheld.
25. The complaint about the tweet is upheld, but it is noted that the business editor of the *New Zealand Herald* has taken appropriate action and no more is required of her.

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 Tim Watkin.

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

CASE NO: 2493 – ALWYN HUNT AGAINST HERALD ON SUNDAY

Alwyn Hunt says a Paul Little column in the *Herald on Sunday* on February 14 about a private school's promotional billboard was inaccurate, spiteful and damaging.

The complaint is not upheld.

Background

Little's column was an opinion piece, headlined 'School's message hits a sour note'.

The column looks at a billboard used to promote King's School, featuring the words 'The World Is His' above an image of a pupil holding the world in his hand.

Little suggests the King's message is that, should a child attend the school, they will be able to do anything. He says it is elitist and out of touch.

The column goes on to suggest that such an elitist approach fails to make students good people, and instead just puts them in a controlling position; breeding a 'generation of selfish, entitled and arrogant young people'.

It infers the billboard's placement, in Ponsonby, is no coincidence. It is home to those who could afford a King's education.

The print version of the column and the initial digital version incorrectly referred to King's College, an Otahuhu-based high school, rather than King's School, a Remuera-based primary school. Both are exclusive private schools.

Online, the column was corrected to refer to the primary school. In print, a correction was carried alongside the next week's Little column.

Complaint

The complainant says the billboard was eye-catching but, rather than what Little took from it, she felt the message was one of hope for the future and an illustration of what a wonderful world we live in.

Little's column was spiteful and inaccurate and was damaging to the reputation of both King's School and King's College.

References in print, and initially online, to a parent needing

to travel 15km each way to King's 'in the Range Rover' were wrong. That was the distance to the college, where as the school was much closer.

Response

Herald on Sunday deputy editor Stuart Dye responded to the Press Council.

The column - clearly identifiable as an opinion piece - was a forthright opinion on the billboard's message as taken by Little.

From the outset, the error of fact in regards to the school versus the college was accepted: 'It was one reference at the beginning of the column'.

Once the *Herald on Sunday* was alerted to the mistake, the column was removed online, clarified, corrected and re-posted once Little confirmed that, while reference to the school was wrong, his view of the billboard remained. A correction was also run in print the following week.

The corrections were made quickly and prominently.

There was no more important principle than freedom of expression, and Little was entitled to his opinion.

Discussion

As has been stated before by the Press Council, a complainant does not have the right not to be offended.

The media closely guards freedom of expression and the Council gives primary consideration to that freedom, and public interest.

The copy was identifiable as an opinion piece.

Principle 4 (Comment and Fact) does require material facts on which an opinion is based to be accurate.

There was an error of fact in the Little column which, despite the deputy editor's contention that it was only a single error, did lead to further errors around the travel times between Ponsonby and the school.

In keeping with Principle 12 (Corrections), the error was corrected promptly and with fair prominence.

The Council accepts the confusion about the different schools in this case would not affect the author's sentiment in the column.

For the reasons above, the complaint is not upheld but the Council notes that but for the speedy correction the Council would have upheld on inaccuracy of a material fact.

However, it should be noted by the *Herald on Sunday* that Little's fact checking of a primary point in his column, regardless of whether that point was relevant or subsequently corrected, was nothing short of sloppy.

The flippant "insert-school-name-here" approach that was taken by the columnist was cavalier and not in accordance with the highest professional standards that the Press Council seeks to maintain in the media.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Chris Darlow, Tiumalu Peter Fa'afiu, Sandy Gill, Marie Shroff, Vernon Small, Mark Stevens and Tim Watkin.

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

CASE NO: 2494 – DAMIEN KLAVS AGAINST STUFF

[1] Damien Klavs complains against an article that appeared in Stuff online on 5 February 2016. He alleges the Press Council’s principles of discrimination and diversity; headlines and captions; comment and fact; and accuracy, fairness and balance are all breached. It can be seen this is a wide-ranging complaint, involving many of our principles.

The Article

[2] The online story that led to this complaint dealt with the sentencing of two Israeli teenagers for the murder of a Palestinian teen. The two teenagers, along with a man who was said to have organised the murder, were found guilty in November last year of the abduction, bludgeoning, strangling and burning of 18 year old, Mohammed Abu Khudair, on 2 July 2014.

[3] The headline to the story reads ‘Israeli teens jailed for burning Palestinian boy alive’. The opening sentence states:

A court has sentenced two young Israelis to life and 21 years in prison for burning a Palestinian teen alive, part of a cycle of violence that led up to the 2014 Gaza war.

[4] The accused had confessed and said the murder was in revenge for the killing of three Israeli youths by Hamas in the occupied West Bank. The story goes on to say that tensions are intensifying again, with a wave of Palestinian street attacks against Israelis now in its fifth month. It was said that this was fuelled by Israel building on land the Palestinians want for an independent state. It reports that the deceased’s father said there should be an appeal, as the younger boy, who received the sentence of 21 years, should have been sentenced to life. It also notes that the State of Israel sought the same prison terms for both teenagers, but was satisfied with the outcome. The story then deals with the man who was found guilty of murder and who was said to have instigated the offence, and his claim of insanity, which is not relevant to the complaint.

The Complaint

[5] Mr Klavs alleges that the “click bait” blurb was misleading and “could easily be seen as not reporting wholly the whole truth that surrounded the situation”. He said it was a sensationalist and inaccurate reporting of the facts, and it failed to follow the correct chronological order of events that he set out. He said it was a blatant manipulation of the chronological facts. He said the article by Stuff writing in such a format “could be seen as anti-Israeli propaganda by failure to equally account for all the actions that occurred prior to and after this incident.” Essentially he accuses Stuff of publishing a story that is anti-Israeli.

The Newspaper Response

[6] The editor, Patrick Crewdson, states that this is a straightforward report of court proceedings from Reuters, a respected news agency.

[7] He does not accept the complaint from Mr Klavs,

stating that the story does not suggest the fault lay “entirely with Israel”. He said the alleged tit-for-tat nature of the murder was set out. He goes on to note that the State of Israel itself was appalled at the crime and sought life sentences. He submitted that in those circumstances it could not be said the article was in any way attempting to blame Israel “as Israel did not kill this teenager?” He said three individuals did, and two of them were jailed while the other matter was adjourned. He said it is in no way discriminatory or an attack on diversity of any sort.

[8] He goes on to address the blurb, and states the first two lines of a blurb are designed to promote stories to readers on the Stuff landing page. He said they are often all a reader sees before going to the story. He continued:

It would, of course, be wrong to say that the first crime did not help fuel these tensions but the tit-for-tat nature of almost continuous conflict in the region makes laying blame entirely on one side impossible for all but the most myopic.

[9] He continued that both events contributed to the triggering of tension in the region, which ultimately led to the 2014 Israeli-Gaza conflict. He submitted the introduction was a fair representation of the story it linked to. He said there is seldom a single identifiable cause for war, and that a number of factors lead to conflict. He said the story clearly states this and is a simple court story following yet another crime in a complicated conflict.

Decision

[10] Neither the headline (blurb or “click bait”) nor the story itself breaches any of the principles as alleged.

[11] The story deals with the sentencing of two Jewish teenagers who had been prosecuted by the State of Israel for the offence of murder which involved the abduction, bludgeoning, strangling and burning of a 16 year old Palestinian boy. They were found guilty by an Israeli court. The story also makes very clear that this was said to be a revenge murder for the killing of three Israeli youths by Hamas beforehand.

[12] It states that the incidents, clearly referring to both sets of killings, raised tensions and led to a seven-week Israeli offensive against the Hamas-run Gaza Strip that began on 9 July 2014. It states that this was after cross-border Palestinian rocket attacks and an Israeli round-up of suspected militants in the West Bank.

[13] The second sentence of the blurb complained of states that this was part of a cycle of violence that led up to the 2014 Gaza War. We stress it does not say it was the only cause but clearly attributes it as a contributing factor. For an impartial reader, able to see both sides of this complex conflict, that is a reasonable statement to make.

[14] Furthermore, given that it was the State of Israel that prosecuted these two murderers, it cannot be said in any way that this story is discriminatory or biased against the State of Israel. The State of Israel saw this attack for what it was and sought both young men be sentenced to life for the murders they committed. It is a straightforward report

which brings fairness and balance. None of the other alleged breaches are made out.

[15] The complaint is not upheld.

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

CASE NO: 2495 – TRISH LAMBERT AGAINST THE NEW ZEALAND HERALD

The Complaint

Trish Lambert's complaint relates to a January 29, 2016 nzherald.co.nz article headlined "Prominent cot death researcher and paediatrician dies" marking the death of Dr Shirley Tonkin. Her objection is that it included material relating to Dr Tonkin's daughter and granddaughter that she considered spurious and disrespectful to the grieving family, a breach of privacy and unnecessary in the article.

She has complained that the article breaches the Council's principles on privacy, accuracy, fairness and balance.

The complaint is not upheld with dissent.

Background

Dr Tonkin was the mother of Heather Tonkin who after a one night stand with Captain Mark Phillips nearly 30 years ago, had a daughter Felicity, described in the article as Phillips' "love child". The details of those events are covered in the first five paragraphs of the original version of the article - before it moved on to other details of her life and brief details of Dr Tonkin's life.

Ms Lambert did not see the original version, but only a later and longer version which added more details about Dr Tonkin's life. She did not complain about the angle the article took but more generally about the inclusion of the material about Dr Tonkin's daughter and granddaughter arguing it should not have been included at all "in an obituary purporting to celebrate the achievements of Dr Tonkin".

The Response

On behalf of the *NZ Herald* and NZME Irene Chapple responded that the article was amended soon after publication to focus on Dr Tonkin's personal achievements. She defended the inclusion of the material objected to, saying it was a newsworthy aspect of Dr Tonkin's life. She pointed out that Heather Tonkin had spoken publicly about her relationship with Phillips and that in 2011 Dr Tonkin had made several comments to the media about her granddaughter, in relation to Zara Phillips' marriage, and spoke of her granddaughter's sporting achievements. Chapple said Dr Tonkin seemed very comfortable speaking about the topic, particularly given the time that had elapsed, and the article did not intrude on privacy or private grief.

Chapple did note that Dr Tonkin's achievements were significant and hugely influential in New Zealand and the story was changed and "re-nosed" to lead with her personal achievements which "appropriately recognised how she should be honoured".

Chapple also offered an apology to Ms Lambert for any

unintended offence that she had taken to the original article – although Ms Lambert had not seen that version and reiterated her objection was to the material being included at all.

Discussion

On the issue of privacy, the relationship between Dr Tonkin's daughter and Phillips, and related details of Dr Tonkin's granddaughter, were well known for many years and in the public domain. The family, including Dr Tonkin, had from time to time commented to the media on the relationship and life of Dr Tonkin's granddaughter. The Council finds no breach of this principle

Nor was the article unbalanced by the inclusion of those details, or inaccurate. Indeed it would have been odd and incomplete if such well-known facts were not at least mentioned. They were significant and newsworthy events linked to her life and important people in her life.

However, it is questionable whether the article should have been angled – and initially dominated – by so much detail from the life of her grand-daughter. Many editors would have handled it differently and given less prominence to the Mark Phillips' connection.

We note again though that Ms Lambert stressed she was not specifically complaining about that emphasis, or (despite the tenor of Chapple's apology) the introduction in the original version. She had not seen that, but objected to the inclusion of the material at all.

On balance the Council believes angling the article on the link to Mark Phillips did give it an unfortunate "skew" and may serve as a warning of the dangers of rushing to mark Dr Tonkin's passing without giving due prominence to her achievements. To some extent the *NZ Herald* has acknowledged this in its response, though the changes it made to the second version before the Council did not amount to it being "re-nosed to lead with her personal achievements" as claimed by Chapple. But that did not amount to unfairness to the extent that any further action is required of the *Herald*.

The Council does not uphold the complaint.

Marie Shroff dissented from this decision.

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

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

CASE NO: 2496 – SARAH MILLER AGAINST MASSIVE MAGAZINE

Background

Massive is Massey University's student magazine. The cover of the March edition of the magazine featured a graphic illustration of a student bent over, staring straight ahead, clad only in a bra and thigh-high boots, whilst her hair is being pulled by one hand and another hand is on her buttocks. The student is reading a text book titled PSYCH 101. The cover is linked to its feature article which was about students working in the sex industry to support their studies.

On 15 March, Stuff.co.nz covered the complaints about the

magazine cover. The Stuff article also covered remedies from the magazine's editor, Carwyn Walsh, in response to the complaints.

This complaint to the Press Council about the magazine cover has gone to the whole Council through its fast track process.

The Complaint

Sarah Miller complained that as a magazine funded by students, Massive had crossed the line with its cover that depicts non-consenting sexual violence. Ms Miller had access to an advanced copy of that edition because of her role as a student advocate and university budget advisor. She told the Council that she tried to stop the publication of that edition because she believed it would cause harm to students.

Ms Miller acknowledges that the sex worker article itself was a "useful discussion" but says the cover does not give students a choice to not open the magazine. The "flippant tone" of the article's introduction, when linked with the violent image of the cover, paints a picture of a magazine that does not view sexual violation seriously. The cover undermines the experiences of many people who have been sexually assaulted including students.

The relevant principles are children and young people (Principle 3), discrimination and diversity (Principle 7), and photographs and graphics (Principle 11).

The Magazine's Response

Massive's editor responded to Ms Miller and other complainants about the cover via the Massive Facebook page. He also responded by email directly to Ms Miller. The editor explained that Massive's Media Advisory Board met to discuss the complaints including Ms Miller's.

The editor had advised Ms Miller by email that as a remedy the Advisory Board will remove the image from its Facebook page and when distributing the magazines will also be covering the stands so as to obscure the cover.

The Massive Editorial Board, in a further response, acknowledged that some readers had read the cover as promoting rape, sexual violence and misogyny. They also advised they had had many messages of support for the cover.

The illustration's intent was not to depict a rape scene as some had mistakenly believed or a student being forced to participate in a sex act against her will. The illustration accompanied a story investigating the issue of students working in the sex industry to support themselves financially. Although the cover may have been challenging for some, it helped to create discussion on an important issue. It was therefore important for a student publication to discuss a matter that affects some students. The cover will remain part of the print editions of Issue 2, but the remedies mentioned above will be undertaken. The stands obscuring the cover will carry with them a warning and the choice of reading it or not left to students.

The Complainant's Response

Ms Miller remains of the view that the cover "is clearly a depiction of non-consenting sex and is rape". She argues

that the terrified look on the face of the victim and the hair pulling makes the image only readable as non-consenting sex.

The Advisory Board contains no experts in the field of sexual assault and could have obtained advice if the Board was unclear as to what constitutes sexual assault, but did not. Instead the Board has chosen to assume that its reading of the image (as consensual sex) is the only reading possible, despite having been clearly advised by her before publishing that it is an image of sexual violation. Even if one argues that the image is not rape, it was clear from the outset that the image could and would be interpreted as rape, and would cause harm and distress on campus, which it has, she says. It should have never been published on this premise.

Ms Miller also argues that the issue highlights the need for the Press Council to rethink its stance on student magazines as a 'special case' where provocation and offence is tolerated. Within the student population, research shows increasing anxiety and mental health concerns. It is also a population where the age group is most at risk of sexual violence. "I'm not sure why student magazines are allowed to have a different standard from the rest of the population, as I think it is important that all people are protected". Ms Miller therefore asks that the Massive Magazine issue be considered as a 'normal case' rather than a 'special case'.

Discussion and Decision

Student newspapers as a genre have a long history of provocation and even offensiveness, and that is to be expected in fiery crucibles such as universities. As well, their choice of language and in-your-face approach to issues are often not for the faint-hearted.

The Press Council acknowledges the genre and is prepared to make some allowances for it, as long as essential principles are maintained. This is not about treating a student magazine as a special case; it's about acknowledging the genre of the publication.

Moreover, Council's Principle 7 notes 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. The publication however cannot place gratuitous emphasis on any such category in their reporting.

The crux of the matter lies with the illustration on the cover. It is clear that the image has raised a number of comments including complaints to Massive. The Council does not have any reason to doubt Massive Magazine's explanation of its intent – that although deliberately intended to be challenging, the intent was not to show any form of sexual violence. The magazine's remedy acknowledges that some might perceive the cover differently from their intent.

Ms Miller has made a strong case concerning the possible impact the cover might have on some students. Some would agree with her, others would not. She has certainly found the cover offensive but equally it is inoffensive to others. It is not the general role of the Council to adjudicate on notions of good taste and decency particularly when these notions are mutable and fluid. The Council therefore needs to look

at the complaint within the context of its principles and the members' own views of the cover. Editors, or in this case the Editorial Board, risk losing readership when making a call on challenging topics that will cause offence to some (but not others). At the same time they have a responsibility to ensure that important topics which impact on their readership are discussed. The question is does this illustration cause gratuitous offence?

It is the view of the Council that the illustration was not at all realistic and, while acknowledging Ms Miller's views to the contrary, not one Council member viewed it as depicting an act of sexual assault. The aim of the challenging cover was to illustrate the main story inside – students are involved in the sex industry whilst studying.

The complaint is not upheld.

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

CASE NO: 2497 – MITRE 10 (NEW ZEALAND) LTD AGAINST SOUTHLAND TIMES

Mitre 10 complains that an article headed "No goodbye for Mr Mega" published in *Southland Times* on 27 November 2015 breaches Press Council principle one (Accuracy, fairness and balance). The article was also published on the *Stuff* site under the title "Mitre 10 ends Mr Mega without even a goodbye – Vaoga".

The complaint is upheld in one respect, by the majority of the Press Council.

Background

The story covered the ending of a contractual relationship between Mitre 10 and one Levi Vaoga, Mr Vaoga having fronted advertisements for the Mitre 10 retail chain for several years. Part of the story referred to Mr Vaoga as having left the company without a "sendoff". This was surprising to Mr Vaoga given the long association. Mr Vaoga described himself as a "strongman" and being "famous" for his positive descriptions of the Mitre 10 home improvement stores. It included comments from the Mitre 10 marketing manager who said Mitre 10 "had a new marketing direction". While the image portrayed by Mr Vaoga was appropriate when Mitre 10's large format stores were being introduced this was no longer the case given evolving Mitre 10 branding.

The story referred to Mr Vaoga being on an "annual contract" but that the company "chose not to renew it and did not give him a reason for it ending".

The article went on to describe Mr Vaoga's plans for the future.

The Complaint

Mitre 10 complains that the *Southland Times* piece was published without it having been given a proper briefing as to the upcoming story and without being given a fair opportunity to respond. In particular Mitre 10 says that the paper failed to advise it was planning to run a story about Mr Vaoga's contractual situation, failed to confirm Mr Vaoga had been interviewed for the story and did not advise as to

the specific allegations levelled against the company. Mitre 10 says that these failures led to the story being unbalanced. Had the newspaper "properly notified" Mitre 10, its response would have been "very different". Had it known Mr Vaoga was claiming that Mitre 10 was somehow in breach of its duties to him it would have sought a "privacy waiver" from him and would have supplied *Southland Times* with a comprehensive response.

Mitre 10 says that the terms of its contract with Mr Vaoga were confidential as was the content of failed negotiations it had with him over a possible contract renewal.

Mitre 10 is especially concerned about *Southland Times'* refusal to disclose whether "someone had said something". It also disputes the editor's claim that the paper had no obligation to inform it of the identity of others interviewed for the story.

Mitre 10 says, basically, that it has been unfairly treated by this story and its reputation damaged.

The Response

The Southland Times responds by referring to five questions put in writing to Mitre 10 before the story was published. Mitre 10 was asked, among other things, as to "what kind of send off did [the company] throw for [Mr] Vaoga?" (question 1). It also asked "what other words or wishes [does the company] have for Vaoga's future? (question 4). The newspaper says these and the three other questions "clearly raised the issue of the manner in which Mr Vaoga had been "let go" and what it had done for Mr Vaoga by way of "send off"". Mitre 10 did not answer questions 1 and 4.

The paper says the article was not, as Mitre 10 suggests, a story about Mr Vaoga's contract. Rather it referred to the ending of the association between Mitre 10 and Mr Vaoga and Mr Vaoga's new career. It was not required to disclose its sources, nor did it have to put every allegation it received to Mitre 10 for its response. The newspaper says, essentially, that it put "material allegations" to a person within Mitre 10 who was capable of "providing a balancing view".

The paper also points to its invitation to Mitre 10 to provide further comments after the story was published. The invitation was declined.

The Decision

The majority of the Press Council does not agree with Mitre 10 except in one respect. Crucially, and on any objective view, *Southland Times'* five written questions should have alerted Mitre 10 that the paper was considering running a story which potentially might be critical of the way in which the company had treated Mr Vaoga. The Mitre 10 representative quoted in the article responded to three of the questions but chose not to respond to questions 1 and 4. Mitre 10 does not explain why not except to say it was concerned about the "angle" being followed.

The majority takes the view that the object of question 1 in particular was unambiguous. The question was not misleading nor framed as to put the company off guard. It would (or should) have been clear to the company that the paper was talking to Mr Vaoga or someone close to him. It was equally clear Mr Vaoga was likely aggrieved with the way the company

had dealt with him as to the recognition he received (or did not receive) on his actual departure. While the company was entitled to ignore the question it did so at its risk.

The Council does not agree *Southland Times* was required to disclose the sources of its information to the company.

There is one aspect however where Mitre10 rightly complains. It says the reference to Mr Vaoga being on an annual contract and the fact the contract was not renewed without reasons is wrong. The Council notes that the paper failed to put this element to the company before the story was published. Had it done so the company may well have issued a correcting statement. The majority of the Council believes its failure to put the point to Mitre 10 results in this reference being unfair. The newspaper's offer to publish a follow up statement by the company does not excuse the breach given the story's context.

The complaint is upheld, in relation to the contract reference only, by seven members of the Council Sir John Hansen, Liz Brown, Chris Darlow, Jenny Farrell, Marie Shroff, Vernon Small, Tim Watkin.

Two members of the Council, Tiumalu Peter Fa'afiu and John Roughan, would have upheld all aspects of the complaint.

Two members of the Council, Sandy Gill and Mark Stevens would not have upheld any aspect of the complaint.

CASE NO: 2498 – DR JOHN ARMSTRONG AGAINST STUFF AND ROTORUA REVIEW

Introduction

1. Dr John Armstrong, a medical practitioner, complains that a story published on the *Stuff* site on 19 February 2016 titled "Rotorua Boy Refused Doctor's Appointment After Dad Accused Of Theft" breaches principles 1 (accuracy, fairness and balance) and 10 (conflicts of interest).
2. The story, with minor differences, was published in the *Rotorua Review* newspaper on 24 February 2016.
3. The complaint that the story breaches principle 1 is upheld, with one Council member dissenting. The complaint in relation to principle 10 is not upheld.

Background

4. The story relates to the steps one Trinity Ropiha had taken to have his ill son seen at Dr Armstrong's Rotorua surgery. Mr Ropiha was described in the story as a "canvas for his own artwork" (he was tattooed). When Mr Ropiha telephoned for an appointment he was suspected by the medical practice of having stolen personal items from the surgery during a previous visit. The theft had been reported to the Police.
5. Mr Ropiha's request to have a doctor see his son was initially declined. While the practice agreed to see the child later in the day and while it apologised to Mr Ropiha for its earlier refusal to assist (he by then having been eliminated as a suspect) the matter

came to the media's attention. The stories were published as a result.

The Complaint

6. Dr Armstrong has two complaints. First, he says that the background to the matter was more involved than that portrayed by in the stories. Crucially he was given inadequate opportunity to respond to the reporter's enquiries when she visited the practice the day after the incident. Dr Armstrong says the story portrayed his practice, which is centred in a low socio economic area with a "high needs" population, in a bad light. Secondly, Dr Armstrong claims the reporter was biased, she having a "close relationship" with Mr Ropiha.
7. Dr Armstrong says that Mr Ropiha's initial request to have his son seen presented the practice with a quandary. Mr Ropiha was suspected of theft from the practice. The Police were involved. Mr Ropiha was told of the concerns when the appointment request was declined.
8. Dr Armstrong says it was then quickly realised that the practice was wrong in declining the boy's appointment. By this point Mr Ropiha himself had gone to the Police to establish his innocence. Within a short time, and certainly on the same day, the practice saw the boy. Dr Armstrong apologised to Mr Ropiha for the error.
9. The next day (a Friday) a *Rotorua Review* reporter approached the practice seeking an explanation as to the previous' day's events. Dr Armstrong says the reporter arrived at the surgery after 3pm insisting she see him. Dr Armstrong says that at this point the surgery was "full of patients". He could not see the reporter until after 5pm. At this point the reporter said her "deadline" had passed. She demanded an immediate comment as to the events in question. Dr Armstrong says he told the reporter he wished to provide "considered answers to the issues". The reporter said this was "impossible" since the deadline had passed. The article had been written "and was ready to go". The story had to be published since "old news [was] no news". Staff were wanting to put the story online.
10. Dr Armstrong says he told the reporter he needed the weekend so as to provide a full response. The request was refused.
11. Dr Armstrong maintains that the reporter's behaviour throughout was rude, aggressive and overbearing. He has provided the Council with various accounts by people who were present in the waiting room and who comment on the exchange between the reporter and the practice receptionist on the Friday afternoon. These accounts bear out this claim.
12. Dr Armstrong acknowledges that the practice erred in not immediately agreeing to see Mr Ropiha's son. This error was recognised straight away and

the matter rectified. It was rectified well before the media became involved. The story's thrust is critical of the medical practice. Dr Armstrong refers to several hundred comments published on social media many of which are adverse. Dr Armstrong says the story has done "irreparable" damage to the reputation of [his] practice in [the Rotorua] community and nationally".

13. Dr Armstrong claims too that the reporter was biased in her reporting, she having admitted being friendly with Mr Ropiha. She had previously published a sympathetic story about his tattoos. Dr Armstrong says the article effectively accuses his practice of prejudice towards a patient because of "race and / or tattoos; an accusation which is not only serious but also wrong".

The Response

14. *Stuff* and *Rotorua Review* deny the complaints have merit. They say the reporter had made various attempts to contact the practice through the Friday before the reporter attended it in person in the afternoon. They said Dr Armstrong had "adequate opportunity" to put his side of the story particularly since:-

- (1) He was aware of the incident the previous day;
- (2) He had previously apologised to Mr Ropiha;
- (3) He had the opportunity to comment after the *Stuff* story had been published;
- (4) He had simply chosen not to comment.

15. The media says also that the story was accurate. It referred to the surgery's apology for the false theft accusation and the fact that the boy had been seen later the same day. The social media comments "canvass a range of views but are largely in response to the accurate and uncontested central theme of this story; that Trinity Ropiha's 7 year old son was denied a doctor's appointment because Mr Ropiha was accused of theft".

16. *Stuff* and *Rotorua Review* deny the story was compromised because of the "working relationship" between Mr Ropiha and the reporter. Journalists are "expected to have a wide network of contacts".

The Decision

17. The Press Council does not agree that the story was balanced or fair in circumstances. Putting aside, for the moment, Dr Armstrong's claim that the reporter approached him in an overbearing way, there is no question he was given an unacceptably short time in which to respond to the reporter's questions. *Stuff* and *Rotorua Review* do not deny that Dr Armstrong's practice is a busy one. To require a doctor to respond to questions on such a serious issue in two hours is not right. *Stuff* and *Rotorua*

Review do not explain why it was important for the story to run so quickly. If indeed the media's view was that "old news is no news" (as the reporter is alleged to have said) then the Council does not agree. *Rotorua Review* chose to report the story five days after it ran on *Stuff*. The Council sees no reason why the *Stuff* story could not have waited. Having said that we certainly do not mean that someone in Dr Armstrong's position can dictate the timetable.

18. The Council is of the view that just as the reporter's insistence on an immediate response was unacceptable, expecting the matter to be deferred for the whole weekend (as Dr Armstrong sought) was unrealistic in terms of news. The reporter should have been able to negotiate a better outcome which required some compromise from Dr Armstrong.

19. The Council is reinforced in its view, that Principle 1 was breached, by two other matters. First, the story in both the online and printed versions opened with a line "Tattoo Artist Trinity Ropiha was denied a Doctor's Appointment for his seven year old son after being falsely accused of stealing from a Rotorua Surgery". It was followed by the line "the Owata surgery has since apologised for the false accusation".

20. The implication here (particularly through the use of the phrase "has since...") is that the medical practice belatedly realised the error of its ways and backed down. Such an implication is wrong. Dr Armstrong says, and *Stuff* and *Rotorua Review* do not deny, that the practice itself realised it had wrongly declined the appointment. It took the initiative and a doctor saw the boy later in the day. The practice apologised to Mr Ropiha promptly and gratuitously and not as a result of the media's or anyone else's intervention. While the story acknowledges the apology further in the article the damage had been done by the opening.

21. Secondly, both the online and the print stories concluded with the statement that the surgery had declined to comment. This was untrue. Rather Dr Armstrong sought time to provide a response but the time he sought (the weekend) was not accepted by the reporter.

22. The Council does not accept that the media's offered to publish a correcting statement by Dr Armstrong later is sufficient to save the finding that principle 1 has been breached.

23. John Roughan dissented from this decision.

24. The Council does not agree that the story breached principle 10. The fact the reporter had previously written the story about Mr Ropiha was not a compromising element in this case.

25. The final matter is the reporter's behaviour. To arrive in a busy doctor's waiting room and to expect to be seen immediately and ahead of patients was

unreasonable. Further it seems that the reporter did not deal with the situation in a calm and professional manner. Of equal concern is the fact that she was apparently backed in her actions by a more senior staff member in the office.

26. A reporter in this situation is the public face of the publications and the industry. Both were let down by the unprofessional behaviour displayed.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Chris Darlow, Tiimalu Peter Fa'afu, Sandy Gill, John Roughan, Mark Stevens, Christina Tay and Tim Watkin.

CASE NO: 2499 and 2500 - WARREN DAVIDSON AGAINST WAIRARAPA TIMES-AGE AND BUSH TELEGRAPH

Introduction

Warren Davidson complains a story published in both the *Wairarapa Times-Age* and *Bush Telegraph* newspapers, with slightly different headlines, breaches several Press Council principles. His concern is, primarily, with the headlines though.

The complaints against both publications are upheld, with one member dissenting from the *Bush Telegraph* decision.

Background

Mr Davidson, a former Tararua District Councillor, quit his position last year after what the newspapers described as 'bullying and unacceptable behaviour' by the mayor and council's CEO.

His resignation sparked a Local Government New Zealand review of the council's governance processes, which were found to be fit for purpose and consistent with well-performing rural councils. Some recommendations, however, were made.

Significantly, the review did not look at whether Mr Davidson's reasons for his resignation were accurate or not.

The *Times-Age* version of the story (March 2) was headlined 'Report clears council of abuse' and the *Bush Telegraph* version (March 7) was headlined 'Report clears council'. Both versions carried a photo with Mr Davidson in the foreground.

Complaint

Mr Davidson says the headline is inaccurate because the LGNZ report did not cover the allegations, rather it only looked at process.

The story was also unfair because Mr Davidson was not given proper opportunity to comment. The reporter provided him a copy of the report, which his comments were based on. He did not, however, comment on the council being 'cleared', because he wasn't aware of that angle. His viewpoint was therefore taken out of context.

Not including all of the report's findings/recommendations was unbalanced.

Response

In dealing directly with the complainant, *Times-Age* editor Andrew Bonallack first offered Mr Davidson a second

interview/story, which was accepted on the basis the headline would be corrected.

The editor 'neutralised' the headline on the online version of the story to read 'Findings of Council probe released' but refused to print a correction in the newspaper because there wasn't anything 'fundamentally wrong' with it.

The offer of a second story, albeit initially accepted, was turned down with the lack of the print correction being a sticking point.

Mr Bonallack, in responding to the Press Council, said the story was first written for the *Dannevirke News*, but was cut and changed for the *Times-Age*. He conceded that, during that process, a 'significant portion' of the complainant's comments had been lost.

The editor confirmed the headline was changed online to be 'cooperative' but not in print because it was 'essentially correct'.

Regardless of LGNZ not addressing Mr Davidson's allegations of bullying and abuse, it was 'a basic cause and effect' that the report was sparked by those very things.

The complainant was aggrieved and wanted LGNZ to explore his allegations.

The remedy offered to Mr Davidson, i.e. the second story, was suitable and substantial.

A correction wasn't practical when the headline was fair and clarification would have been complex.

In regards to the *Telegraph's* version of the story, editor Steve Carle published a letter from Mr Davidson in the same issue the story ran in. He viewed this as sufficient.

Discussion

The headline on the *Times-Age* story was fundamentally wrong. It is incorrect to say the LGNZ report cleared the council of abuse.

Whether the LGNZ report was sparked by Mr Davidson's allegations of abuse or not, it did not review or rule on them in any way.

The complexity of a clarification is not, in itself, excuse to ignore the need for one.

Digital journalism does not live by a different set of standards from that in print. If it is deemed worthwhile to 'neutralise', or effectively correct, a headline online, then it's reasonable to expect the same efforts in print.

Had the story been limited to the review of council governance processes, the complainant's comments in the abridged version of the story would have been sufficient. However, because the *Times-Age* viewed the catalyst of the LGNZ report as significant enough to headline the story on, and to include a photograph prominently featuring Mr Davidson, Mr Davidson's opportunity to comment should have extended to this angle too.

In regards to the *Bush Telegraph* story, although the headline did not specifically reference abuse claims, it was still going too far to say the LGNZ report had 'cleared' the council.

And to consider that Mr Davidson’s balancing comments would be covered-off by the contents of a separate letter-to-the-editor, received before the story was even published by that newspaper, was insufficient and presumptuous.

The complaints against both publications are upheld.

Tim Watkin dissented from the *Bush Telegraph* decision and would not have upheld this complaint.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Chris Darlow, Tiimalu Peter Fa’afiu, Sandy Gill, John Roughan, Mark Stevens, Christina Tay and Tim Watkin.

CASE NO: 2501 – JENNY KIRK AGAINST STUFF

Background

Jenny Kirk complained on March 4 about the “serious inaccuracy” of a headline that appeared on the Stuff website on March 3, regarding Labour’s decision to support the second reading of a bill designed to reform zero hours contract legislation.

Stuff reported Labour had voted in favour of the bill at its second reading, conditional on changes to the final law, and that National had indicated a willingness to meet Labour’s bottom lines.

The headline in question read: *‘Zero hours’ employment bill passes with Labour vote.*

Complaint

The Council takes Ms Kirk’s complaint as under two principles; 1) Accuracy, Fairness and Balance and 6) Headlines and Captions. In her initial email to Stuff Editor Patrick Crewdson on the morning of March 4, she says the headline is “totally wrong” and “confusing to readers. They are assuming that Labour has actually voted for legislation which allows her contracts to be put into place for workers”.

The complainant includes comments under the story from readers showing criticism of the headline and confusion over Labour’s position.

Ms Kirk, a former Labour MP, points out that the headline is at odds with the story; Labour’s vote was only at the second reading, which does not pass the bill into law. Rather, as the story rightly reports, the vote pushed it “through to the next stage in parliament”. A bill passes into law on its third reading.

When the headline is changed (sometime between 9:17am and 10:49am), Ms Kirk goes onto complain that the correction is insufficient and that she expects Stuff to put up a public statement saying the original headline was wrong - what she calls a retraction.

Editor’s Response

Patrick Crewdson passed the complaint onto Political Editor Tracy Watkins, who replied to Ms Kirk acknowledging the headline did not fairly represent Labour’s position and promising an amendment.

Watkins did not consider the headline inaccurate but agreed it was confusing. She says she received Kirk’s complaint at 9:17am and responded to her at 10:36am, by which time the headline had already been changed and a sentence added by

the reporter “clarifying the status of the legislation”. (Ms Kirk says the change was made at 10:49am).

Watkins continues, “I did not consider [a retraction] necessary because the headline had been clarified promptly, any confusion would have been minor and the story full explained Labour’s position. Further to this, the fact that Labour went on to support the legislation through its final stages shows the original headline did not in any way unfairly or inaccurately reflect the intent or meaning of Labour’s position”.

Discussion and Decision

Contrary to Watkins’ assertion, the original headline was clearly more than just confusing, it was inaccurate. No bill had been passed, with or without Labour’s vote. That is, as Ms Kirk says, not good journalism.

However, Stuff reacted promptly to the complaint, and while the timeframe is disputed, the error was corrected within at most an hour and a half. The new headline was accurate and is not disputed.

While Ms Kirk argues a correction, however prompt, is insufficient and a retraction required, the Council does not uphold complaints when the journalists have reacted responsibly and in a timely manner to correct their errors. This was a bad mistake for a gallery journalist and one that clearly confused some readers. However, there is no evidence this was any more than human error and we do not want to discourage media from making such corrections.

So while the original headline clearly failed both principles, the prompt correction and admission of error means the complaint is not upheld on Principle 1 or Principle 6.

In the interest of maintaining Stuff’s credibility, however, the Council would note that international best practice is for the same page to carry an explanation of the error and why the correction was required, to give context to the comments written before the change and ensure readers coming back to the story understand the amendment.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Chris Darlow, Tiimalu Peter Fa’afiu, Sandy Gill, John Roughan, Mark Stevens, Christina Tay and Tim Watkin.

CASE NO: 2502 – LIZ MANSON AGAINST THE NEW ZEALAND HERALD

Liz Manson (the complainant) complained about a column by Alan Duff which was published in the *New Zealand Herald* on March 1, 2016. She claimed that the column breached Principle 5 (Columns, Blogs, Opinion and Letters) and Principle 7 (Discrimination and Diversity) of the New Zealand Press Council Statement of Principles.

The complaint is not upheld.

Background

The Duff column was about his perception of life and people in New Zealand. It outlined what he saw as the friendly tolerance and acceptance by New Zealanders of those with differing beliefs from what could usually be seen as middle of the road in New Zealand.

He contrasted what he called the tolerant, helpful, friendly and “cheery outlook” on life which he saw as an integral part of the New Zealand psyche to countries where there was no tolerance or acceptance.

The opinion piece at no time discussed nor made any discriminatory remarks about people with mental illness. It was purely Mr Duff’s perception of how lucky we are to live in New Zealand.

The front page pointer read “NZ, where even the nutters are nice Alan Duff A10”. This was also the headline to the column.

The Complaint

Ms Manson believed that the headline on both the front page and the article “perpetuated a derogatory name of people with mental illness”, namely the use of the word “nutter”.

The complainant did acknowledge that the article was an opinion piece and the use of the word “nutter” in the opinion piece was not about people who were mentally ill, but she felt that the use of “nutter” is a well-established “slang name” for mentally ill people and should not have been used.

In response to the newspapers explanation, the complainant reiterated her complaint that the word was derogatory and did not accept that “nutter” was a word that could be used as anything other than as derogatory towards those with mental illness.

The Newspaper’s Response

The *Herald* editor, Murray Kirkness stated that this was an opinion piece by Mr Duff who is a well-known and sometimes provocative New Zealand writer.

Mr Duff, currently resident in France, wrote the opinion piece lauding New Zealand as a tolerant and wonderful place to live.

Mr Kirkness apologised for any unintended offence the complainant may have felt, but argued that the term “nutter”, is also “used colloquially as, for want of a better expression, a term of endearment for those with a different outlook on life to our own”.

He offered the complainant the opportunity to write a letter to the editor to publicly express her view of the matter should she choose to do so.

Discussion and Decision

Principle 5 states

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.

The opinion piece was clearly labelled as such and the complainant herself acknowledges that it was an opinion piece. It was purely and simply a contrast between New Zealand and other countries where Mr Duff believes being

different is not accepted. It was his, and clearly written as such, own opinion.

Principle 7 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.

The opinion piece was not discriminatory and did not mention people with mental illness. It was purely and simply about what Mr Duff describes as the tolerant, helpful, friendly and cheery outlook of New Zealanders to people whose beliefs are different to their own.

While the word “nutter” may be offensive and have one meaning to the complainant, it is equally inoffensive and can be used in a different context by others. The Press Council reminds newspapers of the need to be aware of the different contexts and ensure care is taken when any word with multiple contexts is used.

The opinion piece does not breach Principle 5 or Principle 7 therefore, the complaint is not upheld.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Chris Darlow, Tiumalu Peter Fa’afu, Sandy Gill, Mark Stevens, Christina Tay and Tim Watkin.

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

CASE NO: 2503 – ROD ORAM AGAINST THE NEW ZEALAND HERALD

Rod Oram complains about a photograph attached to an article published by the *New Zealand Herald* on February 20, 2016. He considers it to be factually incorrect and grossly misleading.

The Press Council does not uphold the complaint.

Background

On February 20, 2016 the *New Zealand Herald* published on page 6-7 of the *Weekend Herald* an article commenting on aspects of the Auckland City Council’s proposed Unitary Plan. Specifically, it reported opposition to a proposal to increase the height limit for residential buildings in some suburbs.

The two-page article was illustrated with two general panoramic views of Auckland, one including the central city and some high rise buildings, and the other a suburban view with no high rise buildings. There was also a map showing the affected areas.

On the front page of the newspaper was a pointer box showing a picture of some one to two storey houses overshadowed by a high rise building and the text “The high-rise revolt. Battle in the suburbs.”

The Complaint

Mr Oram complains that the photograph in the pointer box is factually incorrect and grossly misleading. It is an image of a 17-storey building with a substantial service structure above the top story, when the maximum permitted height under the Unitary Plan proposal is seven storeys. In addition it is an extreme telephoto shot which grossly exaggerates the visual impact of the building on its neighbourhood.

The *New Zealand Herald* made no attempt to show the actual scale of buildings that would comply with the proposed limits.

He is of the view that the *New Zealand Herald* should run some accurate photographs of buildings that comply with the proposed standards together with an explanation of the deficiencies in the photograph used in the pointer box.

There is some suggestion in later correspondence that Mr Oram considers the *New Zealand Herald's* general coverage of the Unitary Plan proposals to be unbalanced and to give undue weight to those opposed to the proposals. However, he did not include a complaint to this effect in his correspondence with the *New Zealand Herald* and accordingly the Press Council has not considered it.

The New Zealand Herald Response

The editor of the *Weekend Herald*, Miriyana Alexander responded to Mr Oram. She explained that the high rise photograph came from the newspaper's archive and was not taken for the purposes of the article. It was simply used as a generic image to illustrate the nature of the issues discussed in the article. At a later stage she explained that the *New Zealand Herald* had covered the issues raised by the Unitary Plan since February 2013 and had regularly included graphic illustration of the proposed size of buildings.

The article itself was intended to explain the issues and was not one of advocacy for one side or the other. She considered that the article as a whole was accurate, fair and balanced and the graphics accompanying it were carefully selected to illustrate the theme. There was no technical manipulation, no attempt to mislead and no attempt to exaggerate the visual impact. She saw no need for a correction.

Discussion and Decision

The Press Council's principle 10 requires editors to "take care in photographic and image selection and treatment" and to explain or note any potentially misleading technical manipulation. It has been established that there was no technical manipulation of the image in this case. It is not entirely clear what constitutes "care" in the selection and treatment of photographs, but there would undoubtedly be a breach of the principle if the result was to provide an inaccurate, unfair or unbalanced indication of the contents of an article – in effect a breach of Principle 1, which requires accuracy, fairness and balance.

The question, therefore, is whether in this context the principles are breached by the use of an image of a 17-storey high rise building towering over its surroundings as a pointer to an article on opposition to the Unitary Plan provisions for two to seven storey limits in certain areas.

It is relevant that the article addresses a long-running issue

that has been in the public arena for many months, thus reducing the need for explanations and for a completely balanced approach in each article. It is also relevant that the article itself clearly sets out the Unitary Plan's proposed height limits.

By its nature, a pointer box cannot include any level of detail or explanation. Its function is to direct the reader to articles of potential interest by giving a broad indication of their content or of a key element of it. The reader can reasonably expect much more detail in the article itself.

In this case, the pointer to the article on plans for higher buildings was an image of a high rise building. It was somewhat exaggerated and no doubt designed to be eye-catching rather than a completely accurate depiction of the proposed building limits, but it was relevant and related to a key element of the article. Any misapprehension about the proposals would be corrected by even a skim-reading of the article itself.

The complaint is not upheld.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Chris Darlow, Tiimalu Peter Fa'afu, Sandy Gill, Mark Stevens, Christina Tay and Tim Watkin.

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

CASE NO: 2504 – ROB PATERSON AGAINST THE NEW ZEALAND HERALD

Rob Paterson complains about an article published in the *New Zealand Herald* on Wednesday March 2, 2016 relating to diversity at Waitakere College. In a somewhat scattergun approach he alleges breaches of:

- Principle 1 — Accuracy, Fairness and Balance
- Principle 4 — Comment and Fact
- Principle 6 — Headlines and Captions
- Principle 7 — Discrimination and Diversity
- Principle 12 — Corrections

The Article

This focused on the diversity of the students attending Waitakere College. The headline reads "World in the Classroom". There is then a large photograph featuring 12 students, each accompanied by a graphic containing the flag of the country they came from and the length of time they had been in New Zealand. The article went into more detail about this diversity. Accompanying the article was a further graphic panel which related to other nationalities attending the school, listing 45 distinct entries with a flag attached to each name. Two of those entries were for 'Māori' and 'NZ European'. In the case of Māori, it had the tino rangatiratanga flag.

The Complaint

Mr Paterson's complaint relates to the reference to Māori and New Zealand European. He said the panel referred to above was under a subheading 'Other Nationalities at the

School. He said that the article was racist and separatist, because there is no such thing as a Māori nation or a New Zealand European nation. He considered the article had the potential to create racial divisiveness and separatism by categorising New Zealand citizens into racial nationalities. He said those nationalities in the case of Māori and New Zealand European do not exist, and it is not acceptable to so describe them. He pointed out that New Zealand is a multi-national country made up of many races, more than just Māori and New Zealand Europeans.

The Publication's Response

The editor rejected Mr Paterson's claim, saying no principles were breached. He pointed to Mr Paterson's own definition of nation as "a large body of people united by common descent, history, culture or language inhabiting a particular state or territory **or** an aggregation of people or peoples of one or more cultures races etc. organised into a single state". Mr Paterson underlined the word 'or' as illustrated, which the editor suggested means he must be relying on the second definition, but it was the editor's view that 'nation' can be applied to a group of people sharing a common heritage.

Decision

We agree with the editor that 'nation' can mean, and frequently does refer to, a group of people sharing a common heritage, culture, language or territory without being a state in its own right.

It is the Council's view that the article needs to be read in context. Read in context, it is a celebration of diversity at a major Auckland secondary school. We do not see it as having any potential to create racial divisiveness and separatism, as alleged by Mr Paterson.

The Council does not read the article as suggesting in any way that there is a separate New Zealand Māori nation or a separate New Zealand European nation. In fact, we read it to quite the contrary effect, as a celebration of the wide diversity that makes New Zealand the multi-racial country that it is.

We do not consider any of the alleged breaches of the principles have been made out, and the complainant is not upheld. We consider a fair and reasonable reader would have read this article in its true context as celebrating cultural diversity, and not in the way Mr Paterson has managed to construe it.

We do not consider anything in Mr Paterson's response to the editor's document changes matters at all.

That document is dated 12 April 2016 and has a postscript:

PS. I would not expect any representative of the *NZ Herald* or any of its associated publications to sit on the Press Council hearing this complaint.

The Council is well aware of its obligations in relation to any conflicts of interest. The Council, throughout its entire history, has been conscious of its duties in relation to conflicts of interest, and has always handled them accordingly. We are somewhat bewildered by Mr Paterson's comment.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Chris Darlow, Tiimalu Peter Fa'afiu, Sandy Gill, Mark Stevens, Christina Tay and Tim Watkin.

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

CASE NO: 2505 – LEISA RENWICK AGAINST STUFF

Leisa Renwick has presented a petition to Parliament from melanoma patients seeking to have the drug branded Keytruda publicly financed. She complains that a report on the Stuff website referred to her having had part of a course of the treatment provided free by the drug's manufacturer, Merck, Sharp and Dohme, and reported that it understood some of the patients who came to Wellington for the presentation of the petition had their flights paid for by the drug company.

The complaint is not upheld.

Following her complaint to Stuff, and its investigation by Fairfax Media's political editor, Stuff altered the story and published a footnote, stating, "Ms Renwick has since clarified that all melanoma patients paying for Pembrolizunam in New Zealand are offered the third and fourth treatments, as well as the seventh and eighth treatments, free under the drug company's cost-share programme."

The footnote also admitted the earlier version of the story was not correct when it said some of the patients' flights to Wellington were paid for by the drug company. Its correction read, "The flights were covered by the patients themselves. The error is regretted."

The Complaint

In her complaint to the Press Council, Ms Renwick said she could "live with" the correction of the reference to her own treatment but she was not satisfied with the retraction concerning patients' flights. She had asked for an apology as well as a retraction and the apology had been refused. She had since contacted all the patients affected and it was their collective wish that the complaint should proceed and an apology be sought. They felt their independence and integrity had been called into question.

The reporter had made no effort to ask those patients whether their flights had been paid for by the drug company. It would have been good journalism to check the facts before publication and not rely on speculation from an un-named source.

The story in its original form had been published on the front page of the website on March 1. The corrected story, with the footnote, appeared on March 3 and was much more difficult to find on the site. The patients would like the retraction and apology to be given the same prominence as the original story.

The Response

The political editor for Fairfax Media, Tracy Watkins, told the Council neither of the statements subject to complaint had featured prominently in the original story, which had been primarily about a meeting between the Labour Party leader, Andrew Little, and drug company executives.

The reference to patients' flights had come from the reporter's conversation with an Opposition staff member at Parliament who had been involved in organizing logistics for the patients' rally. The reporter believed the staffer had referred to the drug company when he said some of the patients'

travel costs had been covered. But on checking back, after receiving Ms Renwick's complaint, the reporter discovered the staffer was referring to other patients covering the costs of those who could not afford the fare.

The political editor considered this a genuine misunderstanding that required a correction but not the apology the complainant was seeking, since the error had not been prominent — it consisted of two lines near the bottom of the story — and it had been amended as soon as the error was realized.

The Decision

The Press Council accepts that this rather sloppy piece of reporting, with reliance on a single source and without elementary fact-checking, was hurtful to the patients who made the trip to Wellington. The Council also appreciates that while the reference to their flights was not a prominent feature of the story, the report in which it appeared was very much more prominent on Stuff's homepage than the corrected story that appeared two days later.

But the fact remains the error was corrected and regret expressed. The Council has no power to order an apology even though it agrees with the complainant that the patients deserved one for the suspicion cast on their independence and integrity.

The Council does not believe it to be in the public interest to uphold a complaint that could not achieve more than the newspaper or its website has already done. If publications receive no credit for corrections in these circumstances, and an admission of error only increases their vulnerability to an adverse Press Council ruling, they may be less likely to make these admissions and corrections voluntarily and quickly.

In this case the publication has done all that can be required of it and nothing would be gained by upholding the complaint.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Chris Darlow, Tiulalu Peter Fa'afiu, Sandy Gill, John Roughan, Mark Stevens, Christina Tay and Tim Watkin.

CASE NO: 2506 – KATHERINE RICH AGAINST NELSON MAIL

Katherine Rich, Chief Executive NZ Food and Grocery Council, complained that an article published in *Nelson Mail* on April 1, 2016 breached all three limbs of Principle 1, Accuracy, Fairness and Balance.

The article headlined *Rich accused of "spinning" soda tax* reported that Mrs Rich had said recent figures from Mexico showed sales of sugar-sweetened beverages (SSBs) had "bounced back" to pre-tax volumes.

This statement was disputed by health researchers, who referred to a study published in the *British Medical Journal* which found SSB consumption had decreased an average of six per cent from what would have been expected.

The article quoted one of the co-authors of the study who noted the BMJ data was peer-reviewed and adjusted for various factors, whereas the FGC was simply looking at aggregate /total sale numbers and "simply spinning statistics in a way that appears to support their argument."

The Complaint

Mrs Rich's initial contact was with the reporter who was querying the data she had to support her statements. She advised the reporter they were not "her" statistics, but those of Nielsen, a highly respected global data measurement company. She gave the reporter contact details for Nielsen to verify the data, as well as a contact for an FGC staffer who could provide further information if questions were put to him.

She knew nothing about the "spinning" allegations until she read the story. There was no balance and to make the statements without putting the allegations to her was unfair. "It's a one-sided piece that essentially allows someone to attack me without giving me an opportunity to say anything in my defence."

FGC had volunteered additional information at least three times over the week the article was in production and had received no substantive response from the journalist.

Additionally, had she been made aware of the content of the story, she could have advised the reporter that the BMJ study included figures only up to 2014, whereas the data set FGC had obtained included data for 2015. The article was, therefore, inaccurate.

Mrs Rich provided the Press Council with extensive email correspondence initially with the reporter and, subsequent to publication of the article, with the editor of *Nelson Mail*.

Email correspondence indicates that Mrs Rich and the editor had come to an agreement on an apology and statement on April 8, but subsequently that offer was withdrawn. Mrs Rich also complains about the absence of a correction or apology, noting that the apology seemed to be the sticking point.

The Response

The editor acknowledged from the outset that the article did not contain adequate balance and considered she was working with Mrs Rich to address this imbalance in an appropriate way.

She suggested running an op-ed piece accompanied by an editor's note "Due to a processing error an article published in the *Nelson Mail* on April 1 *Rich accused of spinning soda tax* had not been completed at the time of publication and did not include Katherine Rich's right of reply to some of the issues raised, nor the Nielsen data. This is her response to the claims made in the article."

She was concerned that by publishing the initial [agreed] statement further imbalance could have been created and considered the op-ed piece would better serve public understanding of the issue.

Discussion and Decision

The editor acknowledged early that the article should not have been published as it was and that an imbalance existed. She offered a sincere apology to Mrs Rich via email.

However, as at April 11 negotiations were still ongoing as to how this imbalance should be remedied. The Council is not surprised that at this point Mrs Rich brought her complaint to the Press Council.

The newspaper had a responsibility, to Mrs Rich and to its readers, to publicly and promptly acknowledge that it was wrong. The editor did not, and still has not, acknowledged that this lack of comment from Mrs Rich also led to an incomplete and inaccurate position being represented to *Nelson Mail* readers.

Mrs Rich had data to support her public statements and the reference to “spinning”, while a quote, would probably not have withstood further examination had the reporter consulted the data on offer. Worse the editor’s offer of “an op-ed” piece with the above editor’s note came a day after Mrs Rich’s complaint to the Press Council. This was too late.

The final matter is that of the article being available to be picked up for publication before it was complete. As this case demonstrates there are risks in this.

The Press Council upholds the complaint on all three grounds of inaccuracy, unfairness and lack of balance.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Chris Darlow, Tiimalu Peter Fa’afiu, Sandy Gill, John Roughan, Mark Stevens, Christina Tay and Tim Watkin.

CASE NO: 2507, 2508 and 2509 – ELSPETH TILLEY, LOUISE COLLINS AND MARISE MURRIE AGAINST MASSIVE MAGAZINE

1. Three complaints, from Elspeth Tilley Louise Collins and Marise Murrie, were lodged with the Press Council against *Massive Magazine* over an article entitled “Massey University bans ginger students for 2017” because it was offensive and harmful to red-haired students.

2. The complaints are not upheld.

Background

3. Massey University’s student magazine *Massive* featured a story in its March issue entitled “Massey University bans ginger students for 2017”, which purported to cover an announcement by the university to exclude all red-haired students from study from 2017 onwards.
4. The feature, tagged ‘satire’ under the headline, opened with a report of a press conference at which Massey Vice Chancellor Steve Maharey confirmed the university’s decision to announce the ban.
5. The report is clearly a spoof, and is comprised of fictitious quotes by Maharey, Prime Minister John Key, Labour’s Tertiary spokesman Chris Hipkins, a parent, a “ginger-haired” student, and three presidents of university student associations. The comments generally deride redheads, to a greater or lesser degree.

The Complaints

6. The *Massive* story prompted three complaints to the Press Council, all of which had a common theme, that the article was discriminatory, offensive and harmful to red-haired people.
7. Because of the similar nature of the complaints, we will deal with them altogether.

8. Elspeth Tilley cited three principles: 1. Accuracy, Fairness and Balance, 7. Discrimination and Diversity, and 12. Corrections. She also complained that the article was in breach of the Bill of Rights Act.
9. Louise Collins and Marise Murrie separately complained that the article was offensive but neither cited which Press Council principles they believed it had breached.
10. Ms Tilley’s complaint is against *Massive Magazine*, its editor Carwyn Walsh and *Massive*’s Media Advisory Board, and relates not only to the article but also to *Massive*’s complaint resolution process.
11. On Principle 1. Accuracy, Fairness and Balance, Ms Tilley complains that the ‘quotes’ attributed to real people are not accurate. She specifically objects to a ‘quote’ from MUSA president Nikita Skipper and says Ms Skipper has denied they were her words.
12. Ms Tilley complains that simply tagging the article ‘satire’ does not go far enough to communicate to readers that although real people were quoted, they did not say, and do not endorse the words attributed to them. She maintains the article is misleading.
13. She alleges that a number of critical comments, including her own, that were posted on *Massive*’s Facebook page, were deleted while supporting comments had been left in place. She accuses the magazine of manipulating the content of its Facebook messages by deleting critiques, and calls it “unethical in the extreme”. Although she is not a student (she is a staff member at the university), she is nevertheless a legitimate part of their readership and has a right to ask relevant questions and pose alternative viewpoints. By deleting the Facebook comments critical of the story, *Massive* did not give the opposition a fair voice.
14. On Principle 7. Discrimination and Diversity, the complainant alleges the entire article “incites racial hatred against people with Celtic racial heritage who have genetically endowed red hair”. Labelling the article ‘satire’ did not prevent it from doing harm, she says. The article caused significant harm by “promoting blatant and quite nasty stigmatisation and demonization of redheads”.
15. On Principle 12. Corrections, the complainant says her right of reply was interfered with by the removal of her comments from the version published on Facebook.
16. Ms Tilley further contends that the article contravened the Human Rights Act 1993, by expressing hostility against red-haired people.
17. Louise Collins, a “mature student” at Massey University, expressed strong disapproval of the “ginger satire” story. She also referred to the hurt and distress that those with ginger hair can suffer at the hands of their peers. “That a university magazine

shows such blatant disregard for students' mental health in this day and age is disgusting," she says.

18. Marise Murrie, who is the parent of a red-haired student at the university, says the article sends the message to current and future red-haired students that they do not have a right to feel safe, welcome and equally treated. It might have been an attempt at satire, she says, but it missed and is in poor taste. "Satire mocks the powerful, this mocks the already victimised."

The Response

19. Because of the similarity of their complaints, *Massive's* Media Advisory Board provided the three complainants with a single response, which acknowledged the concerns raised, in particular the fact that many viewed the article as promoting bullying and harassment against red-haired students, and some saw the article as racist.
20. It provided an explanation by the author for the thinking behind the article, which was intended "to criticise the foolishness of society on the timeless issue of prejudice against minority groups".
21. The article was inspired by Donald Trump's call for a complete ban on Muslims entering the US, the author said. The sole intention was to shock readers and highlight the open way in which discrimination has now become acceptable in politics – and, as a consequence, wider society. "No matter how crude or prejudicial Donald Trump's statements against Muslims are, his poll numbers continue to dwarf his rivals, which shows that huge sections of the public, labelling themselves as the "silent majority", are clearly comfortable with remarks that are prejudicial and bash minority groups", the author says.
22. The author points to the fact that several critics had suggested if the article had made jokes about gender, sexual orientation or race "everyone would be up in arms about it". "This is precisely the point I was trying to make through this article – the point that prejudice against minorities is wrong."
23. The *Massive* board says the writer's explanation fits the definition of satire. It says it does not condone racism, and it expects that its audience of university-based readers was capable of critical analysis and would draw its own conclusions. Many other respondents, the board says, have indicated they understood the writer's intent, that the article is a satirical critique of intolerance in society.
24. *Massive* aims to be the voice of Massey University students, not the staff of Massey University and is independent of Massey University, MUSA, ASA, EXMSS and MAWSA. The content of *Massive* is independent of influence from all of these institutions, it says.
25. In a further response to the Press Council, the board reports that none of the actual student politicians

"quoted" for the story took issue with their names being used, and not one had contacted the board with any concerns.

26. It acknowledges that some comments on Facebook of a bullying nature had been removed: "If we have removed a post that was not of this nature we apologise and ask for some lenience for this mistake". It would have occurred at what it calls a "time of tremendous personal pressure on the new editor". The situation was rectified in the next issue where "we provided a fair voice to the debate around this article".

The Complainant's Response

27. In her final statement, Ms Tilley says *Massive* had misunderstood her complaint, which is about ethical behaviour: she says she did not question *Massive's* intent, or the means (satire), but the end. The article crossed an ethical line by causing harm to people based on genetic characteristics.
28. She complains that *Massive* has never apologized for the harm it has caused, and in his latest editorial, the editor refuses to do so. She also complains that the comments selected for print did not cover the key issue of harm raised by multiple commentators.

Discussion

29. Student magazines, by their very definition, are well known for pushing the boundaries of what may be considered decency with content that is often provocative, irreverent and offensive. This is not a media channel for the faint hearted. The Press Council acknowledges the genre and is prepared to make allowances for it as long as essential principles are maintained.
30. The use of satire or gossip by any publication is also an accepted genre, which calls for special consideration in any complaint.
31. *Massive* magazine and its board have strongly defended the story as a satirical piece meant to highlight the arbitrary nature of racism and discrimination.
32. The complainants argue that the article breaches Press Council principles because its cruel language caused harm to an already marginalised sector of the community.
33. The Press Council's role here is not to argue to merits or otherwise of an article in a student magazine, however offensive or inept, but to determine whether it breaches any principles.
34. Ms Tilley argues a strong case against *Massive* magazine, citing many examples of poor practice, from the wording of the article itself, to the editor's responses, and the advisory board's handling of the complaint. She reminds the Council that as New Zealand's media watchdog it needs to protect all New Zealanders from racial abuse, and opines it should protect redheads from harm just as it should protect any other group.

35. Ms Tilley’s comments are duly noted, and the Council has some sympathy for her arguments: ridiculing people for the things they were born with does not resonate well with many of its members, and some of the comments in the article purporting to be quotes were puerile in the extreme.
36. However, this is a classic case of student satire that must be considered in context: the article was clearly labelled as such, and from the very first paragraph cannot be taken seriously. We agree with *Massive’s* board when it says that its university-based audience was capable of critical analysis and would draw their own conclusions.
37. As has been stated by the Press Council many times before, complainants do not have the right not to be offended.
38. The Council would be concerned if the magazine had intentionally edited out all comments critical of the article. However, it notes that the copy of the article provided to the Council with the complaints included two substantial comments from Ms Tilley posted on 12 and 14 March. We are satisfied that the removal of other comments posted by her was likely to have been accidental. We note the magazine has apologised for this.
39. The complaints are not upheld.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Chris Darlow, Tiūmalu Peter Fa’afu, Jenny Farrell, Sandy Gill, John Roughan, Mark Stevens, Christina Tay and Tim Watkin.

CASE NO: 2510 – TOI TE ORA PUBLIC HEALTH SERVICE (BAY OF PLENTY DISTRICT HEALTH BOARD) AGAINST WHAKATANE BEACON

Overview

Whakatane Beacon is the main newspaper of Whakatane. On February 3, 2016 it published two articles on the decision by the Whakatane District Council to cease fluoridation of its water supply. Note: the decision was subsequently reversed by the council.

The first article headlined *Dentist group dispels dire warning message* gives the views of Stan Litras, spokesman for Fluoride Information Network for Dentists (an anti-fluoridation group), that Bay of Plenty DHB claims that increased tooth decay would result from removal of fluoride were not supported by reliable metadata studies.

The second article *No Fluoride commonsense to campaigner* gives the views of Jon Burness, Fluoride Free Whakatane spokesman, who reports that Ministry of Health figures show no justification for adding fluoride.

The Complaint

Debbie Phillips, Communications Advisor, Toi Te Ora Public Health, complained about the inaccuracy in the headline and the inaccurate, unfair and unbalanced (Principle 1) reporting in the stories. Key elements of the complaint are:

- The news article “Dentist group dispels dire warning message” is almost entirely a reprint of a

press release and was not identified as such;

- Dr Neil de Wet of the DHB was mentioned several times in the article but was never contacted or given a right of reply by the *Beacon*;
- The headline refers to a dire warning message, however, the article does not detail the alleged dire warning message;
- The advice provided by Dr de Wet in the RNZ interview on the potential loss of benefit of water fluoridation when stopped was an objective statement substantiated by evidence. Ms Phillips complained that it was inappropriate for the *Beacon* to uncritically and unquestioningly portray it as a dire warning;
- Within the article it inaccurately states that Dr de Wet said there was no credible evidence that fluoridation caused significant dental health improvements;
- Dr de Wet’s role is stated inaccurately as BoP DHB “adviser” when his role is Medical Officer of Health;
- The second article mentions the Ministry of Health several times; however, no comment was obtained from the Ministry to balance or verify the claims made which were related to the ministry;
- Both published articles represented only one viewpoint on water fluoridation. A press release from Making Sense of Fluoride was available, however, it was not included or mentioned in the article to provide balance;
- BoP DHB has a recognised role in promoting health and water fluoridation. It was in the public’s interest to seek comment from the DHB.

Ms Phillips informed the Press Council that her complaints were conveyed to the editor of the *Whakatane Beacon* with unsatisfactory responses received.

The Response

Geoff Mercer, editor of *Whakatane Beacon* responded to Ms Phillip’s complaint. With regard to the dire warning aspect of the complaint, Mr Mercer acknowledged that it was Stan Litras’s interpretation of a comment Dr de Wet made in a RNZ interview. It was unfortunate that the substance of the RNZ interview was not reported in the article as its inclusion would have provided context.

Mr Mercer acknowledged that Stan Litras proactively contacted *Whakatane Beacon* alerting the paper to the group’s press release. At the time of Mr Litras’ contact, the newspaper deemed the subject matter newsworthy and followed through with an article. Mr Mercer makes clear the newspaper has sought to take a neutral view on the matter and that the paper “slipped up” in [mis]reporting Dr de Wet’s views. Moreover the neutral stance is confirmed through the paper not writing an editorial on the matter until after the local authority had dealt with the issue. (However, its first editorial on the matter was published on 9 March 2016.)

Mr Mercer acknowledged the inaccurate description of Dr

de Wet's title. It had crept into the article because Stan Litras used the inaccurate title. However, a number of articles quoting Dr de Wet had previously been published with the error having never been pointed out.

Mr Mercer argues that the issue of fluoridation is a matter in which sides are entrenched and also the arguments are well known in Whakatane. In these instances, achieving balance or complying with this objective is a "futile exercise". On this occasion, the two articles focussed on the recent decision to cease fluoridation and the articles therefore reflected that.

The editor agrees that the reported statement that Dr de Wet had said there was no credible evidence that fluoridation caused significant dental health improvements misrepresented his views and was an error. However, Dr de Wet did not report the mis-reporting of his comments until four weeks after the article was published. The paper offered the opportunity for Dr de Wet to publish something to deal with any lingering impression the article may have caused. Dr de Wet did not take up that offer. This offer still stands.

The Decision

Water fluoridation is a sensitive matter for some communities across New Zealand. Whakatane is certainly not immune from this sensitivity.

It is positive that the editor acknowledges they did not provide detail of Dr de Wet's "dire" comments in the first article. The Council understands that Dr de Wet's RNZ interview was for all intents and purposes one in which arguments for fluoridation were made and substantiated by evidence. By not providing the RNZ context, the reader is left with the impression that a dire warning was provided by the DHB via Dr de Wet. The Council agrees with Ms Phillips in that the headline and introduction to the story is therefore not accurate and complaint is upheld on this point.

The Litras piece was critical of the evidence used by Dr de Wet to support his argument for fluoridation. The article mentions Dr de Wet four times, and yet the newspaper did not put the criticism and allegations to Dr de Wet. This is a simple failure of basic journalistic principles.

While the Council might agree that every viewpoint cannot be covered in every article when an issue is controversial and long-running, in this case, where a commentator is criticizing another person's use of statistics, balance and fairness require that the party should be given the opportunity to respond to the criticism. The balance in this case is not about the central issue between competing views on the merits of fluoridation of water supplies. Rather the balance that is required in this case is the obligation of a publication to allow an individual to comment if mentioned or quoted indirectly in an article.

This aspect of the complaint is upheld.

The misrepresentation of Dr de Wet's view on fluoridation in one sentence was an unfortunate error, but the Press Council accepts that had this been pointed out at an early stage it would have been corrected.

In relation to the second article claims were made about the figures the Ministry of Health used to support its argument for fluoridation. The claims were not put to the Ministry. The

Press Council has no complaint from the Ministry before it and so puts this matter to one side, aside from commenting that again this was not best journalistic practice.

Importantly both published articles were effectively press releases from interest groups with a particular point of view. As the Council has had cause to comment in two recently upheld complaints (Cases 2478 and 2483) running a press release, without seeking comment from any other party, does not make for a balanced piece of journalism. There are significant dangers in simply regurgitating a Press Release and it does not accord with best journalistic practice unless it is clearly spelt out as a Press Release.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Chris Darlow, Tiumalu Peter Fa'afiu, Sandy Gill, John Roughan, Mark Stevens, Christina Tay and Tim Watkin.

CASE NO: 2511 – HILARY BUTLER AGAINST NEW ZEALAND HERALD

1. Hilary Butler primarily complains that three articles published by the *New Zealand Herald* were in breach of Principle 1 of the Press Council principles (accuracy, fairness and balance). She also mentions Principle 4 (comment and fact) and Principle 5 (columns, blogs opinion and letters).
2. The Press Council does not uphold the complaint.

Background

3. On May 2, 2016, the *New Zealand Herald* published an article by Polly Gillespie in which Ms Gillespie described her older sister, Jeanette, and her death from influenza in 2000. The article concluded with a message to readers about the importance of immunisation against influenza.
4. The article attracted a great deal of feedback, and on May 4, the *New Zealand Herald* published a further article by Ms Gillespie about that feedback, though excluding the comments posted on the New Zealand Herald website.
5. Both articles were linked to an article published on 1 May 2014, in which Ms Gillespie mentioned her sister's death.
6. On May 9, 2016, Ms Butler complained to the *New Zealand Herald* about both articles. As a result of the complaint, some amendments were made to the article of May 2.

The Complaint

7. Ms Butler complains that the articles in question were inaccurate. She accepts that they were opinion pieces, but refers to Principle 4 of the Press Council Principles, which states that material facts on which an opinion is based should be accurate, and Principle 5, which also mentions the requirement for a foundation of fact.
8. The inaccuracies identified by Ms Butler are
 - Jeanette Gillespie's age at death was wrongly stated as 38 when in fact she was 41
 - Her death certificate records death from staphylococcus aureus, pneumonia, renal failure and coagulopathy. There is no

mention of influenza.

- The symptoms described in the article are those of sepsis caused by staphylococcus aureus, and not symptoms of influenza.
 - In general, the evidence demonstrates that Jeanette Gillespie did not die of influenza or of complications caused by influenza.
 - Jeanette Gillespie did not die on a Saturday. She died on 4 October 2000, which was a Wednesday.
 - She did not have fine arts degrees.
 - It was stated that Jeanette Gillespie told her sister that she did not need a flu vaccination because she was fit and healthy. At the time she was in Waikato Hospital, her state of health would have been such that she could not have held a rational conversation.
9. Ms Butler has also provided evidence such as instructions to medical personnel about the contents of a death certificate and about the low prevalence of influenza in 2000 as giving further weight to her view that Jeanette Gillespie did not die of influenza.
 10. In general, Ms Butler says that Polly Gillespie wrote a highly charged and emotional piece, vilifying those who oppose vaccination and aimed at persuading readers to “queue up for a flu shot”, and that the piece was based on a number of verifiably false claims along with others that are implausible.

The New Zealand Herald response

11. The initial response of the *New Zealand Herald* was to correct two statements that it agreed were inaccurate and to make one further amendment to the article. It agreed that Jeanette Gillespie’s age was wrongly recorded, as was the day of the week on which she died. It also amended the article to say that Jeanette Gillespie died of complications from influenza rather than from influenza.
12. In a further response, it was said that other alleged inaccuracies were considered immaterial or not conclusively shown to be inaccuracies. On the main point of the complaint the *New Zealand Herald* says “Polly Gillespie advised she was informed by multiple professionals at the time of her sister’s death that influenza had led to her death. The causes of death listed on the death certificate are widely recognised as complications from influenza. A Google search into the link returns multiple and authoritative entries on links between the two. Certainly, it is Polly’s absolute belief, based on the professional advice she was given at the time, that her sister died after contracting influenza, and suffering fatal complications.”

Discussion

13. To the extent that the complaint is about the article published on May 1, 2014, the Press Council is unable to consider it. Complaints must be lodged within one calendar month of the publication of the material complained about.
14. There is no doubt that both the articles of May 2016 were opinion pieces, expressing Ms Gillespie’s

personal opinion about her sister’s life and death and about her own resultant convictions about the importance of immunisation against influenza. Ms Gillespie is a regular columnist, both pieces are marked “Polly Gillespie’s opinion”, and the style and tone is very different from a news article.

15. There is no requirement for opinion pieces to be fair or balanced, and it is common for such pieces to express controversial views with no counterbalancing argument and sometimes with an incomplete factual background. It is, however, a requirement that the material facts underlying an expression of opinion should be accurate.
16. In the view of the Press Council, many of the inaccuracies of which Ms Butler complains are immaterial. These include the errors about Jeanette Gillespie’s age at the date of her death, and the day of the week on which she died, also the precise nature of her academic qualifications. However, the main point of the complaint is a claim that the evidence shows that Jeanette Gillespie did not die of influenza, or of complications following influenza, and that it was therefore unethical and wrong of Polly Gillespie to state that she did die from influenza and to base her appeal for immunisation on her sister’s death.
17. The evidence supplied by Ms Butler makes it clear that that influenza was not the immediate cause of Jeanette Gillespie’s death. It was wrong, and unnecessarily alarmist, to describe the horrific manner of her death and to ascribe it to influenza. However, the *New Zealand Herald* corrected this assertion (in response to Ms Butler’s complaint) to state that Jeanette Gillespie died from complications following influenza. The evidence in this respect is much less clear.
18. The Press Council is not an investigative body. It has no power to call for documentation, interview witnesses or otherwise seek evidence. Its determinations are made on the basis of the submissions made by the parties to the complaint, sometimes supplemented by information that is publicly available.
19. The relevant evidence submitted by Ms Butler includes the death certificate, official guidelines on the completion of death certificates, and figures for influenza rates in 2000.
20. It is clear from these that at the time Jeanette Gillespie was admitted to hospital she was already suffering from the conditions listed on the death certificate. It is known that those conditions may be complications resulting from influenza (and other causes) and it is likely that Jeanette Gillespie was unwell for a period before her admission to hospital. As the death certificate does not give any underlying condition or antecedent cause for the conditions, it is not possible to say that there was no background of influenza. Nor does the fact that influenza was at a low level in 2000 mean that there were no cases of influenza.
21. On the other hand, Polly Gillespie clearly has a genuine belief that her sister died as a result of complications from influenza and says that she was advised at the time, by several medical

professionals, that that was the case.

22. One further point raised by Ms Butler concerns the conversation about immunisation that Polly Gillespie is said to have had with her sister. Ms Butler says that Jeanette Gillespie's condition in hospital as described by her sister would have precluded any chance of rational conversation. However, Ms Gillespie does not say that the conversation took place in the hospital and it could well have been at an earlier date.
23. The Press Council finds that while there was inaccuracy in the material facts on which the original opinion piece was based, that inaccuracy was corrected by the *New Zealand Herald* once it was made aware of it. There is insufficient evidence on which to base a finding of inaccuracy in the material facts that formed the basis of the opinions expressed in the corrected article. Accordingly the complaint is not upheld.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Tiumalu Peter Fa'afiu, Jenny Farrell, Vernon Small, Marie Shroff, Mark Stevens, Christina Tay and Tim Watkin.

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

CASE NO: 2512 – VINCENT CALZONE AGAINST NEW ZEALAND HERALD

Introduction

Vincent Calzone complains that a story, headlined *Evicted after dropping the F-bomb* and published by the *New Zealand Herald* in February, breaches Press Council principles of Privacy, Headlines & Captions and Accuracy, Fairness & Balance.

The complaint is not upheld.

Background

Auckland resident Vrnda Torckler was given notice terminating her tenancy in a home where the complainant was landlord.

Ms Torckler said it was because she swore, using the F-word, when the complainant left a gate open at the property and her dog got loose.

She said the swearing was not her normal behaviour and occurred out of frustration with the situation. He said, though, that it was symptomatic of a personality type he didn't want in his house.

The *Herald* story quoted both sides of the dispute, as well as carrying general comment from the Auckland Property Investors' Association.

It also featured text messages between Ms Torckler and Mr Calzone about the circumstances and behaviour that led to what the *Herald* described as her 'eviction'.

Complaint

Mr Calzone argues the text message exchange was incomplete, private and the *Herald* did not seek his permission to use it, or notify him that it would be published.

The *Herald's* publication of the complainant's name was also done without permission or knowledge and caused him

reputational damage.

The reporter having the complainant's cell number, and phoning him on it, was done without permission.

References to the dog escape in the story were incorrect or incomplete.

In what the complainant describes as the worst aspect of the story, the *Herald* referred to Ms Torckler as being 'evicted'. Only the Tenancy Tribunal can order eviction so the suggestion he had done so was defamatory. Instead, he had given the tenant three months' notice to leave.

The tenant's swearing was excessive and a 'symptom of an underlying personality disorder'.

It was the intention of the tenant to use the *NZ Herald* to defame the complainant.

Editor's Response

The text messages sent from Mr Calzone to Ms Torckler did not carry any requirement of confidentiality. The tenant was a party to the communications and it was her decision to make them public.

The thread of texts was not edited by the *NZ Herald* to omit messages that might show the complainant in good light.

As the correctly identified landlord of the relevant property, the *NZ Herald* did not require Mr Calzone's permission to name him.

There was no evidence to support claims that the elements of the story about the dog escape were incorrect or incomplete.

Use of the word 'evicted' was colloquial, rather than technical, and readers would have understood that.

The *Herald* reporter did not require permission to have the complainant's phone number and, in fact, used it to obtain balance in their reporting.

Although the *Herald* accepted that everyone was entitled to a reasonable degree of privacy that did not equate to 'a right not to be mentioned in the news'.

There was public interest in a story where a tenancy had been terminated on the basis of a tenant's use of language being found offensive by the landlord.

Discussion

In the first instance, the Council does not rule on legal matters and the complainant's suggestion he was defamed will not be considered.

Typically where there is a suggestion of defamation action, the Council requires a waiver from the complainant before considering the complaint. Although this was not forthcoming, the editor was willing for the complaint to proceed.

The Council does, however, rule on alleged breaches of its principles.

In regards to Headlines & Captions, the headline on the story appropriately conveyed the substance of the story.

As far as the Accuracy, Fairness and Balance of the story is concerned, there has been nothing provided by the

complainant that leads the Council to find a breach.

The reporter accurately articulated the tenant's views, and the landlord's version of events was not dissimilar, other than a passing suggestion that there were some elements of the story about the dog which were untrue.

The Council hasn't been provided anything contrary to the fact the landlord left the gate open and the dog escaped. This understandably frustrated the tenant and, in the panic that ensued, she swore. It seems this language was uncharacteristic and, even if it wasn't, it would be considered unfair by most reasonable people to terminate a tenancy based on it.

It is not unreasonable to describe the termination of a tenancy agreement, particularly in these circumstances, as an eviction.

The complainant was able to provide the Council with a more complete transcript of the tenant/landlord text exchange than that which was published by the *Herald*.

Unfortunately for the complainant, the full version does not paint him in any better light than the abridged version.

It does, however, support the story of the dog escaping in that the complainant agrees to keep the gate closed on future visits to the property. Additionally, it supports the claim that the tenancy termination resulted from Ms Torckler's behaviour and swearing on the day.

Lastly, in regards to the complainant's privacy, the Council does not agree it has been breached. The tenant was entitled to provide communications addressed to and received by her to the *NZ Herald*. And the *Herald* was entitled to publish them.

Additionally, there is no requirement for a media organisation to seek permission to have a telephone number, or to call it, or to then to name the person they interview as a result of the phone call. It is seeking balance for a story which the Council agrees was in the public interest and, as such, the *Herald* should be commended for its standard of reporting in this case.

The complaint is not upheld.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Tiimalu Peter Fa'afiu, Jenny Farrell, Vernon Small, Marie Shroff, Mark Stevens, Christina Tay and Tim Watkin.

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

CASE NO: 2513 – STEPHEN GRAHAM AGAINST THE PRESS

Background

Stephen Graham complained about the tenor of an article on women's sport, and in particular women's cricket, by Mark Reason published in the *The Press*. The by-lined article opened by referring to the comments of former Indian Wells tennis tournament Chief Executive Raymond Moore that women tennis players should go down on their knees every night and thank God that Roger Federer and Rafael Nadal were born.

It went on to describe women's cricket as: riding on the coat tails of men; of low public interest; and something you would only watch if you had a daughter in the team. The writer said the notion of a women's Twenty20 contest was "laughable" and like asking men to wear Christian Louboutin heels and sashay down the catwalk in a plunging Versace gown. The Women's T20 should have "sponsored by men" next to it. He went on to describe some supporters of women's cricket as "feministas" jumping out of "their iron hooped skirts". Women's cricket should go down on their knees to thank God that Kohli and Gayle were born. Towards the end of the article the writer said "I'm going to be a happy sexist and only watch the men from now on."

The Complaint

Stephen Graham complains the article is inaccurate, sexist and degrading to women.

On matters of accuracy he disagrees with the factual basis of a number of statements in the article including many of those outlined above. He says he watches women's cricket even though he does not have a daughter in the team; women's world cup cricket has a long history well pre-dating current high profile male players; and the writer's comments against women's cricket could equally be applied to junior, veteran's and disabled cricket. He notes Reason's claim that the "stadium was empty" at a recent women's T20 game as factually inaccurate, on the evidence of a published photograph.

Mr Graham says the writer is a self-confessed sexist, and the article takes a sexist and degrading attitude to women cricketers, especially to the White Ferns who were playing in India at the time of the article's publication.

Newspaper's Response

The deputy editor notes in her response that Mark Reason is an independent writer whose views do not necessarily reflect those of the paper.

On the issue of accuracy, she says that the statements about the empty stadium and the low numbers of spectators likely to watch a women's game are hyperbole and comment. The suggestion that that women should go down on their knees to Kohli and Gayle is a turn of phrase to highlight the star power of those players, which could not reasonably be interpreted as a factual statement. The reference to the financial dependency of women's cricket is not rendered inaccurate because it fails to refer to other cricket competitions funded by men's cricket.

On the complaints of sexism the deputy editor says "I do not take issue with your assessment of these statements as sexist. Opinions expressed by columnists are not necessarily shared nor endorsed by *The Press*. However, *The Press* does vigorously support the right of columnists to express their honestly held opinions, including those we do not agree with and indeed those which may be offensive to others."

The fact that the writer's views may be considered sexist is not seen as a breach of Press Council principles. *The Press* is a strong supporter of freedom of expression. *The Press* invited the complainant to provide a letter in response for publication.

Discussion

Under the heading of discrimination and diversity, the Press Council's principles provide that issues such as gender and race are legitimate subjects for discussion; opinions may be expressed in these areas, but gratuitous emphasis is to be avoided. Other principles draw a clear distinction between fact and opinion. Opinion pieces require a foundation of fact, but balance is not essential.

Mark Reason is a sports writer whose by-lined articles are usually in the bold style typical of sports commentary. This column goes further and is akin to a rant. It uses hyperbole, exaggeration and mockery to make its points. The fact that the stadium was not empty is the clearest example of inaccuracy. But in the Council's view this does not reach a standard of "material" inaccuracy in the context of the higher threshold allowed for opinion pieces.

The article will be viewed by many as sexist and unbalanced in tone and expression. The newspaper itself does not disagree with this view, as seen above. The article was offensive to a number of people besides the complainant. It is worth noting, though, that its views were supported by some public comments on Stuff. In this case the writer had strongly held opinions about the financial strength and public appeal of women's cricket. The gender issue itself was a necessary basis of the opinion piece. The writer is entitled to his views, which are not without some factual basis in the financial situation of men's versus women's cricket. Many readers would find the way he chose to express his views unpleasant. But in the Council's view these do not reach the threshold of gratuitous comment, although they come close. The writer makes no pretence of fairness, and by describing himself as a sexist acknowledges that there will be other views.

Opinion pieces allow for the expression of views, including those which are potentially offensive and controversial. Most readers are likely to have seen the by-lined column as containing colourfully expressed, deliberately provocative views - from which they would feel free to differ.

Conclusion

The Press Council has taken a consistent view that opinion pieces should be allowed a high threshold for freedom of expression, even where these may be offensive to a number of readers.

The complaint is therefore not upheld.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Tiimalu Peter Fa'afiu, Jenny Farrell, John Roughan, Vernon Small, Marie Shroff, Christina Tay and Tim Watkin.

Mark Stevens stood down from consideration of this complaint to ensure the public member majority.

CASE NO: 2514 – MIKE HOULding AGAINST NEW ZEALAND HERALD

Mike Houlding complained that a cartoon published in *The New Zealand Herald* was in breach of Principle 1 of the Press Council principles (accuracy, fairness and balance). He also mentions Principle 5 (columns, blogs, opinion and letters) and Principle 6 (Headlines and Captions).

The Press Council does not uphold the complaint.

Background

On May 30, 2016, the *New Zealand Herald* published a cartoon titled Guy Body's view. The cartoon deals with the upcoming American election.

The cartoon depicted a character which resembled King Kong with what appears to be a Donald Trump face and hair climbing up the side of the U.S. Capitol Building. The cartoon is a clear reference to a famous scene in the movie King Kong. A human figure carrying a label 'The World' is asking another figure 'Uncle Sam', "You do have a plan to shoot it if it gets dangerous, don't you?"

On May 30, 2016, Mr Houlding complained to the *New Zealand Herald* about the cartoon.

The Complaint

Mr Houlding complained that the cartoon was grossly offensive and went beyond satire and acceptable taste. He refers to Principle 5 of the Press Council Principles, which states that cartoons are understood to be opinion, and Principle 6, which states that captions should accurately and fairly convey the substance of the report they are designed to cover.

There was also a strong concern around the cartoon potentially inciting violence, "Political assassination and terrorism are a reality."

The New Zealand Herald Response

The acting managing editor, Murray Kirkness, did not agree that the cartoon went beyond satire and fair comment. He suggested that the cartoon was a "clear play on the King Kong movies." He stated that cartoonists commented, often provocatively, on social issues and attitudes. He further remarked that while it is highly likely that cartoonists will inevitably provoke some reaction, they are not entitled to publish carte blanche and that the discretion "lies with the editor."

Mr Houlding was invited to express his views in a letter to the editor.

Discussion

Mr Houlding believes the cartoon is a call to violence and verges on hate speech.

This complaint has raised issues in relation to three of the Council's principles: 1 (Accuracy), 5 (Cartoons are regarded as opinion) and 6 (Captions).

The Press Council rejects the complaint and agrees with Mr Kirkness on the basis that cartoons are regarded as opinion and are given wide license to challenge and confront.

The Press Council does acknowledge that Mr Houlding's concerns around inciting violence are legitimate particularly in light of recent violent events in the US and around the world. However, The Press Council must balance these legitimate concerns with the freedom of expression, which is an important principle in a democracy.

The cartoon carries the title of 'Guy Body's view'. The Press Council principles give scope to cartoonists to express viewpoints which may, at times, cause offence.

Conclusion

Accordingly the complaint is not upheld.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Tiimalu Peter Fa'afiu, Jenny Farrell, Vernon Small, Marie Shroff, Mark Stevens, Christina Tay and Tim Watkin.

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

CASE NO: 2515 – THE MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT AGAINST THE DOMINION POST AND STUFF

1. The Ministry of Business, Innovation and Employment complains about reports in *The Dominion Post* and on the Stuff website about seismic inspections undertaken in Wellington and Auckland on non-structural elements of buildings. The complaint is upheld.

Background

2. Following recommendations of the royal commission of inquiry into the performance of buildings in the Canterbury Earthquakes, the ministry commissioned consultants to survey commercial buildings in Wellington and the Auckland CBD to check whether non-structural fixtures were sufficiently braced and secured. Since the ministry had no powers to compel building owners to undergo this inspection, and the inspection was to assess their fixtures against a new building standard that they were not legally obliged to meet, the ministry offered them confidentiality. The consultants would not identify them to the ministry, which was interested in the extent of the problem not specific buildings.

The Article

3. A story on the Stuff website on the evening of April 15 and *The Dominion Post's* front page next morning began:

“Hundreds of office workers in Wellington and Auckland are unwitting guinea pigs in a secret trial on whether their buildings are strong enough to withstand a major earthquake.

“Secret seismic testing of about two dozen buildings in both cities has been done by the Ministry of Business, Innovation and Employment — but the identity of the buildings is being kept under wraps.....”

4. After a complaint from the ministry the newspaper amended the story online to read:

“Hundreds of office workers in Wellington and Auckland are unknowing participants in a secret trial into whether parts of their buildings could collapse in a major earthquake.” The second paragraph was amended to say the seismic inspection was being done “for” the ministry not by it.

5. The newspaper carried a “clarification” two days later, stating the report had been done “for the ministry, not by it, and that neither the ministry nor its engineering consultants required the inspections to be kept confidential from staff.

The Complaint

6. The ministry’s Lead Communications Adviser has complained that both the initial story and the slightly amended version online have breached the principle of accuracy, fairness and balance and failed to make a distinction between fact and comment.

7. The story as first published contained several errors and appeared to deliberately mislead and misinform readers. It appeared to be based on an opinion formed by the reporter that a deliberate decision had been made to keep people in

the dark and subject them to some sort of experiment as suggested by the terms “unwitting guinea pigs” and “secret trial”. While factual information and accurate explanation were included further down the story, the ministry feels this did not mitigate the impact and impressions created by the headlines, the introduction and initial paragraphs.

8. The ministry acknowledges that changes were made to the online story in response to its concerns but these did not go far enough. It also noted that by the time the amended version appeared, 12.38pm the next day, the story was no longer prominent on the website, reducing the likelihood that people would read it. The damage had been done and insufficient steps were taken to rectify it.

9. The updated story remained factually inaccurate when it said, “parts of their buildings could collapse in a major earthquake.” The survey was examining whether fixtures inside the buildings were suitably restrained and separated, not whether they would collapse. The survey was not looking at structural elements that can cause part of a building to collapse in an earthquake.

10. As for the “unwitting guinea pigs”, subsequently amended to “unknowing participants”, there was no deliberate or agreed decision not to inform people. It was up to the building owners or managers to decide what communication would be made with people working in the buildings, which the ministry believed was appropriate. If the reporter knew of a building where tenants had not been informed and believed they should have been, questions should have been put to the building owner.

The Response

11 Fairfax contends that, “nothing in the article suggested the survey concerned structural elements of buildings”. The phrases it used — “strong enough to withstand a major earthquake”, subsequently amended to “parts of their buildings could collapse in a major earthquake” — did not suggest that the survey was focused on structural building performance. If there was any confusion, this was clarified at other points in the story which stated the survey was looking at non-structural elements. The fourth paragraph of the story said the report was in response to damage to air conditioning ducts, broken pipes and collapsed ceilings in a 2013 earthquake in Wellington.

12. On the issue of secrecy and whether workers in the building were informed, Fairfax maintains that the surveys were secret and MBIE’s reasons for secrecy were made clear. There was no implication in the article that it was MBIE’s decision not to inform workers.

13. On the question of whether it was MBIE’s report, Fairfax said its reference to “The MBIE report” could refer to a report to MBIE, by MBIE or even about MBIE. In any case it was clarified in the amended story to be a report for MBIE.

14. Fairfax says the article was clear as to the nature of the testing and the secrecy involved. It explained the reasons for those and included comment from MBIE prominently in the article. It rejects the accusations that the article was not accurate, fair and balanced. There was no comment or opinion in it.

The Decision

15. The Press Council agrees there was no question this story was presented as an article of fact, not opinion. The complainant believes the reporter had formed an opinion that workers in the building were not being informed and had not established this as a fact. The newspaper insists it had “sources” for the fact that the survey was kept secret from workers, though its story made no reference to them. Principle 4 notes that a clear distinction should be drawn between factual information and comment or opinion. Readers of this story would have been in no doubt the newspaper was reporting what it believed to be factual. The complaint on this principle is not upheld.

16. On the principle of accuracy, fairness and balance, the decision is more difficult. There is no question the opening paragraphs of the story as it initially appeared online and on the front page of *The Dominion Post* next morning, were inaccurate in at least one respect and unfair in another. Fairfax conceded this by changing its unfair reference to “unwitting human guinea pigs” and modifying its reference to “whether buildings are strong enough to withstand a major earthquake.

17. The Press Council also has concerns about calling this exercise “a secret trial”. It was in fact a blind survey for the ministry. It was not “secret”, since the ministry was willing to talk about it publicly and the building owners who voluntarily took part were free to tell their tenants and staff all about it. It seems strange to call it a “trial”. It was an inspection of fixtures in a sample of office buildings.

18. It is simply not true, as Fairfax states in its response, that “nothing in the article suggested the survey concerned structural elements of buildings”. The headline and opening paragraphs would have given readers exactly that impression. The wording clearly carried that implication and the Council ventures to suggest the story would hardly have warranted the prominence it was given on the website and in the newspaper if it had been clear from the opening paragraph that it was about non-structural elements.

19. The Council agrees with the complainant that the alteration of the story on the website the next day, to refer to “parts of buildings” being not strong enough to withstand a major earthquake, would not have allayed the false impression that the subject was structural collapse.

20. Fairfax argues the story in its totality was not inaccurate. Its story ran to about 25 paragraphs and anyone who read it all would have realized, about half-way in, that it was about fittings and fixtures, not the buildings themselves. At that point readers probably realized they had been presented with what is commonly known as a “beat up”.

21. Beat-ups do nothing for the reputation and credibility of the newspaper concerned and the industry in general. They are deliberate exaggerations to give a story more prominence than it deserves. They come as close as they dare to the boundaries of accuracy, fairness and balance and unless they are very careful, they will cross it.

22. This case, in the Council’s view, crossed the line. Its opening paragraphs were simply wrong in several respects.

The survey was not “secret”, it was not a “trial” of anything. Tenants and staff in the buildings were not “guinea pigs” or unknowing participants in something sinister. The survey was not concerned with the collapse of buildings or parts of buildings. It was looking at non-structural fittings.

23. The rest of the story does not mitigate these errors, in the Council’s view. The newspaper’s presentation of the story, both in print and online, was based on the claims in its opening paragraphs which were grossly inaccurate. The result was unfair to the ministry and misleading for readers. The complaint is upheld.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Tiimalu Peter Fa’afu, Jenny Farrell, John Roughan, Marie Shroff, Mark Stevens, Christina Tay and Tim Watkin.

Vernon Small stood down from consideration of this complaint to ensure the public member majority.

CASE NO: 2516 – DEBORAH STOKES AGAINST NEW ZEALAND HERALD

1. Deborah Stokes complains that a column published in the *New Zealand Herald* entitled “When a mother sticks up for her famous son” breaches Press Council Principles 1, Accuracy, Fairness and Balance, 2, Privacy, and 9, Subterfuge.
2. The complaint is upheld on Principle 1 with regard to fairness. One member would also uphold on Subterfuge.

Background

3. On Monday April 11 the *New Zealand Herald* published a column by Radio Hauraki breakfast host Matt Heath on the pros and cons of parental over-protection.
4. The basis of his column was a broadcast on Radio Hauraki on April 4 of a phone conversation between Heath, co-host Jeremy Wells, and the mother of England cricketer Ben Stokes, whose poor performance in the last over of the Twenty20 world cup final Heath and Wells had derided. Mrs Stokes had rung the station to protest about the hosts’ comments about her son. The call had been broadcast live, despite Mrs Stokes’ being given assurances she was not on-air.
5. Heath wrote that he had taken the call on-air because he thought it was someone phoning in for a competition, and he thought it would be funny to tell Mrs Stokes she wasn’t on air so their listeners could hear someone have a go at them.
6. He described Mrs Stokes as an overly protective parent, and said her phone call was a lesson for all parents that fighting your kids’ battles rarely helps them.
7. The final line of his column said: “Give them love, support, advice and a safe home – but don’t ring up a radio station on air because someone called your boy ‘Ben Chokes’.”

8. The broadcast had also been widely reported by national and international media.
9. A footnote at the end of the article said the two Radio Hauraki hosts had been reprimanded by NZME for airing the conversation with Ben Stokes' mother despite assuring her it was off air.
10. Mrs Stokes has also complained to the Broadcasting Standards Authority; that complaint has yet to be heard.

The Complaint

11. Mrs Stokes' complaint provides context to the subject of the *New Zealand Herald* column, namely the live broadcast of the phone call she made to Radio Hauraki. She says she asked for, and was given, two separate assurances by host Matt Heath that the discussion was off-air. It was in fact on air, broadcast live and was subsequently replayed and referred to on the radio breakfast show several times over the next few days.
12. Mrs Stokes complains that the *New Zealand Herald* column breached three Press Council principles.
13. Principle 9 Subterfuge: Because the column was based on an on-air broadcast that was itself obtained by subterfuge, the information in the column was obtained by the same root subterfuge, misrepresentation and dishonesty. "It goes without saying that the column cannot be justified as being in the public interest," she says.
14. Principle 1, Fairness: Mrs Stokes claims the actions of Matt Heath in writing a column based on an act of subterfuge breached the fairness principle.
15. Principle 2, Privacy: Mrs Stokes claims it was a breach of her privacy for Heath to have referred to the matter in the column as the radio broadcast itself was also a breach of her privacy.
16. Commenting on *New Zealand Herald* editor Murray Kirkness' response to her complaint, Mrs Stokes maintains the matter was reported on widely nationally and internationally only because of the subterfuge and dishonesty involved in the radio broadcast. "It seems fundamentally unfair to me for the publisher and author to be able to rely on apparent public interest in a matter stemming from the author's own acknowledged actions," she says.
17. She says she had a legitimate expectation that her phone call to Heath was private, so everything that flowed from that, including the column, is a breach of her privacy.
18. In her final response, Mrs Stokes says she is not concerned so much about the widespread news reportage, "distressing as it was to me and my family", but rather "that Heath himself was given a further opportunity to bully me and brag about the radio broadcast".

The Editor's Response

19. The editor of the *New Zealand Herald*, Murray

Kirkness, defends the newspaper's decision to publish the column. It is important, he says, to make the distinction between the original live radio broadcast and the subsequent opinion column when considering the facts.

20. He denies that subterfuge was used in obtaining information for the column as the information was already in the public domain prior to the time of publication.
21. Information about the radio broadcast, and recordings and transcripts of the call, had been widely published in other media who obtained the information about the call in the same way the *New Zealand Herald* did, from the original radio broadcast.
22. The editor argues that even if the radio broadcast is found to be unfair by the Broadcasting Standards Authority, it does not follow that subsequent reporting of the comments in other media must therefore also be in breach of the fairness principle.
23. Matt Heath is a regular columnist for the *New Zealand Herald*, so it was deemed by the editors to be appropriate for him to comment on the radio broadcast and address the criticism he had received following the broadcast. It was also considered to be in the public interest for Mr Heath to provide commentary on the associated issues regarding criticism of sportspeople by the media.
24. The column was clearly identified as an opinion piece, he says, and in line with Principle 5 of the Press Council rules, it was based on fact, and did not infringe the fairness principle.
25. The editor makes the same argument with regard to the privacy complaint. Even if the BSA found that the live broadcast was a breach of Mrs Stokes' privacy, it didn't mean other media who reported on the incident were also guilty of a breach of privacy. The matter was certainly not private by the time the column was published, says Mr Kirkness.
26. Mr Kirkness submits that the publication of the column did not breach any Press Council rules, and did not go any further than what was widely published nationally and internationally in other media. "I believe it would be a matter of significant concern if the media were not able to comment on matters of public controversy by reason of issues arising out of the circumstances in which a story first broke," he says. "Once an issue is in the public domain and has become a matter of public debate it cannot be the case that it is impermissible for the media to comment on it by reason of some question mark over the manner in which the information originally surfaced."

Discussion

27. The *New Zealand Herald* column published on April 11 is based on the live broadcast on Radio Hauraki on April 6; however the Press Council

cannot comment on the radio broadcast as it is the subject of a separate complaint to the Broadcasting Standards Authority, and this adjudication deals only with the article published by the *New Zealand Herald* in print and online.

28. The column by Matt Heath was clearly an opinion piece; it was not a news report. Opinion pieces are by their very nature frequently provocative, offensive or controversial in subject and tone, but as long as they are clearly signposted as the writer's opinion, they are exempt from many of the rules which apply to news reports. The Press Council's Principle 5, Columns, Blogs, Opinion and Letters, states that "though requirements for a foundation of fact pertain, with comment and opinion, balance is not essential."
29. In this case, however, we believe the fine line on what can be deemed fair or not fair has been crossed. Heath's column about over-protective parents, which under normal circumstances is a perfectly acceptable subject for an opinion piece, was clearly a convenient hook to allow him to justify his actions in knowingly deceiving Mrs Stokes on his radio show.
30. In the column Heath openly admitted his dishonesty, which he said he thought would be funny, and then ridiculed Mrs Stokes for defending her son, writing that "a parental attempt to right things ended up bringing global humiliation on her son".
31. The Press Council does not accept the editor's argument that the *New Zealand Herald* article did not go any further than what was widely published nationally and internationally in other media. The difference was that the *Herald* published an opinion piece written by the perpetrator of the original deceit.
32. We agree with Mrs Stokes' view that it was not fair for the newspaper to provide Matt Heath a further opportunity to justify his improper actions on his radio show. It is also unfair that he was permitted to add insult to injury by using her as an example of what not to do as a parent. Otherwise he is able to take advantage of his own misleading actions, which is unfair.
33. The complaint that the column breached Principle 1, with respect to fairness is upheld.
34. With regard to the complaints under Principle 9, Subterfuge, and Principle 2, Privacy, it is clear that rightly or wrongly, the subject of the broadcast discussion between Mrs Stokes and the Radio Hauraki hosts was very much in the public domain by the time the column appeared, so the information contained within it cannot be deemed to have been obtained by subterfuge. Mrs Stokes' identity was by that stage also in the public domain, so her privacy cannot be deemed to have been breached by the *New Zealand Herald* article.
35. The complaints under Principle 2 and Principle 9 are not upheld.
- One member of the Council also wanted the complaint upheld on grounds of subterfuge and wanted his dissent noted. The column relied on an interview based on deception, and regardless of whether that interview was broadcast on radio or was simply part of the columnist's research, the deception remains and, in his mind, was grounds for a wider uphold.
- Press Council members considering the complaint were Sir John Hansen, Liz Brown, Tiimalu Peter Fa'afiu, Jenny Farrell, Vernon Small, Marie Shroff, Mark Stevens, Christina Tay and Tim Watkin.
- John Roughan took no part in the consideration of this complaint.

CASE NO: 2517 – ADITH STONEMAN AGAINST SUNDAY STAR-TIMES

Background

[1] Adith Stoneman is an antenatal class teacher who has complained about two articles published in the *Sunday Star Times* on consecutive weekends, April 17 and 24, and an editorial published on April 17.

[2] The stories cover classes provided by the Waitemata District Health Board and taught by the complainant, claiming the information given in the lessons was "dangerous" and "dodgy" and that the handouts provided to pregnant women were sub-standard. One of the sources for the story was a reporter at the paper, although the angle was the DHB's decision to investigate the courses and "track down" the expectant parents who attended Stoneman's classes.

[3] The headlines of the articles were *Inquiry into 'dangerous' baby advice* and *Alarm grows at dodgy lessons for mums-to-be*. The editorial was titled *Brunch, pop out baby, then cocktails*.

Complaint

[4] Stoneman first wrote to the *Sunday Star Times* on May 16 making complaints according to four Press Council principles; 1) Accuracy, Fairness and Balance, 2) Privacy, 6) Headlines and Captions and 10) Conflict of Interest. Potential complaints under principles four and eight are not relevant in this case.

[5] In her subsequent complaint to the Council she claimed the story contained "blatant lies" and zeroed in on two areas of concern: The videotaping of an interview with a family member on her doorstep and her reputation being unfairly maligned when blame rested with the DHB. As the initial complaint to the paper is attached to her Council complaint, we will address all the issues raised.

[6] Stoneman says story was inaccurate because it reported that she was under investigation as of April 17; "at this point I was not under investigation", she says. (However in her final comment she says she had received a "confusing" call from the DHB on April 15 telling her not to talk to the media.) The

paper did not ring her until 9.15pm, which was not enough time to do the story justice. (In her final comment, Stoneman acknowledges she “may have got the time wrong”).

[7] The story invaded her privacy and that of her family as her name was put in the story, her photo was taken from Facebook and published and, after the initial story, a reporter and videographer arrived at her home and videoed an interview with a family member without permission or knowledge they were being filmed. Stoneman adds a journalist should know “one cannot talk to the media whilst being investigated” and the story was not in the public interest as “nobody has died or been hurt by me”.

[8] The headline and sub-head on the April 17 story are both inaccurate. The complainant says she did not give “dangerous baby advice” and did not accuse “pregnant women of fitting childbirth around their ‘social diaries’.”

[9] Finally, the complainant says that Fairfax journalist Shabnam Dastgheib was one of the sources for the story and, therefore, is compromised by a conflict of interest. Further, she only attended one class.

[10] In her Press Council complaint, Stoneman says she was not happy about the video interview [taken between the two stories] of her family member when he opened the door and was confronted by the journalist and videographer. She says the family member “told them straight away that he could not talk to the media” and the editor’s defence of his staff was “an outrage”. By that time she says she was under investigation and had been told by the DHB she could not talk to the media.

[11] Stoneman also complains that she is being blamed unfairly for the DHB’s failings. The complainant says that “without a shadow of a doubt” she did the best she could in her job and that “the wrong doing is not mine but indeed my employer’s”, suggesting that DHB has not audited or managed the antenatal programme properly.

Editor’s Response

[12] *Sunday Star-Times* editor Jonathan Milne initially replied to the complaint at length, taking each of the principle complaints in turn.

[13] On Principle 1 Milne says according to the paper’s computer logs the story was filed at 4:32pm, so Stoneman is incorrect to say they did not call until 9.15pm. Rather, they tried ringing sometime after 3.30pm and Stoneman hung up on the reporter. He continues that the DHB issued a statement on Friday saying it had commenced an investigation and so stands by the paper’s claim Stoneman was under investigation as of April 17, whether she knew it or not.

[14] On Principle 2, Milne argues naming Stoneman was in the public interest, as the DHB was attempting to contact mothers who had been in her classes. He says it is common practice to use photos off Facebook, but due to her concern he had removed the image from the story that was still on Stuff.

[15] As for the doorstep interview with the family member, Milne says the paper had tried making contact via phone, Facebook and email; the reporter identified herself as a

Fairfax reporter and the family member spoke openly and without complaint or asking them to leave the property.

[16] On Principle 6, Milne says the word “dangerous” was a quote from Action to Improve Maternity spokeswoman Jenn Hooper and the “social diaries” sub-head was based on one of the brochures Stoneman provided in class, subsequently retracted by the DHB.

[17] Finally, on Principle 10, he acknowledges Dastgheib “is one of our journalists”, but her first person contribution to the story was clearly headlined “Why I dropped out of antenatal class” and so her own experience was fully disclosed.

[18] In his defence to the Press Council, Milne addresses her two narrower points. First, he says he reviewed the recorded interview with the family member and agrees the family member does point out that the complainant is under investigation and “has been advised not to talk to the media”. Milne continues, “However he was happy to do so, and proceeded to give us a brief statement without imposing any constraints or caveats”. He never asked the journalists to leave the property and in the video his face was pixelated.

[19] On Stoneman’s concern that the reported fault lay with the DHB, not her, he says both parties were given the chance to comment on the story and the paper will report on the outcome of the DHB’s inquiry, regardless of who it finds to have been at fault.

Discussion and Decision

[20] The complainant offers no evidence for her claim that the story was based on “blatant lies”, the paper’s deadlines and computer logs suggest phone calls were made to offer Stoneman a right of reply well before 9.15pm, which she has conceded. Whether or not Stoneman had been informed, the newspaper reasonably relied on the DHB’s own statement saying that Stonemason’s classes were under investigation as of April 17.

Neither does she offer any evidence to back up her claim that the fault lay with the DHB and nor does it change what was taught in her classes, and reported by the newspaper.

The complaint against Principle 1 is not upheld.

[21] People are named in the media every day without their permission and where there is a public interest that is right and proper. Refusal by an accused party to comment or return phone calls is no reason for media to ignore a story. In this case there was a strong public interest as the DHB had found fault with the classes and handouts and were actively trying to track down parents who had attended, so as to correct any misinformation received. Of course, people do not need to die or be physically hurt for events to be of public interest. Further, given the DHB’s (and newspaper’s) desire to alert people who attended Stoneman’s class, there was sufficient public interest to justify using her Facebook photo to illustrate the story.

[22] Door-stepping someone who is the focus of a story should not be done lightly, but gaining comment from Stoneman was in the public interest and strenuous efforts had been made via multiple means to contact her. It was not unreasonable to knock on her door. While she was in a difficult position and had every right to refuse comment (and

was under considerable pressure from the DHB to do just that), equally the reporter had every right to ask questions of the family member and, if he chose to answer, to report those answers, even if he had prefaced those answers by saying Stoneman herself was under orders to remain silent. Stoneman claims her family member did not know he was being filmed, but that seems unlikely given it was filmed both on a phone and, most notably, a video camera. The complaint against Principle 2 is not upheld.

[23] While the complainant asserts the headlines are false, she offers no evidence to support that. The *Star-Times*, however, was relying on expert comment and written material from the class. The headlines fairly conveyed the substance of the report. The complaint against Principle 6 is not upheld.

[24] Reporter Shabnam Dastgheib's link to the story was clearly identified and she wrote what was clearly labelled a first person account. She also clearly states her comments are based on attending a single class. Her work as a journalist does not discount her as a source. The complaint against Principle 10 is not upheld.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Tiulalu Peter Fa'afiu, Jenny Farrell, Vernon Small, Marie Shroff, Mark Stevens, Christina Tay and Tim Watkin.

John Roughan stood down from the consideration of this complaint to ensure public member majority.

CASE NO: 2518 – MATTHEW THREDGOLD AGAINST ROTORUA DAILY POST

Matthew Thredgold complains about an article that appeared in the *Rotorua Daily Post* on 4 May 2016. He alleges breach of the principles of accuracy, fairness and balance, comment and fact and conflicts of interest.

The Article

The article concerned the plight of a terminally ill Rotorua woman who was suffering from Chronic Obstructive Pulmonary Disease (COPD). She lived at home with the assistance of palliative care. She was reliant on an invalid's benefit and clearly faced significant health and financial problems. A close friend set up a Givealittle page for the ill woman. One of the issues she faced was cold, and the cost of heating. She had a pellet-burning woodburner in her home and a Taupo-based company, Nature's Flame came to hear of her plight. As a consequence, they donated bags of pellets for her to use.

Any reading of this article makes this clear that it is about the plight of a terminally ill person, the efforts of a friend to assist her and the generosity of the community in assisting her. One part of this generosity was the donation of pellets.

The Complaint

Mr Thredgold alleges breach of a number of Press Council principles. His complaint can be summed up in the second paragraph, where he says:

Because it fails to recognise basic science facts the story is not accurate. The tragedy of using this woman's disease, which quite possibly could have been caused by using wood pellets in the first place (and al-

most certainly is hastening her death now), to advertise the product, without warning possible customers about the link between wood smoke emissions and COPD I think is an amoral oversight. Despite the Bay of Plenty Regional Council getting its facts rather muddled as well, if the responder to my complaint had have looked at my links to scientific papers, rather than the dubious statement by the Regional Council, he would have been able to assess the true worth of the BOPRC's assertions.

The Response

The regional editor responded that the story is about the efforts of a friend to help the terminally ill woman. He said the company in question did not approach the newspaper, but agreed to help the terminally ill beneficiary. He went on to say that it was not unusual for the media to publish articles about companies that donate goods or services to disadvantaged people. He said such stories are positive, and those helping out deserve to be commended. He concluded:

In summary, this story was not about promoting the use of wood pellets to heat homes. It was not about promoting a company that sells wood fire pellets. Nor was it ever designed to be an in-depth piece on the causes of COPD or provide any detailed investigation into pollution or impacts on health from fires.

The editor also referred to the Bay of Plenty Regional Council's website which states that pellet burners are one of the most environmentally friendly ways of heating homes. That notes that pellet fires produce a fraction of the amount of particulates released in the air compared to non-compliant woodburners.

Decision

The Council agrees with the editor. This was a positive story about the community's response to a terminally ill person confronted with real difficulties. It is clearly not a story about COPD, but rather a positive piece on a caring community.

Mr Thredgold's statement that the ill woman's disease "quite possibly could have been caused by using wood pellets in the first place" is mere speculation. It is clear from the article that she suffered from the disease before moving to Rotorua about three years ago.

If this had been an article on COPD or the merits of pellet-fired woodburners, Mr Thredgold may have some basis for such a complaint. But the reference to wood pellets is only part of an overall story of community kindness. We consider that the publication was entitled to rely on the BPPRC's web site. We see no breach of the principles of accuracy, fairness and balance. We consider the principle of comment and fact is irrelevant for current purposes. Finally, Mr Thredgold does not make out any relevant conflict of interest.

This was a story of empathy.

The complaint is not upheld.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Tiimalu Peter Fa'afiu, John Roughan, Vernon Small, Marie Shroff, Mark Stevens, Christina Tay and Tim Watkin.

Jenny Farrell stood down from consideration of this complaint to ensure the public member majority.

CASE NO: 2519 – RICHARD WATTS AGAINST THE NEW ZEALAND HERALD

Richard Watts complains that a number of stories published by the *New Zealand Herald* in a series in May 2016 under the title “Family Violence; we’re better than this” breaches two of the Councils’ principles: accuracy, fairness and balance, and discrimination and diversity.

The complaint is not upheld.

Background

Mr Watts contends that over a series of 30 articles on family violence the newspaper failed to portray both sides of the issue fairly, specifically that it did not give due weight to men as victims of family violence and women as perpetrators of it, with only two articles giving a balancing perspective on the domestic violence issue. He believes that in doing so it misinformed its readers and did “cause or reinforce misandry” - dislike or ingrained prejudice against men.

The Complaint

To support his argument, that men as victims are understated in general, Mr Watts pointed to an academic article by David Fergusson and others “Partner Violence and Mental Health Outcomes in a New Zealand Birth Cohort,” from 2005.

He argued that article and another from Harvard University (which appears to be one written by a group of public health researchers in Atlanta led by Daniel Whittaker), showed that almost half of violent relations were reciprocally violent and in non-reciprocally violent relationships women were the perpetrators in more than 70 per cent of the cases.

In his view the series taken as a whole - not any one article - was therefore based on a factually inaccurate view point and was unfairly biased against men.

His central argument can be summed up by his comments: “What this means is that the type of domestic violence that the *New Zealand Herald* spent the majority of its article series exploring could be considered the least common type of domestic violence” meaning the series was unfair and unbalanced, inaccurate and discriminatory against men.

He further argued it had promoted gender discrimination by portraying men as violent and sociopathic.

He said bringing to light domestic violence was a noble goal and he did not fault the newspaper for doing so.

The Newspaper’s Response

In reply editor Murray Kirkness rejected any breach of the principles. He argued that in the series the newspaper had acknowledged multiple times that men were victims too, citing articles on May 7, May 9 and May 10 (including a full

story about a man subjected to violence by a female partner). It also ran an opinion piece by Bob McCroskie on May 13 that dealt with violence against men.

Mr Kirkness said the premise of the campaign was to focus on the worst area of family violence; violence and abuse against women. He cited government figures showing from 2009 to 2012 that 76 per cent of intimate partner related deaths were perpetrated by men. He said they also showed one third of women experienced physical or sexual abuse at some time and that 24 per cent of women are victims of sexual offences against 6 per cent of men.

He also pointed to those “who spoke to the fact it was the worst area of family violence” including police, Justice Minister Amy Adams, Women’s Refuge and frontline agencies.

Mr Kirkness invited Mr Watts to submit his opinion in a letter to the editor which would be considered for publication.

Discussion and Decision

There are studies to suggest violence against men may be underestimated, but even in the two articles cited by Mr. Watts the conclusions drawn from the statistics are somewhat limited and contingent and the studies are of limited cohorts.

For instance Fergusson et al notes that the most severe cases of violence and of death were not included with only “relatively mild incidents” studied in the research paper. It also notes the need for further research to reconcile findings that there is little gender difference in mild or moderate assaults but a clear male predominance in incidents involving severe injury and death.

But it is not the role of the Council to review the academic literature and come to a conclusion on the nature and levels of family violence and its gender break down, even if it had the resources to do so.

The Council’s role is to assess whether the articles and the series in this case offered a fair, accurate and balanced representation and treatment of the issues and individuals covered.

The newspaper on a number of occasions referenced men as victims of abuse and for instance noted that on average 10 men and 13 women are killed each year as a result of family violence.

In an editorial on May 7 at the beginning of the series the *Herald* argued that the problem “is men, not all men, not even most men, and as some men always point out, not just men. Women can and do resort to violence too.”

But while canvassing alternative views, it also made clear in its editorial opinion piece that in its view the issue was too important to be “blurred and broadened for the sake of gender neutrality” saying it was a fair bet women were not responsible for most family violence and certainly not the worst of it.

As a consequence of that – in what could be characterised as a campaigning stance, which is a legitimate role of the media - the majority of examples dealt with violence against women. But there was also a thread throughout the series that the problem was one of family violence and the need for

society at large to address the issue, not just men. That was reflected in the title of the series - “Family Violence; we’re better than this.” And as noted, violence against men was covered on several occasions.

The Council believes the series was a well-motivated, worthwhile campaign aimed at highlighting and reducing family violence. The newspaper was entitled as part of that to stress men’s role in domestic violence, which it believed was the most pressing issue.

It could in no way be characterised as depicting men as sociopathic nor does the Council believe that highlighting men’s part in domestic violence, while acknowledging they can also be victims, placed gratuitous emphasis on gender.

The Council notes that the way is open for Mr Watts to submit his view point in a letter to the editor.

The Council does not uphold the complaint.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Tiimalu Peter Fa’afiu, Jenny Farrell, Vernon Small, Marie Shroff, Mark Stevens, Christina Tay and Tim Watkin.

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

CASE NO: 2520 – TONY BAIRD AGAINST NORTH & SOUTH

1. Dr Tony Baird complains that an article by Chris Barton published in the February 2016 edition of *North & South* is in breach of Principles 1 and 10 of the Press Council principles.

2. The Press Council does not uphold Dr Baird’s complaint.

Background

3. This complaint, and the article that gave rise to it, have their origins in the long-running controversy over the study by Professor Herbert Green at the National Women’s Hospital that became the subject of the Cartwright Inquiry and that has since been re-examined and subjected to comment many times by medical and other academics, practitioners and journalists.

4. In its February 2016 edition, *North & South* published an article entitled “Unfinished business with the unfortunate experiment”. It was written by Chris Barton and was prompted by the publication in August 2015, in the American Journal of Public Health, of an article by Charlotte Paul and Barbara Brookes. That article compared the “Unfortunate Experiment” study that led to the Cartwright Inquiry with an American study (the Tuskegee study). Both studies had raised concerns that went beyond the purely medical, and the Paul and Brookes article set out to evaluate the scientific, political and moral claims of those who defended the studies. In doing so, it rejected many of the arguments put forward in defence of the National Women’s Hospital study in a book and articles written by Linda Bryder.

5. Mr Barton’s article also rejected the views of “revisionists”, including Professor Bryder, and concluded in general by agreeing with Paul and Brookes that the women involved in the study had not given their consent and that some of them had been harmed by not getting the treatment they should

have received in a timely manner.

6. A letter from Dr Baird, criticising Mr Barton’s article, was published in the March 2016 edition of *North & South*, and a further critical letter, from Dr Derek Dow, in the April 2016 edition. Dr Baird’s letter was accompanied by two paragraphs of comment from Mr Barton and Dr Dow’s letter was accompanied by an editorial note to the effect that Dr Dow did not declare in his correspondence his relationship with Professor Bryder.

The Complaint

7. Dr Baird complains in general that the article was unfair and unbalanced, as was the comment on the two letters to the editor. Specifically he says

- Mr Barton supports uncritically the Paul and Brookes article.
- He does not disclose how he came to be reading the article, in a journal with a very limited circulation in New Zealand, and does not refer to other relevant articles.
- Many of his facts are wrong. Dr Baird refers to points made in his published letter of March 2016 to the editor of *North & South* and rejects or dismisses the comments on it made by Mr Barton.
- He should have mentioned that in the 1960s and 1970s in New Zealand there was no informed consent as we now know it, that diagnosis and grading is partly subjective, that there was no conventional treatment at the time of the study and that treatment now is almost always conservative, as advised by Professor Green.
- The editorial comment on Dr Dow’s letter is gratuitous and unfair.

8. In addition Dr Baird complains that *North & South* did not publish further letters critical of Mr Barton’s article.

9. Finally, he says that the language used by Mr Barton is not impartial, and that he is clearly presenting the case put by Charlotte Paul and Barbara Brookes and thus displaying a conflict of interest.

The North & South response

10. Virginia Larson, editor of *North & South*, addressed Dr Baird’s complaint in some detail. She explained Mr Barton’s longstanding interest in the issues about which he was writing and how he became aware of the Paul and Brookes article. She also quoted from Mr Barton’s pitch to *North & South* for his article and noted particularly that he proposed “.. a kind of personal essay – a journalist’s struggle to assimilate and report on conflicting views held by highly intelligent people about medical research done without informed patient consent.” The article was in fact written in first-person essay form.

11. Mr Barton has no relationship with Charlotte Paul, Barbara Brookes or any other supporter of the Cartwright report other than that of a journalist who had interviewed them on topics related to this issue.

12. As an editor, she is under no obligation to print all letters to her, and as the two letters she published were both critical of Mr Barton’s essay, she denies the allegation of editorial

bias. The editorial comment on Dr Dow's letter is justified as she was not aware of his relationship with Professor Bryder until advised by a sub-editor.

Discussion

13. The Press Council principles require publications to observe accuracy, fairness and balance, with a fair voice to the opposition view when there is controversy or disagreement. There is an exception for articles of opinion or comment, where balance is not essential, but when such articles have a foundation of fact, and then the facts that make up that foundation must be accurately stated.

14. The article in this case is clearly one of opinion and comment, generally of more comment than opinion. It is indeed written in first person essay style and while the conclusions drawn by the author place him firmly on one side of the debate, they are drawn in the context of a long professional interest in that debate and a well-explained sense of a need to revisit the fundamental ethical questions it raises. It is not a news report that would require a neutral stance and a careful balancing of opposing views. For this reason the general requirements of the Press Council Principles on fairness and balance do not apply. Much of Dr Baird's complaint is directed at a perceived failure to include balancing material and on this ground it cannot be upheld.

15. Dr Baird has submitted that Mr Barton's general support for the approach taken in the Paul and Brookes article demonstrates a lack of impartiality and amounts to a conflict of interest. This submission appears to be based on a misunderstanding of the Press Council principles. They do not require impartiality in an article of this nature, and they set the concept of conflict of interest firmly within the context of the independence of the press, which should not be compromised by obligations to a news source. There is no suggestion that Mr Barton was under any obligation to Charlotte Paul or Barbara Brookes, and no grounds for finding a breach of principle 10.

16. To the extent that *North & South* has an obligation to be fair to all parties, that obligation was fulfilled by the publication of the two critical letters to the editor. An editor's right to decide to publish or not to publish letters is constrained only by considerations of fairness, balance and the public interest (Principle 5). The two letters that were published gave a fair voice to those holding views opposed to Mr Barton's and provided balance. There was no obligation to publish all letters received.

17. Ms Larson has provided a satisfactory explanation of her comment on Dr Dow's letter.

18. There remains the question of the accuracy of the factual background to Mr Barton's article. It is difficult to address this part of the complaint as neither in his letter to *North & South* nor in his letter of complaint does Dr Baird specifically identify any part of the article that he considers to be factually wrong. There is a possible exception in that he takes issue with Mr Barton's assertion that at least eight of the women involved in the study died, but even here he has not offered an alternative, apart from saying that nobody knows how many died. Mr Barton has provided a source for his figures in his response to Dr Baird's letter to *North & South*.

19. To the non-expert reader, the main difference between Dr Baird's and Mr Barton's approach to this controversy is not a question of fact at all. Dr Baird seeks to place and judge the events in the light of conditions prevailing at the time they occurred, when, for example, the concept of informed consent was less developed than it now is, while Mr Barton takes a wider and more universal approach to what are, in the end, universal questions of morality and ethics. In the absence of identifiable errors of fact rather than differences over the interpretation of such facts as were known (and clearly much was not known) there are no grounds for upholding Dr Baird's complaint.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Chris Darlow, Sandy Gill, Jenny Farrell, John Roughan, Marie Shroff, Vernon Small, Mark Stevens, Christina Tay and Tim Watkin.

CASE NO: 2521 – MARK BECKETT AGAINST OTAGO DAILY TIMES

Background

On June 3, 2016 a road accident occurred north of Dunedin, involving up to 5 cars and resulting in one dead and six injured. Mark Beckett complains that the *Otago Daily Times (ODT)* published online incorrect and unbalanced information about the accident.

The complaint is not upheld.

The Complaint

Mark Beckett complains that on line reporting by the *ODT* led family and friends to "believe we were fatally injured. No text was included that reassured viewers and the *ODT* did not ascertain that ...family had been contacted" before publishing the information. It "led viewers to believe the vehicle pictured was at fault, and that the fatality occurred in the vehicles shown." Photographs could be enlarged to enable number plates to be read and distinctive hot rod vehicles to be identified. A scene photograph of an emergency vehicle only was published on the *ODT* Facebook page, but this linked to the more graphic shots on the *ODT* website of vehicles involved in the crash.

The complainant believes the reporter and photographer gained informal access behind the Police cordon to the scene, and were requested to leave by the Police. The complainant also notes that other media outlets covered the incident but did not identify the vehicles. Rather than waiting for official Police statements on what had occurred, the *ODT* used other emergency services as a source. The complainant also believes the editor failed to respond adequately to his attempts to communicate about his complaint.

Response

The *ODT* editor says he initially discussed the issues at some length with Mr Beckett, and subsequently responded fully in writing to the complaint.

On access to the accident, the editor explains that to avoid traffic delays the reporter and photographer travelled to the scene via a side road, which was not cordoned. The *ODT* photographer asked emergency services personnel if he could go closer and was accompanied to the site. After several photographs were taken a Police officer asked him to

leave, which he immediately did. An initial report including a photograph was put on the *ODT* website. Dunedin based staff later added to the report confirming “the accident was a fatality, once St John ambulance had verified that fact.” The editor says it is not unusual for media to be escorted into a cordoned area if permission is given at the scene; and Police are not the only source of information for journalists.

The editor says photos published on the website were general scene shots; the *ODT* took care to exclude the victim’s vehicle; and did not attribute blame. The editor believes the significantly zoomed in version of the photograph supplied by Mr Beckett in support of his complaint makes the license plate barely readable, and most visitors to the *ODT* site would not have done this.

The *ODT* apologises to Mr Beckett and his family if the coverage caused them distress. He notes that the *ODT* is well aware of the sensitive and distressing nature of road accidents and treats them with care. However “we also have an obligation to keep our readers up to date with the latest events, particularly in the event of an accident where a closed road might impact on their ability to travel.” The editor says, “We did not sensationalise the story, but instead covered the facts”.

Discussion

The complainant cites Press Council principles of accuracy, fairness and balance, photographs and graphics, and privacy. Mr Beckett also complains of the way in which the *ODT* team gained close access to the accident site.

It is possible for different readers to interpret in a number of ways the first report and photographs of the accident on the *ODT* website. It is most unfortunate if Mr Beckett’s family were caused undue concern by it at the time. The *ODT* has acknowledged this and apologised to Mr Beckett for any distress caused.

This online report of this major road accident was filed quickly and updated as events and information allowed. The photographer was given access to the scene by emergency services staff. The *ODT* appears to have exercised some caution by publishing a general scene shot, and not photos of the victim’s car. It verified subsequently added information through a reliable source

Many, or most, visitors to websites will now understand that online reports will develop as information become available. First accounts of accidents or disasters can change dramatically. Fuller accounts can quickly be provided as more information and differing views are covered. Using reasonable care and adhering to ethical standards, reporters should be allowed to relay information quickly through the electronic media.

There may have been some initial misunderstanding about communication between complainant and editor, but the *ODT* eventually responded adequately.

This was an example of on the spot, online reporting of an accident in a public place, and of a story that evolved as information became available. The Council believes the largely factual report did not deliberately mislead readers, nor constitute a breach of the principles of accuracy, fairness

and balance and photographs and graphics. We do not believe the report seriously breached the complainant’s privacy.

The complaint is not upheld.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Chris Darlow, Sandy Gill, Jenny Farrell, John Roughan, Marie Shroff, Vernon Small, Mark Stevens, Christina Tay and Tim Watkin

CASE NO: 2522 – SARAH BRONTE AGAINST SUN-LIVE

Sarah Bronte, a Tauranga dental surgeon, complains against an article published by *SunLive* on June 30, 2016.

Background

The article, headed ‘Focus on Fluoride Fears’, carries what could fairly be described as an anti-fluoridation message and also mentions the pending visit of “international fluoridation expert, Professor Paul Connett”, who was to speak at the Tauranga Citizens’ Club explaining why fluoridation should not be introduced to Tauranga’s water. As a result of a binding referendum, fluoridation was stopped in Tauranga in 1992. It is fair to say that Professor Connett is a well-known opponent of fluoridation.

The Complaint

Ms Bronte alleges breach of the ‘accuracy, fairness and balance’ principle. She states that in this instance no voice was given to opposing views, despite it being the view of 95 per cent of dental health professionals in New Zealand. She refers to a number of other matters to support her view that fluoridation is in the interests of better public health. She complains that a number of quotes made by Tracy Livingston, the Tauranga convenor of Fluoride Free New Zealand, are unattributed; that there are no links to relevant websites, and that no balance is provided.

The Publication’s Response

The editor of *SunLive* stated the article in question was to “inform people who wanted to attend the meeting.” She goes on to say that *SunLive* is a digital news outlet that provides a forum for the community to voice their opinions on an issue, which is clear from comments below the story. She said they reserved the right to delete any comments which may be racist, defamatory or contain offensive language.

The editor relied on the principles outlined on the Press Council’s website as follows: “*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 reportage of proceedings where balance is to be judged on a number of stories, rather than a single report.*”

The editor considered the fluoride issue was one of those situations. She states, in her response, that balance is provided on the basis of previous stories and that there was, and is, constant opportunity in this live debate for Ms Bronte, or anyone else, to publish a counter-argument at any point. She says Ms Bronte has chosen not to take this opportunity, but rather to launch a broad-brush complaint to the Press Council.

She concludes by saying “Ms Bronte was given ample opportunity to specify which fact she disputed, and decided to go to the Press Council instead of giving us the courtesy of being able to respond to her claims. We stand by our report and our reporter.”

Decision

If the editor is suggesting that because this is an online forum the principles of the Press Council do not apply, that is quite wrong. The Press Council has stated previously that, while we appreciate the desire to have stories online as quickly as possible that does not excuse publications from full compliance with Press Council principles, for example *Armstrong v Rotorua Review*, *Davidson v Wairarapa Times-Age*. We also note that this was a well-reasoned complaint which, it seems to the Council, was handled in a most cavalier way by the publication. Editors have a serious obligation to complainants.

We also do not consider that the complaint is a broad-brush one. The complainant pointed out in her emails to the reporter that she included reference to the literature that she has also forwarded to the Press Council regarding the alleged “facts” in the initial article. She also pointed out that the local DHB was mentioned several times, although their views were not included.

It is true that where there are major matters of public controversy, with both sides taking an entrenched view, the Press Council has held previously that it is not necessary in every case to provide balance, because of the long-running nature of the debate. However, we see this situation as somewhat different and we do not accept the editor’s statement that this was merely an article to promote the public meeting with Professor Connett.

The headline gives the lie to that, with the statement ‘Focus on Fluoride Fears’. The other issue we have with the article is that a large part of it consists of quotes from the convenor of Fluoride Free New Zealand Tauranga, Ms Livingston. To be blunt, it reads like a regurgitated press release. Many of the portions of the article that are not direct quotes are attributed to this person.

In the past there have been a number of decisions dealing with fluoridation. Some of these related to the non-publication of letters to the editor, which raise different considerations. Another related to an opinion piece, which again raises a different consideration. Indeed, many of the Council’s comments about there being no need to provide balance in every article dealing with a long-running issue deal with opinion pieces.

This is not an opinion piece, and the parallel we see is with a recent decision of the Council in *Case 2510, Toi Te Ora Public Health Service against Whakatane Beacon*. While not exactly the same, the article presents as fact a number of matters that are highly contentious and disputed by the other side of the debate. It in no way brings balance, nor do we consider it fair in the circumstances. The editor refers to earlier balancing articles, but produces none of them — therefore, we are unclear of their frequency or context in this particular publication.

We are satisfied the complaint should be upheld.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Chris Darlow, Sandy Gill, Jenny Farrell, John Roughan, Marie Shroff, Vernon Small, Mark Stevens, Christina Tay and Tim Watkin.

CASE NO: 2523 – CANTERBURY DISTRICT HEALTH BOARD AGAINST THE STAR

Introduction

1. The Canterbury DHB (CDHB) has complained about an article headlined “Violent patients told to leave hospital” published by *The Star* in Christchurch on May 19, 2016 and based on data supplied under the Official Information Act.

2. It cites breaches of the Press Council’s principle 1 (accuracy, fairness and balance) 4 (comment and fact), 6 (headlines and captions), 7 (discrimination and diversity) and 12 (corrections).

3. The complaint in relation to accuracy and fairness is upheld.

Background

4. The article addressed the issue of violence against CDHB staff. It drew on data provided under the Official Information Act and posted on the information sharing website FYI.

5. It asserted that patients were being “forced” to leave hospitals in Canterbury “because of the risk they pose to nurses and other staff”.

6. The source information showed that the number of attacks on staff had dropped dramatically, after rising post the Canterbury earthquakes, with 1052 incidents reported in 2014 but only 383 last year.

7. *The Star* included comment from an elected health board member Aaron Keown who said removing violent patients from a hospital was no different to refusing to serve an abusive customer in retail. He said mental health patients who were abusive or dangerous should be sent for treatment within the mental health system but anyone else who was violent should be refused treatment.

8. The story also included comment from Nurses’ Association organiser who put the decline in incidents mainly down to a change in the reporting system and the way incidents were recorded, meaning the data under-reported them and was therefore potentially misleading.

9. *The Star* sought further information and clarification from the CDHB with a number of questions but the CDHB decided to treat those as a further OIA, though its spokesperson did raise concerns (although not as an official response) that the newspaper had misunderstood the reason why patients were discharged and asked it to hold off publication pending the full OIA response. The newspaper printed the story and did not wait for the OIA.

The Complaint

10. CDHB media adviser Amy Milne complained that the article on May 19 misrepresented the information in the OIA and that the CDHB’s original information had said nothing about violent patients being told to leave hospital. The possible reasons provided for the drop in incidents included “the

discharge of patients responsible for a significant number of physical assaults on staff” as well as changes to the reporting system, an extra focus on staff safety and staff coming to grips with the new system.

11. She had been alerted to the potential misunderstanding by the nature of follow up questions submitted by *The Star*. In particular the question: “How many patients have been discharged for physically assaulting staff over each of those years?”

12. On the morning of May 19 - the day the article was published - she had contacted the reporter and, citing the key follow up question, explained that what was meant by the original OIA response was that “patients who may have violent behaviours due to their illness have become well and been discharged”.

13. However she had told the reporter not to quote that comment, which was provided for her information, but asked her to wait for more information in answer to her questions, which were being treated as a further OIA, before reporting anything. “In my conversations to the reporter I said that some Mental Health patients may have violent behaviours because of their illness. They certainly wouldn’t be discharged because of them. Quite the contrary. They would be discharged once they had recovered.”

14. She said the article had caused public concern to mental health patients who feared they would be discharged.

15. The CDHB had unsuccessfully sought a correction in conversations with editor Barry Clarke.

16. The CDHB board member quoted Aaron Keown was not a spokesman for the board or the CDHB and was not authorised to speak on their behalf.

17. The article contained undertones of discrimination against those with mental illnesses.

Response

18. Mr Clarke in reply said he believed the article was fair, balanced and accurate, and every effort was made to get a response from the CDHB.

19. The article’s angle was backed up by comments from Mr Keown.

20. He noted that the original OIA cited a number of possible contributing factors to the sudden drop in verbal abuse and physical assaults reported by CDHB staff.

“One of those is: The discharge of patients for a significant number of physical assaults on staff.”

21. He said *The Star*’s information was that violent patients were in fact being told to leave hospital as a way of reducing the level, and amount, of violence against hospital staff. It had given the CDHB ample opportunity to respond to questions, and had pushed back his deadline for publication to accommodate that.

22. After the article was published he emailed Amy Milne’s supervisor Karalyn van Deursen (after a conversation with her) offering her an opportunity to respond or write a letter to the editor. That was ultimately declined by Ms Van Deursen.

Discussion

23. The key issue is the meaning and weight *The Star* put on one sentence in the original OIA, and whether the newspaper wrongly interpreted it. Furthermore should it have been alerted to the misreading by comments from the CDHB’s media advisor, albeit those comments were not “on the record” and available for quotation?

24. Mr Clarke’s response cited from the original OIA, that a reason for the drop off in incidents was: “The discharge of patients for a significant number of physical assaults on staff.”

25. However the actual wording of the OIA on the FYI site reads: “The discharge of patients **responsible** (the Council’s emphasis) for a significant number of physical assaults on staff.”

26. The omission of the word “responsible” changes the meaning of the sentence from a description of the patients discharged (those responsible for assaults) to implying violence was the reason for their discharge.

27. The CDHB or its representative should have provided an on-the-record comment at least in relation to that issue, especially given the media adviser’s concerns that the article could otherwise be misleading.

28. The CDHB declined an opportunity to respond immediately, instead delaying in order to frame its answers as an OIA request. There was no obligation on *The Star* to hold off on publication until its follow-up questions were answered, given an OIA could take up to a month or more to provide those answers.

(As an aside Mr Clarke points out that the CDHB did not respond to the OIA by the due date of June 16 and extended that to July 8.)

29. The newspaper took considerable efforts to include a reply from the CDHB, and in fact extended the deadline to accommodate a possible late afternoon response.

30. However, while the Council has some sympathy with the reporter - given in similar circumstances many reporters would see the decision to treat the request as an OIA as a tactic to scupper the article - she was warned by Ms Milne the story could be misleading.

31. Off the record or background information on the reasons for the drop in assaults was provided that should have raised a warning flag, in the absence of other corroborating information that patients had been discharged for being violent. That knowledge could and should have been used to inform the article.

32. However, there is some variation in the accounts of the details of the exchange between Ms Milne and the reporter.

33. In Mr Clarke’s account Ms Milne referred to patients being treated before they were discharged, and noted many were mental health patients that were not responsible for their actions so would not be “kicked out”.

34. But by Mr Clarke’s account she had said the response could not be used in the story because it was her interpretation from looking at the information.

35. Nevertheless, as noted above, Ms Milne's concerns and comments should have raised doubts about the interpretation placed on the information in the OIA.

36. If *The Star* had been able to include other evidence of patients being discharged specifically because they were violent, the apparent misreading would have been less crucial.

37. Indeed Mr Clarke asserts: "Our information was that violent patients were in fact being told to leave hospital as a way of reducing the level, and amount of violence against hospital staff."

38. But there is no reference to that additional evidence in the story other than the opinions of Mr Keown that ejecting abusive patients was the right tactic.

39. The Council considered carefully Mr Keown's controversial views as reported. His comments seemed to reflect his opinion of how to treat abusive patients presenting at the hospital for treatment, not verification a policy to kick them out was in place and was being acted upon.

40. It is unfortunate the CDHB did not take up the option of a response or a letter to the editor offered by Mr Clarke. That undermines any grounds it may have for a complaint about the refusal by Mr Clarke to run a "correction" - since he did not believe the story was wrong.

Conclusion

41. The Council does not believe there are undertones of discrimination in the article against those with mental illnesses, as claimed by the CDHB but not argued in detail, in breach of principle 7.

42. The CDHB provided no detailed explanation of why it believed the article breached principles 4 (comment and fact), and 12 (corrections). The Council does not find grounds to uphold on those principles.

43. The complaint is upheld in relation to principle 1 as a breach of fairness and accuracy. In addition while the headline accurately reflects the article, so arguably principle 6 is not breached, it is an element of the breach in relation to principle 1. However, this matter could have been handled much better and more promptly by the CDHB communications team.

Press Council members considering this complaint were Liz Brown, Chris Darlow, Sandy Gill, Jenny Farrell, John Roughan, Marie Shroff, Vernon Small, Mark Stevens, Christina Tay and Tim Watkin.

Sir John Hansen took no part in the consideration of this complaint.

CASE NO: 2524 – PETER CROFT AGAINST THE PRESS

Peter Croft complains that a report in *The Press* was inaccurate when it stated that 60 percent of Christchurch's winter air pollution was caused by smoky chimneys and there were 25,000 homes with wood-burners in the city. The complaint is not upheld.

The Complaint

The day the report appeared Mr Croft wrote to the newspaper

challenging its figures but the letter was not published. It had pointed out that just over a year earlier *The Press* had obtained figures from the Regional Council, Environment Canterbury, which stated that in 2014 domestic air pollution had been 49 percent of the total and that the number of log burners was 20,675.

Two weeks later Mr Croft wrote again to the paper noting his letter had not been published and asking if *The Press* intended to correct information that he believed was designed to mislead the public. Seven days after that, *The Press* printed a letter headed, "Clearing the air". It was signed by a Regional Council employee and claimed domestic air pollution was 67 percent of the total. That figure, said Mr Croft in another letter to the editor, related to 1999 and by publishing incorrect figures the Regional Council was grossly overstating pollution from domestic fires.

He asked that *The Press* either publish his letter, print a correction or produce an article presenting the true figures. When none of those had been done after 13 working days he complained to the Press Council.

Besides the issue of air pollution figures and the number of log burners in Christchurch, he complains that *The Press* put the number of high pollution nights last winter at eight but this number included two non-winter readings that were caused by salt or dust in the air.

The Editor's Response

Kamala Hayman, Fairfax Media Deputy Editor, Canterbury, Otago, says the article relied on information provided by Environment Canterbury (ECan) which is the statutory body charged with monitoring and controlling air pollution in Canterbury. The newspaper considers ECan to be a credible source. The figures Mr Croft prefers come from an earlier report by ECan. *The Press* publishes the latest figures available.

Ms Hayman said *The Press* cannot publish corrections to figures provided by official bodies based on information provided by readers. It had replied to Mr Croft's letters and explained that it would continue to investigate the city's air pollution through the winter.

The Complainant's Response

Mr Croft said he was not suggesting *The Press* should accept the word of readers over official figures provided by ECan but merely pointing out that last year *The Press* had sufficient concern to apply for the figures under the Official Information Act. On that occasion they did obtain the correct figure but the latest article, written by a different journalist does not use the updated figure the newspaper received in 2015.

The deputy editor, in an unsolicited further response, said the journalist who obtained the 2015 figure no longer works for Fairfax.

The Decision

It should be noted that Mr Croft's complaint does not include the unpublished letters. He accepts the newspaper was exercising its prerogative not to publish them. The Council also notes that Ms Hayman had taken the trouble to send him a personal reply to the letters.

His complaint is solely about the accuracy of the article but he has provided the Council with nothing to support his conviction that the figures published by the newspaper were wrong. The newspaper says it used the latest figures available from Environment Canterbury and the Council agrees it was entitled to rely on them.

The fact that the newspaper obtained a different figure a year earlier does not seem surprising. It is reasonable to suppose air pollution from domestic fires fluctuates from year to year, as would the number of household wood-burning fires in a city the size of Christchurch.

The Council notes that Mr Croft advised that two of the high pollution nights occurred in Summer and were as a result of dust or sea spray. The editor did not address this point, but it is to be hoped that the fact that high pollution nights need not necessarily relate to Winter smoke has been noted. This is not a material inaccuracy and is not worthy of an uphold decision.

Mr Croft clearly distrusts the Regional Council and gives examples, unrelated to this complaint, where their use of inaccurate figures has seen them found-against by the Advertising Standards Authority, and of their apology over the use of misleading photos to support their claim of environmental damage by farmers.

Perhaps the reporter who in 2015 applied for figures under the Official Information Act shared that distrust. But those figures, though obtained in 2015, were for the previous year, 2014. It is not clear why the complainant prefers figures that are two years out of date.

The Council has no grounds to find the published material inaccurate. The complaint is not upheld.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Chris Darlow, Sandy Gill, Jenny Farrell, John Roughan, Marie Shroff, Vernon Small, Mark Stevens, Christina Tay and Tim Watkin.

CASE NO: 2525 – MILES DAVIS AGAINST THE SPINOFF

Miles Davis complains that an article published on *The Spinoff* website on July 4, headlined *Holy shit, we found the worst 10 minutes of radio*, was wrong and offensive in its assertion that he was homophobic.

The complaint is upheld.

Background

The Spinoff's article was based on a segment of radio from Radio Sport, which was described by the staff writer Hayden Donnell as a 'whistlestop tour through the ugliest parts of New Zealand's sickly sports media culture'.

In support of his broader point, Donnell referenced a past statement made by NZRU chairman Steve Tew: "No one has yet said they're an All Black and gay, one day that will happen and I would hope that New Zealand is more than ready, in fact is welcoming of it."

To show Tew's hopes were useless while a homophobic sport media culture remained, the article cited statements by commentators Tony Veitch and the complainant Mr Davis.

Davis' statements had separately been Tweeted by Donnell and then embedded within *The Spinoff* article. They were a NewsHub column from Davis questioning whether international footballer Ronaldo's behaviour was linked to a break-up with a boyfriend, and one of Davis' own Tweets where he said "I hate faggots. Because they're offal....." alongside a photo of the offal-based traditional UK dish by the same name.

Complaint

The article asserted Davis was homophobic, which was incorrect and offensive.

He had been an unflinching supporter of gay rights and the article was an unflinching slur on his character.

Examples of Davis' past reports and social posts, used in *The Spinoff* article, did not support a claim of homophobia, and nor did additional examples provided subsequent to publication.

Response

The editor, Duncan Greive, argued the large number of examples provided by *The Spinoff* of Davis using gay slurs and insults were evidence of his homosexual prejudice.

Greive cited the two examples already used by Donnell, along with many others.

The collection of examples included ones where the words 'ponce' and 'fags' were used.

Discussion

Davis is a sport commentator with a degree of public profile. As such, he can expect some criticism.

The Spinoff article uses only two examples to illustrate its point that Davis is homophobic, but neither can be considered proof of prejudice towards gay people.

The Council can only consider the article on face value, but *The Spinoff* did provide additional and subsequent evidence.

Had Davis' use of the words 'ponce' and 'fags' (although the latter was used to describe himself), provided in the additional examples, been reported in *The Spinoff* article, the Council would be ruling differently.

The Spinoff article did not include any evidence of Davis being homophobic and the complaint is upheld.

It is worth the Council noting that the subject of sport media culture was worthy of *The Spinoff's* comment and analysis. Had the article stuck to the Radio Sport example, without involving Davis, the Council's decision would have been different.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Chris Darlow, Sandy Gill, Jenny Farrell, John Roughan, Marie Shroff, Vernon Small, Mark Stevens, Christina Tay and Tim Watkin.

CASE NO: 2526 – ANDY ESPERSEN AGAINST THE PRESS

Andy Espersen has complained that a court report published by *The Press* was in breach of Principle 1 of the Press Council principles (accuracy, fairness and balance), Principle 4 (comment and fact) and Principle 5 (columns, blogs, opinion and letters).

The Press Council does not uphold the complaint in relation to the three named principles which form the basis of the complaint by Mr Espersen.

Background

On Saturday May 28, 2016, *The Press* published a court report entitled “Murderer unmoved by victims’ anguish” written by journalist, Martin van Beynen in which Mr van Beynen reported on the sentencing of Russell John Tully for the murder and attempted murder of staff at WINZ Ashburton branch.

The court report included an observation by Mr van Beynen where he describes Russell Tully’s demeanour during sentencing, “How tiresome, his smooth hairless head and bloodless lips seemed to say.”

Mr van Beynen further remarks that the presiding Judge, Justice Mander noticed Russell Tully’s lack of remorse, “It is to be hoped that you might have gained some appreciation of their grief and pain, although regrettably from my observation it is not apparent that you much care.”

On Saturday May 28, 2016, Mr Espersen sent an email to ‘Letters to The Press’ outlining his disapproval of the court report written by Mr van Beynen. In a further email dated Friday 3 June, 2016, Mr Espersen sent an email to many different publications and individuals and noted in the body of the email, “The letter below was sent to *The Press* a week ago but was not accepted for publication...”

On Monday May 30, 2016, Mr Espersen lodged a complaint with the editor at Fairfax.

The Complaint

Mr Espersen complains about an observation made by Mr van Beynen of Russell Tully while he is listening to the victim impact statements being read out, “How tiresome, his smooth hairless head and bloodless lips seemed to say.” Mr Espersen believes that these words run counter to the statement of principles of the NZ Press Council as expressed in Principle 1: Accuracy, Fairness and Balance, which states that publications should not deliberately mislead or misinform readers by commission or omission. As well as Principle 4: Comment and Fact, this principle discusses the need to draw a clear distinction between factual information and comment or opinion and material facts on which an opinion is based should be accurate.

In his complaint to the editor Mr Espersen does not mention Principle 5: Columns, Blogs, Opinion and Letters, which also mentions the requirement for a foundation of fact.

Mr Espersen believes the remarks provided by Mr van Beynen are not objective and balanced and therefore breach the NZ Press Council principles.

Mr Espersen is concerned with Russell Tully’s state of mental health status, “Russell Tully is a sick man. He is suffering from paranoia, a paranoid type of schizophrenia.

In addition to his initial complaint to the editor, Mr Espersen sent a follow up email which went into further detail about Russell Tully’s mental health status. At the hearing Mr van Beynen captures a quote from Russell Tully where he accuses the Crown of a “major cover up” to hide the fact that he was not in his right mind. Mr Espersen is of the view that this statement “reeks with bias and unfairness.”

Mr Espersen believes the expression from Russell Tully “major cover up” shows the workings of a paranoid mind and

therefore Russell Tully “is not in his right mind.” According to Mr Espersen, an experienced reporter like Mr van Beynen would “know that”.

The Press Response

The editor of *The Press*, Joanna Norris defends the observation made of Russell Tully in court by Mr van Beynen.

Ms Norris remarks that “journalists covering court act as the eyes and ears of the public to ensure a transparent court process.” Which extends to journalists observing a defendant’s conduct or appearance.

The observation of Russell Tully’s demeanour reported on by Mr van Beynen and the comment provided by Justice Mander about Russell Tully’s lack of care in Ms Norris’ view does not breach either principle 1 or principle 4. There is no mention of principle 5 in the editor’s response.

Discussion

Journalists reporting on court proceedings need to provide enough information to allow the reader to gain an insight into the conduct and behaviour of an accused. In this situation, Mr van Beynen was providing context of Russell Tully’s behaviour which he observed while the victim impact statements were being read out.

The complainant has suggested that Mr van Beynen’s observation of the defendant and his comment, “How tiresome, his smooth hairless head and bloodless lips seemed to say.” is catering to the most base emotions of the mob. Mr van Beynen was reporting on what he had observed and his comment is expressed with the use of the term ‘seemed to say.’

Principle 1 outlines the requirement that publications should not deliberately mislead or misinform readers by commission. In the view of the Press Council, Mr van Beynen did not attempt to mislead or misinform readers by including his observation of Russell Tully’s demeanour when the victim impact statements were being read out. It is worth noting that the High Court found Russell Tully fit to stand trial for murder, “...there is no foundation for mental illness or impairment that would diminish your culpability either legally or morally.”

Principle 1 also requires publications be bound at all times by accuracy, fairness and balance. Court reporting is somewhat unique in that it requires the journalist to observe and report on activity within the court room including their observation of the accused, the bench and legal counsel. In the view of the Press Council, Mr van Beynen was providing a court report based on his observations.

A report on court proceedings blends factual information with comment or more accurately observation by a journalist. There is however a threshold requiring that material facts on which an opinion is based should be accurate. In the view of the Press Council, Mr van Beynen operated without the requirements of Principle 4.

The Press Council does not uphold this complaint.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Chris Darlow, Sandy Gill, Jenny Farrell, John Roughan, Marie Shroff, Vernon Small, Mark Stevens, Christina Tay and Tim Watkin.

CASE NO: 2527 – JOHN MCCARTHY AGAINST RURAL NEWS

Background

1. Farmer and director John McCarthy has complained about an item in *Rural News*'s satirical column, The Hound, on May 3 and about an article and another appearance in The Hound column (both May 24).
2. The stories cover the sale of Silver Fern Farms' (SFF) to Chinese investor Shanghai Maling and the criticism of that deal by McCarthy and others. They are just the latest in a series of debates between the paper and McCarthy.
3. The Hound column (which runs without a by-line) on May 3 claims the man behind moves to delay the Shanghai Maling takeover of SFF is Glenthorne Station owner John Shrimpton, "an ex-pat Pom" whose company address is in Vietnam.
4. The column on May 24 reports McCarthy's anger at the earlier column; "possible collusion" between the Meat Industry Excellence lobby group (MIE, which McCarthy used to chair), Shrimpton and Winston Peters as the reason for McCarthy's concern; and the fact a statement released by McCarthy was "re-publicised" by the white nationalist group The NZ National Front.
5. The May 24 article, by David Anderson, claims that a "consortium of political, industry and business interests" are seeking to overturn the SFF-Shanghai Maling deal.

The Complaint

6. McCarthy complains under three principles: 1) Accuracy, Fairness and Balance, 7) Discrimination and Diversity, and 9) Subterfuge.
7. While it took some effort to narrow the focus of McCarthy's concerns, ultimately he says the paper's criticisms of him paint him as "anti-Chinese and racist", are "incorrect conspiracy theories" and denigrate legitimate concerns raised by him and others. He found it particularly offensive to be linked to a racist right-wing group.
8. McCarthy argues the May 3 Hound piece is "vexatious" and incorrect on two fronts. First, it implies a liaison between Shrimpton and Peters in their opposition to the deal. He says "to the best of my knowledge" they have had no contact and acted "separately and independent" of each other. Second, it misrepresents the shareholders' concerns, by suggesting they are "racially based".
9. On the May 24 Hound column, McCarthy finds most offensive of all being linked to a white supremacist group.
10. As for the May 24 article, the complainant describes that as "incorrect and unfair".
11. McCarthy concedes the paper is right to report that he is a director of Shrimpton's Glenthorne Station. However, contrary to the story's suggestion, "we have both been careful to keep this separate" and he has not discussed the SFF deal with him or been privy to any discussions about the issue. He adds that the reporter "at no stage" sought comment from him.
12. McCarthy, who remains an MIE member, further

complains that the story's linking of MIE, NZ First and some SFF shareholders is without foundation, writing "I have asked and been assured that at no time has there been contact between Shrimpton, Gallagher et al and NZ First or representatives thereof".

13. His final complaint on accuracy is that the story alleges MIE is "directly involved" with the shareholders' group, whereas he says MIE made the deliberate decision to "curtail involvement with the SFF group". Anderson never contacted a member of MIE to check that.

Editor's Response

14. In reply to McCarthy, *Rural News* General Manager Adam Fricker writes that recent correspondence from the complainant amounted to "deliberate intimidation" and, in background for the Press Council, says McCarthy has been a persistent critic of the SFF deal and his "shoot-from-the-hip style" has concerned industry leaders.

15. Also as background, Fricker says MIE, NZ First and the Shrimpton group share the same worldview on meat industry matters and issue releases "usually in concert". "Mr McCarthy's claims that the parties have no association beyond a common worldview are either disingenuous or plain ignorant".

16. On the May 3 Hound complaint, Fricker says the Hound column states facts, which were raised "to highlight the hypocrisy of those two parties [NZ First and Shrimpton] lobbying to prevent foreign ownership of a New Zealand meat company".

17. On the May 24 Hound complaint Fricker denies linking McCarthy to the National Front. By revealing the group re-published one of McCarthy's statements, "it demonstrates that this group of racists has perceived Mr McCarthy's views on a Chinese takeover of SFF as being supportive of their own worldview. This is exactly the perception problem meat industry leaders were concerned about..."

18. Fricker says the May 24 article for the first time reveals McCarthy's formal commercial relationship with Shrimpton, relevant because both were lobbying to stop the SFF. In response to McCarthy's argument that he had never been involved in or privy to meetings or discussions on the issue, Fricker says "*Rural News* has never stated otherwise".

19. He also replies that *Rural News* never claimed MIE was "directly involved" with the shareholder group's actions. So no comment was sought from McCarthy to balance those claims, because those claims were in fact never made.

20. Fricker also argues that while McCarthy may want "the associations between these parties be kept under wraps", it is vital industry stakeholders have all the facts. He continues, that "our desks already groan under the weight of material from all parties mentioned in the articles", much of it has been published their positions on the industry issues are well-known. "The relationships between the parties have been less obvious until now, and are all either on public record or verified by other sources".

Discussion & Decision

21. The complainant offers no evidence suggesting *Rural*

News has failed to meet the standards outlined under Principles 7 and 9, so the complaints on those grounds are not upheld. The remainder of the discussion will focus on Principle 1.

22. The Council notes a significant amount of personal antipathy in the submissions from both parties, but the industry debate, broad brush criticisms of the *Rural News* and whether or not McCarthy is xenophobic or a bully are irrelevant to this body and complaint, as is McCarthy's father's former position on the Press Council.

23. The May 3 Hound column reports that Shrimpton is behind the call for SFF to run another poll on the merger and that his action "comes on the back of" opposition by Winston Peters. This does not imply a liaison, as the complainant claims, but simply reports a shared worldview. It is also reasonable for the paper to reveal Shrimpton's nationality and company address given the issues surrounding this case. McCarthy may disagree with the paper's argument, but it is based on fact and is newsworthy.

24. The May 24 Hound column is equally careful in its language. While it is undoubtedly critical of McCarthy, the complainant has taken a public –indeed vocal – stance on a controversial issue, and therefore must be willing to take as well as give.

25. As for the National Front reference, McCarthy does not dispute the fact that the group re-published his statement. It is undoubtedly newsworthy to report that but does not suggest any link between the complainant and the group. While McCarthy is offended by the column, the paper has every right to report the fact and the complainant does not have the right to not be offended.

26. The article creates more problems, however. The heart of the complaint about the article is that it was inaccurate when it alleged McCarthy, Shrimpton and New Zealand First were secretly involved in efforts to overturn the SFF deal with Shanghai Maling. The story, McCarthy says, was therefore unfair, as he was never approached for balancing comment.

27. Fricker accepts that balancing comment was never sought, but argues that's because the story doesn't say what the complainant claims it does. The story, he says, does not claim McCarthy was involved with the "eclectic consortium" it reveals. Indeed, it only says of McCarthy that he is "closely aligned to Shrimpton" and never specifies who, of those named in the story, are part of the alleged consortium. So the question becomes, does a reasonable reading imply McCarthy is part of the "group" or "consortium" unveiled by this story?

28. The Council believes it does. The purpose of the story is to reveal the existence of a group working together to oppose the deal, and it discusses McCarthy amidst those it is revealing (as Fricker says, for the first time) as members of this group. Anderson starts one paragraph just after some discussion of McCarthy, "Also linked...".

29. In his response, Fricker further claims McCarthy is part of the group in the report, saying the complainant wants to keep "the associations... under wraps". He continues that the relationships between the parties were unclear until this

report, but are "all either on public record or verified by other sources". The problem for *Rural News* is that none of those public records or sources are quoted. The article makes specific assertions about McCarthy, which may or may not be accurate, but offers no evidence to substantiate them or, as noted, right of reply to the complainant and others. Without that evidence the story does not prove its accuracy and without that right of reply, the story lacks balance. Therefore the complaint against Principle 1 regarding the May 24 article is upheld.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Chris Darlow, Sandy Gill, Jenny Farrell, John Roughan, Marie Shroff, Vernon Small, Mark Stevens, Christina Tay and Tim Watkin.

CASE NO: 2528 – RIGHT TO LIFE NZ Inc AGAINST THE NEW ZEALAND HERALD

1. Right to Life New Zealand complained that a column in *The New Zealand Herald* by Lizzie Marvelly, "It's her body, it should be her choice", breached Press Council Principle 1, Accuracy, Fairness and Balance.

Background

2. On May 28 *The New Zealand Herald* published a column by Lizzie Marvelly, "It's her body, it should be her choice", which presented her views on abortion.
3. Abortion is technically an offence in New Zealand under the Crimes Act (1961). The article outlined the process women have to go through as a result to get an abortion, including referral by a GP or Family Planning, and consultations with two certifying doctors.
4. Ms Marvelly wrote that although we are protective of individual freedoms, in the eyes of the law the decision as to whether an abortion can go ahead is not made by women by the doctors who care for them.
5. In practice, she said, the most commonly used justification is that continuing a pregnancy would cause serious danger to the mental health of the woman.
6. "In our modern, developed world, to have to claim mental suffering to two consultants in order to obtain an abortion is frankly paternalistic and patronising," she said.
7. Ms Marvelly argued that a woman should not have to speak to a counsellor or wait for an enforced period between appointments to think about her decision, particularly when she may have to travel great distances.
8. She said women in New Zealand should have access to abortion services regardless of where they live.
9. She maintained it was a basic medical procedure, safer than childbirth itself, but stigmatised even today.

10. The column also outlined the current situation with regard to abortion in other countries, specifically the United States and Britain, and criticised the actions of groups which publish emotionally charged newspaper ads, erect “condescending” billboards, create websites and crisis hotlines advertising their apparently neutral pregnancy services for women.
11. Ms Marvelly wrote that this results in an environment in which women are made to feel ashamed or judged for exercising a human right “that has been affirmed by the United Nations”.

The Complaint

12. Right to Life secretary Ken Orr complained that Lizzie Marvelly’s column breached Principle 1, Accuracy, Fairness and Balance. He also referred to Principle 4, Comment and Fact, and 5, Columns, Blogs, Opinion and Letters.
13. He said the article lacked balance because there was no comment from those opposed to abortion.
14. The main thrust of Mr Orr’s complaint appears to be what he considers are factual inaccuracies in Ms Marvelly’s column. These include:
 - a. The writer said “pregnancy does not discriminate between the prepared and the utterly unsuspecting, it just happens”. Mr Orr said, “Pregnancy does not just happen, it can be prevented by avoiding sexual intercourse”.
 - b. The writer claimed women have to plead grave mental suffering in order to gain an abortion. Mr Orr said that was not correct as abortion is “available on demand in New Zealand”.
 - c. By saying a woman shouldn’t need to justify her decision to anyone, least of all the Crown and its agents, Mr Orr said the writer fails to recognise the human rights of the child in the womb.
 - d. When the writer claimed women should have access to abortion services regardless of where they live, she failed to acknowledge that abortions are not available in some areas because doctors in those areas refuse to perform them.
 - e. The writer claimed abortions were a safe medical procedure, but failed to recognise that “abortion is not safe for the child who is violently dismembered in the mother’s womb”.
 - f. The writer stated that obstetricians and gynaecologists in the US are being shot, clinics bombed, and vulnerable women harassed, but failed to recognise that the violence at abortion clinics happened inside the clinic.
 - g. Mr Orr said the writer’s suggestion that the pro-life movement was responsible for the crimes committed in the US was “scandalous”. The pro-life movement is

“emphatically opposed to violence against women and their unborn, as well as murder of abortionists and violence against abortion clinics and staff”.

- h. Ms Marvelly’s wrote that amending the Care of Children Act 2004 making it mandatory for doctors to notify parents when under 16-year-olds seek an abortion would endanger vulnerable young women who seek an abortion as a result of incest or sexual violence and undermine the trust they have in their physicians. Mr Orr described her belief as “absurd”.
- i. He challenged the writer’s claim that the United Nations has affirmed that abortion is a human right, quoting Article 3 of the UN Declaration of Human Rights: “Everyone has the right to life”.

The Editor’s Response

15. *New Zealand Herald* Weekends Editor Miriyana Alexander denied that the column by Lizzie Marvelly breached Press Council Principle 1.
16. She said the column is an opinion piece, clearly labelled with the writer’s name on the print and online versions. Ms Marvelly was employed to write a weekly column to share her views with readers. The newspaper did not expect everyone to agree with her, but “freedom of expression is a principle we hold dear at the *Herald*”.
17. The editor said she did not intend to respond to the parts of the complaint which are simply views Right To Life holds in opposition to Ms Marvelly. “It is not Right to Life’s place to tell Ms Marvelly that she should hold the same view as theirs.”
18. On the allegation that the statement “the United Nations has affirmed that an abortion is a human right” is untrue because there is no UN Convention that recognises this “human right” the editor rebutted Mr Orr’s claim. Ms Marvelly did not say there was a UN Convention, she simply said that woman were “exercising a human right that has been affirmed by the United Nations”.
19. The editor provided several links to examples of the UN’s position on abortion in which it ruled that denying women abortions was a violation of human rights.

Discussion and Conclusion

20. Lizzie Marvelly is a regular columnist for the *New Zealand Herald* and her June 28 column on abortion was clearly an opinion piece on a subject that has for many years inflamed public debate.
21. By their very nature, opinion pieces are frequently provocative, offensive or controversial in subject and tone, but they are exempt from many of the rules which apply to news reports, as long as it is clear that they are the writer’s opinion. Principles 4, Comment and Fact, and 5 Columns, Blogs, Opinion and Letters, both require that material facts on

which an opinion is based should be accurate, with Principle 5 stating that with opinion pieces, balance is not essential.

22. It is clear to the Press Council that the inaccuracies Mr Orr alleges are in fact the views of the writer, which differ markedly from those held by Right to Life. Rather than attempting to prove the writer's statements are incorrect, Mr Orr has simply countered them with the responses that his organisation routinely uses on this topic.
23. Ms Marvelly's opinion may well be unpalatable to many, but that does not make it wrong. We agree with the editor when she says: "It is not Right to Life's place to tell Ms Marvelly that she should hold the same view as theirs."
24. As an opinion piece, the column was not required to provide balance and the Press Council finds no breach of Principle 1 in terms of fairness or accuracy.
25. The complaint is not upheld.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Chris Darlow, Sandy Gill, Jenny Farrell, Marie Shroff, Vernon Small, Mark Stevens, Christina Tay and Tim Watkin.

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

CASE NO: 2528 – RIGHT TO LIFE NZ Inc AGAINST OTAGO DAILY TIMES

Introduction

Right to Life New Zealand Inc (the complainant), through secretary Ken Orr, alleged that an article in the *Otago Daily Times* (the newspaper) on 4 April 2016 breached Principle 1 (Accuracy, Fairness and Balance) of the New Zealand Press Council Statement of Principles.

The complaint was not upheld.

Background

The article, headed "Euthanasia advocate well received", outlined a speech given at the National Rural Health Conference in Dunedin by Assisted Dying Advocate, Matt Vickers. Mr Vickers is the widower of Lecretia Seales who challenged the Crown on her right to choose how her life ended, by way of court action prior to her death.

At the conference, Mr Vickers spoke about assisted death, his wife's case and other information supporting assisted dying that he had accessed from overseas.

The Complaint

The complainant objected to the terminology used ("assisted dying") as he believes that assisted dying is actually "killing". He also objected to the use of the term "quality of life" as he believed that those advocating for assisted dying were trying to change the idea of "sanctity of life" to one of "quality of life" to assist their cause.

He believed that the newspaper had a responsibility to provide opposing views in the article. He stated that "this was not the time to be neutral but that the newspaper should be defending the sanctity of life of every member of our

community".

The complainant provided information to the Press Council from various sources both in New Zealand and overseas to support his point of view which opposed assisted dying and which he believed the newspaper should be providing to the community in their publications

The complainant acknowledged that the article was a report of Mr Vickers speech to the conference and that the newspaper had a right to report that speech, but he also believed that the newspaper should have included information on the opposing viewpoint at the same time.

The Newspaper's Response

Newspaper editor Barry Stewart replied that the article was a standard newspaper report covering Mr Vickers speech and the opinions expressed were clearly attributed to Mr Vickers.

The editor noted that while the complainant did not accept that the term "assisted dying" is in common usage, it clearly is in common usage and a google search would show this.

He also noted that while the complainant objected to the term "assisted dying", changing the terminology would have made the reporting inaccurate.

The article was not pro nor against assisted dying, it merely reported the speech and attributed it to the speaker.

The newspaper also gave the complainant the opportunity to present his view in an opinion piece in the newspaper which he accepted. That opinion piece was published in the newspaper on 27 April 2016.

Over time, the newspaper had published articles on both sides of the debate.

Discussion

The article was a factual reporting of Mr Vickers speech to a conference and was reported as such with the speaker named. It did not need to go into the wider issues of the debate on assisted dying.

It did not advocate for or against euthanasia but rather outlined the information covered by Mr Vickers speech. There was no lack of balance, fairness or accuracy.

While the complainant might not agree with the terminology used, which is his right, it is in common usage and there are people who would disagree with his opinion as is their right.

Following his complaint to the newspaper, the complainant was given the opportunity by the newspaper to provide an opinion piece covering his viewpoint and information supporting that viewpoint, which he accepted and had published.

The complaint was not upheld.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Chris Darlow, Sandy Gill, Jenny Farrell, John Roughan, Marie Shroff, Vernon Small, Mark Stevens, Christina Tay and Tim Watkin.

CASE NO: 2530 – COMPLAINT AGAINST NEW ZEALAND WOMAN'S WEEKLY

A complaint has been made to the Press Council by the

husband of one Raquel Roderick that a story published in *New Zealand Woman's Weekly* (*NZWW*) on March 7, 2016 and titled "Abuse survivors share their stories; 'You are not alone'" breached the Press Council's Principles one (accuracy, fairness and balance), two (privacy), three (children and young people), eight (confidentiality) and nine (subterfuge).

The story reported the initiatives taken by two women, each of whom said that they had left abusive relationships, in publicizing the steps women in similar situations could take to seek help. One of the women, Ms Roderick, described the abuse she said she suffered in a relationship along with the actions she took to leave her husband and to improve her life and employment prospects. The article identified Ms Roderick's children albeit by their first names and ages only.

The Complaint

The complainant is married to Ms Roderick although they have separated. Despite not being named in the article the complainant says he was identified as the alleged perpetrator of the abuse by the references to Ms Roderick's marriage and to the children. The complainant denies that he ever abused Ms Roderick physically or otherwise. He says child custody issues between Ms Roderick and himself are currently being dealt with by the Family Court, these proceedings being confidential. The complainant says the article was unfair and lacked balance. He was not approached by *NZWW* as the story was being written, let alone given the opportunity to comment. He says that anyone reading the article who knew the couple would have concluded he was abusive toward his wife. He says this is wrong.

The complainant says too that the article compromised his privacy and breached confidentiality. He also says *NZWW* should not have named the children.

The complainant does not challenge *NZWW*'s right to publish "abused womens' stories". His complaint relates to only to those elements in the story which involve his alleged behaviour and the children. He has provided the Council with correspondence passing between his lawyer and the lawyers for *NZWW*.

The Response

NZWW has responded to the complaints comprehensively. *NZWW* makes two essential points.

First, it says it was and remains satisfied Ms Roderick was being truthful when she recounted her experiences of abuse. *NZWW* does not believe the complainant.

Secondly, and more importantly in the context of the Council's principles, *NZWW* says "[*NZWW*] is a magazine which publishes material of particular interest to women. This article was an important human interest story primarily about the issue of family violence...." *NZWW* says that the inclusion of any comment from anyone who is claimed to have abused a woman the subject of the article would have "undermined" the story's purpose. *NZWW* says that "the requirement for balance should not require equal time to be given in an article to a person who is alleged to have perpetrated abuse on the woman who is the subject of the article, especially when the alleged perpetrator of the abuse is not named in the article". *NZWW* says the appropriate

balance was struck by it not mentioning the complainant by name.

NZWW stresses the high level of domestic violence in New Zealand. Many victims are "afraid to speak out". The story's purpose was to "show there is hope after a [abusive] relationship ends... It is in the public interest that the media is able to tell stories such as Ms Roderick's and shine a light on family violence, in order to encourage other women to seek help". The story did not "focus" on Ms Roderick's abuse claims.

NZWW also denies the complainant's claim his privacy was breached (he was not named), that the article was detrimental to the children (they not being readily identifiable since their surnames were not published), that the detail in the story was obtained by subterfuge or that there has been a breach of confidentiality as it affects the complainant. *NZWW* says anyone able to identify the complainant from the story will "likely know" about the breakdown in his relationship with Ms Roderick. Conversely, people who do not know the complainant will be unable to identify him.

The Decision

A majority of the Press Council agrees with the complainant in relation to his complaint that *NZWW* breached Principle one when publishing the story.

The majority makes the following observations in connection with Principle one. Although the Council cannot determine whether Ms Roderick or the complainant are telling the truth as to the abuse allegations, one aspect is clear. *NZWW* did not seek the complainant's response when writing the story. Nor did *NZWW* undertake any independent background checks as to the veracity of Ms Roderick's account at least as far as her abuse allegations are concerned. While the Council accepts it was not necessary for *NZWW* to record the complainant's version of events in any detail, Principle one required the magazine to at least try to communicate with him and, assuming he would have denied the claims, record the denial. In referring to the marriage and the children in its story *NZWW* had a duty to also give the complainant the opportunity to comment. By not seeking and mentioning such comment the story lacked balance.

Putting it another way the majority of the Council does not agree with *NZWW* when it says that the story's message overrode the requirement that the opposing voice be at least noted. Nor does the Council accept that the article's important thrust (notably that women experiencing violent relationships have options) would have been watered down simply because the complainant's denials were mentioned. The majority of the Council does not agree either that *NZWW* could avoid Principle one by avoiding naming the complainant. It is clear he is recognisable in his community. *NZWW* could not assume, as *NZWW*'s lawyer has argued, that the few people who knew the couple were already aware of the issues between them. Some or possibly all of those people may not have been so aware.

Three members of the Council disagree with the majority in connection with Principle one. These members agree with *NZWW* when it says the public interest overrode the requirement for balancing comment from the complainant to be published. They also note that the article (as opposed to

NZWW's comment on the complaint) does not endorse Ms Roderick's account of the abuse.

The Council, unanimously, sees no basis for the magazine identifying the couple's children. Principle three is clear. In cases involving young children "editors must demonstrate an exceptional degree of public interest to override the interests of the child or young person". This is not one of the cases the Principle refers to. The purpose of this article could have been served just as well without the children having been identified.

Insofar as the complainant's other complaints are concerned, the Council, unanimously, does not accept there has been a breach of privacy, a breach of confidentiality or that that *New Zealand Woman's Weekly* obtained the story by subterfuge.

The Council upholds the complaints in relation to Principles one and three but not in relation to Principles two, eight and nine.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Chris Darlow, Sandy Gill, Jenny Farrell, John Roughan, Marie Shroff, Vernon Small, Mark Stevens, Christina Tay and Tim Watkin.

CASE NO: 2531 – KARL BOWERS AGAINST WESTERN LEADER & STUFF

Background

[1] The article headlined "'Shining star' killed by his mum", by Adam Dudding, ran on *Stuff* and in the *Western Leader* on July 28, 2016, re-telling the story of the death of eight year-old Dominic, who was killed by his mother Kim in a murder-suicide in 2009. Kim had suffered from "serious depression for years" and the story ran as part of the Fairfax series, 'Faces of the Innocents', designed to shine a "spotlight on children who have died from neglect, abuse or maltreatment".

[2] Complainant Karl Bowers is the child's uncle and Kim's brother, while the article drew from the public record, an interview with Alex, another of Kim's sons, and one of the child's teachers, Brenda Cronin.

Complaint

[3] Mr Bowers has focused his complaint on three principles: 1) Accuracy, Fairness and Balance; 2) Privacy; and 4) Comment and Fact. However his central concerns are essentially issues of accuracy, fairness and privacy, so principle 4 is not relevant.

[4] Mr Bowers' complaints are effectively threefold. First, he argues that his nephew's story has no place in a series about what Fairfax labels "children who have died from neglect, abuse or maltreatment". Instead, his death - and his mother's - should be seen as a mental health tragedy, a "totally separate issue altogether".

[5] It is also unfair to place the story, as Fairfax did, alongside an article about the murder of Moko Rangitoheriri, a clear case of ongoing child abuse. Bower writes that while Kim ultimately made "the wrong decision to take Dominique's life... My sister never, ever neglected, abused or maltreated her children".

[6] "There is a lot more" to the story that the paper was not

aware of, Mr Bowers says, before detailing some personal family information that the Council has chosen not to recount here out of respect for the family's privacy. Those were the core reasons for her actions, and so the story was both unfair and inaccurate.

[7] Second, the complainant was disappointed and angered "that after seven years the dirt has been dug up again". It is both unfair and an invasion of his privacy to force him to relive the tragedy "when it should have been permanently left to settle".

[8] Third, Mr Bowers complains that families who have suffered the loss of loved ones have no say as to what is printed about them nor any assurance that further articles won't be published at any time. He says "media bullies" have violated his privacy. "Who has given the media the right to make these decisions?" he asks, adding that every story compounds his hurt and trauma. He wants Fairfax to be instructed to never again publish anything about his sister and nephew.

Editor's Response

[9] *Stuff* editor Patrick Crewdson replies that the 'Faces of Innocents' series relies on a database of 210 children who have died as a result of abuse, neglect or maltreatment since 1992 and stories about 90 have been published. "Our position is that every child victim deserves to be represented by more than a statistic," he writes. "The community should learn from each death and try to prevent a repeat so that the child victim toll can come down".

[10] While accepting that Dominic's death was a tragedy and that Kim was "a loving mother who was tragically troubled by mental health problems", he says "that her actions can be explained by a mental health diagnosis (and other personal circumstances outlined by Mr Bowers in his letter), does not diminish Dominic's status as an innocent victim who died as a result of maltreatment". Therefore it was accurate to include Dominic's story in this series.

[11] On fairness, Crewdson argues that every case has unique circumstances, often with mitigating circumstances for the adult involved; the article acknowledged that here. It did not attribute blame but rather urged New Zealanders to "consider more complex cases such as this and look for solution to preventing such cases from happening again".

[12] Further, the story mentioning Moko Rangitoheriri that ran beside the one on Dominic and Kim was not about his death, but rather an "explanatory editorial" explaining the purpose of the series.

[13] Crewdson did not directly address the complaint regarding the paper's decision to revisit the story seven years after the boy's death, but did say that the series was launched in November 2015 covering all child deaths dating back to 1992 as an effort to remember those children and learn from them.

[14] On privacy, Crewdson concedes permission was not sought from the families of the deceased, although Dominic's family - in the form of his brother Adam - was approached for comment. Fairfax would expect many of the families

involved to find the stories painful, “but the death of a child, while tragic, is a public fact” and “we believe the public interest value of this project outweighs considerations of personal privacy”. The series’ goal of reducing child deaths makes the reportage not only justifiable, but “necessary”.

Discussion & Decision

[15] The Council’s privacy principle demands that “those suffering from trauma or grief call for special consideration” and it seems important to note at the start of our discussion that every child’s death, whatever the cause or circumstances, is both a private and public tragedy. It’s impossible not to feel Mr Bower’s heartache and deep grief in his complaint and his plea for families to be heard. Yet it is equally impossible to ignore Fairfax’s plea for New Zealanders’ to learn from the deaths of so many children and prevent further grief and heartache.

[16] To Mr Bowers’ first complaint, by all accounts Kim did not abuse or neglect Dominic. Quite the opposite. However, even allowing for the private detail revealed, the mental health issues discussed and Kim’s reputation as an “amazing mother”, the Council believes most readers would agree with the paper’s view that killing her son could reasonably be defined as “maltreatment”. While Kim’s mental health undoubtedly casts the murder-suicide in a particular light and highlights other issues on top of those reported, Dominic was also undoubtedly an innocent victim, and thereby an appropriate subject for this series.

[17] The article that ran alongside Dominic’s story was not about Moko, as Mr Bowers says, but rather a sidebar discussing the highest profile child death this year, the public outcry it prompted and why the paper had revisited a seven year-old story that would otherwise have long ago lost its news value.

[18] As for the other reasons behind Kim’s actions that “only family knew of”, the very fact the family has chosen not to discuss them publicly means Fairfax cannot be condemned for not reporting them. Dudding did approach a family member and asked to speak to more, but was told they would not welcome his approach.

[19] As painful as it must be for Mr Bowers to have the death of his nephew and sister again discussed in public, the Council does not accept Fairfax was digging “dirt” or should be censured for revisiting this tragedy. The story - especially in the context of a series trying to learn the lessons of the past and New Zealand’s terrible record of violence against children - is one of high public interest and these events, in part, belong to all New Zealanders.

[20] However heartfelt Mr Bower’s plea on behalf of grieving families, they cannot practically or ethically be given a veto over such stories. For a start, families do not always speak with one mind and drawing a consistent line, beyond which a family’s trauma would be too great and they should have the right to stop publication, would be impossible.

[21] Most significantly, so long as the media acts within established ethical principles, the public interest in media freedom simply too high. Transparency around criminal and mental health issues is fundamental to an open society; the

privilege to report without fear or favour includes reporting without the fear of offending or upsetting; and the importance of being able to learn from tragedy so that other tragedy may be prevented will almost always over-ride even the most terrible personal grief.

[22] The complaint is not upheld.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Chris Darlow, Tiumalu Peter Fa’afiu, Sandy Gill, John Roughan, Vernon Small, Mark Stevens, and Tim Watkin.

CASE NO: 2532 – PETER DAY AGAINST WAIKATO TIMES

Peter Day complains that an opinion piece by Chris Trotter published in *Waikato Times* on June 17, 2016 and titled “One can’t deny religion as a motive” breaches principles one (accuracy, fairness and balance), four (comment and fact), six (headlines and captions) and seven (discrimination and diversity).

Background

Paraphrasing, Mr Trotter’s piece opened with reference to those sections from the Bible’s Old Testament (Leviticus) as condemn homosexuality. The piece emphasised the conflict between “those who draw their inspiration from the vengeful God of Leviticus [and] those who worship the Loving God embodied by Jesus of Nazareth.”

Mr Trotter proceeded to connect the rigid doctrines espoused by Leviticus and by radical Islam with recent terror events (notably the Orlando Florida massacre).

Essentially Mr Trotter sees a direct link between extreme religious views and terror. To down play the link would “be both unhelpful and unrealistic.”

The Complaint

Mr Day maintains the Trotter article breaches the Council’s principles because “it is clearly based on a very selective and very antagonistic view of the Bible.” Mr Trotter’s views that “God is vengeful and angry is ... untrue and bigoted and unbalanced.” To the contrary “God is loving and forgives sinners.” Mr Day argues that the sections from the Bible Mr Trotter mentions are “obscure.” There are many other passages in the Bible which contradict Mr Trotter’s argument. To link religion (especially the Christian religion) with terrorist attacks is wrong. Mr Day claims that Mr Trotter’s arguments are “fallacious, unbalanced and very offensive”. Mr Day refers to the great good Christians due in the world, good Mr Trotter refuses to acknowledge.

Mr Day takes particular issue with Mr Trotter’s linking of the Orlando massacre with the passage from Leviticus. Mr Day refers to an article published in the UK *Daily Telegraph* after the Trotter piece appeared casting doubts on the early claim that the Orlando gunman was an Islamist terrorist. The *Telegraph* story referred to a Spanish media report suggesting the gunman was in fact motivated by jealousy rather than by his religious beliefs.

Mr Day also complains that *Waikato Times* refused to publish a letter from him responding to Mr Trotter’s views.

Response

Waikato Times disagrees with Mr Day. Its editor refers principally to Mr Trotter's right to express his opinion this being an "honestly [held view] based on what he knew at the time. It was not a news story."

While *Waikato Times* acknowledges the line developed by the later *Telegraph* story it says the Trotter piece was written in the immediate aftermath of the tragedy. At this point it was generally thought the perpetrator was somehow linked to radical Islam. In due course *Waikato Times* had published the substance of the *Telegraph* article. *Waikato Times* said it is not required to apologise (as Mr Day requires) for putting the views of a commentator based on the "summary of events... as known at the time of writing."

Waikato Times says, further, that the headline to the piece was accurate in that it summarised the author's argument. Likewise the newspaper did not discriminate. The paper says that religion is a legitimate subject for discussion as principle seven allows. There was no gratuitous emphasis. As to Mr Day's reference to the non-publication of his letter, the newspaper points to a letter from Mr Day's on a similar theme it published a few days before the Trotter piece appeared.

Decision

The Council does not agree with Mr Day. As it has said many times and as principle four provides, newspapers are free to publish opinions provided they are clearly marked as such. Opinion pieces may be one sided. They need not refer to opposing views. It is only in rare instances where the opinion will clearly cause actual harm that the Council's principles will be breached. This is not one of those cases.

The Council agrees that the headline to the article was not misleading. It also finds this piece did not involve any inappropriate discrimination

The Council also agrees with the newspaper when it says it is not required to apologise for publishing Mr Trotter's views in the light of the *Telegraph* article. The Council does not agree with Mr Day when he claims the gunman's true motivation was as described in the *Telegraph* story. The *Telegraph* report, in the Council's view, simply advances another theory behind the tragic Orlando massacre.

Finally the Council accepts *Waikato Times* was not required to print Mr Day's letter written in response to the Trotter opinion. Newspapers are not obliged to publish correspondence received from readers. In any event the Council accepts that Mr Day's wider views were given fair hearing in his earlier letter.

The complaints are not upheld.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Chris Darlow, Tiimalu Peter Fa'afu, Sandy Gill, John Roughan, Vernon Small, Mark Stevens, and Tim Watkin.

CASE NO: 2533 – DUNEDIN CITY COUNCIL AGAINST CRITIC

Introduction

Dunedin City Council complained about two stories in *Critic*,

the student magazine of the Otago University Students' Association.

The articles were *DCC accused of 'active and wilful campaign to discourage student voters'* and *Emails reveal DCC deception over 2013 voting booth decision*, both published in Issue 15, 2016.

Although the two complaints were made separately, the subject matter was related and elements of both the complaints and the responses merged. The Press Council considered them together.

The Dunedin City Council said the articles breached Principles 1, Accuracy Fairness and Balance; 4, Comment and Fact; 6, Headlines and Captions; 10, Conflicts of Interest and 12, Corrections.

In regard to Principles 1, 4 and 12, the complaints were upheld, in part at least. In regard to Principles 6 and 10, the complaints were not upheld.

Background

Critic's article headlined *DCC accused of 'active and wilful campaign to discourage student voters'* centred on negotiations between the Council and the Otago University Students' Association over the provision of a special voting booth on the campus for the upcoming local government elections.

The local government elections in Dunedin are held by postal vote. However, according to the *Critic* story, special voting was particularly important to students, who might be registered to vote at old addresses, or in their home electorate.

The story says the Association pulled out of the arrangement because of demands from Council officials, which included the location of the booth and the need to have it supervised. It also suggested concern around how close incumbent mayoral candidate Dave Cull was to the process.

Instead, the Association planned an extensive initiative to promote voter enrolment and election participation among students. They would also point students to a Post Box on campus.

This initiative, according to *Critic*, also faced resistance from the Council because a bulk request for enrolment forms was denied and only provided 'on a piecemeal basis'.

Critic relied heavily on the use of unnamed sources in its reporting, only directly quoting the Association's Campaigns Officer Sean Gamble by name.

The second *Critic* story was based on a series of emails - sought in May 2016 under the Local Government Official Information and Meetings Act - sent/received ahead of the 2013 election.

It said the emails, between DCC Electoral Officer Pam Jordan and peers from other councils, showed the Dunedin City Council had misled and withheld information from the Association and the media about a decision not to place a special booth on campus in the 2013 election.

Critic said claims that the 2013 decision was based on the then president of the Association standing for Council were

incorrect, and that the emails prove there were plans afoot to scrap the idea of a booth whether the president stood or not.

The Complaint

Council communications and marketing manager Graham McKerracher said *Critic* did not contact Jordan or Cull for a response to the story, in breach of Principle 1.

Critic further breached Principle 1 by using unnamed sources to quote unnamed council representatives, effectively fabricating comments and misleading readers.

There is a clear implication in the story that students are being disenfranchised by the lack of a voting booth on campus, but the magazine's audience are not told the election is by postal vote until the end of the story.

Because the provision of enrolment forms is a matter for the Registrar of Electors rather than the DCC or its Electoral Officer, *Critic* breached Principle 4 because its information was factually incorrect.

Lastly, in regard to the 'active and wilful campaign' story, by quoting only Association representatives on an Association matter in an Association-sponsored publication, *Critic* had a clear conflict of interest and breached Principle 10.

In regard to the second story based on the 2013 election and emails, *Critic* further breached Principle 1 with its slanted statement that it 'acquired' the emails when they were provided as a result of a Local Government Official Information and Meetings Act request.

The second was prompted by an old *Critic* report, from 2013, which the Council argues was incorrect at the time so errors were rehashed. Proper reporting and fact-checking would have shown this.

The booth was declined because the then Association president, who had been advocating for the booth in 2013, stood for Council.

Both in 2013 and this year, the Council's Electoral Officer was concerned that students could not promote candidates near the booth and that drop boxes for voting papers had to be attended and secure to ensure votes were protected.

The 'deception' headline in the second story breached Principle 6 because it effectively called the Electoral Officer a liar and implied she manipulated the electoral process and disadvantaged the voter.

Mr McKerracher also believed that, by not correcting errors and apologising to the Council and its Electoral Officer, it was in breach of Principle 12.

The Response

Editor Hugh Baird argues that, although the Electoral Officer and the Mayor were not directly quoted, the Electoral Officer's position was referenced following interactions between her and the reporter.

Baird acknowledges the reporter made an error by confusing the Council's obligations with that of the Registrar of Electors.

As far as a suggestion of conflict of interest, '*Critic* is completely independent of OUSA and there is no conflict of

interest at all'.

Although the fact Dunedin City Council's election was by postal vote was mentioned only in the last paragraph of one of the stories, it was mentioned.

Electoral Officer Pam Jordan was quoted from an email exchange between her and the reporter.

Lastly, comments about the Electoral Officer in the second story were not defamatory and *Critic* believed she was a liar, as illustrated by the 2013 emails.

Discussion and Decision

In general the Press Council has accommodated student magazines because of the genre. However, the Press Council considers that special consideration is reserved for satire and material specifically relevant to its student audience, not general news reports.

From the outset, the Press Council deemed these particular *Critic* articles as being subject to the same tests and standards as any other member organisation would face.

There are many claims in the two complaints and the Press Council will handle each one individually.

Principle 1 - Upheld, in part

Dunedin City Council representatives (specifically the Electoral Officer) should have been contacted for comment. The brief email exchange between the reporter and the Officer was not enough and *Critic* has an obligation to put all the relevant claims and comments, across both stories, to the Council for balance. A fair voice must be given to the opposition view.

Unnamed sources should be used only in cases where there is no alternative to telling a story that is in the public interest. The use of unnamed sources went too far in this case, particularly when used to support third hand commentary.

In itself it is not a requirement that relevant facts, ie that local government elections in Dunedin are held by postal vote, be carried high up in a story. Although it is worth noting that *Critic's* audience would have been better served by the elevation of this detail in the story.

Critic's statement that it had 'acquired' emails does not, as the DCC argues, suggest they were obtained via clandestine means.

Principle 4 - Upheld

Critic was wrong to suggest DCC or its Electoral Officer had refused the bulk request for enrolment forms, and the editor agrees. This error was not corrected.

Although not specifically relevant to Principle 4, the DCC is right to expect *Critic* to include the facts around the promotion of candidates near voting booths and the security of voting papers. Had proper opportunity been given to the Dunedin City Council, this could have been achieved with balancing comment.

Principle 6 - Not upheld

It is not for the Press Council to rule on claims of defamation. The headline matches the story and does not label the

Electoral Officer a liar.

Principle 10 - Not upheld

While it is not useful for the editor to argue *Critic's* complete independence from the Association, when by the publication's own admission it is the 'student magazine of the Otago University Students' Association', it cannot be said that an editorial arm of a media organisation cannot operate independently of its owner.

Principle 12 - Upheld

Critic was not required to apologise to the Electoral Officer, as the DCC argues, but it did need to correct an error of fact.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Chris Darlow, Tiumalu Peter Fa'afiu, Sandy Gill, John Roughan, Vernon Small, Mark Stevens, and Tim Watkin.

CASE NO: 2534 – SHARYN GREEN AGAINST WAIKATO TIMES

1. Sharyn Green, defence counsel for a young man convicted of rape, complained that the *Waikato Times*' report of his sentencing was inaccurate, unbalanced, mixed comment and fact, and included an insensitive photograph needlessly large. The complaint was not upheld.

The Article

2. The crime had not had the usual coverage that would emerge from a trial, since the accused man pleaded guilty before the trial was due. The newspaper, therefore, used the sentencing to tell the story of what had happened. It did so on the front page of its Saturday edition, taking up most of the page with a photo of the offender and a story headed, "Rapist terrorises disabled women in own home".

3. The story was a strongly written account of an appalling ordeal for two young women who suffered from an intellectual disability and had been living independently for just nine months. They were in bed in separate rooms the night their home was invaded. Neither had any previous sexual experience. The report was written from their point of view. It used the police summary of facts at the sentencing to report the sickening sequence of events and it included quotes from their victim impact statements.

4. It quoted the sentencing judge's praise for their courage in going to the police despite the rapist's threats to kill them if they did. The newspaper made their courage the theme of its story.

The Complaint

5. Sharyn Green complained the report was not accurate and balanced because it used only the Crown's recital of facts and the victim impact statements and not her submissions for the offender, Te Anga Tipene. It failed to include "a sincere apology and complete remorse" that she had offered to the victims on Tipene's behalf.

6. She believed the apology was accepted by the court and reflected in the sentence set. The tone of the article, Ms Green complained, would lead readers to believe this was the most serious offending of its kind, which it was not, as reflected in the sentence (11 years in prison).

7. "Comment and fact" were inaccurate. It was reported that either or both women suffered from physical disabilities. This was never expressed in court.

8. The size of the photograph was gratuitous. Mr Tipene was grief-stricken throughout the sentencing but the photograph used by the newspaper simply depicted a young man, very likely Maori or Polynesian. It may be that the seeing such a large photograph was insensitive to his victims.

9. The purpose of her complaint was to prompt the editor and reporters to reflect upon the principles of good, investigative journalism rather than sensational and inaccurate reporting. There was "a more fundamental and important" story within this tragic event. It is about binge drinking among youth and the shortage of forensic doctors in New Zealand's justice system, which Radio NZ had reported.

The Editor's Response

10. The Editor in Chief, Jonathan MacKenzie, argued newspapers are not obliged to report a sentencing with the same balance they must report a trial. The *Waikato Times* decided the angle and thrust of the story based on what it fairly believed to be of most interest to readers.

11. Having read the judge's sentencing notes, Mr MacKenzie believed the report did Ms Green's client a service by leaving out the most horrific details of his offences. He challenged her claim that her client's remorse was accepted by the court, noting the judge had said to Tipene, "You have not taken any steps to show your remorse."

12. The facts alone showed this was a serious offence of its kind. He argued it was not inaccurate to say the girls had a physical disability. They suffered from autism and a neurological disorder called dyspraxia that could affect their coordination in the way brain messages were transmitted to the body.

13. The use of a large photo was not unusual to illustrate a story on the front page. It did not convey whether a person was guilty or not, Tipene had done that with his admission of guilt. As for being Maori or Polynesian, the image would have been the same size if the offender had been any other ethnicity. It was not insensitive to the victims. The mother had thanked the newspaper for focusing on the bravery.

Discussion and Decision

14. The complaint cited the Press Council's principles of accuracy and balance, comment and fact, and the use of photographs, but the crux of the complaint was the question of balance.

15. The alleged inaccuracies — whether the victims' disabilities were physical as well as intellectual, and the relative seriousness of the offence — were debatable rather than inaccurate.

16. The need to distinguish comment from fact applies where readers might be confused. Readers of this report would be in no doubt they were being offered factual material, albeit with comments that arose from the facts.

17. The use of photographs in situations of grief and shock should be handled with sensitivity to those affected. The Council had no evidence the victims of this crime found

the photograph insensitive. The editor said the mother appreciated the newspaper's handling of the story.

18. Turning to the question of balance, the complainant told the Council in response to the editor's submission she was surprised that he did not consider a sentencing should be reported with the same balance required when reporting a trial. She believed the story should have made mention of the remorse she expressed on Tipene's behalf. She said she had read to the court part of a letter he had written to the victims that expressed sorrow and bewilderment that he could have committed such crimes, and expressed his realisation that his actions would affect both women for a very long time.

19. Newspapers are aware that both sides of a defended hearing must be covered and reports must be limited to what is said and done in court. Nothing extraneous must be written that could prejudice a fair trial. But it is the news media's understanding that once a trial has concluded, prejudicial considerations no longer apply. It is not unusual for the report of a sentencing to focus on the crime to the exclusion of pleas in mitigation, and often a great deal of additional material, gathered independently of the court, is published at that stage.

20. The requirements of balance will sometimes include a reference to points made on behalf of a convicted person at the sentencing but that is not required in this case.

21. The complainant has supplied the Council with the judge's sentencing notes to support her view that remorse was taken into account, but they do not support that view. Justice Duffy says (para 33), "I understand you were willing to undertake a restorative justice process with the victims. However, that process did not move forward and until Ms Green read out excerpts from your letter to the court today you have not taken any other steps to show your remorse. I do not consider an additional discount is appropriate in this case."

22. The judge was not sufficiently convinced of the claimed remorse to include it in her sentencing calculations and there was no need for it to intrude on a report of what these women suffered. The complaint on grounds of balance therefore is also not upheld.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Chris Darlow, Tiimalu Peter Fa'afiu, Sandy Gill, John Roughan, Vernon Small, Mark Stevens, and Tim Watkin.

CASE NO: 2535 – ADAM GREENWELL AGAINST Interest.co.nz

Introduction

Adam Greenwell has complained about an article that appeared on the online news site interest.co.nz on June 11, 2016 under the headline "Kea Street Cred and US\$1 bln promise lures Kiwi to front questionable financial service providers."

The complaint is not upheld.

Background

The lengthy article explained how Mr Greenwell, who is not a financier, had followed up on an advertisement on NZ

expats network Kea and was put in touch with US-based interests holding out the prospect of major investments of US\$1b in projects in NZ in line with the sustainability philosophy espoused by his mother Professor Liz Greenwell.

It details (including using websites but also information and correspondence provided by Mr Greenwell) Mr Greenwell's interactions with father and son Stan and Steven Medley and his efforts in setting himself up as the representative of their companies including those companies' links to dubious overseas entities described in other articles in the series.

These NZ companies' registered as financial service providers subsequently used Professor Greenwell's Palmerston North house as their physical office. The house was pictured in the article.

The article does not allege any illegal actions by the Greenwells, but rather presents Mr Greenwell as having been taken in or duped and to be continuing to hold out hope against the evidence that the investments may come to fruition.

It was by-lined with the names of freelancer Denise McNabb, interest.co.nz staffer Gareth Vaughan and Richard Smith of finance and economics blog Naked Capitalism.

The Complaint

Mr Greenwell argues the article at various points breached the principles of accuracy, fairness and balance, subterfuge, discrimination and diversity, corrections, fact and opinion and headlines and captions.

Specifically in relation to Press Council principles he complains:

- a) Not telling him that Naked Capitalism was involved in production of the article and its distribution was subterfuge.
- b) His company Town Green Music was wrongly named.
- c) He doesn't want to be called a Kiwi. He says his nationality is Irish though he obtained permanent residence in New Zealand in 1975.
- d) interest.co.nz breached privacy by publishing the photograph of his mother's house as well as its address as listed in Companies' Office records.
- e) Specifically mentioning Palmerston North as his base was intended to suggest something untoward, by implied comparison with big city-based firms, and was therefore discriminatory.
- f) interest.co.nz did not seek a right of reply over the allegation in respect of the Medleys' activities and their links.
- g) The headline reference to "questionable financial service providers" was discriminatory, pejorative and inaccurate.
- h) interest.co.nz mentioned the names of the Medleys were left out of his emails, but they were only left out of the emails he forwarded to them, not in the original communications with Internal Affairs and others.

- i) That McNabb showed a lack of impartiality by questioning him, a Catholic, working with Scientologists.
- j) That interest.co.nz showed discrimination including against small families, a mother and a son, by saying he appeared too close to his mother and was eager to further her lifelong work.

The Response

interest.co.nz is not formally a member of the Press Council. However Gareth Vaughan provided a short response, without rebutting the complaint in detail. He said interest.co.nz believed it had been fair and balanced in its reporting on Mr Greenwell and the companies he is associated with.

He said the article that featured Mr Greenwell was part of a series written by Vaughan, freelance journalist Denise McNabb and Richard Smith, a blogger from the Naked Capitalism website “on New Zealand’s role in the murky world of offshore finance”.

He said Mr Greenwell cooperated “to the extent of providing a series of documents including emails, letters and Companies Office filings. Denise McNabb spoke with, and interviewed him, by phone on several occasions. He was also in regular email contact with us”.

Discussion

To deal with the complaints listed above in order.

a) It is common for publications to run stories with multiple by-lines and there is no expectation all those interviewed for a story are informed of all those working on what could be disparate parts of the story. Articles are frequently syndicated or published across different platforms and failure to disclose them does not support a finding of subterfuge.

b) The company name was later corrected by interest.co.nz, although this did not happen as promptly as Mr Greenwell would have wished.

c) The term Kiwi as shorthand for a New Zealander or something New Zealand-based is common, especially in headlines where short words are useful. It may not be Mr Greenwell’s preferred description, but its use is not confined to NZ born or those with citizenship as he suggests. We note Mr Greenwell has been a permanent resident of New Zealand for 40 years.

d) There is no breach of privacy involved. Pictures of residential addresses are readily available on several property and mapping websites in this case a picture was sourced from QV and are in the public domain, as is the link between Mr Greenwell’s mother’s house and the companies mentioned in Companies Office records.

e) The reference to Palmerston North was factual and accurate and no implications are made, as a result, in the article. The inferences Mr Greenwell takes are his.

f) The Council has no first hand evidence to support or rebut the extent of contact (if any) between interest.co.nz and the Medleys in relation to this article. Mr Greenwell

acknowledges the Medleys are not part of the action he is taking, so the Council makes no finding on this aspect of the complaint.

g) The headline accurately and fairly reflects the article and its tenor.

h) interest.co.nz does highlight its decoding of the identities of “Mr” and “S” which does seem overdramatic given he only redacted the names from the version he provided to it, not in the originals. If interest.co.nz was aware of that it should have made it clear, but it does not claim the names were omitted in the original, so the Council makes no finding against it on that score.

i) It is not clear to the Council from the complaint how the alleged discrimination by McNabb is alleged to have coloured the article, so it makes no finding on the matter.

j) The Council’s view echoes e) above: That the inference is Mr Greenwell’s and if there is an implication it is that Mr Greenwell is motivated strongly by his respect for his mother and her work.

Conclusion:

Mr Greenwell was clearly hurt by the article and its theme that he had been “taken in”, which he rejects. His respect and consideration for his mother, and her work, is also without question.

The Council does not have the resources, nor is it its role, to undertake separate investigations of the matters covered in the article. There are also a number of issues involving minor factual matters (such as claims references to Steve or Stan Medley were mixed up) that the Council has not addressed individually and which would not influence its overall finding.

But in the Council’s view the article was fair, accurate, balanced and exhaustively documented drawing extensively on information provided by Mr Greenwell himself and information in the public domain. In the context of the evidence before it, interest.co.nz was entitled to draw the conclusion it did that Mr Greenwell was dealing with “questionable financial service providers”.

The complaint is not upheld.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Chris Darlow, Tiumalu Peter Fa’afiu, Sandy Gill, John Roughan, Vernon Small, Mark Stevens, and Tim Watkin.

CASE NO: 2536 – ADAM LANG AGAINST STUFF

Background

On August 10, Stuff.co.nz published an article entitled “Donald Trump alludes to shooting Hillary Clinton”. The article was from Paul McGeough, Chief Foreign Correspondent for the *Sydney Morning Herald*. The story was based on coverage from US media in which Republican Presidential nominee, Donald Trump, had made a speech at a supporters’ rally. Media had covered the rally in particular Mr Trump’s comments which some US media had portrayed as inciting violence against Democratic nominee, Hillary Clinton.

Many Americans are very protective of their Second Amendment right to bear arms. Mr Trump's speech at the rally was part of an orchestrated campaign to show that Hillary Clinton might seek to impinge that right if she were President. The exact controversial wording of Mr Trump's speech was "Hillary wants to abolish, essentially abolish the second amendment; and by the way, and if she gets to pick her judges, nothing you can do folks. Although the second amendment people, maybe there is, I dunno."

The comments received considerable international media attention.

The Complaint

On August 13, Adam Lang complained to Fairfax Media that the article breached Press Council principles 1 (Fairness, Accuracy and Balance) and 4 (Comment and Fact).

Mr Lang argues that the article is inaccurate. Mr Trump's spokesperson had confirmed following the speech to media that the words were not about inciting violence and the journalist ignored this and published "misinformation" about Trump suggesting American gun owners should shoot Hillary Clinton.

The journalist, Paul McGeough, offered his opinion in the article and therefore it was an opinion piece and not fact. The article was not portrayed as opinion.

Mr Lang said his expectation for remedial action was the article and headline to be altered to correctly state that the article was an opinion piece and not an article of fact. Mr Lang also wanted a retraction of the statements "the GOP candidate suggested American gun owners should shoot Hillary Clinton" and "Donald Trump alludes to shooting Hillary Clinton". He also wanted an apology from the journalist and for that apology to be published on the publication's website.

The Response

Patrick Crewdson (Editor, Stuff) responded to Mr Lang's complaint on 16 August. He said that he understood Mr Lang's basis for complaint however disagreed that it contravened any Press Council principles.

Mr Crewdson explained that the journalist was the chief foreign correspondent for the *Sydney Morning Herald*. The original article was published in that publication. Given his experience and role, the journalist was qualified to include analysis and interpretation in his articles without it necessarily constituting an expression of personal opinion.

In his response to the Press Council, Mr Crewdson adds that the article was news reportage that included elements of analysis on the possible meaning of the candidate's comments. The Editor said that Mr Lang had acknowledged the technique used by some journalists of weaving analysis into their articles so the issue in dispute is whether the journalist's interpretation was reasonable. This technique would be more prominent during political campaigns in which comments from candidates are open for analysis by stakeholders including media. The interpretation by the journalist given the context of other views within the article itself was reasonable.

Mr Crewdson added that Trump's comments in the speech sparked considerable controversy. Reputable media outlets around the world drew the same conclusion – that his comments could be interpreted as inciting violence. Mr Crewdson provided examples of this interpretation from *The Guardian* and *The Telegraph*. He added that CNN had subsequently reported that the US Secret Service was sufficiently concerned about Mr Trump's comments that they spoke with his campaign team about them.

Mr Crewdson said that the journalist reported Mr Trump's exact words and his campaign team's denial that he was "advocating any form of violence". There was also reaction from other interested parties. There was no risk of readers being misled.

The Decision

The comments from Donald Trump caused international controversy which was captured by traditional and social media channels. Stuff also had the video coverage of his comments as part of their August 10 article.

There seems to be growing consensus from media outlets that Mr Trump's words, whilst possibly clumsy in delivery, did give the impression to the public that he was alluding to second amendment supporters being able to do something untoward to Hillary Clinton. The word allude means to suggest or call attention to indirectly or hint at. Based on the consensus by global media, political commentators, and security experts around the remarks, the headline of the article is accurate.

The exact wording of what Mr Trump said was reported accurately by Paul McGeough however the question falls on whether the journalist's analysis of the remarks was opinion and whether it was suitable in an article of fact and if suitable, was it reasonable.

US Presidential elections are widely covered by international media given the importance of the role to both the US and in global affairs. Candidate comments are therefore pored over by media, which requires an element of analysis or interpretation given the nature of political discourse during election campaigning. Part of that analysis requires seeking views of experts and putting the nominee's comments within the context of remarks by close confidantes who are likely to be Cabinet members and of course Opposition spokespeople.

Journalists do not take at face value what political spokespeople say on behalf of their candidates; it requires analysis and further questioning given the role of the fourth estate. The Trump spokesperson may have said explicitly that the interpretation of his candidate's comments was wrong, but that should not mean media or the public can take it at face value. Paul McGeough was not alone in his analysis of the comments or his views of the response from Mr Trump's campaign team. It should be noted that Hillary Clinton's spokesperson had said prior to and post the rally that she would not do anything to impinge on the second amendment right but this has not stopped the Trump campaign continue to question that. It is the nature of a political campaign.

In response to Mr Lang's point about some of his comments to the editor then being raised with the Council, it is important

that the Council makes a decision based on the full nature of the exchange between the complainant and the publication.

It is worth noting that since this article and complaint, Mr Trump continues to make further controversial comments related to security around Ms Clinton. It has been reported that the US Secret Service have had to again speak with his campaign team. The same series of events has occurred – media pick it up, experts have commented on it, allegations made and reported by media, and spokespeople responding that media have misinterpreted what their candidate has said.

The complaint is not upheld in relation to all principles.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Chris Darlow, Tiumalu Peter Fa'afiu, Sandy Gill, John Roughan, Vernon Small, Mark Stevens, and Tim Watkin.

CASE NO: 2537 – RIGHT TO LIFE NZ INC AGAINST THE DOMINION POST

Introduction

Ken Orr, as Secretary of Right to Life New Zealand Inc. (RTL), alleged that an opinion piece by Jackie Edmond, CEO of Family Planning (FP), in the *Dominion Post* on 5 July 2016 breached Principle 4 (Comment and fact) of the New Zealand Press Council Statement of Principles.

The complaint was not upheld, with one member dissenting.

Background

The article, headed “1960’s abortion law unacceptable for 21st century women of New Zealand”, outlined the writer’s opinion of New Zealand’s current legislation covering abortion.

The writer believed that current legislation is out of date and restrictive for women who wanted an abortion and that it needs to be reviewed.

The writer believed that New Zealand’s current abortion law is out of step with international trends which were making “abortion laws less restrictive reflecting the expanding rights of women to make their own decisions about whether or when, to have a child”.

A comment was included in the opinion piece that “Rape is notably absent from our law as a reason to permit an abortion”.

The Complaint

The complainant objected to the comment “Rape is notably absent from our law as a reason to permit an abortion” and stated this was incorrect. He went on to state that given the writer was the CEO of FP which is the major abortion referral agency in New Zealand, she should be conversant with abortion laws in New Zealand and not make incorrect comments..

He went on to provide the Press Council with an overview of the legislation and amendments over the years.

He also objected to the use of “1960’s law” as the section covering abortion on grounds of sexual assault were passed in 1977 therefore the opinion piece breached Principle 4 as the material facts it was based on were inaccurate.

The complainant did acknowledge that it was an opinion piece.

The Newspaper’s Response

Newspaper Editor in Chief, Bernadette Courtney, replied that it was an opinion piece and given the writer’s extensive knowledge of the issues, she was fully equipped to comment on whether the abortion laws were broken or not from the writer’s own viewpoint.

In regard to reference to 1960’s law, the current abortion law sits within the Crimes Act 1961 and the Contraception, Sterilisation and Abortion Act 1977 and this was noted by the writer in the opinion piece.

While the complainant may not agree with the writer’s opinion, it is the opinion of the writer and expressed as such and published on a page clearly marked Opinion.

Discussion and Decision

The article was an opinion piece and clearly marked as such. It expressed the writer’s viewpoint which differed from the complainant’s.

It included information regarding law over time and specifically noted the current law is found in the Crimes Act 1961 and the Contraception, Sterilisation and Abortion Act 1977.

While one person might not agree with the opinion of another, which is their right, it is important to remember that they, in turn, must respect the right of others to hold and express their viewpoint.

The legislation does not state that rape is a reason in itself to permit abortion, but rather states that

S 2(a) The following matters, while not in themselves grounds for any act specified in s183 or s186, may be taken into account in determining for the purposes of subsection (1)(a) whether the continuance of the pregnancy would result in serious danger to her life or to her physical or mental health

S 2(a)(3) the fact (where such is the case) there are reasonable grounds for believing the pregnancy is the result of sexual violation”

The complaint was not upheld.

One member, John Roughan, would have upheld the complaint of inaccuracy on the grounds that the abortion law does make provision for victims of rape.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Chris Darlow, Tiumalu Peter Fa'afiu, Sandy Gill, John Roughan, Vernon Small, Mark Stevens, and Tim Watkin.

CASE NO: 2538 – DANIEL RYAN AGAINST HERALD ON SUNDAY

Daniel Ryan (the complainant) complained about an article published in the *Herald on Sunday* on July 31, 2016. The article also had a video attached.

He believes that the story breached Principles 1 (Accuracy, Fairness and Balance) of the New Zealand Press Council Statement of Principles.

The complaint is not upheld.

Background

The story was headed “Caring chiropractor clicks with his tail-wagging clientele”. The article was based on an interview with a chiropractor who specialised in the treatment of animals and was based on his description and comments on the work he has undertaken over the last 11 years at his practice in Freeman’s Bay.

The story did not include any comment on the reporter or newspaper’s own opinion on the subject matter, only comments and opinions of those interviewed.

Complaint

The complainant said that the story and accompanying video were unbalanced as they did not include information or any commentary questioning the efficacy of chiropractic practice on animals or humans.

He believes that the story in its current form was unbalanced as it presented what the chiropractor had said as fact when the reality was that chiropractic care is a controversial topic and its efficacy the subject of debate.

The newspaper should have included the opposing view as well and he provided the Press Council with information that stated the theory espoused by the chiropractor was an historical concept but remained a theoretical model which was not supported by any clinical research.

He also provided further information in support of his case.

He acknowledged that the article did note that “some vets are suspicious of his [the chiropractor’s] methods”.

He did not agree with the deputy editor’s defence that the article was just a life style story and not an analysis of chiropractic care and this negated the need for the opposing view to be included.

The Newspaper’s Response

In reply to the complaint, Stuart Dye, deputy editor, said this was a light hearted lifestyle picture story and not an analysis of chiropractic care. It was neither an endorsement nor warning. It simply reported the fact that pet-owners are taking their animals to this particular chiropractor in increasing numbers.

The newspaper acknowledges the controversy and dissenting views regarding chiropractic care stretching back to its founding more than 120 years ago but in today’s world, it is licensed, governed and managed through the New Zealand healthcare framework.

Chiropractic care is a well-established alternative medicine. People are free to use it or not, and have recourse to the relevant authorities if they are unhappy with the treatment or outcome.

The newspaper accepts that this is not evidence that it works, but is an accepted part of the medical landscape in New Zealand and the article was clearly not an analysis of the place for chiropractic care. It was purely a life style article about a particular person and their work.

The story expressed no opinion on behalf of the newspaper regarding alternative treatment.

Discussion and Decision

The story did not advocate for the use of chiropractic treatment nor its efficacy, and it did not express a view as to

the efficacy of alternative treatment in general.

It was very clear that the views described in the story were those of person interviewed and the story did note at the end of the article that the treatment had its skeptics.

Any type of alternative medicine is a topic that creates debate with proponents on both sides. It is not in the expertise of the Press Council to comment regarding the efficacy or not of any alternative medicine.

While one person might not agree with the opinion of another, which is their right, it is important to remember that they, in turn, must respect the right of others to hold and express their viewpoint.

While the complainant would have preferred the newspaper to write a story that included the opposing view of chiropractic care, the story was about people and their own experience not that of the two sides of the debate.

The complaint is not upheld.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Chris Darlow, Tiumalu Peter Fa’afiu, Sandy Gill, Vernon Small, Mark Stevens, and Tim Watkin.

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

CASE NO: 2539 – HAYDEN WOODS AGAINST THE TE AWAMUTU COURIER

1. Hayden Woods complains that the *Te Awamutu Courier* has displayed bias and has failed to maintain a neutral stance towards the Waipa District Council in its reporting of the Council’s proposal to install water meters and in its treatment of those opposed to the proposal. In addition, he complains that it has failed to correct factual inaccuracies.
2. The Press Council does not uphold the complaint.

Background

3. It is clear from the material supplied by Mr Woods that there have been long-standing problems with the water supply in Te Awamutu and in some other parts of the area covered by the Waipa District Council.
4. The Council appears to have decided in 2012 to install water meters in those parts of its district where they had not already been installed. In drafting its 10-year plan for 2012-2022 the Council included measures intended to address the water issues and among other things reinforced its view that water meters were needed.
5. From 2012 the *Te Awamutu Courier* reported extensively on the water issues and on the 10 year plan. It also published correspondence from Mr Woods and others both in favour of and opposed to the Council’s proposals.
6. The immediate cause of Mr Woods’ complaint to the Press Council was a report in the issue of July 5, 2016 stating that work was about to commence on the installation of water meters. The report included a statement that it was a requirement from

the Waikato Regional Council that water meters be installed in Te Awamutu by December 31, 2022 as part of the water take consent. It continued “While that does not obligate Waipa to put meters in Cambridge or Kihikihi, council believes meters are essential to help defer the cost of infrastructure across the district.”

The Complaint

7. Mr Woods complains that the *Te Awamutu Courier* has published “multiple manipulated press releases” put out by the Council and that many of the press releases contain factual inaccuracies and manipulated data. He says the editor has been confronted on numerous occasions about the inaccuracies and about conflicting information in the press releases and has done nothing.
8. He submits as evidence of bias
 - a. the failure of the editor to investigate his allegations
 - b. the refusal to print any recent correspondence disputing the factual accuracy of the press releases
 - c. The failure to print a retraction of factually inaccurate information after being given evidence of the inaccuracy.
9. He identifies five points in the article that he disputes:
 - d. Work will commence next month to install water meters to properties without them following Waipa District Council’s decision to award the \$3.9 million contract to Allens United Earthworks and Drainage.
 - e. It was a requirement from the Waikato Regional Council that water meters be installed in Te Awamutu by December 31, 2022 as part of the water take consent. While that does not obligate Waipa to put meters in Cambridge or Kihikihi, council believes meters are essential to help defer the cost of infrastructure across the district.
 - f. Waipa’s water strategy depends on everyone using less water and meters are the best option to drive down demand
 - g. Without meters Council estimates that it would be forced to spend an additional \$8 million on treatment plant upgrades sooner rather than later
 - h. With the additional cost to put in meters, reducing the demand for water will help save ratepayers around \$220,000 per year in operating costs.

The Te Awamutu Courier response

10. The immediate response of Dean Taylor, the editor of the *Te Awamutu Courier*, was to say that the publication stood by the information it had published and would not make any retraction.
11. In responding in more detail to the Press Council, Mr Taylor said he believed the *Te Awamutu Courier*

had fully covered all sides of the argument over water meters. It had reported on all the decisions made by the Council along with their rationale and the opportunities for the public to have a say on the matter. It had also published numerous letters arguing for and against water meters and had welcomed comments from elected representatives, candidates and Council staff.

12. Mr Taylor also commented on the manner in which Mr Woods had pursued his concerns about the Council, in particular on the history of his contact with the *Te Awamutu Courier* which had been characterised by a large volume of correspondence, the publication of many letters from him and other correspondents with both similar and opposing views, and his refusal to accept any views contrary to his own.

Discussion

13. It is clear that Mr Woods is strongly of the view that the installation of water meters is purely a revenue-gathering exercise on the part of the Waipa District Council, that they are not needed to address the water supply problems and that the Council is failing to take measures that would successfully remedy the problems. He also believes that there has been a degree of dishonesty in the way the Council has pursued its agenda. To that extent Mr Woods’ dispute is with the Council and not with the *Te Awamutu Courier*.
14. It is also clear that the combative spirit in which Mr Woods has pursued his concerns has been counterproductive and that his cause has not been assisted by the overwhelming amount of repetitive correspondence that he has sent to the *Te Awamutu Courier*.
15. Mr Woods’ concerns about the *Te Awamutu Courier* have three main points of focus –
 - i. It is reporting material that is factually incorrect and refusing to correct or retract those reports
 - j. It refuses to investigate the allegations made by Mr Woods about the Waipa District Council
 - k. It refuses to print letters to the editor disputing the content of Council press releases.
16. So far as the second and third points are concerned, decisions on investigations to be undertaken and on letters to be published are largely the prerogative of an editor. There is no obligation to investigate allegations made by members of the public, regardless of the strength or otherwise of the supporting evidence. Equally, there is no obligation to publish letters to the editor, provided the editor is, as required by the Press Council principles, guided by fairness, balance and the public interest in deciding which letters to publish.
17. The water meter controversy is clearly a matter of public interest in the Te Awamutu region. In this

case the Press Council has sighted numerous letters from Mr Woods that have been published in the *Te Awamutu Courier* in recent times, including several on the topic of water meters. Letters from others on the same or similar topics have also been published. There is no obligation on an editor to publish all letters submitted, and the Press Council is of the view that the choice of letters for publication in this case shows a fair and balanced approach by the editor.

18. The article that was the immediate subject of Mr Woods' complaint was a report that work was about to start on the installation of water meters. It was obviously based on information supplied by the Council but it distinguished appropriately between fact, such as the process of sending out mock invoices, and the Council's opinion on matters such as the savings to be expected from the use of water meters. Most of the points made by Mr Woods in his complaint are about the Council's views of the benefits of water meters and not about factual statements.
19. Mr Woods takes particular issue with the statement that it was a requirement of the Waikato Regional Council that water meters be installed in Te Awamutu by the end of 2022. However the Press Council has sighted a copy of the decisions report of the hearings committee on the Te Awamutu and Pirongia water supply consent conditions and notes the statement at paragraph 8 on page 7 that "the consent holder as per the Waipa District Council 2012-22 Long term Plan shall by 31 December 2022, install water meters on all users of the water supply."
20. There were undoubtedly other reasons for the Council's decision to install water meters. Those reasons had been well canvassed in earlier articles and letters in the *Te Awamutu Courier*, and no doubt also in Council debates and consultations. Given the extensive nature of the earlier reporting, there was no need to cover this ground again.
21. Much of the material that Mr Woods has submitted and many of his concerns relate to the history of the water meter controversy over the past four to five years. Most, if not all, of the material published by the *Te Awamutu Courier* dates from early 2016 and earlier and is out of time for consideration by the Press Council. However the Council would like to record that in its view the reporting has been fair, balanced and generally in accordance with Press Council principles.

Decision

22. The complaint is not upheld.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Chris Darlow, Tiimalu Peter Fa'afiu, Sandy Gill, John Roughan, Vernon Small, Mark Stevens, and Tim Watkin.

CASE NO: 2540 – NATASHA BENFELL AGAINST ROTORUA DAILY POST

Background

1. Natasha Benfell, who was standing in the recent local body elections, has complained that she was not included in a *Rotorua Daily Post* lift-out on September 13 that ran short profiles of those standing.

She asserted it published details of only 18 out of the 35 candidates for council, the mayoralty and the DHB board.

2. She has cited breaches of Press Council Principles of accuracy, fairness and balance, comment and fact, and discrimination and diversity.

The complaint is not upheld.

The Complaint

3. Ms Benfell has confirmed she did receive an invitation from the newspaper to submit a short 150 word profile and a photo, but she only discovered later it had gone to her Spam folder.

4. Over subsequent weeks she said she received numerous emails and telephone calls from the newspaper's advertising sales people offering her "very expensive advertising packages" - the cheapest being \$1600 according to one candidate - which was not an option she could take up.

5. She said other candidates who were not in the lift-out said they were told they would only be in the lift-put if they bought other advertising.

6. She had also received "hate mail" from those who thought she was not in the lift-out because she could not be bothered.

7. She felt she was not treated equally as a new candidate and that her campaign was put at a serious disadvantage.

8. Ms Benfell provided information from two other candidates who had taken issue with being left out of the paper's coverage.

9. She believes the newspaper should have followed up on those candidates that did not respond. And she suggested it could have run the profiles included in the council booklet provided to voters.

The Response

10. NZME's regional editor for the Bay of Plenty editor Scott Inglis, in response, said NZME had written to local body candidates using official lists containing email addresses supplied by the chief returning officer.

11. He provided a copy of that email, which invited candidates to supply a 150-word profile plus a photo.

12. It stated the offer was "Editorial content that is independent of any Advertising". It also preserved the right to edit responses and stated "the Editor's decision on publication is final".

13. As well as the election lift-out on September 13 the paper also intended to run a full candidate list in its weekend publication on September 16.

14. Mr Inglis said candidates who responded were included

in the September 13 guide that “did not contain candidate advertising and was published as a service to readers”.

15. If candidates supplied an email address on which to be contacted, it was their responsibility to manage that account, and its various folders and spam settings.

16. He said he was not in a position to respond in relation to communications between the complainant and advertising staff. Editorial coverage was never conditional on buying advertising.

17. In relation to follow-ups with those who did not respond, he said the large number standing across all local authorities made that impractical.

18. 31 candidates for the mayoralty, two councils and the Lakes community board responded after the email was sent, as did 18 standing for the DHB.

19. He was willing to make amends if an email was sent to the wrong address or the newspaper failed to include a response that met the criteria it set. “However, from what we can currently see from Natasha Benfell’s complaint, this is not such a case.”

20. In response to her point about republishing the council booklet, he said the paper would not republish entire election booklets produced by another organisation.

Discussion

21. Ms Benfell is understandably frustrated that she missed out on the opportunity to lift her profile by being included in the candidate lift-out.

22. However, the newspaper did send her the invitation to take part, as she acknowledges, and it rightly argues it is her responsibility to manage her email. The newspaper was not to know its email had not been seen by Ms Benfell, or that the email had ended up in her Spam folder.

23. While it might have followed up with those who did not respond (although another email could have met a similar fate) it was under no obligation to do so or to phone candidates as Ms Benfell suggested. The lift-out included profiles of 16 of the 35 candidates for the Lakes Council - the body to which Ms Benfell unsuccessfully sought election.

24. Ms Benfell was not excluded from the coverage because of any discrimination or diversity issues, and there is no suggestion she would have been omitted had she met the newspaper’s criteria. Rather it was an unfortunate outcome of her email set-up.

25. Nor are there any issues involving comment or fact, and Ms Benfell makes no specific arguments on that score.

26. The lift-out does not contain any advertising material, and the Council accepts Mr Inglis assurances editorial coverage was never conditional on buying advertising. However, he explicitly says he is not in a position to respond in relation to communications between the complainant and advertising staff. The Council would be concerned if coverage was linked to paid advertising by the newspaper’s advertising staff.

27. Ms Benfell no doubt feels that the coverage was not accurate, fair or balanced because it did not include a contribution from her and perhaps other candidates.

28. However, the Council believes the newspaper made a reasonable - and even-handed - attempt to contact all the candidates, including Ms Benfell. It was entitled to rely on the contact information provided by the chief returning officer.

29. The Council notes that in relation to paragraph 19 above, it is aware the newspaper did make amends to a candidate in the situation outlined by Mr Inglis.

Conclusion

30. The complaint is not upheld.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Ruth Buddicom, Chris Darlow, Tiulamu Peter Fa’afiu, Jenny Farrell, Sandy Gill, John Roughtan, Vernon Small, Mark Stevens and Tim Watkin.

CASE NO: 2541 – PAUL DOUGLAS AGAINST THE WELLINGTONIAN

1. Paul Douglas was a candidate for the Capital and Coast District Health Board at the 2016 elections. On September 22, *The Wellingtonian* published brief descriptions of the candidates for the Health Board along with a rating of them by the Public Health Association.

2. They were assessed on four criteria: “pro-fluoridation”, “population health”, “equity” and “knowledge/experience”. Mr Douglas was rated “very weak” on fluoridation and knowledge/experience and “weak” on equity and population health.

3. He complained to the PHA and the newspaper that the PHA’s rating was misleading and amounted to misinformation that made him out to be a useless candidate. The newspaper offered him a 200-word right of reply. Mr Douglas took up the offer, supplying a response that began with a reference to a cartoon in that morning’s *Dominion Post*. The *Wellingtonian* re-wrote it for him and referred it back to him before publication. Mr Douglas insisted his original version be published, which it was, except for the reference to the cartoon.

4. Mr Douglas has complained to the Press Council about both the rating of him published on September 22 and his response published on September 29. The complaints are not upheld.

The Complaint

5. In addition to complaining that the PHA ratings were misinformation and misleading, he points out the material was not clearly labelled as opinion, and believes the newspaper’s treatment of his response amounts to abuse and manipulation.

6. He complains that the original article was biased towards candidates who supported fluoridation, did not make it clear whether the information came from the PHA or *The Wellingtonian* and did not carry the name of its author. He considered the article factually inaccurate, unfair, unjustly ruining his election chances, lacking professionalism and

being insulting and derogatory of him.

The Response

7. *The Wellingtonian's* news director, Amy Jackman, told the Council some candidates objected to their ratings by the PHA and all were offered a right of reply. All except Mr Douglas were satisfied when their responses were published. Mr Douglas' response had one paragraph removed because it referred to an irrelevant cartoon and would have confused readers.

8. Ms Jackman said it was clearly stated in the introduction to the original article that the scorecard represented the opinion of the PHA. It was based on answers the candidates themselves provided in the survey. All their responses were available online and *The Wellingtonian* was able to ensure the scorecard accurately reflected the survey.

9. She does not accept there were errors in the material. Mr Douglas and other candidates were offered a right of reply to ensure balance in view of the election.

Decision

10. This complaint invokes eight of the Council's principles but it substantially concerns two of them: accuracy fairness and balance, and the need to distinguish between fact and opinion, both especially important where coverage of election candidates is concerned.

11. *The Wellingtonian's* presentation of the District Health Board candidates in its issue of September 22 was an unusual mixture of fact and opinion. The full-page display, featuring candidates photos and a potted biography of each, would appear to readers to be purely factual material. The item was not labelled "opinion" in any way though it contained the opinion of the Public Health Association on each candidate.

12. The introduction began with facts. "Voters will elect seven members for the CCDHB....", then added, "Also included are details from the Public Health Association scorecard." Readers would have discovered that those "details" were terse judgments on each candidate, ranging from "very strong" to "very weak".

13. While it would have been better for *The Wellingtonian* to have flagged the item as opinion with a headline saying something such as, "PHA rates each candidate for the Health Board", the Press Council believes readers would have quickly realised they were being given the opinions of the PHA. Since the principle requires there be no confusion between fact and comment, the principle was not breached in this case.

14. Mr Douglas complains that the ratings given to him were inaccurate and unfair. He has provided the Council with a copy of his responses to the PHA's survey as well as some fresh expositions of his views. The material does not support his contention that the PHA's ratings were an inaccurate or unfair reflection of his attitudes, knowledge or experience. For example, to the survey's statement, "I support community water fluoridation", he had answered, "Strongly disagree". When given a right of reply in *The Wellingtonian* of September 29 his only comment on the subject was to refer readers to an article on the internet entitled, "The dangers of fluoride and fluoridation".

15. As a reflection of the PHA's views, the original article, therefore, was accurate and fair.

16. However, newspapers need to take extra care to be fair and balanced in election campaigns. *The Wellingtonian* was wise to offer a right of reply to candidates who complained about their ratings. The Council finds no fault with the removal of Mr Douglas' superfluous opening paragraph.

17. *The Wellingtonian's* handling of his published response did not amount to "abuse and manipulation". It gave him a fair opportunity to correct or clarify his position on any of the ratings he considered had damaged his chances of election.

18. To deal briefly with other principles cited in the complaint:

The heading referred to DHB candidates, Mr Douglas considers that inaccurate because he was also standing for the Wellington City Council. The subject of the article was the health board election alone.

The pro-fluoridation bias of the ratings was clearly stated and does not breach the Council's principle against discrimination, which is mainly concerned with gratuitous references to the likes of race and gender.

No subterfuge or conflict of interest is established by the complainant's view that the survey favoured candidates close to the PHA and the Ministry of Health.

The photographs were fair and the captions (candidates' names) accurate.

The correction was quickly offered and handled fairly.

The complaint on all of the cited grounds is not upheld.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Ruth Buddicom, Chris Darlow, Tiumalu Peter Fa'afiu, Jenny Farrell, Sandy Gill, John Roughan, Vernon Small, Mark Stevens and Tim Watkin.

CASE NO: 2542 – MICHAEL EDGAR AGAINST NEW ZEALAND HERALD

Michael Edgar complained to the Press Council that an article entitled "Tourist driver pleads guilty to death of Dunedin man", published in the *New Zealand Herald* on August 24 breached Principle 7, Discrimination and Diversity.

Background

On August 24 the *New Zealand Herald* published a court report that originally appeared in the *Otago Daily Times* of the case of a Chinese national, Limin Ma, who pleaded guilty to causing the death of Dunedin man Riley Baker in a head-on crash on State Highway 1. According to the report, Ma crossed the centre line and smashed into Baker's oncoming motorcycle when he attempted to pull into a rest area on the opposite side of the road, in order to "have a view of the ocean". Mr Baker was seriously injured in the accident and died two days later in hospital.

The article reported the police summary, and said the judge had remanded Ma for sentencing on September 7. It went on to include the details of two other fatal accidents in the same area: in November 2015 Motueka motorcyclist Craig Chambers was killed when Singaporean tourist Wei Kiong Lew crossed the double yellow lines into the path of

oncoming traffic on State Highway 1 about 20 km north of where Mr Baker died, and in February 2015, five-year-old Ruby Marris was killed when a car driven by Chinese tourist Jing Cao crossed the centre line on State Highway 1 about 10km north of where Mr Baker died, and smashed into the Marris family's station wagon.

The Complaint

Mr Edgar complained that the only connection between the three offenders named in the report was the fact that they were all Chinese, not by nationality but by race.

He pointed out that no non-Chinese foreign tourist offenders were mentioned in the story.

He said the offences committed by the three Chinese named happened months apart from each other and claimed it was evident the journalist who wrote the article "has trawled through records looking for serious traffic offenders with Chinese names".

Mr Edgar said he has a Chinese wife and three Chinese children "so I am particularly sensitive to the growing anti-Chinese sentiment in Auckland".

He requested the Press Council to "require the *NZ Herald* to publish an apology for deliberately or negligently fomenting anti-Chinese sentiment through an anti-Chinese article".

He suggested the Council might "take it upon itself to require the *Otago Daily Times* to do likewise".

The Editor's Response

Murray Kirkness, weekday editor of the *NZ Herald*, apologized to Mr Edgar for any unintended offence caused by the *NZ Herald* publishing of the *Otago Daily Times* story, but strongly denied the assertion that the *Herald* was racist.

He rejected the claim that the three drivers were grouped together in the report because they were Chinese by race, and that the report fomented ill-feeling against all people of Chinese extraction.

He pointed out that the article, about the upcoming sentencing of Chinese national Limin Ma, described one of the other named drivers as a 'Singaporean tourist', the other a 'Chinese tourist'."

Mr Kirkness said the issue of overseas drivers being involved in road crashes in New Zealand has been a matter of public debate for more than a decade. He included links to several recent articles in the New Zealand media, which quoted a wide range of people and organisations, from the NZTA, police, coroners, tourism boards, as well as the Chinese consulate in Christchurch. The reports discussed accidents where overseas tourists, not just Chinese nationals, were involved. He also referred to several public petitions calling for greater scrutiny on foreign drivers.

Matters of public interest such as this, he said, required the *Herald* and other news organisations to report on such matters. "To not do so would be a dereliction of our duty."

He believed the *Herald* had reported the material accurately, in a fair and balanced way and declined Mr Edgar's demand for an apology.

He suggested Mr Edgar could express his views in a letter to the editor.

Discussion and Conclusion

The number of overseas tourists prosecuted for driving dangerously on New Zealand roads has been a matter of serious concern for many years, and sadly, the *ODT/NZ Herald* story on Limin Ma is only one of many reports of fatal accidents caused by criminally incompetent foreign drivers. In this case, the story dealt with the court hearing at which Chinese national Ma pleaded guilty to dangerous driving causing death, and included details of two other accidents where foreign drivers, who happened to have Chinese names, had crossed the centre line, also causing fatal accidents.

As in a previous complaint to the Press Council, case 2490, a random search of the internet for stories about foreign driver crashes reported in the media over the past three years similarly found that in every story, the driver's nationality (as opposed to race and ethnicity) was reported.

There is no question that reports of accidents involving overseas tourists are a matter of public interest, and it is the Press Council's opinion that there is nothing inherently racist in pointing out a driver's nationality, specifically when the issue underpinning the story is the ongoing concern around the driving ability of tourists on New Zealand roads.

Mr Edgar's claim that the journalist who wrote the story trawled through the files looking for cases which mentioned other Chinese tourists is taking a very long bow, in our opinion, and with reference to Principle 7, there is no evidence that the references to nationality are gratuitous. What links all three incidents mentioned in this complaint is more the fact that they were all caused by tourists breaking the most fundamental of road rules, and that three people had died within a 20 km area as a result.

The complaint is not upheld.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Ruth Buddicom, Chris Darlow, Peter Fa'afu, Jenny Farrell, Sandy Gill, Vernon Small, Mark Stevens and Tim Watkin.

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

CASE NO: 2543 – AJAY GAUR AGAINST THE BLENHEIM SUN

Ajay Gaur (the complainant) complained about articles published in *The Blenheim Sun* on 24 August and 26 August, 2016.

He believes that the story breached Principles 1 (Accuracy, Fairness and Balance), 5 (Headlines and Captions), 6 (Discrimination and Diversity), 10 (Photographs and Graphics) and 11 (Corrections) of the New Zealand Press Council Statement of Principles.

The complaint is not upheld.

Background

The story on 24 August 2016 was headed "Vineyards under scrutiny in contractor row" and the article on 26 August

2016 was headed “Named and shamed denies fault”. The article was based on a Ministry of Business, Innovation and Employment (MBIE) report following an investigation undertaken in conjunction with the Labour Inspectorate, Immigration New Zealand and Inland Revenue covering contracting companies supplying labour to vineyards in Marlborough.

The report noted that of the 10 independent contractors visited, two were breaching minimum wage, holiday pay, and record keeping requirements with another seven asked to supply additional records.

The article noted that the two in breach were Double Seven Services Ltd and Vinestrength Ltd. It went on to say that the owner of Vinestrength, Ajay Gaur, had been fined by the Employment Relations Authority in 2015 for failing to pay minimum wage and holiday pay and record keeping.

The 26 August article recorded Mr Gaur’s denial of fault and statement that he had not been provided with any written information about breaches.

Both articles included a photo of the complainant.

Complaint

The complainant said that the story was completely wrong as the company had not breached the law. His organisation was under investigation at the time of publication and an outcome is still pending. He said he asked the Labour Inspector about the article and was told they had no idea about the news.

On 29 August 2016, the complainant’s organisation was asked to provide more information to the Labour Inspector and the investigation is still ongoing.

The complainant said that the Labour Inspector confirmed in the article of 26 August 2016 that his company had not received any written information or improvement notice as the investigation is still ongoing.

The complainant contacted the journalist and questioned why the information regarding his company wasn’t checked and why his photo was included, and was told that she only worked two days a week and was in a hurry to get the article completed. She told him that she had attempted to contact him via landline telephone and when asked why she hadn’t tried his cell phone number, told him she hadn’t thought of that.

The complainant believed that the articles damaged his reputation and affected his livelihood and could have huge impact on his business, and caused his family mental stress. They were one-sided.

He noted that there were 10 companies who were investigated and asked why his was the only photo published.

He felt that she had violated his human rights and defamed his reputation, and also felt that she was being racist because he was not a white kiwi, but an Indian kiwi.

In further correspondence in reply to the newspapers comment, the complainant reiterated his previous issues. He also stated that he chose not to send the newspaper any further documents as he believed the reporter to be “biased and racist”.

He provided a submission from his auditor, Susheel Dutt, that supported the complainant’s views and beliefs, and stated that the reporter had made the same comments to him as the complainant alleged she had made to him.

Mr Dutt also stated that he had audited the complainant’s books which show the Labour Inspector’s view is incorrect. He said that the Labour Inspector withdrew the case against the complainant “as we proved he was wrong”.

The Newspaper’s Response

In reply to the complaint, the reporter, Cathie Bell, stated that the articles were based on a media statement from the Ministry of Business, Innovations and Employment (MBIE). She provided the Council with a copy of the media statement.

The MBIE media release named the two independent contractors found in breach, one of which was Vinestrength Ltd.

The reporter called the complainant’s home number (obtained from the phone book) but there was no answer or answer phone. She did not have his cell phone number so that was not an option.

The initial article was based on the MBIE media statement without any embellishments. After publication, the complainant and Mr Dutt called her to complain and she listened to what they had to say. She said she was promised further information by Mr Dutt but, to date, has received nothing.

Following the initial article, the newspaper ran a second article based on the complainant’s viewpoint and it noted he had not been issued with an improvement notice which had been confirmed by MBIE.

The newspaper noted that another newspaper had also reported the MBIE media release in greater detail but without the complainant’s photo. The newspaper believed it is the photo which has created the complaint rather than the article as the complainant doesn’t appear to take any issue with the other newspaper.

It is the newspaper’s practice to run photos of local people with every story (space allowing) and there was a photo available of the complainant. If a photo had been available of the other contractor named in the MBIE media release as being in serious breach, this would also have been used.

The reporter states that at no time did she tell the complainant that she worked part time. She does not in fact work part time.

The complainant and Mr Dutt believe he has been treated unfairly by Labour Inspectors and told the reporter that they had Employment Relations Authority determinations showing the Labour Inspectors are wrong and the complainant is in fact adhering to the law. Despite repeated requests, they have not supplied any confirmation and the reporter has been unable to find them on any determination database online.

The initial article was not about ethnicity. It is reported directly from a media release from MBIE.

Discussion and Decision

The initial article was direct coverage of a media release from MBIE. A subsequent article two days later enabled the complainant to give his viewpoint.

The reporter stated that she attempted to contact the complainant for comment on the initial article via landline as she did not have his cell phone number. Although attempts were made to contact the complainant, the Press Council believes that more effort should have been made in this regard.

Principle 1 (Accuracy, Fairness and Balance). Neither article contained information that the newspaper knew to be incorrect. The initial article was based on information provided by MBIE from that viewpoint and the subsequent article voiced the viewpoint of the complainant. Despite requests by the newspaper for further information from the complainant, as noted by the complainant himself, no further information has been supplied that either proves or disproves his viewpoint. Principle 1 was not breached.

Principle 5 (Headlines and Captions). The headline of 24 August 2016 “Vineyards under scrutiny in contractor row” was factual and accurately related to the information contained in that article.

The headline of the subsequent article on 26 August 2016, “Named and shamed denies fault”, did relate to the information in that article also. While the complainant may not like the headline, it related to the information contained in the initial article where he was in fact named by MBIE for alleged breaches of employment standards and clearly stated that he denied any fault. Principle 5 was not breached.

Principle 6 (Discrimination and Diversity). At no time was the complainant’s ethnicity part of the story or ever noted. The initial article was information from MBIE and the subsequent article was the viewpoint of the complainant regarding alleged breaches of employment standards. His allegation that the initial article was based on the fact that he was an “Indian Kiwi” lacks any substance. Principle 6 was not breached.

Principle 10 (Photographs and Graphics). The photograph of the complainant was in no way manipulated or misleading. He was named in both articles and it is the newspapers prerogative as to whether they include photos in a story. The newspaper noted that the only reason they did not publish a photo of the other contractor named in the initial article was because they did not have access to one. Principle 10 was not breached.

Principle 11 (Corrections) has not been breached. Information in the initial article was supplied by MBIE following an investigation of employment standards by independent contractors in the Marlborough vineyards and the complainant was given the opportunity to present his viewpoint two days later. While the complainant may not agree with the MBIE media release, the newspaper accurately reported the information it contained. Likewise, in the subsequent article, the complainant was able to put his viewpoint forward.

Neither the complainant nor Mr Dutt provided any evidence to support the assertion that the case had been withdrawn or that the information contained in the articles was incorrect.

The complaint is not upheld.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Ruth Buddicom, Chris Darlow, Tiumalu Peter Fa’afiu, Jenny Farrell, Sandy Gill, John Roughan, Vernon Small, Mark Stevens and Tim Watkin.

CASE NO: 2544 – EMMA HURLEY AGAINST HERALD ON SUNDAY

1. Emma Hurley complains about an article published by the *Herald on Sunday* and on the nzherald.co.nz website on August 14, 2016. She considers it to be over-sensationalised and extremely offensive, and says it contains content that could be damaging to a younger reader.
2. The Press Council does not uphold the complaint.

Background

3. On August 14 2016 the *Herald on Sunday* published a lengthy article criticising the disciplinary process for health professionals. The main focus was on health professionals who had been found guilty of sexual misconduct with patients. The writer of the article considered there were insufficient safeguards for the public against such professionals. She said they often had permanent name suppression and/or were allowed to continue to practice under conditions.
4. The article began with a graphic and detailed description of a case of serious sexual misconduct, where the offender was eventually prosecuted, found guilty and sentenced to imprisonment.

The Complaint

5. Ms Hurley complains that the article is sensationalist and unnecessarily explicit. She says she found the story extremely offensive and believes that it re-victimises women who have been through a similar ordeal. The main issue for her, however, is that the article would be easily accessible to younger readers. She notes that her pre-teen daughter reads the news online every day and is concerned that such explicit material could be damaging to a young mind.
6. Ms Hurley adds that at the very least there should have been an age restriction on the article to warn readers that it contained explicit content.
7. She also says that when she talked to the journalist about the article, she did not think there was an issue and responded “Well your daughter reads about murders, doesn’t she?”

The Herald on Sunday Response

8. The Deputy Editor of the *Herald on Sunday*, Stuart Dye responded to Ms Hurley after some delay, for which he apologised.
9. There were three main points to the response:
 - This was a hard-hitting news article exposing a hidden pattern of sexual misconduct among health professionals.
 - There had been discussion with the victim, and neither she nor the *Herald on Sunday* wanted to “sugarcoat the facts”. The victim supported the *Herald on Sunday* approach.
 - The *Herald on Sunday* wanted to make it explicit that this was not a case of blurred boundaries but of misconduct of the most serious nature.

Discussion

10. As Mr Dye noted in his response to the complainant,

there is nothing in the Press Council Principles that directly relates to a case of this kind. The Press Council has found on several occasions that there is no general right not to be offended. However the introduction to the Principles also states that “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.”

11. In considering a complaint where the Principles are not directly applicable, the Council will usually consider the guidance given in the preamble to the principles. The most relevant material here consists of the function of “promoting media freedom and maintaining the press in accordance with the highest professional standards” and the requirement that “in dealing with complaints, the Council will give primary consideration to freedom of expression and the public interest”.
12. The Council accepts that many readers, including the complainant, would find the explicit description disturbing and possibly offensive. It also accepts that the article in general was a serious item on a matter of considerable public interest. The short passage about which Ms Hurley has complained appears at the very beginning of the article and appears to be designed to draw in readers by the use of language that is more explicit than is usually found in the regular media and thus has a shock factor. This is not an unusual practice and is not in itself unethical or improper.
13. Mr Dye explains that one reason for the use of explicit language was to make it clear that the article was about serious sexual misconduct and not ‘blurred boundaries’ However, the fact that the health professional in the case was sentenced to eight years imprisonment is sufficient by itself to emphasise the seriousness of the offending.
14. Ms Hurley expresses particular concern about the effect of the language on her pre-teen daughter and young readers in general and it is disappointing that Mr Dye has not responded to this part of the complaint. Even so, most newspapers will contain some items that at the very least need some explanation and guidance for this age group, and it is commonly accepted that parents of pre-teen children should supervise their internet access. Neither the print nor the online article were aimed at a young audience.
15. Having taken all these factors into account, the Press Council is of the opinion that while the first two sentences of the article are distasteful and designed to shock this is a case where there is substantial public interest in the subject matter and where the language used was not so extreme as to warrant a departure from the primary considerations of public interest and of freedom of expression

Decision

The complaint is not upheld.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Ruth Buddicom, Chris Darlow,

Tiumalu Peter Fa’afiu, Jenny Farrell, Sandy Gill, Vernon Small, Mark Stevens and Tim Watkin.

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

CASE NO: 2545 – NICK PAK AGAINST WAIKATO TIMES

Overview

On September 12, 2016 the *Waikato Times* published a front page article entitled “Bums run riot on hospital sanitiser”. The article was based on information received by the publication through an Official Information Act request to the hospital about theft of items from the hospital or patients. The article states that a major contributor to the loss was the theft of Sterigel hand sanitiser.

The publication chose to focus the opening paragraphs on the hand sanitiser theft although it did have a box article about the theft of a patient’s [computer] tablet from her hospital room. The hospital’s security head had confirmed that the hand sanitiser was targeted by rough sleepers because when mixed with the Fanta drink, it provided a high equivalent to drinking “rocket fuel”.

The Complaint

On the same day the article was published, Nick Pak by email complained to *Waikato Times* that the article had breached article 6 (Headlines and Captions).

Mr Pak argues that the article discusses the theft of personal goods from hospital grounds without any evidence to back up this assertion that “bums” are responsible. The headline, and the majority of the article in relation to homeless people, is inaccurate.

Mr Pak argues that the article gives an inaccurate impression that the theft of Sterigel was a major contributor to the total monetary loss of \$27,000 through theft when the editor has confirmed that the loss caused by Sterigel theft cannot be quantified. It would have been more useful to the reader to provide context around this point.

Moreover, Mr Pak finds the use of the word “bum” derogatory. The headline reinforces negative public attitudes against homeless people.

Mr Pak said that there was no testimony “from the other side”. He thought the article should have included some comment from the DHB Alcohol and Drug Addiction Service.

Finally, Mr Pak would like the *Waikato Times* to undertake a series of interviews with homeless people.

In his complaint to the Press Council, Mr Pak also argues that the article breaches principles related to Accuracy, Fairness and Balance (1) and Discrimination and Diversity (7).

The Response

Wayne Timmo, Chief News Director, Waikato, Fairfax Media responded to Mr Pak’s complaint on the same day (12 September). Mr Timmo agreed with Mr Pak that the article had two strands – the theft of the hand sanitiser and the general thefts. However, given the article’s lead is the hand sanitiser theft by some homeless people, the headline was accurate in that it depicted the story.

Mr Timmo argues that the Oxford dictionary definition of ‘bum’ is a vagrant or a lazy or worthless person. People of no fixed abode stealing hand sanitiser from the hospital to become intoxicated seem to fit the definition well. The item was a news story. The media’s role in such a story is to report news and not shape public attitudes towards a certain sector of society. Shaping public perceptions is done through an opinion piece.

In regards to Mr Pak’s complaint about context, in particular seeking a quantifiable amount of stolen Sterigel sanitiser, Mr Timmo agrees that to attempt an estimate based on the overall cost of all thefts would be unsound statistical practice. For that reason the publication did not do it themselves in the story.

The response from the hospital to the publication’s OIA request did not include monetary totals but Sterigel theft was listed as “numerous and across all wards.” Therefore, the gauge for the level of Sterigel theft was based on the interview with David Wilson, head of hospital security, and his estimate of one such incident per day. The vagrant nature is a key fact in the story. Mr Timmo also provided Mr Pak a number of links to articles in which the publication covered the homelessness issue.

On 13 September, Mr Pak responded by email to Mr Timmo arguing that he still disagreed with the headline, saying however that the justification for the article was “valid enough”. But on 14 September he responded to Mr Timmo with a reference to another definition of the word “bum” and therefore disputing the definition put forward by Mr Timmo. In short, he said the word “bum” had degenerated from its original meaning “a vagabond” to now meaning a “moneyless, prideless, filthy, hopeless derelict and habitual drunkard.” The headline is therefore offensive and he seeks an apology from the publication.

The Decision

Principle 1: Accuracy, Fairness and Balance

Information for this article came from an OIA request to the hospital about thefts from the hospital or patients. As Mr Timmo acknowledges, it was through the process of receiving the information that the journalist has seen the angle of their story – the theft of Sterigel sanitiser by some people in order to get intoxicated. The story’s parameters are set by the OIA information they received. The publication interviewed the head of security, who provided information for the article from his own experience and also that of his staff. The Council has no reason to doubt the accuracy of Mr Wilson’s account.

The “fair voice” in these circumstances would be those who are stealing the sanitiser not another hospital expert who might be able to provide some further reasoning.

In terms of accuracy Mr Pak makes an interesting point around the use of the word “major” in paragraph 2, given that no statistical evidence is provided in the article. However a close reading of the article makes clear the full extent of the sanitiser thefts.

The Council accepts that the thefts, occurring on a daily basis across all wards and public areas and over a period of three years, would justify the use of the word “major”.

The complaint against Principle 1 is not upheld.

Principle 7: Discrimination and Diversity / Principle 6: Headlines and Captions

The Council does not believe the article itself places gratuitous emphasis on any sector of society – the article was about the theft of sanitiser by some members of a sector of society. The first-hand account from Mr Wilson forms the body of the story.

The crux of the matter rests with the definition of the word “bum” although some Council members believed the phrase “run riot” in the headline also pushed the boundary. The headline does not fully fit the tone of the story which in its full context is accurate.

Some members of the Council agreed with Mr Pak’s reference that the word “bum” has degenerated over the years. The word is anachronistic and does push the boundary. Even with the reference provided by Mr Pak, the editor believes that the word accurately describes those Mr Wilson refers to as homeless. It is hard for anyone to know why these individuals steal and then get high on hand sanitiser. Interviewing one these individuals is the only way we can really know which definition of “bum” best reflects their situation.

The publication uses the terms “homeless” and “rough sleepers” to describe the thieves. However, it chooses to use the word “bum” in its heading and the publication presumes that the words are interchangeable and have the same or similar meaning. The editor made a headline editorial decision based on his Oxford Dictionary reference point. The editor notes he is arguing the point with Mr Pak as “it’s the start of a slippery slope to extinguish ... freedom of expression on a single word.”

The complaints against Principles 6 and 7 are not upheld.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Ruth Buddicom, Chris Darlow, Tiumalu Peter Fa’afiu, Jenny Farrell, Sandy Gill, John Roughtan, Vernon Small, Mark Stevens and Tim Watkin.

CASE NO: 2546 – S AGAINST NEW ZEALAND HERALD

Background

[1] A complainant, whom we shall refer to as S, has complained about an article in the *New Zealand Herald* on Friday August 19 about a tree belonging to his neighbours that was over-hanging their fence and which he wanted trimmed.

[2] The story, headlined ‘Auckland couple at war with neighbours over peach tree’, describes a dispute and subsequent police complaint between two Flat Bush couples. It quotes the Changs – the couple who owned the tree – and police. The version of events, however, is now also a matter of dispute.

[3] The article reports that the tree in question has been “cut down”; says the Changs and S live in adjoining houses in east Auckland; and raises questions about the Chang’s treatment by police because they would not lay charges even though they agreed with the family. The story features accompanying video by reporter Tristram Clayton, interviewing Mrs Chang.

[4] S contacted the *Herald* on Monday August 22 to complain about the article, saying the arborists contracted to do the work failed to obey instructions. The contractors have refused to talk to the *Herald*.

Complaint

[5] S complains that the *Herald* story fails under both Principle 1) Accuracy, Fairness and Balance and Principle 2) Privacy. He also complains about the reportage by the Chinese language website Skykiwi, but as it is not a Council member and the *Herald* has no control over the stories it chooses to pursue, those concerns are put to one side.

[6] S argues that the *Herald* story is one-sided and makes him look unreasonable. His name and the street in which he lives were both revealed in the story. S runs a business under his own name and, combined, that coverage has been noticed by his clients and has hurt his business.

[7] The Monday after the story ran on the Friday, S emailed *Herald* Editor Murray Kirkness with an email titled “Formal Complaint”. It was followed by at least half a dozen further emails and at least two phone calls to *Herald* staff over the next two and a half weeks.

[8] S’s complaint can be broken down into three parts. First, he claims the *Herald* did not contact him for his side of the story before publication and therefore the story was not balanced; he says his business numbers have no record of any inbound calls or voice messages on the day the story was published.

[9] In email correspondence and a recorded phone call with a *Herald* reporter, S makes a range of allegations that he believes the *Herald* failed to report (including a history of disputes with his neighbours), supplies photos and asks to either meet with a reporter or have someone come to his property for an interview. Most notably, he argues that only a branch of the tree has been felled and “the tree is clearly visible from my side and is still there”, and that he told the arborist to only trim the tree from his property. The trouble only occurred because the arborist, contrary to instruction, climbed the fence to his neighbour’s property and cut the tree from that side.

[10] Second, S believes that the inclusion of his name and street in the article compromises his privacy, as it has harmed his business and reputation. This he described as “the key issue”. From his first complaint on August 22, he asked for his name and address to be removed from the article, arguing there is “no public interest” in disclosing his personal information.

[11] Third, S complains that the *Herald* “waited [a] long time” before updating the news story. While he was initially told by the reporter that a separate story would likely be written giving his side of events, the *Herald* later chose to add his comments to the existing story and remove his details. But

S is not happy with the time it took the newspaper to act, writing that if it did not intend to write a new article it should have removed his details.

Editor’s Response

[12] The *New Zealand Herald*’s Digital Editor Irene Chapple rejected S’s complaints. On the matter of Balance, Accuracy and Fairness, Chapel says the Changs and police were interviewed for the story. It should be noted that in a letter quoted in the story, police said they sided with the Changs.

[13] Chapple says a *Herald* reporter “repeatedly tried to reach Mr S and his family for comment in the days before the original report was published”, ringing his business number “around four times”. A message was left. Further, “the day after publication, the *Herald* went to the S’s family home for comment”.

[14] When S complained to the paper, a reporter contacted him, learning that he blamed the contractor for the issue. The *Herald* then approached the contractor for comment before reporting S’s allegations and he “appeared comfortable with how the situation was being dealt with”. When the contractor refused to comment after repeated phone calls, “the article was updated to reflect Mr S’s broader concerns on August 31”.

[15] On the matter of privacy, she writes that it’s normal practice for the names and street of those involved to be published. But because S was upset by the publication of those details, they were removed “on September 7, approx. three weeks after the story was published. The existing story does not include his name. This was an appropriate, fair and timely response to his issue and as such we reject his complaint”.

[16] Chapple also adds that the *Herald* has no control over Skykiwi, that the description of the tree-cutting reflected “what we observed from visiting the site” and that S’s view that the contractors are to blame is now reflected in the online article.

Discussion and Decision

[17] The *Herald* is correct in its assertion that it is normal practice to name the people and street involved in such a dispute and it’s reasonable for them to ascribe public interest to a case that involved the police and raised questions about the police’s handling of the case. A clear and accurate reportage of the facts is the paper’s concern, not S’s business or reputation. It had no requirement to remove S’s name and street as it did, and would not have been held in breach had it not been removed. The complaint against Principle 2 is not upheld.

[18] We do not have clear evidence just how strenuously the *Herald* reporter attempted to contact the S family. While the one-sided nature of the story is not ideal and it’s reasonable to ask why the *Herald* waited until the day *after* publication to seek comment in person, the version of events is disputed by both parties and the Council is in no position to determine the facts of the matter.

[19] Further, the *Herald* has responded to S’s complaint by adding his comments, including his claim it was the contractor’s error and that most of the tree remains intact.

[20] The Council also notes that in the final version, the *Herald* stands by its report that the tree in question was cut down. It quotes Clayton, its own reporter, saying the “main peach tree” was gone and only a “secondary, spindly” tree, “not really worth considering a tree”, remained.

[21] The article as it now stands is a balanced report. In S’s favour, it includes the point that the arborist refused the *Herald*’s repeated requests for comment. The Council does not tend to uphold complaints when the newspaper corrects any faults.

[22] However, the question of fairness remains over how the *Herald* handled S’s complaint. It took nine days for the complainant’s version of events – amounting to four sentences – to be added to the story, after he was initially told it was likely a reporter would visit him for an interview and a separate follow-up story written. The *Herald*’s excuse that it was waiting for a reply from the arborist does not justify that delay in giving S his right of reply.

[23] It was a further week before the *Herald* decided to remove S’s details. While that was not required by Press Council principles, S did have the right to expect the *Herald* to act on any chosen remedies more promptly and without having to make repeated complaints. The Council rejects the *Herald*’s view that this was a “fair and timely response”.

[23] Ultimately, the *Herald* acted unfairly by making S wait so long to balance the story, and acting only after his numerous complaints. On fairness, the complaint against Principle 1 is upheld.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Ruth Buddicom, Chris Darlow, Tiumalu Peter Fa’afiu, Jenny Farrell, Sandy Gill, Vernon Small, Mark Stevens and Tim Watkin.

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

SES NO: 2547 and 2548 – SKY TV AGAINST NEW ZEALAND HERALD AND

The complaints against both the *New Zealand Herald* and *Stuff* arise from a commercial dispute between New Zealand’s major pay-per-view TV Company and the two major news organisations which produce the *New Zealand Herald*, *The Dominion Post*, *The Press* and other publications. This commercial dispute involves ongoing legal proceedings and consideration of New Zealand copyright law. As the Council has made clear on a number of occasions, it is not in a position to rule on matters of copyright.

[1] Although the articles complained of cover similar territory and the Sky complaints have common themes, in the interests of clarity we will deal with each dispute separately.

Complaint against the New Zealand Herald

[2] Sky TV complains against four articles, as follows:

- i) ‘Heather du Plessis-Allan: *Why I won’t watch the Olympics*’ (31 July 2016);
- ii) ‘*Anti-siphoning laws need to be reconsidered so Rio Olympics can free-to-air live in New Zealand*’ (6

August 2016);

iii) ‘*Athletes out of picture on sponsorship: agent*’ (7 August 2016); and

iv) ‘*Sky’s limit over restrictive rules*’ (7 August 2016).

[3] Sky’s complaint was forwarded by Kirsty Way, its Communications Director. It takes a somewhat scattergun approach alleging breach of a number of Press Council principles, although this approach is said to be clarified by an attachment which gives examples relied on by Sky in the articles. It also gives Sky’s view of the issues that arise. As best we are able, we identify the complaints as follows:

- i) Heather du Plessis-Allan, 31 July 2016 : Breaches of Principles 1, 4 and 5
- ii) Sky’s limit over restrictive rules, 7 August 2016 : Breaches of Principles 1, 4, 5 and 10
- iii) Athletes out of picture on sponsorship, 7 August 2016 : Breaches of Principles 1 and 10
- iv) Anti-siphoning laws need to be reconsidered, 6 August 2016 : Breaches of Principles 1, 4 and 5

[4] In each case, both in a table and in a letter of complaint, Ms Way gives what she describes as examples of issues under various Principles, in particular Principle 1.

Sky TV’s Position

[5] At an overall level, Sky’s complaint is that the coverage of this commercial dispute has been treated by the *Herald* in a manner that is unfair to Sky’s position and promotes the commercial interests of the *Herald* and NZME over those of Sky. Sky says that as a consequence there is a breach of Principle 1 relating to accuracy, fairness and balance. There appears to be a repeated concern that there is insufficient coverage of Sky’s position, and, also fails to mention that viewers will have the opportunity to see free-to-air coverage of the Olympics on Prime. It is also said that Ms Way complains that Sky should have been asked for comment on a number of matters. Overall, it is said that the lack of accuracy and the lack of specific request for comment leads to an imbalance.

[6] In relation to matters of opinion, Ms Way relies on Principles 4 and 5 and says the relevant articles have presented clear opinion pieces as factual. This includes what she maintains is an inaccuracy, such as an incorrect assumption that a Sky subscription is needed to watch the games.

[7] Finally, Ms Way and Sky rely on Principle 10 to maintain that it is for the journalist to be a public watchdog and maintain independence at all times. It is said that where a lack of independence cannot be avoided, it needs to be clearly disclosed. Ms Way says in a situation where a publication is commenting on a dispute in which it is directly involved it requires that either the publication refrain from commenting if it cannot do so in a balanced or independent way, or the publication and journalist in question clearly disclose its interest in the matter.

The Herald Response

[8] On behalf of the *Herald*, the managing editor Shayne Currie responds to each of the specific points made by Ms Way.

[9] He first dealt with Principle 10, and said it is not designed to cover rare situations in which the publisher is itself directly involved as a participant. Rather, he submits, Principle 10 is to ensure the news media is not beholden to other parties. He accepted that a newspaper cannot be strictly “independent” when reporting on a newsworthy matter in which it is itself involved. In relation to the news stories he says there is no breach of Principle 1, as the articles are not inaccurate, unfair and unbalanced, and in each case Sky was given the opportunity to comment, and did so. He says the two news articles do not breach principles 4 or 5.

[10] In relation to the Heather du Plessis-Allan column, the editor submits it is clearly opinion and its focus is far removed from the commercial dispute; rather that the writer was disenchanted with the Olympics for a number of reasons.

[11] Finally, he says the editorial in the *Herald on Sunday*, while not labelled ‘opinion’ was clearly opinion from the language used. He also points out that as soon as issues were raised, a clarification was inserted to make it clear it was an opinion piece.

Decision

[12] We have set out the parties’ position in brief above, but in our decision will deal more fully with matters of concern. We will do this chronologically, dealing with the individual articles.

Heather du Plessis-Allan, 31 July 2016

[13] This is clearly labelled as the writer’s opinion. The headline gives her name, and then continues “Why I won’t watch the Olympics”.

[14] The article starts with a happy memory of falling in love with the Olympics when the author was 11 years old. It then continues to document the author’s growing disenchantment with the Olympics because of the scourge of doping. After detailing such matters, she continues:

It’s the elitism that has crept into a [sic] event that was originally meant for amateur gentleman [sic]. It’s the picking and choosing of sports that, often, only the wealthy can participate in.

It’s the broadcaster charging me huge amounts of money for a TV deal so I can watch the athletes my taxpayer dollars have supported as they train.

No, thank you, Sky, I’d rather not watch.

[15] This is clearly an expression of opinion, and the reasons for her decision not to watch are well spelt out in the article.

[16] We see no inaccuracy in the comment. In an opinion piece it was not necessary for the author to state she could have watched delayed coverage on Prime. Although Sky make much of the fact that there was free-to-air coverage on Prime, nowhere in the extensive material they filed did they say how substantive any live coverage on that channel was. It appears to us in the main it appears to have been a vehicle for delayed coverage.

[17] We see no breach of the principles complained of in relation to the first article.

Anti-siphoning laws, 6 August 2016

[18] This is a news article reporting on a press release by the New Zealand First broadcasting spokesman, Clayton Mitchell. The press release specifically refers to free-to-air coverage and the party’s determination to introduce a bill to Parliament to match other countries which guarantee certain events have free-to-air coverage. We agree with Mr Currie that this article covered a matter of high public importance and interest. The article clearly makes reference to, “Prime are screening the Rio games from 11 p.m. to 3 p.m. daily, but it is not clear how much of this will be live coverage”. As we have already noted, and as Mr Currie mentioned, nowhere does Ms Way state how much live coverage was on Prime. It is fair to accept his comment that in the context of the overall hundreds of hours of coverage on Sky’s 12 pay channels, it is quite modest. Furthermore, Ms Way was quoted in the article, and she must have been well able to give the exact amount of live free to air coverage on Prime.

[19] Meeting the balance and fairness provisions of Principle 1 is not some mathematical exercise of giving equal space to protagonists.

[20] This was a story that arose from the position of New Zealand First, and was accurate, fair and balanced. Sky was given the opportunity to comment, which it accepted, and the piece also referred to overseas situations where free coverage is guaranteed for certain events, with specific reference to both Australia and the United Kingdom.

[21] There are no breaches of our Principles as alleged by Sky in this article.

Athletes out of picture on sponsorship: agent — 7 August 2016

[22] This was an article about athletes and the use of their images. It refers to revelations regarding a number of defending gold medallists and disagreements relating to Air New Zealand advertising. It goes on to refer to some Fontterra advertising, and finally deals with a member of the women’s hockey team for the Olympics, who said she was surprised to see herself on a billboard promoting Sky TV and the Olympics.

[23] Again, Ms Way commented, saying that the hockey player concerned was aware of the Sky campaign.

[24] The reference to Sky is a small piece at the end of a lengthy article dealing with a story around a sports agent’s comments that leading athletes deserved to have more say in how their images were used in Olympic sponsorships.

[25] Again, we see no principles have been breached as alleged by Sky.

Sky’s limit over restrictive rules, 7 August 2016

[26] The Council has said on a number of occasions that opinion pieces should be clearly labelled as such. We are surprised that publications continue to ignore that advice. We repeat that the Council considers it essential that opinion pieces are clearly labelled as such. A by-line or photo tag is not sufficient.

[27] However, we think any reasonable reader seeing ter-

minology such as “we disagree” and “we believe”, appearing as it did in a sports section, would take the clear view that it was an opinion piece. Standing back and reading the piece as a whole it is clearly opinion. Furthermore, in this instance once the matter was drawn to the editor’s attention a correction was published almost immediately. Such a rapid response would be grounds on its own not to uphold the complaint in relation to this opinion piece.

[28] We find no breach in that regard.

[29] We will turn to Principle 10 in relation to both matters when we have dealt with the *Stuff* complaint.

Complaint against Stuff

[30] The complaint deals with four articles as follows :

Fairfax and NZME argue Sky TV’s Olympic rules are unfair, 19 July 2016;

Don’t criticise our commentators, Sky TV demanded in its Olympic media rules — 21 July 2016;

TVNZ heads to Rio but criticises Sky TV demands, 29 July 2016;

Jonathan Milne: Our athletes who trained so hard are the losers in these disintegrating Olympic Games — 31 July 2016

The Complaint and Response

[31] We think it unnecessary to repeat the Sky position or the *Stuff* response. The Sky position was similar as that relating to the *Herald*. The *Stuff* response, provided by editor Patrick Crewdson, is covered in the decision below.

Decision

Fairfax and NZME argue Sky TV’s Olympic rules are unfair, 19 July 2016

[32] This was an article about New Zealand news websites trying to negotiate a deal that would allow them to cover the upcoming Olympic Games. It states that without that, they may pull their reporting teams entirely. The essence of the dispute is set out, then there is a statement from a Sky TV spokeswoman, whom we presume to be Ms Way. That statement says that the rules for New Zealand media were more lenient than those imposed in Australia and Britain, and said more footage was being allowed than was available at previous Olympic and Commonwealth games, and that, “We are close to finalising the process”. It goes on to state that some of the requirements that have been criticised were requirements of the IOC, not Sky. The article concludes by saying that both Fairfax and NZME were hopeful of resolving issues with Sky.

[33] There is nothing inaccurate, unfair or unbalanced in this story. There are no breaches of any principles.

Don’t criticise our commentators, Sky TV demanded in its Olympic media rules — 21 July 2016

[34] This was a story that reported the end of several months’ negotiations, with Fairfax and NZME deciding not to accept the news access rules, and not to send journalists to the games. The headline comes from an opening comment that New Zealand journalists would have to agree not to criticise Sky commentators under Olympic Games rules

the pay TV Company wanted to impose on its new rivals. It immediately goes on to say that Sky backed off that demand, but never backed down to the point where the demands complied with New Zealand copyright law. The article sets out the background, details the major publications owned by Fairfax, and concludes that the NZOC had rubber-stamped the rules and left it to the competing media companies to resolve issues.

[35] After the comment on the headline the story then focuses on the actions of the NZOC. The next mention of Sky is well into the article and shortly thereafter there is a statement from Ms Way on behalf of Sky reported, which is then commented on.

[36] Finally, the New Zealand Media Freedom Committee, through its chairwoman Joanna Norris, is quoted as saying it was “extremely disappointed” that NZOC had curtailed the right to freedom of expression. This comment was directed at NZOC.

[37] Again, this is an accurate, fair and balanced report. It shows no breaches of any principles. However, while not upholding the complaint we consider *Stuff* should have revealed that Ms Norris was editor of the *Christchurch Press* one of their publications. In this case it has not altered our decision because her comments are directed at NZOC.

TVNZ heads to Rio but criticises Sky TV demands, 29 July 2016

[38] This was a story about TVNZ sending reporters to the Rio Olympics but at the same time accusing Sky of leveraging its market dominance over coverage. It quotes the Chief Executive of TVNZ and then goes on to note that neither Fairfax Media New Zealand nor NZME was sending reporters to Rio, because of restrictions demanded by Sky. The article then quotes Ms Way stating that the media companies were given alternatives of coverage; it makes clear all of which involved certain periods of delay. It goes on to state that the media companies have argued they would have greater rights to re-broadcast footage from Rio under the “fair use” clauses within copyright law. It says the acceptance of Sky’s commercial terms would sign away these rights. It concludes with the Sky statement that it was pleased an agreement had been reached with TVNZ:

As public interest is always high for these events where our athletes strive to succeed on the world stage, we expect there will naturally be extensive news coverage.

[39] This is a balanced article on the TVNZ position. It includes the position taken by Fairfax Media and NZME, quotes Ms Way, and closes with a statement from Sky. We see no breach of any principles in this article.

Jonathan Milne: Our athletes who trained so hard are the losers in these disintegrating Olympic Games — 31 July 2016

[40] This is clearly marked an opinion piece. It focuses to begin with on the situation of a former colleague from Fairfax who was a journalist in the Parliamentary press gallery, who then travelled to Rio de Janeiro with her partner for the

Olympics. They were involved in some difficulties, apparently involving the police, and got out of the country (apparently with assistance from Fairfax) and went to Canada.

[41] The story goes on to express opinions relating to the dispute with Sky television.

[42] Sky cites one sentence fragment in its complaint:

... Sky TV tried to impose ... a ban on any use of news and sports video whatsoever for 30 minutes.

[43] Ms Way complains that this is not based on a material fact, as it was only one of three options. However, she concedes that a 30-minute delay was one of the proposals, which appears to us to agree with Mr Crewdson's submission. The acknowledgement means that Mr Milne's opinion on that matter was not based on an inaccurate fact.

[44] In any event, as the submission of Mr Crewdson above pointed out, the other two proposals involved a 30-minute ban as well. The first allowed six minutes of footage in news bulletins delayed at least 30 minutes after each event, and the other allowed two minutes outside news bulletins, but again with a 30-minute delay.

[45] This is an opinion piece. It is not based on inaccurate facts. There is no breach of the relevant principle.

Principle 10

[46] It is now necessary to turn to a number of matters that covered both complaints. The first is the reliance on Principle 10 relating to conflicts of interest, which reads:

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.

[47] First, we think Mr Currie was right when he stated in his submission to the Council that this principle is designed to ensure that there must be an independence and freedom of obligation to a source. There should be an avoidance of situations that could compromise a journalist or publication, and if there is any sponsorship gift or financial inducement, that should be declared.

[48] Mr Crewdson, in his response to the Council, notes that Sky's allegation in a general way was that the reporting by Stuff was coloured by the Fairfax stance on the news access rule and its decision not to send a coverage team or seek accreditation. But he points out the journalists who wrote the stories complained of were not involved in negotiations with Sky or any decision-making about it. He said the executive editor, Sinead Boucher, was quoted as a source, which was appropriate given she represented the Fairfax position.

[49] Mr Crewdson stated there was a reasonable degree of separation to ensure an appropriate level of independence. We agree with that.

[50] We would make the further point that any reasonable reader of these stories would understand there was a commercial dispute between Sky and Fairfax publications, and the *New Zealand Herald*. They would be left in no doubt that the parties were at the opposite ends of the spectrum of this commercial dispute. We see no breach of Principle 10.

Isentia Report

[51] Sky provided us with material from an organisation known as Isentia, which is said to be an independent report. The publishers complain that the methodology means that a republished story is counted effectively as a separate story, or as a number of stories if it is in other publications or on different digital platforms.

[52] Whether or not this organisation produces independent reports is beyond the mandate of the Council. And in any event, it is methodology that is not before us to make any such finding. Sky chose not to reveal this information to the Council as they did with the amount of live coverage on Prime.

General Comment

[53] Finally, there was reference by Ms Way to the proposed merger between NZME and Fairfax. It is totally irrelevant to our considerations. It is a matter that was before the Commerce Commission at the present time, which will no doubt rule whether such a merger should proceed.

[54] We would also add we have made no findings that would support upholding any of the complaints made by Sky except to the extent of the dissent noted below. Indeed to the contrary we considered the articles complained of were fair and balanced and breached none of our Principles, except to the extent noted below. Frankly, reading Ms Way's complaints in isolation from the articles one would think Sky had not even been asked for comment. Given the nature and content of those complaints it is almost surprising to find the comments from Sky in these articles.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Ruth Buddicom, Chris Darlow, Tiimalu Peter Fa'afiu, Jenny Farrell, Sandy Gill, and Tim Watkin.

One member dissented, and asked that his dissent be noted, on grounds of balance in relation to the 'Don't criticise our commentators, Sky TV demanded in its Olympic media rules' only.

John Roughan, Vernon Small and Mark Stevens took no part in the consideration of this complaint.

CASE NO: 2549 – COMPLAINT AGAINST THE WEEKEND SUN

1. A complaint has been made in relation to a print story published by *The Weekend Sun* (TWS) on 8 July 2016 titled "College calls for clarity". The complainant (A) is a relative of an overseas student expelled by Tauranga Boys College (TBC) following the student having admitted smoking cannabis away from the school and out of school hours.
2. A says the story breaches Principle 1 (Accuracy, fairness and balance).

Background

3. The “College calls for clarity” piece followed an online story published a week before by *Sunlive* (an outlet with which TWS is associated) titled “College caned over expulsions”. The *Sunlive* story covered a recent High Court decision finding that TBC had acted unlawfully in expelling A’s relative along with other overseas students involved in the cannabis incident. Basically the High Court found that the students could only be expelled under the provisions of the Education Act. There had been no breach of the Act in this instance. Contracts purportedly signed between the students and TBC under which the students agreed “not to use [illegal drugs]” were unenforceable.
4. The TWS print story referred to the conundrum TBC and other schools said they faced as a result of the High Court ruling. Schools had understood they were responsible for overseas students “24/7”. TBC had promoted this responsibility when marketing its services overseas. The rhetorical question, according to TBC’s principal, is “what rights [do schools] have when international students breach school rules and the laws of the land?”.
5. The “point of contention”, according to the story, is the ruling that the Education Act did not assist TBC since schools do not have jurisdiction over students outside school hours.
6. The story proceeded to quote remarks from TBC’s principal referring to the difficulty schools now have as to the extent of their powers when supervising overseas students. The principal referred to the “waters being muddied”. The principal was reported as saying that it was his decision “[not to] abdicate responsibility to teach both domestic and international students that their actions have consequences”. The principal was also reported as saying he would continue to “play hard ball”. The school would “use all means legally available in managing this very significant societal issue. [It] would use the High Court decision to guide [its] future actions should a similar situation occur”. Guidance would be sought from New Zealand Qualifications Authority and the Schools International Education Business Association.

The Complaint

7. A is most critical of the story. He claims “it is entirely made up” and is “pure fiction”. A claims the TBC principal “terrorised” his family and others.
8. A says TBC and its principal were entirely wrong in treating his nephew and the other affected students in the way it did. TBC’s “illegal action” was compounded by the lengths it went to in opposing investigations by the International Education Appeal Authority (*IEAA*), and later by filing judicial review proceedings in the High Court. A says such actions by the school were entirely inappropriate. The associated costs have been enormous.
9. A says, further, that he students had not broken any New Zealand laws. Nor did they breach any TBC rules. A takes particular issue with the statement in the story that the High Court’s decision is “contentious”.

10. All in all A says the story is unbalanced, TWS having uncritically reported TBC’s principal’s view.

Response

11. *The Weekend Sun* does not accept that the complaint is valid. TWS says that the story set out what the High Court decision meant for TBC. TWS says that the story was a “reasoned and fair follow up to the Court decision”. TWS says that the fact that A does not agree with the school does not make the story “wrong”.
12. The newspaper points to the earlier *Sunlive* piece which covered A’s views. It also refers to its offer to publish a follow up letter from A. A accepted that offer but TBC chose not to print the letter because it considered A’s comments to be defamatory.

The Decision

13. The Council does not agree with A. It does not regard the story as being fiction. The story, while sympathetic to TBC, concentrated on the issues for schools following the Court’s finding. The question is whether there is any way schools can lawfully supervise their international students out of school hours. The question has yet to be answered in the affirmative.
14. If the Council has a concern it relates to the “point of contention” reference. This suggests the law is still somewhat unclear or the decision controversial. The Council has read the High Court judgment (*TBC v IEAA* [2016] NZHC 1381). The Court’s findings are clear in that the school had no jurisdiction of act as it did. The affected students were dealt with wrongly. Nonetheless the story’s thrust was directed at schools’ treatment of overseas students from now on. The “point of contention element” did not by itself result in the story breaching Principle 1.
15. There is no question, in the Council’s view, that A bears considerable animosity towards the school and its principal. Needless to say A’s strong disagreement with the school’s action and the reported views of its principal does not mean the story breached Principle 1 either.
16. The Council notes finally that TWS was not required to publish A’s letter. Editors retain the right not to publish correspondence for any reason.
17. The complaint is not upheld.

Press Council members considering this complaint were Sir John Hansen, Liz Brown, Ruth Buddicom, Chris Darlow, Tiumalu Peter Fa’afiu, Jenny Farrell, Sandy Gill, John Roughtan, Vernon Small, Mark Stevens and Tim Watkin.

CASE NO: 2550 – AKAROA HARBOUR RECREATIONAL FISHING CLUB Inc AGAINST THE PRESS

The Akaroa Harbour Recreational Fishing Club complained that an article entitled “Akaroa dolphin tourism curtailed” published in *The Press* on September 19 breached Principle 1, Accuracy, Fairness and Balance.

Background

The Press ran a news story on A3 of its September 19 newspaper entitled “Akaroa dolphin tourism curtailed”,

regarding a 10-year ban on any new dolphin tourism ventures in Akaroa. The moratorium, it said, was an attempt to protect the endangered Hector's dolphin, which is heavily affected by the increasing numbers of visitors to Akaroa Harbour. The story was also published online on September 18.

In paragraph five of the story, *The Press* said: "The population of the tiny native dolphin has nosedived in recent decades. There are now about 7000 left." The article went on to discuss the risks of the dolphins' over-exposure to humans, "which would negatively affect the population in the long run" and included quotes from DOC operations manager Jeremy Severinsen.

It said the moratorium was supported by the local Runanga, the Canterbury Aoraki Conservation Board and tourism operators.

The Complaint

On October 3, Akaroa Harbour Recreational Fishing Club president James Crossland emailed *The Press*, pointing out "significant errors". New research, he said, showed the population of Hector's dolphins has in fact increased dramatically since the 1980s, to around 15,000.

He quoted Ministry of Primary Industries (MPI) minister Nathan Guy as saying the new estimates had come from aerial surveys that covered a much greater area offshore than previous boat-based surveys. The survey had been independently peer reviewed and endorsed by scientists at the International Whaling Commission.

The minister had said the current estimate "gives us an assurance the numbers are scientifically robust."

Mr Crossland protested that reporting there were "7000 left" was pejorative as it implies the population was much greater in the past. It was not possible to reliably estimate a population size in the past and all anecdotal evidence suggested that the population is now far greater than it was.

The Akaroa Harbour Recreational Fishing Club asked *The Press* to either publish its letter, or print a correction. *The Press* did not respond to the email.

On 12 October, Mr Crossland again emailed *The Press*, but again received no response

In his complaint to the Press Council, Mr Crossland said for many years the people of Canterbury had been led to believe the population of Hector's dolphin was in a parlous state. "If such a statement is repeated often enough it becomes accepted as true," he said.

The Newspaper's Response

The deputy editor of *The Press*, Kamala Hayman, acknowledged that there had been no response to either of Mr Crossland's emails. She said *The Press* had investigated its failure to reply on the two occasions, and found both were due to human error. The first email was forwarded to the journalist concerned and the chief news director, but no response was sent to Mr Crossland. The second email, she said, was not seen and clearly had not been opened.

Ms Hayman apologised for the lack of response to Mr Crossland. She said the parties involved had been reminded

that the paper had a strict policy regarding complaints and any allegations of inaccuracy. She was confident this reminder would address the failure to respond.

On the matter of accuracy and the alleged breach of Principle 1, she said the story relied on information provided to the journalist by the Department of Conservation. *The Press* had no reason to doubt the more up-to-date sources relied on by Mr Crossland, and accepted the 15,000 figure for the Hector's dolphin population.

The online version of the story had been updated and a new story had been commissioned on dolphin numbers.

Further response from the complainant

Mr Crossland said the committee members of the fishing club did not accept *The Press*' explanation for the lack of response to either email, and called it an "attempt at a cover up".

He said both letters were sent to the correct email addresses and marked "Read Receipt". They were both copied to the club's committee members and received by them. "It seems to us that the correspondence was ignored in the hope that it would go away."

He rebutted *The Press*' suggestion that DOC was to blame for providing the journalist with the wrong numbers, saying DOC had been in possession of the updated population data for at least two years. The survey, he said, was a joint initiative by DOC and MPI, and the information had been in the public domain since that time.

Discussion and Decision

The Press' article on the 10-year ban on new dolphin tourism ventures in Akaroa Harbour was a 15-paragraph story which occupied a prominent position at the top of page A3 of its Monday morning print edition on September 19. The story was also published online on September 18.

Given the affection New Zealanders have for the little native dolphins, and the general understanding that they are an endangered species, there is no doubt that any initiative to further protect them is newsworthy, and as a result the story it would have been widely read in both versions.

The fact that paragraph five contained an error was regrettable, although not necessarily the newspaper's fault if the information provided to the journalist by DOC was incorrect. The "pejorative" statement based on the DOC figures "There are now about 7000 left", possibly compounded the error, but there was nothing wrong in the journalist making a strong statement to back up his opening line that the population has "nosedived in recent decades".

A Google search in fact returned a large number of websites which incorrectly state the figure at 7000, but some, including Wikipedia, quoted the up-to-date figure of about 15,000. Given that paragraph five was a key point in the story, it is a pity the newspaper did not exercise due diligence by fact-checking the statement, but mistakes do happen.

The Press' failure to respond to either of Mr Crossland's emails politely suggesting the error be corrected is, however, inexcusable.

The deputy editor's explanation of the events, which led to the failure of anyone at the newspaper getting back to Mr Crossland is inadequate. The suggestion that the second email had not even been seen by the editorial staff it was sent to, when it was obviously correctly addressed, is unconvincing, and we have some sympathy with the fishing club committee members who believed the correspondence was ignored in the hope that it would go away. *

This is not the first time *The Press* has failed to respond to complaints in a timely fashion, and on two occasions** in the past two years, this basic lack of courtesy and professionalism has led to complaints which the Press Council has upheld.

The point at issue here however, is not the paper's handling of the complaint; despite the online version of the story being updated, the error was not corrected in the print version of the publication, which leaves a good proportion of the readers misinformed.

As the Press Council has noted in previous decisions, the rules apply for both print and digital. If the newsroom deemed the story worthy of a correction online, it must be worthy of a correction in print too.

The complaint is upheld.

* Post decision the editor of *The Press* has approached us. While accepting an inexcusable failure to respond to the complaints she stated there was nothing willful with regards to the failure. She pointed to the enormous volume of emails received on the day of the second complaint. While saying this was not an excuse she assured us that there was no deliberate decision by the personnel involved to deliberately ignore the email complaint. We accept that assurance. While appreciating reduction in staff numbers and volume difficulties newsrooms face it remains the responsibility of the publication to ensure that all complaints are picked up and responded to in a timely fashion.

**2371 William Lentjes against the Press

**2443 Alice Flett against The Press

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

CASE NO: 2551 – CHRIS BRADY AGAINST RUAPEHU PRESS

Introduction

Chris Brady (the complainant) makes a complaint under Principle 1 (Accuracy, Fairness and Balance). He states that an article published in *Ruapehu Press* unfairly gave prominence to two candidates in the local body elections which gave them an unfair advantage over other candidates.

The complaint is not upheld.

Background

The article, published on September 28, was headed "Town gets the royal makeover". The article covered work undertaken by volunteers as part of a Taumarunui Revitalisation Taskforce clean-up.

It included a photo of the project organiser, Karen Ngatai and another volunteer, Elaine Wheeler, both of whom are local body councillors.

Complaint

The complainant alleged that in his opinion it was entirely inappropriate to run an article on the front page that featured "prolonged comments" from a sitting councillor along with a large photo of said councillor and another current councillor. This was especially so when both were seeking re-election.

He believed that this gave the two councillors an unfair advantage over other candidates with free publicity.

The Newspaper's Response

Daniel Hutchinson, the editor, replied on behalf of the newspaper.

He stated that the article was a news story about an event of interest to the local community.

It was the best story of the week and not intended to favour any particular election candidate.

It would not be in the interests of the public to ignore news that is happening just because a local body candidate was involved.

As the organiser of the project, Karen Ngatai was the most appropriate person to comment as she had had the most to do with the project.

The editor also noted that the newspaper had not breached any Electoral Commission guidelines by quoting Karen Ngatai.

The complainant had not cited any specific inaccuracies in the article.

Discussion and Decision

The article was a news story commenting on a group of volunteers that were working to revitalise and clean-up Taumarunui.

The article included a photo of two of the volunteers and accurately noted that they were councillors. The prominence given in the article was to the project.

It is a stretch to say that other local body candidates were disadvantaged by an article that gave prominence to the project and what is hoped to be achieved. Given the content of the article it would be normal practice to obtain comment from the main organiser.

The complaint is not upheld.

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

CASE NO: 2552 – EMMA BREWERTON AGAINST THE DOMINION POST

On September 27, 2016 *The Dominion Post* published an opinion piece headed "Corbyn vote condemns Labour to oblivion" written by Andrew Roberts. The newspaper had sourced this opinion piece from the Telegraph Group from its news feed service.

The Press Council does not uphold a complaint from Emma Brewerton against *The Dominion Post* in relation to the piece.

The Complaint

Ms Brewerton complains that the article breached the principle requiring accuracy, fairness and balance. She also complains that the photograph accompanying the article depicted Jeremy Corbyn as “shifty and menacing” which, she complains, implicitly gives credence to the views expressed by the author of the opinion piece. A more neutral photograph should have been preferred.

In support of her complaint, Ms Brewerton provided an opinion piece from the *Independent* newspaper’s website written by Johann Hari and titled “The dark side of Andrew Roberts”. In that article Andrew Roberts is quoted as describing himself as “extremely right wing”. Mr Hari goes some distance further than that and asserts that Andrew Roberts has white supremacist views or sympathies.

Ms Brewerton contends that *The Dominion Post* should not have published the opinion piece from someone who holds such views and she queries, by way of example, whether the newspaper would have published an article from someone with known ISIS connections.

Finally, Ms Brewerton complains that the newspaper has not been balanced in this publication because it failed to publish any alternative view.

The Newspaper’s Response

The editor of the newspaper states that the article was an opinion piece and was positioned on a page which was clearly marked “Opinion”. She explains that the opinion pages reflect a wide range of views which are not necessarily held by the newspaper but may be held by some of its readers and writers. It is important that these pages present diverse views.

The editor also makes it clear that the opinion piece was about Jeremy Corbyn’s leadership of Britain’s Labour Party. She rejects any insinuation that any other views the author may hold have impacted negatively on his writing in this instance.

She also explains that the photograph was a profile [publicity] shot of Jeremy Corbyn. She disagrees with Ms Brewerton’s complaint about the photograph, rejecting deliberate selection and any imputation of the newspaper giving credence to the author’s views by the photograph.

The editor argues that the *Daily Telegraph* is a reputable media organisation and that the newspaper does take a lot of their content. She indicates that the newspaper was negotiating with *The Guardian* to be able to present an alternative view but that this negotiation was not concluded. However, the editor asserts that the opinion piece was only one of a number of articles about Jeremy Corbyn and Britain’s Labour Party which the newspaper had published and that the overall picture was balanced.

Decision

The Press Council upholds freedom of expression. A newspaper must be free to publish a diversity of opinions.

Sometimes the opinions will cause argument or even offence. Sometimes the person or organisation expressing a view may be considered ‘distasteful’ to some, or even most, of a paper’s readers. It is important, even in those situations, that freedom of the press be upheld.

The Council does not agree that the newspaper should not have published this opinion piece. Ms Brewerton had obvious recourse to take the matter up in the Letters to the Editor column. Had she done so, other readers would also have been informed about the genuine concerns she raises. The remedy is not to suppress publication of views which may be perceived to be unpalatable.

The opinion piece was a stand-alone article and the editor accepts that no alternative opinion piece was published. That will sometimes be the position with opinion pieces particularly when they have to be sourced from an international news feed. However, in assessing the question of balance, a wider view needs to be taken. There have been many articles published by the newspaper dealing with Jeremy Corbyn and his leadership of the Labour Party. Those articles represent a range of views which viewed as a whole demonstrate balance. The Council does not uphold the lack of balance aspect of the complaint.

The Council also does not agree that the photograph used by the newspaper depicted Jeremy Corbyn in any particular negative light. How a photograph is viewed is subjective. There is no adequate basis for upholding the aspect of the complaint about the photograph.

The Council notes the editor’s comment that the piece was taken from the *Daily Telegraph*, “a reputable news organisation.” This, in itself, does not absolve the editor of responsibility for what is published.

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

CASE NO: 2553 – PETER CHAPMAN AGAINST THE BLENHEIM SUN

Introduction

1. Peter Chapman complains of stories published in community newspaper *The Blenheim Sun*, and of the behaviour of a journalist which he believes is harassment.
2. The complainant was an unsuccessful candidate in the recent local government elections, and the content subject of the complaint was related to that.
3. The complaint is not upheld.

Background

4. Reporter Cathie Bell asked local government election candidates three questions. These were:
 - What prompted you to put your name forward?
 - What do you want to achieve in council and what skills do you think you bring to achieve this?
 - And since we’ve been mocked a bit nationally for this

- do you have anything in your past that voters should know? That is, criminal charges, financial mishaps, fraud, trespass orders, harassment notices, expelled from Rotary, health problems - that sort of thing.

5. Importantly, the local government elections in Marlborough were occurring against the backdrop of a high profile political leak. A recording of a closed-door council conversation was passed on to a right-wing blogger and an internal investigation was launched to identify the leak.
6. In regard to the questions asked by *The Sun* of candidates, Mr Chapman did not answer the third question, seeing no sense or relevance in it.
7. The answers from candidates to the first two questions were published in *The Sun* on September 28.
8. That same day, the reporter and complainant met at *The Sun*'s office after she had sought answers to the third question.
9. At that meeting, the reporter put several other questions to Mr Chapman. Points discussed included the suggestion a trespass notice had been issued against him by a retailer, the possibility of the complainant being the source of the leak, whether he had copied emails to the same right-wing blogger in the past and why he was so unpopular in the community.
10. The complainant also provided the journalist with a Criminal Conviction Report, which showed he had no convictions.
11. A week later, on October 5, a story was published about the investigation into the leak. Angled on Mr Chapman denying any involvement, it also featured a reference to him attending a briefing by a right-wing activist apparently associated with the blogger who published the leaked recording.

Complaint

12. Mr Chapman argues that questions asked of him, as a candidate, and of other candidates were improper. And they were designed to "elucidate information pertaining to my situation specifically."
13. Additional approaches by the reporter to get the third question answered were harassment and designed to discredit Mr Chapman as a candidate.
14. Personalisation of election candidates is not fair and reasonable and, in Mr Chapman's case, inhibited his chances of success.
15. After being pursued for an answer to Question 3, the complainant accepted an offer to speak with the reporter and they met at *The Sun*'s office.
16. The reporter's motive was made clear in the October 5 story, where "she alludes to my being the source of a leaked conversation between councillors....."
17. A phone call from *The Sun*'s publisher, Les Whiteside, on October 7 to explain the situation and defend the reporter added weight to the complainant's assertion

that the reporter went too far.

18. Mr Chapman also complained, in a letter to both the reporter and publisher, about matters left unpublished. They include the facts there was not a trespass notice issued against him and that he had no criminal convictions, as well as some other matters.
19. Beyond what was and wasn't published, the complainant argues the reporter's actions were biased.

Response

20. *The Sun*'s response to the Press Council was handled directly by the reporter in question, Cathie Bell.
21. Ms Bell makes the point that Mr Chapman is a polarising figure in Marlborough.
22. Her questions of Mr Chapman and other candidates were the same, and followed careful consideration of how she'd cover the elections.
23. The third question was in response to criticism that candidates' histories were not checked. And this is a job for the media.
24. Most candidates responded quickly, others were chased up. A 'humorous' story was planned around the answers to Question 3, based on the answers received from some other candidates.
25. Ms Bell had heard rumours of a trespass notice against Mr Chapman and put those to him. His denial was accepted and therefore not published.
26. As a reporter on Mr Chapman's mailing list, she had seen his email connection to the right-wing blogger in the past so asked him if he was the leak.
27. At all times, her dealings with Mr Chapman were courteous and polite; being confrontational and intimidating was not her style.
28. Ms Bell's reporting was fact-based and not based on rumour or innuendo. She took the earliest opportunity to put the questions to him and accepted his responses.
29. By the time stories ran in *The Sun*, the lion's share of votes had been cast so the newspaper's coverage did not make a difference to Mr Chapman's candidacy.

Discussion

30. Mr Chapman's suggestion that he was somehow targeted in a more direct way than other candidates in the local government election coverage are not borne out. All candidates were given the same set of questions. There was no bias shown.
31. The reporter's additional efforts to get the answers from Mr Chapman were simply journalism at play. It is not only right and proper that journalists pursue answers from public figures, and those seeking public office, but it is a vital part of any democracy.
32. The questions were not unreasonable. Her approach to the candidates was appropriate and, for a community newspaper, would have given *The Sun* an opportunity to both inform and entertain its local audience.

33. The email connection between Mr Chapman, as a council candidate, and the blogger, who was at the centre of a news story, was grounds enough for Ms Bell to question him on a potential connection to the leak.
34. The Council finds little relevance in the matters left unpublished, including the Criminal Conviction Report.
35. Further, it is not improper for a reporter to put a rumour to a candidate standing for public office and then ignore it in their reporting when it is denied.
36. Lastly, there is a general tenor of Mr Chapman's complaint that Ms Bell's professional conduct and journalism fell short; that she was out to get him. There is no evidence of this.
37. As a whole, *The Sun* and Ms Bell should be commended for their coverage of the local government election in their area. The approach taken showed a strong editorial commitment to their local community.
38. 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, Mark Stevens and Vernon Small.

CASE NO: 2554 – CHRIS LEE AGAINST STUFF

Background

1. Chris Lee has complained that a story published online by *Stuff* titled "Jock Phillips comments condemning Rangiaowhia battle not unbalanced, BSA finds" on 28 October 2016 breaches Principles 1 (accuracy fairness and balance) and 6 (headlines).
2. The *Stuff* story reported a Broadcasting Standards Authority (BSA) decision in relation to a complaint brought by Mr Lee against *The Nation* and *Newshub* television programmes. The programmes involved a report on the question as to whether "colonial figures were still worthy of commemoration." The television programmes included remarks from a Dr Jock Phillips who had commented particularly in relation to the actions of a Colonel Nixon, Nixon having allegedly participated in the killing of Maori women and children at Rangiaowhia in 1864. Dr Phillips maintained Col. Nixon should not continue to be celebrated given his role in the event (especially via a statue still standing in Auckland).
3. Mr Lee, in his complaint to the BSA, disputed the accuracy of Dr Phillips' comments. Mr Lee claims that the comments were not balanced, as differing views were not expressed. There was, according to Mr Lee, no basis for Dr Phillips to describe the events in the Waikato village as "an appalling act of genocide" and a "terrible atrocity. Mr Lee had provided the BSA with his interpretation of what happened there, an interpretation which differed markedly from the views expressed by Dr Phillips.
4. The BSA declined to uphold the complaint. The BSA found that Dr Phillips' comments did not have to be countered by balancing opinions, the matter not being a 'controversial issue of public importance.' Dr Phillip's

statements amounted to "judgement or opinion". The BSA found that the programme content did not breach the applicable broadcasting standards.

The Complaint

5. Mr Lee's complaint to the Press Council broadly mirrors his complaint to the BSA. He says the *Stuff* story's headline was inaccurate and the story itself wrong and misleading. Further Mr Lee says that the *Stuff* story failed to deal with "some very significant issues at stake.... with regard to how our history is reported". Mr Lee has referred to *Stuff's* failure to address certain "philosophical issues" relating to historical interpretation.

The Response

6. *Stuff* denies Mr Lee's complaints. *Stuff* refers to the BSA decision along with the media release accompanying the decision. *Stuff* says that the BSA contacted it shortly after the story was published seeking corrections, a request which was promptly complied with.

The Decision

7. The Press Council does not agree with Mr Lee. Firstly, it accepts *Stuff's* point that it was simply reporting the BSA decision. It did not attempt to explore the interpretation of history by either Mr Phillips or Mr Lee. While Principle 1 differs from the equivalent broadcasting standard the basic element is the same. Dr Phillips's comments were an undoubted expression of opinion. Principles 4 and 5 apply.
8. In saying this however, the Council makes one other observation. Strictly the headline is incorrect. It is not right to say Dr Phillips comments were "not unbalanced." Dr Phillips had expressed a definite, one sided, opinion as to the events at Rangiaowhia in the broadcasts. The balance requirement referred to the segment of the programme, not Mr Phillips comments in particular. The BSA found there was no need for opposing views to be presented in this instance as the threshold of 'controversial issue of public importance' had not been reached.
9. The Press Council notes that headlines of necessity must provide a shorthand version of the story. While a strictly correct headline would have read *Jock Phillips comments condemning Rangiaowhia battle did not require balance, BSA finds* it doubts that readers would have been misled as to the findings of the BSA by the headline.
10. The complaint is not upheld.

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

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.

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
4. The Executive Director of the Council has the power to extend time limits but will not do so without compelling reason.
5. In appropriate circumstances, guided by rules of natural justice, the Council may request or receive further information from one or both of the parties
6. 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.
7. 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
- 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 refer it to the complainant. The complainant may

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.

Financial Statements

The New Zealand Press Council
For the year ended 31 December 2016

Prepared by The Tax Lady Wellington Limited

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Compilation Report

The New Zealand Press Council For the year ended 31 December 2016

Compilation Report to The New Zealand Press Council

Scope

On the basis of information provided and in accordance with Service Engagement Standard 2 Compilation of Financial Information, we have compiled the financial statements of The New Zealand Press Council for the year ended 31 December 2016.

These statements have been prepared in accordance with the accounting policies described in the Notes to these financial statements.

Responsibilities

The New Zealand Press Council is solely responsible for the information contained in the financial statements and have determined that the Special Purpose Reporting Framework used is appropriate to meet your needs and for the purpose that the financial statements were prepared.

The financial statements were prepared exclusively for your benefit. We do not accept responsibility to any other person for the contents of the financial statements.

Independence

We have no involvement with The New Zealand Press Council other than for the preparation of financial statements and management reports and offering advice based on the financial information provided.

Disclaimer

We have compiled these financial statements based on information provided which has not been subject to an audit or review engagement. Accordingly, we do not accept any responsibility for the reliability, accuracy or completeness of the compiled financial information contained in the financial statements. Nor do we accept any liability of any kind whatsoever, including liability by reason of negligence, to any person for losses incurred as a result of placing reliance on these financial statements.

The Tax Lady Wellington Limited

P.O. Box 48075,
Silverstream 5142
Dated: 19 April 2017

cornish
and associates ltd

accountants and business advisers

23 March 2017

To Whom it May Concern

The New Zealand Press Council

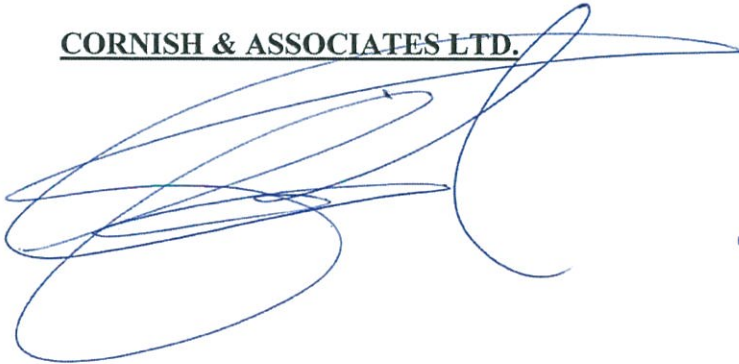
We have reviewed the accounts of The New Zealand Press Council for the period ended 31 December 2016 (12 Months).

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 2016 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 2016 and financial performance and cashflows for the year ended on this date of the organisation.

Our review was completed on 20th March 2017 and our unqualified opinion is expressed at this date.

CORNISH & ASSOCIATES LTD.



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Directory

The New Zealand Press Council For the year ended 31 December 2016

Address

79 Boulcott Street,
Wellington 6143

IRD Number

013969663

Accountant

The Tax Lady Wellington Limited

Bankers

Bank of New Zealand

Statement of Financial Performance

The New Zealand Press Council For the year ended 31 December 2016

	2016	2015
Trading Income		
Associate Membership	1,800	600
Community Newspapers	12,660	14,798
Digital Membership	-	250
Magazines Contribution	18,875	21,375
NPA Contribution	220,000	220,000
Union	2,700	2,700
Total Trading Income	256,035	259,723
Gross Profit	256,035	259,723
Other Income		
Interest Income	3,648	1,997
Total Other Income	3,648	1,997
Expenses		
Accident Compensation Levy	302	407
Accounting & Xero Fees	2,243	1,140
Advertising & Promotion	2,644	1,527
Audit Fees	1,000	1,000
Bank Fees	-	5
Chairmans' Expenses	13,223	-
Cleaning	480	567
Computer Expenses	2,489	2,541
General Expenses	6,092	5,764
Insurance	2,870	2,870
Office Relocation Expenses	-	87
Postage & Courier	1,342	1,521
Power & Telephone	1,260	1,373
Printing & Stationery	2,050	2,113
Remuneration		
Salaries	97,529	154,718
Board Fees	27,438	27,531
Annual Leave Owing	3,213	1,425
Chairmans Honorarium	60,000	-
Total Remuneration	188,180	183,675
Rent	9,656	10,016
Subscriptions	3,518	-
Travel and Accommodation		
International travel and accommodation	7,372	-

These financial statements have been prepared without conducting an audit or review engagement, and should be read in conjunction with the attached Compilation Report.

Statement of Financial Performance



	2016	2015
National travel and accommodation	15,391	20,991
Total Travel and Accommodation	22,764	20,991
Total Expenses	260,113	235,595
Net Surplus Before Adjustments	(430)	26,124
Depreciation Adjustments		
Depreciation	10,542	5,622
Total Depreciation Adjustments	10,542	5,622
Net Operating Surplus Before Tax	(10,971)	20,502
Income Tax		
Income Tax Provision	155	105
Total Income Tax	155	105
Net Surplus (Deficit)	(11,127)	20,397

These financial statements have been prepared without conducting an audit or review engagement, and should be read in conjunction with the attached Compilation Report.

Statement of Changes in Equity

The New Zealand Press Council
For the year ended 31 December 2016

	2016	2015
Equity		
Opening Balance	130,061	-
Increases		
Profit for the Period	(11,127)	20,397
Retained Earnings	-	109,663
Total Increases	(11,127)	130,061
Total Equity	118,934	130,061

These financial statements have been prepared without conducting an audit or review engagement, and should be read in conjunction with the attached Compilation Report.

Statement of Financial Position

The New Zealand Press Council

As at 31 December 2016

	NOTES	31 DEC 2016	31 DEC 2015
Assets			
Current Assets			
Cash and Bank			
Business First Oncall Account		29,166	42,627
Non Profit Org Account		8,419	17,123
NZPC - Term Deposit		52,156	50,000
Total Cash and Bank		89,741	109,750
Trade and Other Receivables		31,694	18,485
Other Current Assets		1,170	-
Total Current Assets		122,605	128,235
Non-Current Assets			
Property, Plant and Equipment	2	19,965	28,162
Total Non-Current Assets		19,965	28,162
Total Assets		142,570	156,397
Liabilities			
Current Liabilities			
Trade and Other Payables		4,243	16,982
GST Payable		10,488	6,189
Income Tax Payable		548	589
Employee Entitlements		2,719	-
Total Current Liabilities		17,998	23,761
Non-Current Liabilities			
Other Non-Current Liabilities		5,638	2,575
Total Non-Current Liabilities		5,638	2,575
Total Liabilities		23,636	26,336
Net Assets		118,934	130,061
Equity			
Retained earnings/Accumulated funds		130,061	109,663
Current year earnings		(11,127)	20,397
Total Equity		118,934	130,061

These financial statements have been prepared without conducting an audit or review engagement, and should be read in conjunction with the attached Compilation Report.

Depreciation Schedule

The New Zealand Press Council For the year ended 31 December 2016

NAME	COST	OPENING VALUE	PURCHASES	DISPOSALS	DEPRECIATION	CLOSING VALUE
Furniture & Fittings						
Boardroom Furniture (share of)	2,482	2,029	-	-	325	1,704
Crestline Desk	1,598	1,360	-	-	177	1,183
Dexion Storage Unit	4,455	3,943	-	-	394	3,549
Side Chairs x 2	878	25	-	-	5	21
Total Furniture & Fittings	9,413	7,357	-	-	900	6,457
Office Equipment						
Computer	2,345	-	2,345	-	195	2,149
Computer	2,467	295	-	-	148	148
Printer	876	1	-	-	-	1
Website	7,335	7,029	-	-	3,515	3,515
Website	14,670	11,002	-	-	5,501	5,501
Total Office Equipment	27,693	18,327	2,345	-	9,359	11,313
Office Fitout						
Office Fitout	22,397	2,478	-	-	283	2,196
Total Office Fitout	22,397	2,478	-	-	283	2,196
Total	59,503	28,162	2,345	-	10,542	19,965

These financial statements have been prepared without conducting an audit or review engagement, and should be read in conjunction with the attached Compilation Report.

Notes to the Financial Statements

The New Zealand Press Council For the year ended 31 December 2016

1. Statement of Accounting Policies

The financial statements presented here are for the entity New Zealand 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.

Changes in Accounting Policies

There have been no changes in accounting policies. Policies have been applied on a consistent basis with those of the previous reporting period.

Goods and Services Tax

All amounts are stated exclusive of goods and services tax (GST) except for accounts payable and accounts receivable which are stated inclusive of GST.

Receivables

Receivables are stated at their estimated realisable value. Bad Debts are written off as per NZ Press Council policy.

	2016	2015
2. Property, Plant and Equipment		
Plant and Equipment		
Plant and machinery owned	27,693	25,348
Accumulated depreciation - plant and machinery owned	(16,380)	(7,021)
Total Plant and Equipment	11,313	18,327
Furniture and Fittings		
Furniture and fittings owned	31,810	31,810
Accumulated depreciation - furniture and fittings owned	(23,158)	(21,975)
Total Furniture and Fittings	8,652	9,835
Total Property, Plant and Equipment	19,965	28,162

3. Contingent Liabilities

At balance date there are no known contingent liabilities (2015:\$0). NZ Press Council has not granted any securities in respect of liabilities payable by any other party whatsoever.