



2006

The 34th report of the
**NEW ZEALAND
PRESS COUNCIL**

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Chairman's Foreword

Thirty two complaints were considered during the year. The Council upheld, either fully or in part, 11 of these complaints. In one case, the Council declined to adjudicate as that complaint involved an alleged breach of an interim name suppression order. The Council's policy on such complaints is set out elsewhere in this report.

The majority of the complaints upheld fell within Principle 1 of the Council's Statement of Principles, namely the "accuracy, fairness and balance" principle. Other grounds that led to or contributed to upholding complaints were insufficient regard for the privacy and sensibility of young people, the privacy principle as it relates to relatives of a person convicted of a crime, the failure to correct an error promptly, and the stand-first not accurately and fairly conveying the substance of the report.

There were two occasions where a complaint was upheld on a six-five majority. One of those involved the tension or the boundary between the right of a person to privacy and the person's freedom of speech and the right to report freely. Further reference is made to this matter in this report.

The number of adjudications issued by the Council has declined over the past four years (52 in 2003, 45 in 2004, 41 in 2005 and 32 in 2006). It is likely that the increasing practice of newspapers running correction columns and being prepared to acknowledge when a mistake has been made, has contributed to this decline. As the Council has noted in the past, complaints have come to the Council that would not have been made if there had been a prompt correction by the newspaper. The trend of publishing corrections and having correction columns is to be applauded.

In my Foreword last year, I indicated that the Council was of the view that it was now timely to conduct a review of the Council. This independent review has commenced and is being conducted by retired High Court Judge The Hon Sir Ian Barker, QC of Auckland and Professor Lewis Evans of Victoria University, Wellington. The aims of the review are:

- (a) to review the purposes, activities, performance, governance and resourcing of the Council;
- (b) to consider whether the Council's objectives are adequate in the light of changing circumstances and public perceptions and whether the Council is operating in a manner consistent with them;
- (c) to assess the range and scope of the Council's activities when concerned with the operations of similar bodies in other countries.

The Review Panel is seeking submissions from any person who has an interest in making such submissions. Information on the Review and on details of how to make submissions can be obtained on www.presscouncilreview.org.nz.

Submissions made by the Council on the Coroner's Bill did not lead the Select Committee to make the suggested changes, notwithstanding that some members of the Select Committee appeared receptive to the suggestions. The stated reason for not accepting the submissions that there should be greater freedom in publishing details of suicides is the fear that such publications will lead to copycat suicides. The fear is that a relaxation of the present restrictions on publication of suicide details would lead to a greater number of



The New Zealand Press Council 2006: From left, Clive Lind (Wellington); Mary Major (Secretary); Denis McLean (Wellington); Barry Paterson (Chairman, Auckland); Aroha Beck (Heretaunga); Keith Lees (Christchurch); Lynn Scott (Wellington); Penny Harding (Wellington); Ruth Buddicom (Christchurch); Alan Samson (Wellington); John Gardner (Auckland). Absent: Terry Snow (Auckland). Barry Paterson, formerly a judge of the High Court, is the independent chairman. The members representing the public are Ms Buddicom, Ms Beck, Ms Scott, Mr McLean and Mr Lees. Mr Lind and Mr Gardner represent the Newspaper Publishers' Association and Mr Snow represents magazines on the Council. Mr Samson and Ms Harding are the appointees of the Media Division of the New Zealand Engineering, Printing and Manufacturing Union.

suicides in this country. This fear is held, notwithstanding that New Zealand has one of the highest rates of youth suicide in the developed world. As noted in the submissions on the Coroner's Bill, this Council is strongly of the view that editors need to continue to exercise the utmost responsibility in reporting on suicides. Suicide reports should be tempered by awareness of the language used, the way articles are displayed and treated and, where possible, reports should be accompanied by information about where help can be found. The Council is of the view that an appropriate relaxation of the present restrictions might assist in reducing the number of suicides rather than increasing the number.

The Council co-operated with an initiative involving Jim Tully, the Commonwealth Press Union and the Ministry of Health to agree protocols for reporting suicides, to the extent that they can now be reported under the Coroner's Act. Unfortunately, for reasons beyond the control of the Council, these protocols have not been finalised. In the circumstances, the Council applauds those newspapers who have adopted their own protocols.

One of the complaints this year related to a syndicated article. The article had originated in one newspaper and had been republished in a second. The complaint was about the republication in the second newspaper. That newspaper initially took the view that the

complaint should be against the originating newspaper. The Council, after noting that newspapers in New Zealand take their copy from many sources, both local and international, confirmed its position, which is that editors are responsible for what they publish in their papers and are the ones to be accountable if the complaint is upheld.

The Council continues to receive complaints about letters to the editor. Principle 12 of the Council's Statement of Principles, notes that the selection and treatment of letters for publication are prerogative of editors who are to be guided by fairness, balance, and public interest in the correspondents' views. A complaint will be upheld if the editing of the letter makes a substantial change to the extent that the writer's purpose is altered. However, many of the complaints are against non-publication or abridgment that has not in any material way altered the contents of the letter. The Council has determined that future complaints relating to letters to the editor will be referred to a sub-committee of the Council, which will determine whether or not to accept the complaint. If the complaint shows no valid grounds for the complaint, it will not be accepted.

There were two changes to the membership of the Council during the year. Penny Harding was appointed to replace Murray Williams, who resigned at the end of the previous year, as the appointee of the NZEPMU. Terry Snow, who represented the Magazine Publishers for a period of eight years, left the Council at the conclusion of the last meeting of the year. Terry was a dedicated member of the Council who was conscientious in his application to Council affairs and willingly undertook extra tasks to assist the Council. His contribution to the submissions on the Coroner's Bill and the related protocols on reporting suicide were major. As was noted at his farewell, he provided a voice of reason and wisdom at the Council table and any decision he wrote was well-constructed, well-reasoned and, if necessary, sensitive. His contribution will be missed.

Finally, I note my appreciation to the other Council members for their contribution during the year. The Council's decisions, particularly its adjudications, are not always unanimous. The contributions from all members are constructive and express considered views. Though the Council does not always come to the same decision, it works efficiently and harmoniously.

I express both my and the Council's appreciation of the services of Mary Major, the Secretary to the Council. She has an immense knowledge of the Council's affairs and previous adjudications and provides a very efficient administrative service, to Council members, the complainants and the newspapers and magazines. Her contribution to the Council is significant and of great value.

Privacy and Freedom of the Press

One of the principal objects of the Council is to promote freedom of speech and freedom of the press in New Zealand. The Statement of Principles that was agreed with newspaper publishers approximately seven years ago, noted that complaint resolution was the Council's core work, but promotion of freedom the press ranked equally with that objective. It also noted that "*freedom of expression and freedom of the media are inextricably bound*". Principle 3 of the Council's Statement of Principles states:

"3. Privacy

Everyone is 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 matters of public record, or obvious significant public interest.

Publications should exercise care and discretion before identifying relatives of persons convicted or accused of crime where the reference to them is not directly relevant to the matter reported.

Those suffering from trauma or grief call for special consideration, and when approached, or inquiries are being undertaken, careful attention is to be given to their sensibilities."

Freedom of expression is a right enshrined in the NZ Bill of Rights Act 1990. At times that right is overridden by the law, either statutory or common. Recent cases in both New Zealand and the United Kingdom have sought to clarify when a newspaper may be able to raise the defence of qualified privilege to a defamation case. Courts in the same countries are developing a tort of privacy (although it may have a different jurisdictional base in the United Kingdom). There are obvious limits on the freedom of expression in criminal cases. Some of the recent cases in both and similar jurisdictions have indicated the difficulties in defining the limitations that the law imposes on freedom of expression. This is so in the privacy field. It is no less difficult to determine in what situations freedom of expression is limited by privacy when applying the ethical rules relating to privacy set out in Principle 3 above.

The difficulties in imposing an ethical privacy restriction on freedom of expression was highlighted in a decision given by the Council during the year (see case 1059). The issue was whether a relative of a criminal could be identified in writing about the criminal, even if the offender had mentioned the impact on the relative when discussing his offending. The newspaper article included details of the relative's name, place of work, and medical condition and the prominent role that the relative had taken on an unrelated public issue.

Six members of the Council upheld the complaint on the basis that the article had infringed that portion of Principle 3 which stated that "*publications should exercise care and discretion before identifying relatives of persons convicted or accused of crime where the reference to them is not directly relevant to the matter reported*". The majority view was that as the complaint was entitled to the privacy of person, space and personal information, publication of the information should have been tested against the issue of whether or not there was a direct relationship between what was on the public record or of obvious

significant public interest about the family and matters relating to the offending. There was no linkage between the family details disclosed and the offending, other than the family connection with the offender and, in the majority view, the issue could have been handled without a breach of privacy.

Five members took a contrary view, on the basis that the privacy principle should be read against the overriding principle of the promotion of freedom of speech and freedom of the press in New Zealand. The article was seen in the context of how the newspaper covered the whole story of the drug offender, which had also covered the criminal trial with some background to the crime, the sentencing and the police reaction. In the view of these five members, the story that was the subject of the complaint represented no more than normal coverage of such high profile cases.

The Council's privacy principle notes that "*the right of privacy should not interfere with publication of matters of ... obvious significant public interest*". There is no definition of "public interest" in the Statement of Principles. Both the United Kingdom and Australian equivalents have such definitions. In the United Kingdom, the Press Complaints Commissions Code of Conduct defines public interest as:

"1. The public interest includes:

detecting or exposing crime or a serious misdemeanour

protecting public health and safety

preventing the public from being misled by some statement or action of an individual or organisation.

In any case where the public interest is invoked, the Press Complaints Commission will require a full explanation by the editor demonstrating how the public interest was served.

There is a public interest in freedom of expression itself. The Commission will therefore have regard to the extent to which material has, or is about to, become available to the public.

In cases involving children editors must demonstrate an exceptional public interest to override the normally paramount interests of the child."

The Australian Press Council for the purposes of its statement of principles, defines "*public interest*" as "*involving a matter capable of affecting the people at large so they might be legitimately interested in it, or concerned about, what is going on, or what may happen to them or to others*".

Both the United Kingdom and Australian Councils limit the meaning of "*public interest*". It would not include an interest which is merely a prurient interest. It has been suggested by some writers that the term "*public interest*" in the sense that it is used in the Statement of Principles of the Council is more correctly interpreted as "*public concern*".

The Australian Press Council in a recent news bulletin noted:

"The question of where the line is drawn between the public interest in information and individual's rights to privacy in their private lives is an ethical one, raising the issue of balance, and any movement to an extreme position is likely adversely to impact upon either private rights or public rights. Matters to be taken into account in considering the balance are consent and harm, the public interest (whether there is a level of public interest suffi-

cient to justify invasion of privacy), the extent to which the individual is a public figure and to what level of privacy the individual is entitled as such, whether the individual is a child and warrants a greater level of privacy protection, and whether the personal information being disclosed concerns sensitive matters as defined in the Privacy Act such as health information, and whether disclosure can be justified.”

The overseas precedents contain useful guidelines for balancing the sometimes conflicting interests of freedom of expression and the right to privacy. Developments in the law relating to privacy might have some bearing on striking the appropriate balance in individual cases.

The Australian Press Council, in a submission to the Australian Law Reform Commission on privacy, noted “*a perception that there already is an over-emphasis on privacy rights at the expense of the public interest, reflected in irrational reporting restrictions imposed by governments in relation to their own dealings, in the closing of courts, in the denial of information regarding people charged with crimes, and in restrictions on photographers.*” This comment relates to the Australian scene but there appear to be some similarities with some trends in this country. This Council will need in appropriate cases to balance the conflicting rights but in doing so will need to ensure, as its Statement of Principles notes, that “*freedom of expression and public interest will play dominant roles*”.

The lingering pain for those left behind

Sudden deaths are a fact of life. All journalists, at some stage in their careers, have to report tragedies in which people die. Usually, they do so at a distance, especially when the tragedy occurs frequently, such as with road deaths. The tragedy occurs, and journalists report details to the public at large, who might note the event if it is important or has some relevance to them personally. Within a short time, however, the tragedy is remembered only in the minds of those close to those who died.

But in each death usually lie deeper stories about the lives of those killed, their experiences and deeds, or about the circumstances that led to their deaths. They are often matters of legitimate public interest. Most journalists, at some stage of their careers, have to undertake what are colloquially known as “death knocks” – approaching friends or relatives and seeking details about the lives of their loved one. Such an approach requires the utmost care and tact.

The Press Council covers such calls in the privacy principle of its Statement of Principles that says, *inter alia*: “Those suffering from trauma or grief call for special consideration, and when approached, or inquiries are being undertaken, careful attention is to be given to their sensibilities.”

When such inquiries are properly made, and family or friends agree to talk, the resulting articles can lead to valuable information about a wrong that needs righting – for example, the victim had been run down at a pedestrian crossing a community had warned the authorities was dangerous – or provide enlightening and fascinating insights into the person’s life, their work or their interests. Information is often willingly given and the effect of publication can be cathartic.

Such details, however, require journalists to take the first step towards what could become an intrusion on private grief, when those left behind are still suffering from their loss, when they are likely to be feeling hurt and puzzlement, and when the potential for misunderstanding is extremely high.

The task is made easier when contact between a journalist and those grieving is made through a third person with a link to the friends and family. But often, the only way to discover whether those people will speak of the deceased is to “cold call” and ask them.

Should they agree, worthy articles of great interest are often the result. Should they not agree, however, unpleasantness can quickly follow as those grieving feel their sensibilities trampled by an uninvited intruder.

In the year under review, the Press Council had to adjudicate one case that turned extremely bitter. A family complained to the Council about *The Dominion Post* and its coverage of a Coroner’s Court inquest into the death of their teenage daughter after her car crashed into a school bus.

One unresolved issue from the hearing related to whether the daughter had been using a cellphone. The use of cellphones in vehicles is a topical matter, and the newspaper decided to approach the family directly.

It was probably unfortunate the initial approach was by telephone. Initially, the mother made a comment to the reporter denying her daughter had been using a cellphone but the discussion and others subsequently quickly descended into bitterness about several mat-

ters, including whether any story should be run at all, and the mother saying she did not want to be quoted.

Against the wishes of the family, the newspaper published its report of the Coroner's Court proceeding and the comment from the mother, and that led to the complaint. From the responses of all parties throughout the complaint process, however, it was clear to the Press Council that the disagreement left all parties scarred from the experience, a situation everyone would have wished to avoid.

For the Council, the adjudication centred on two principles between which there is often bound to be tension. The first was the right to publish, or freedom of expression. The second, however, was the principle requiring greater attention to the grief and trauma of suffering persons and their right of privacy. Clearly, it would be untenable for the Council to say the press should not approach anyone connected with a death or deceased person. In this instance, the Coroner's Court and its inquiry into a sudden death were open. Restraining the press from making any inquiries after such a death would not be in the public interest or the interest of freedom of expression. But a question to the family later falls into the coverage of the privacy principle and private grief and therefore controlled, ethical behaviour had to be expected.

The newspaper had the right to publish an account of the court proceedings, and the accuracy of the mother's comment was not disputed. But did the newspaper breach the privacy principle by publishing a comment from a private citizen who was distressed and who said she did not want to comment?

The newspaper advanced a public interest argument in favour of getting the comment and said there was no mention of not wishing to comment before the interview took place. The Council always finds it difficult to make a finding on disputed facts when there is no proof of the veracity of claims but in this case it wondered whether the comment of the mother justified the need to trouble the family.

If the Council had been able to determine that the wish for "no comment" was made right at the beginning of the interview, the complaint would have been upheld.

On the casting vote of the chairman – one Press Council member being absent – the Council decided not to uphold the complaint, ruling the newspaper did its job correctly under difficult circumstances. But five members would have upheld the complaint, judging the newspaper had breached the privacy principle. They believed the newspaper chose to ignore the family's wish that no comment appear and that the court report could have gone ahead without the comment of the mother and thus afflict the family with further grief.

As the closeness of the vote shows, the case deeply troubled the Council and, as stated above, all other parties as well. What lessons can be learned?

The case re-emphasises that such approaches require the utmost sensitivity and a surprising, out-of-the-blue telephone call is more likely to jar sensibilities than a considered face-to-face approach. The latter might be no more successful but is also likely to lead to fewer misunderstandings. But should there be no other recourse but the telephone then a recording will satisfy any later dispute.

It is also a reminder that grief is deeply personal, and that feelings of hurt and anger at the sudden taking of a loved one last a very long time. Publicity in itself is an intrusion.

The press and public have no “right-to-know” from a bereaved person. For the journalist, gaining trust is an important first step. As this case well illustrated, the potential for unpleasant disagreement can be sudden. The repercussions from this case should be discussed in every newsroom in the country.

All journalists will be aware of the Council’s Statement of Principles and many publications have their own codes of ethics covering such situations. But it would also seem wise to have a code of practice so that staff are aware of how to approach such interviews and how best to conduct them in what will often be the most difficult of circumstances.

A council member reflects

Terry Snow

It's unusual for an ordinary member of the New Zealand Press Council to reflect on a routine two-term spell on the council. But during eight years I served on the council there were some signal events.

I was fortunate to be the first nominee of the Magazine Publishers Association to the Press Council, specifically to represent magazines while being an ordinary voting member of the 11-member council. I felt I had the responsibility to elucidate the particular character of magazine journalism to the public members and to my industry colleagues who were largely from newspaper backgrounds.

This was a time when the Press Council was extending its jurisdiction in order to be as effective as possible for members of the public who wished to complain about publications under the umbrella of "the press". Community newspapers had already been drawn in. The then chair Sir John Jeffries was aware of the anomaly that magazines were formally outside the ambit of the Press Council, despite their wide readership. The mechanism to settle this was that the Magazine Publishers Association be a constituent member of the Press Council, in the way the other constituent members the Newspaper Publishers Association represented newspaper owners, and the Engineers, Printers and Manufacturing Union (EPMU) represented journalists.

In the first test of this expanded jurisdiction, when a large magazine group declined to take part in the complaints process in New Zealand despite working with the Australian Press Council, the Press Council here processed a complaint against one of its titles without the magazine's participation and issued an adjudication. In this way the Council's jurisdiction reached the widest community. The Internet version of printed publications has also been taken under the Press Council wing.

Another important step was the setting up of the Statement of Principles. In 1999, when I joined the Press Council, complaints were decided on an understanding of established ethical journalistic practice, precedents from previous decisions and common sense. There was no written guide, as existed in jurisdictions such as Britain (the Press Complaints Commission Code of Practice).

Under Sir John Jeffries' guidance, the constituent bodies and Press Council members debated provisions for this code of practice. The resulting Statement of Principles has been very useful for members of the public who quote it regularly, using it as a handbook to codify their complaints, although ordinary language and general grievances can still be addressed to the Council.

As I leave the Council, a major review by independent examiners is under way. This notable step is the first thorough appraisal of the Press Council, its constitution and operation in 24 years since its founding. Under present chair Barry Paterson, the Council has taken a bold step to ensure its exercise of self-regulation is the most robust necessary to fulfil its important role for the New Zealand public.

I have noticed one of the most common complaints to the Council over the past eight years is when a letter to the editor is not published. This is not new in the history of the Press Council and the Council has consistently upheld the right of editors to have almost

unrivalled freedom over this kind of choice. What appears to be new is the often abrupt manner with which readers are treated. Unhappiness at ill manners and lack of courteous treatment are often at the heart of their criticisms.

The Press Council resolves complaints on ethical grounds – manners is not an issue. But it is notable that the editors who deal with their readers and complainants promptly and courteously prevent minor niggles becoming Press Council hearings. To this end a daily clarifications and corrections column such as is run by the *New Zealand Herald* seems to have helped to lessen complaints against that publication.

The other major issue on which the Press Council has done research and which remains unresolved, is the reporting of suicide. This major social problem in New Zealand, especially among the young, has confining legal reporting restrictions on it which no other country has imposed. As I leave the Press Council, the discussions continue to have media protocols for the reporting of suicide, with a view to allowing the press to do its job properly in covering a major story that it would do most vigorously on any other topic.

Press Council personnel and procedure

With Murray Williams' departure at the end of 2005 the Council started the year with a vacancy in one of the EPMU slots. In March the Council was pleased to welcome Penny Harding to the position.

Terry Snow, inaugural representative of the Magazine Publishers Association, finished his eight year term in December. It is hard to adequately express the contribution Terry made to the Council, both at the Council table and in the many the additional tasks he so willingly took on.

Terry was our in-house expert on suicide reporting, having read widely the international research available on the topic. He was the major contributor to the Council's submission to the Select Committee on the Coroners Bill, and also made the oral submission. And he was, of course, a wonderful advocate for the special aspects of magazine journalism as distinct from daily newspapers. Terry's presence is missed. (See pg 14 *A Council member reflects*).

We were fortunate to have the services of a legal intern from Victoria University for a few weeks. Claudia Bruckmann, from Germany, undertook some research for the Council as part of her Masters papers. But her lasting contribution to the Council was the categorising of the decisions on the Press Council website.

Now, in addition to being able to search on keyword and publication, there is a search by category function. We found it interesting to see New Zealand through a young, enthusiastic traveller's eyes as Claudia tramped and surfed her way around the country during the weekends.

There were some changes to procedure through the year.

It was decided that complaints concerning letters to the editor would be assessed by a sub-committee to see whether there were grounds for the complaint being considered by the full Council. The Committee will have in mind the Council's Principle on letters which states:

Selection and treatment of letters for publication are the prerogative of editors who are to be guided by fairness, balance and public interest in the correspondents' views.

With some adjudications requiring dissenting opinions to be incorporated into the decision, the Council developed a protocol that would allow the decision to fully express the views of all Council members, while still being released in a timely manner.

Name Suppression

In last year's Annual Report there was an article on name suppression after a court had made an order prohibiting the publication, in any report or account relating to any proceeding in respect of an offence, of the name, address, or occupation of the person accused or convicted of the offence, or any particulars likely to lead to any such person's identification (Section 140 of the Criminal Justice Act 1985).

The article set out the Council's attitude to complaints of name suppression and referred to the cases which it had decided when there was a complaint of a breach of a suppression order.

During the year, the Council sought the Solicitor-General's view on the constitutional propriety of the Council considering complaints arising from a breach of suppression order. The Solicitor-General expressed reservations about the constitutional propriety of the Council doing so.

The Solicitor-General noted that the Council bases its decisions on ethical rather than strict legal considerations, and noted that it would be helpful if the Council could defer investigating such complaints until a decision had been made whether or not to prosecute for the alleged breach. The Solicitor-General did not wish to prevent the Council conducting its own investigations but was mindful of the prejudice that a Council ruling may potentially have on a related prosecution.

In the circumstances, the Council in the future will only consider complaints for breach of suppression orders if the complaint is accompanied by evidence from the appropriate authority that there will be no further action from the authority, or after the appropriate authority has taken action.

An Analysis

Of the 32 complaints that went to adjudication in 2006 six were upheld in full; one was upheld with dissent; two were part-upheld; two were part-upheld with dissent. Twenty complaints were lodged against daily newspapers; three against Sunday newspapers; four against community newspapers; three against magazines; one against *the Independent* and one against *Indian Newslink*.

Most complaints going to adjudication are considered by the full Council. However, on occasions there may be a complaint against a newspaper for which a Council member works. On these occasions the Council member leaves the meeting and takes no part in 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 discussion. There were nine complaints in which one or more members declared an interest in 2006.

Debate on some complaints can be quite vigorous and while the majority of Council decisions are unanimous, occasionally one or more Council members might ask that their dissent be recorded (Case 1070). In 2006 there were three complaints which saw the Council divided as to the outcome – two were upheld on a six/five majority and one not upheld on the casting vote of the Chairman, there being five members who would uphold and five who would not uphold (one member being absent). (Cases 1059, 1060 and 1076.) This led to the Council developing a protocol to follow to allow the decision to fully express the views of all Council members, while still being released in a timely manner.

While the meetings of the Council are not open to the public, complainants can, if they wish, apply to present their claims in person. One complainant took this opportunity in 2006.

The Statistics

<i>Year ending 31 December</i>	<i>2003</i>		<i>2004</i>		<i>2005</i>		<i>2006</i>	
Decisions issued		52		45		41		32
Upheld	14		9		4		6	
Upheld with dissent							1	
Part upheld	5		3		4		2	
Part upheld with dissent							2	
Not upheld with dissent	2							
Not upheld with dissent on casting vote of Chairman							1	
Not upheld	31		33		33		19	
Declined							1	
Not adjudicated		27		30		39		23
Mediated/resolved	3		3		3			
Withdrawn	2		1		5		2	
Withdrawn at late stage	2		1		1		1	
Not followed through	9		12		11		6	
Out of time	2				2		2	
Not accepted	2		2		2		0	
Outside jurisdiction			3		7		2	
In action at end of year	7		8		8		10	
Total complaints		79		75		80		55

Adjudications 2006

Whose news was it? – Case 1047

Introduction

3 News complained about the column “From The Editor’s Desk” published in the *Bay of Plenty Times* on November 6, 2005. The column was headed “No media covers the Western Bay better than we do”. In reference to television coverage of a local story, the editor specifically commented on 3 News coverage. A paragraph that TV3 particularly complained about asserted: “I’m afraid to say that all that reporter did was buy a copy of Wednesday’s *Bay of Plenty Times* to discover all that detail and the report he brought to his viewers was to regurgitate our story while claiming it as his own.”

The Press Council has upheld the complaint.

Background

After the discovery of two bodies under the Wairoa River bridge in the Bay of Plenty, the *Bay of Plenty Times* published a detailed story about the couple and their background, and about the police murder investigation. Four days later, the regular column “From The Editor’s Desk” discussed the number of homicides in the Bay of Plenty in recent years, and newspaper and television coverage of the most recent.

Apart from comments on the standard of the journalism, the editor went on with serious accusations that television stations had simply used the *Bay of Plenty Times* story.

As part of the matter TV3 complained about, the editor noted that “their reporter said he had spoken to relatives of the deceased,” and “As of Wednesday afternoon there was only one person that [the source] had spoken to in relation to the murder of the couple and that was me.”

The column went on to make general complaints about TV coverage, whether running stories days after they had appeared in the local paper, while obviously waiting to source picture coverage, or failing to cover a local fatal crash or fire when “had it happened in Auckland or any of the bigger centres, the story would have run.”

The Complaint

In an email marked Letter to the Editor, 3 News’ chief of staff complained to the *Bay of Plenty Times* about:

“the very serious inference that 3 News plagiarised your newspaper in its coverage last week.

Fact 1 – My reporter did speak to relatives of the deceased.

Fact 2 – My reporter did not buy a copy of the *Bay of Plenty Times* that day, nor did he “regurgitate” your story, nor did he “claim” your story as his own.

Fact 3 – You are incorrect to state to your readers that as of Wednesday afternoon there was only one person that [the source] had spoken to... a simple fact-checking call to [her] would have established that she had spoken to my reporter before midday on Wednesday. I understand she spoke to several reporters that day.”

A heated exchange of emails between 3 News and the *Bay of Plenty Times* followed after that letter to the editor remained unpublished. In her complaint to the Press Council, the chief of staff expanded on the fact that [the source]

“declined an on-camera television interview but answered [the TV3 reporter’s] questions by telephone. My reporter duly reported on this conversation during our coverage that evening. I offered to supply the Editor with his cellphone records as proof the conversation had taken place. After several email exchanges, he has not published my letter, nor published a correction nor an apology.

I consider the editorial breached standards of accuracy, balance and fairness, and the decision not to publish my right of reply is also a breach of the spirit of good journalism. Our network was not contacted to comment on, or verify these inaccurate claims, before publication. To infer plagiarism is very serious, and we are very concerned about the damage to our reputation.”

After the phone records and a copy of the reporter’s notes were provided to the Press Council and seen by the editor, the editor wrote in his December 17 column “From The Editor’s Desk”

“It now seems the TV3 reporter had a three-minute conversation with [the source] after our paper had hit the streets and in that time managed to cover with her all the main detail contained in our story... So I was probably harsh in suggesting they plagiarised our copy as they insist their reporter did not buy our paper that day.

I guess it’s just coincidental that they had the same material we had and that they found [the source] in the first place as she was unknown until our paper hit the streets.

I’ll consider myself told off.”

Conclusion

The serious nature of the accusation in the column warrants the uphold decision in this case. The editor seems to have overlooked the fact that if the *Bay of Plenty Times* were able to track sources and uncover details to background the story of the day, other news organisations could do exactly the same.

He was entitled to his opinion and the Press Council has strongly supported unfettered comment in editorials and columns. “Editors are entitled to have strong opinions and to express them vigorously, even if some readers are offended and provoked by what they see as ignorant, wrong-headed or blatantly prejudiced remarks.” (Case Number: 898 Patrick McEntee against *Hawke’s Bay Today*).

At the same time, the Press Council has firmly stated there is no place for blatant inaccuracy in these opinion pieces. The Council upheld a complaint where a “fundamental factual error” was the basis of an editorial view, even though the paper had published a letter from the complainant setting out the situation (Case Number: 887 Northland Regional Council against *The Northern Advocate*).

Equally, where a newspaper corrected an error the day after a column that wrongly

attributed a damaging statement to a government department spokesperson, the Press Council upheld the complaint. “Robust column comment should depend in the first place for its validity on the actual facts or real situation which is the basis for the opinion. [This column] blasts at the wrong target, leaving a potentially disturbing and valid comment less potent because it is wide of its real mark.” (Case Number: 792 Simon Boyce against *The Dominion*)

Unlike the situation in a news story, in editorials and columns it’s clear that there is more than simply the factual mistake that can to a degree be mitigated by a correction. There remains the commentary, the misdirected sting of which can linger long after any factual error has been acknowledged and corrected.

In this case, while admonishing TV3 for not backing up its statement (“You seem to think I should take your word as gospel. If I am going to correct this, I need evidence I was wrong.”) the editor hardly advanced eyewitness evidence to support his claim that “all that reporter did was to buy a copy of Wednesday’s *Bay of Plenty Times* ... to regurgitate our story while claiming it as his own”. His source eventually changed her initial recollection of not speaking to a TV reporter.

That said, it’s common sense that media organisations watch each other’s stories, matching and developing them if necessary, scooping them where possible, picking up leads and ideas, trying to gain advantage, trumping their rivals with their own self-generated revelations. None of this should be news to an experienced editor.

The line is crossed into plagiarism where there are concerns about direct copying of a created form of words or images without permission or acknowledgement. This has to be proven precisely.

Finding

In this case, a strong accusation implying plagiarism was manifestly a presumption and wrong. The Press Council upholds the complaint on the grounds of this inaccuracy, even though the statements complained of appeared in an editorial opinion piece. The subsequent column that acknowledged this incorrect presumption was barely an adequate apology. It continued to blame the accused for not delivering enough concrete evidence quickly enough, when the editor should have questioned more thoroughly his own evidence for his original accusation.

Press Council members considering this complaint were Barry Paterson (Chairman), Lynn Scott, Aroha Puata, Denis McLean, Terry Snow, Keith Lees, Clive Lind and John Gardner.

Allegiance to Crown and Treaty – Case 1048

Introduction

Geoffrey Dunbar complained as a third party to the Press Council against *The Press*, alleging that a paragraph in an article published in that paper on November 8, 2005 misrepresented Maori Party MPs’ actions at their parliamentary swearing-in. He has stated in his complaint that this misreporting constitutes a case of inaccuracy and unfairness.

The complaint is upheld.

Background

The complaint relates to a phrase published in *The Press* in an article reporting on the opening of Parliament –“Sombre Opening to Parliament”. The bulk of the article related to Parliament’s farewell to Green Party co-leader Rod Donald, who had recently died. The front-page article carried over to A7, where the phrase objected to was published. Towards the end of the article, the following paragraph appeared:

“The only note of controversy came when each of the new Maori Party MPs attempted to swear their oath of allegiance to the Treaty of Waitangi instead of the Queen. Each was made to repeat the oath omitting the reference”.

The Basis of the Complaint

Mr Dunbar wrote to the editor on November 10, 2005, having previously contacted the writer of the article, an experienced parliamentary reporter, complaining particularly about the phrase: “The only note of controversy came when each of the new Maori Party MPs attempted to swear their oath of allegiance to the Treaty of Waitangi instead of the Queen.”

He explained in his letter that his understanding is that the Treaty reference was appended to the unaltered standard oath that all the other MPs swore (or affirmed), when the Maori Party MPs initially took the oath. This meant that the Maori Party MPs’ first oath was to the Queen **and** the Treaty. The words “instead of” implied that the Maori Party MPs had not sworn loyalty to the Queen. He called on the newspaper to publish a correction and an apology.

Mr Dunbar was asked to amend his initial letter so that it could be considered for publication. This he did.

Mr Dunbar further complained about the “inexcusable delay” in his November letter not being published until January 19, 2006. Also, when it was eventually published there was no apology or retraction of what he considered an error in the November 8, 2005 article.

The Newspaper’s Response

The Editor of *The Press*, in responding on December 8, 2005 to Mr Dunbar’s complaint, made the following points:

1. The phrase, and the paragraph in which it was placed, was only a small part of a much bigger report.
2. What the Maori MPs (sic) swore when they first took the oaths is not entirely clear. The oaths were spoken in Maori. *The Press* reporter does not speak Maori.
3. However, the reporter did hear a reference to Te Tiriti O Waitangi. This was contrary to the requirement that MPs speak the oath from the words provided by the Clerk of the House on a card they were reading from. The Clerk therefore required them to take the oath again.
4. Contrary to what Mr Dunbar asserts in his complaint, the matter does not seem to have been of significance to Maori MPs (sic), or to anyone other than Mr Dunbar.
5. The Editor suggested Mr Dunbar submit a letter to *The Press* for publication.

In a further letter (January 18, 2006) to the Press Council, the Editor regrets that Mr Dunbar's letter for publication had not made it to publication in November. He further points out that the complaint was about a two-sentence paragraph in a much longer article, and that the Maori Party MPs themselves had not complained.

The Complainant's Response

Mr Dunbar feels that this complaint is a serious one. The precedent-setting action referred to in the paragraph quoted above, although given scant notice in *The Press* article, was reported widely throughout New Zealand. Mr Dunbar states in his complaint that he thoroughly researched other media reports of the swearing-in procedure, and that all reported that the Maori Party MPs swore allegiance to the Crown **and** to the Treaty of Waitangi.

He further contends that the newspaper had a responsibility to find accurate translations for the swearing-in oaths (which were spoken in Maori), and that it is not sufficient excuse to say that the reporter does not speak Maori nor was a translation provided.

He states that getting the facts right is a matter of responsible journalism. He goes on to say that in the current social climate in New Zealand, there are many people ready to believe that Maori Party MPs are guilty of disloyalty to the Crown.

Conclusion

The Press Council upholds this complaint.

Although the passage referred to was brief, and a small part of a substantial lead story, nevertheless the paper had a responsibility to "get it right".

New Zealand has two official languages, and all people in official circumstances have the right to speak in either English or Maori (te reo). For that reason, the Press Council does not accept the Editor's contention that because the Maori Party MPs were taking their oaths in Maori and no translation was provided, it was difficult to be totally accurate.

Where a newspaper does not have a reporter who speaks Maori, it is the role of the responsible journalist to check the facts with someone who is able to verify what was actually said, and to report this accurately.

Press Council members considering this complaint were Barry Paterson (Chairman), Lynn Scott, Aroha Puata, Denis McLean, Terry Snow, Clive Lind, and John Gardner.

Keith Lees took no part in the consideration of the complaint.

'Millionaire Landlord' entitled to ACC payments – Case 1049

Introduction

Jeff Page complained to the Press Council against the *Herald on Sunday*, alleging that some articles about him were an invasion of his privacy, and, in general, unfair and unbalanced. He listed various complaints that he contended were examples of inaccurate and biased reporting. His complaint is partly upheld.

Background

The complaint concerns three articles by the same journalist. The first was written for

the *Sunday Star-Times* (September 26, 2004.) and the following two were written for the *Herald on Sunday* (March 20, 2005 and June 12, 2005).

It should be noted that the first two articles lie outside the three-month time frame for complaints to the Press Council, but they have been accepted here as background to the specific complaint about the June 12, 2005 report.

In summary, three articles cover various aspects of the same story – about a “millionaire landlord” receiving \$640 a week in disability compensation from ACC. The first article referred to Mr Page’s investment income and his tennis ability and noted that he was receiving \$640 a week from ACC. It quotes an ACC spokesman who noted that Mr Page was entitled to these payments under previous legislation.

The second article outlines Mr Page’s court action against ACC for further compensation in the form of a lump sum payment. The basis of the claim was that ACC had broken a mediated agreement over back payments to 1974.

The third article, the subject of this complaint, refers to Mr Page receiving \$640 a week from ACC and also receiving subsidised doctors visits “almost every day for two years because he was stressed about his marriage breakup”. Further comments from the article are referred to below.

The Basis of the Complaint

The complainant contended that the reporter was exercising a “personal vendetta” against him, through the media. In his view, the reporter had “lied”, “fabricated evidence” in trying to construct a “sensational story”, invaded his privacy in revealing details from the court actions and, overall, shown bias against the complainant.

Taken as a whole, the core of his complaint is that the Press Council’s principle that “publications ... should at all times be guided by accuracy, fairness and balance, and should not deliberately mislead or misinform ...” had been transgressed. Specific complaints were detailed as examples of “entirely false” and misleading information.

He noted that the June 12 report repeated the claim that Mr Page was a “senior A-grade tennis player” when he was listed in the Auckland Tennis Association rankings at only S7, or about C grade.

He contended that the June 12 headline (which picked up a key phrase from the story) “Millionaire saw GP ‘almost every day’” was inaccurate because the visits were “just under every third day or twice per week”.

He suggested that the reporter and the newspaper should not have published details from his medical notes.

In his complaint to the newspaper (and in a footnote to his formal complaint to the Press Council) he pointed out that the name of his former wife was incorrect.

The Newspaper’s Reply

The editor rejected the both the general and specific allegations made by Mr Page.

He said that in his view the story was of “legitimate public interest”, especially as it concerned large amounts of taxpayers’ money, adding that the two stories published by the *Herald on Sunday* (March 20 and June 12) involved fresh angles on a story that had already been covered elsewhere. He added that, in terms of balance and fairness, Mr Page had been given an opportunity to express his view and had been quoted in the reports and

two letters to the Editor had been published in support of Mr Page and his views (March 27).

In response to the specific complaints, the editor made the following points.

First, the reporter had contacted a staff member of Auckland Tennis who had described Mr Page as “a senior player whose abilities were A-grade compared to other club players of his age” and, further, the current rankings showed that Mr Page was a better player than he had indicated to the Press Council.

Second, in respect of the complaint that the headline “Millionaire saw GP ‘almost every day’” the editor pointed out that Mr Page had not disputed that he had visited his doctor “like every day or couple of days for years” when this had been put to him during court cross-examination. According to the editor, this was also addressed by the reporter when he rang Mr Page to discuss the court transcript and again Mr Page had not disagreed with the timing of his doctor’s visits.

In respect of the comment that the newspaper should not have published details from the complainant’s medical records, the editor pointed out that the information came, indirectly, through the court transcripts of a depositions hearing, and was accordingly a matter of public record.

Finally, the editor agreed that the paper had got the name of Mr Page’s former wife wrong – and it was regretted and would be corrected.

Conclusion

The newspaper published two articles covering developments in an ongoing story concerned with ACC payments. ACC regulations and the way the ACC scheme has evolved should naturally be open to discussion and debate.

In the earlier articles balance had been given by quoting an ACC spokesman who had made it clear that Mr Page was entitled to the payment under legislation that was in force when the payments were approved. Additional comments by the National Party spokeswoman on ACC and the ACC Minister, combined with the subsequent (March 27) letters to the editor, provided a valid example of how such informed discussion can be stimulated and developed. In short, this was a perfectly reasonable example of newspaper going about its proper business – informing the public.

The June 12 article, accepted for complaint by the Press Council, is an example of a newspaper developing the story further. Here, details of the case the complainant was taking against his former wife were not dwelt on but the court transcripts were used to raise a further issue – of an apparently wealthy person benefiting from taxpayer-subsidised doctors’ visits.

For all of the reports, the complainant was contacted for comment and his point of view was quoted, at some length.

Accordingly, the Council does not accept the complainant’s concerns regarding unfairness and lack of balance and his overall and general complaint is not upheld.

As to the specific complaint about the phrase, and subsequent headline, “Millionaire saw GP ‘almost every day’”, this is a slight exaggeration. However, Mr Page apparently did not repudiate the timing details when that was put to him in court, nor does he seem to have taken up that particular point when the reporter called him to check details. Further,

the informal and colloquial expression “almost every day” is open to a variety of interpretations. The Council is not prepared to uphold on such a minor, questionable detail.

However, the newspaper is not entirely free from criticism.

The editor’s initial response to the complainant’s concerns about the inaccuracy of being termed a “senior A-grade” tennis player seems less than convincing. The reporter himself referred to the Auckland Tennis rankings. There is a scale from S(singles)1 at the top, to S10 at the bottom. In early 2005, Mr Page is on the ranked list at S7. By late 2005 he had improved, but only to S6.

Mr Page might well be a lively, capable player but he is clearly a long way from being a “Senior A-grade” player and the Council accepts his claim and the evidence that he is a recreational club player at, in his own words, low B or high C grade.

Again, this is not the most grievous breach of journalistic ethics that the Press Council has had to deal with, but the report did carry the implication that Mr Page was unfairly accepting ACC compensation while playing top level tennis. The report did not make it clear that Mr Page’s ACC payments were in no way conditional on his physical fitness or his income.

Accordingly, this part of the complaint is upheld.

Finding

The general complaints about unfair, unbalanced and biased reporting are not upheld, but this one specific complaint of inaccurate reporting is upheld. While minor, the newspaper was endeavoring to create a picture of Mr Page with inaccurate material.

Press Council members considering this complaint were Barry Paterson (Chairman), Lynn Scott, Aroha Puata, Denis McLean, Terry Snow, Keith Lees and Clive Lind.

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

No offer of reparation – Case 1050

Introduction

The complainant is the defendant in criminal proceedings that are currently before the courts. A pre-trial interim name suppression order prohibits the publication of the complainant’s name, address, occupation and any particulars likely to lead to identification.

The complaint, which is partially upheld, relates to a story in *The Devonport Flagstaff*, on May 19, 2005, reporting on part of the depositions.

The Complaint

The complaint has four parts: breach of suppression order, inappropriate pre-emption of the Court’s decision on committal, inaccuracy and lack of balance. The Press Council declines to adjudicate upon the issue of alleged breach of the suppression order. One aspect of the complaint of inaccuracy is upheld. The remaining grounds of complaint are not upheld.

Breach of Suppression Order and Contempt of Court

Breach of a suppression order is an offence against s140 of the Criminal Justice Act and it is not for the Press Council to determine criminal guilt. The Press Council has, in

exceptional circumstances, considered complaints that required it to form a view about whether a suppression order had been breached. There is nothing exceptional about the circumstances in this case. If the complainant wishes to press his case, he must do so through the courts.

For completeness, the Press Council notes that the complainant also argues that the report might jeopardise his right to a fair trial by prejudicing potential jurors. Again, that is not a matter for the Press Council. It is a matter for the complainant to raise with the Solicitor-General and/or the trial judge.

Pre-empting the Court

The story closed by noting that the depositions were continuing and that “a trial is expected to take place next year”. The complainant objects that the word “expected” pre-empted the decision of the Court on whether to commit him for trial and that it was pure speculation. It is not an uncommon way to end reports on pre-committal proceedings. It is a rough guide to the future progress of the case, generally based on the prosecutor’s knowledge of the Court’s trial schedule. The word “expected” clearly signals that the matter is yet to be determined. There is nothing inherently inappropriate in that practice. However, care is required to ensure that the reportage remains accurate. In the present case, the depositions were only part heard and the Court was yet to hear argument relating to matters that were important to the defence case. It would have been wiser to stick to the standard closing formula “proceedings are continuing” but, as written, it was not inaccurate or misleading.

Inaccuracy and Lack of Balance

The complaints of inaccuracy and lack of balance are intertwined. In essence, the complainant claims that the story lacked balance in that it was tilted in favour of the prosecution case. That, in large part, (he says) is because the evidence of a prosecution witness was misquoted.

The story reads:

In her evidence at depositions [the witness] said it was clear the funds had been embezzled for private gain. The defendant claimed he had invested the money in bonus bonds and at one stage arrived at [the office] with \$2000 from the bonds in an offer of reparation. However by that stage [the bank] had already repaid the money and the matter was being investigated by the police, [the witness] said. The defendant has denied taking the money without authority and had used the cheques to obtain goods in lieu of payment owed to him.

It is obviously a paraphrase of the witness’s evidence; quotation marks were not used and it was a condensed version of question and answer testimony. However, relying on the transcript of evidence taken in Court, the complainant objects that the words “for private gain” (which were not said) change the meaning of the word “embezzlement” (which was said) and that the phrase “offer of reparation” (which was not said) implies an admission of guilt (which is denied).

As to the first part, the words “for private gain” do not add to, alter or qualify the meaning of the word embezzlement in any way so it is not an inaccurate summary of what

the witness actually said. This aspect of the complaint is not upheld.

The second part is not so cut and dried. The word reparation means payment to redress a wrong and it entails an admission (or finding) of guilt. Reading the relevant passage of evidence, it is clear that the witness interpreted the complainant's actions as an attempt to restore embezzled funds – in other words an offer of reparation. But she did not actually use the phrase “offer of reparation”. It was, therefore, inaccurate. The story went on to clearly summarise the defence case but that did not correct the error. This aspect of the complaint is upheld.

The third part of the complaint of inaccuracy is that the story summarised the prosecution case “*according to the police summary of facts presented to the court*”. The complainant argues that the summary of facts was never actually presented to the Court. The Press Council does not have access to the Court file. However, even if it was incorrect to say that the summary had been presented to the Court, the error is a trivial one that does not require the intervention of the Press Council. The complainant accepts that the summary was *prepared* for the Court and given to the reporter. He takes issue with the contents of the summary but he does accept that it is an accurate summary of the prosecution case. This aspect of the complaint is not upheld.

The complaint of lack of balance is not upheld. Read as a whole, the story does not lack balance. The report is one of proceedings that are ongoing. The essence of the defence case – a denial of wrongdoing and alleged procedural irregularities – were reported. Further detail about the defence case will no doubt be reported when it is presented at trial.

Press Council members considering this complaint were Barry Paterson (Chairman), Lynn Scott, Aroha Puata, Denis McLean, John Gardner, Terry Snow, Keith Lees and Clive Lind.

Exports per capita figure wrong – Case 1051

Introduction

Allan Golden complained that a paragraph in a report published in *The Dominion Post* on November 15, 2005, was incorrect and that although he pointed out the error no correction has been published. He complains that in publishing an inaccurate report and failing to amend it the newspaper is in breach of two of the Council's principles. The complaint is upheld.

Background

In a report of a speech to a minerals conference in Auckland by Mr Kerry McDonald, chairman of OceanaGold and BNZ, *The Dominion Post* reported that New Zealand's exports per capita were “just under half that of Australia and 2 1/2 times less than the United States.”

On the same day Mr Golden emailed *The Dominion Post* saying that this figure was wrong. He concluded “It is time for you to start publishing letters on such issues.”

The letter was not published.

On November 24 Mr Golden received a note acknowledging receipt of his letter and replied immediately by email, indicating he was not satisfied and suggesting the figure required “correction by one means or another”.

On November 30 the editor of the newspaper, Tim Pankhurst, wrote to Mr Golden saying they had no reason to believe the figure was incorrect. No one other than Mr Golden, including Mr McDonald, had suggested it was wrong.

At this stage it appears both Mr Golden and *The Dominion Post* were attributing the figure to Mr McDonald.

The Complaint

On December 8 Mr Golden complained to the Press Council and followed this with a letter on December 18 that pointed out that having seen Mr McDonald's text, as published on the internet, it was clear the figure was derived by the newspaper incorrectly, its having overlooked the qualification that the relevant table referred to increases in exports per capita over the period 1960 to 1999, rather than an absolute per capita figure.

Mr Golden attributed this to "an attempt by *The Dominion Post* to get on board in decrying the country's level of exporting".

The Newspaper's Response

In a letter to the Press Council two days later Mr Pankhurst acknowledged that Mr Golden was right, saying "the error was ours". He explained that initially they had no reason to believe Mr McDonald had been misquoted and had had no request from him to correct the mistake.

A letter from Mr Golden, on another subject, was published in *The Dominion Post* a couple of days before his letter of November 24 and they generally had a general policy not to let their letters columns be hogged by any individuals.

Mr Pankhurst said he was now happy to publish Mr Golden's letter.

Offer Rejected

On December 29 the Press Council wrote to Mr Golden putting forward the option of having his original letter published in *The Dominion Post*. However, Mr Golden decided to pursue his complaint and suggested *The Dominion Post's* error was intentional rather than a genuine mistake. He said the newspaper's business section was "controlled by some business clique". This was denied by the newspaper.

Conclusion

The Press Council upholds the complaint. The speech was inaccurately reported. Having ascertained the error it was incumbent on *The Dominion Post* to correct it. Mr Golden's beliefs as to the motive for the error are irrelevant. His original contention that the newspaper had a duty to check the facts presented by Mr McDonald, even if accurately reported, is not sustainable. No news organisation can submit all statements made in speeches to analysis in the course of a news report. Their obligation is to report the text as accurately as possible. It is for comment sections, letter writers or other contributors to challenge the content of such material if they feel it is warranted.

Press Council members considering this complaint were Barry Paterson (Chairman), Lynn Scott, Aroha Puata, Penny Harding, Ruth Buddicom, Denis McLean, Terry Snow, Alan Samson, Keith Lees, Clive Lind and John Gardner.

Criticism not discriminatory – Case 1052

Introduction

English language teacher Dianne Haist has complained about an editorial in the *Manawatu Standard* on October 11, 2005 that names China as an example of a police state. The complaint holds that the reference, contained in an article about earthquakes, is a slur on the Chinese and discriminatory.

The Press Council does not uphold the complaint.

Background

The *Manawatu Standard* editorial, headed “Quake-taming no easy task”, was written in the aftermath of the terrible earthquake that struck northern Pakistan in October last year, killing an estimated up to 100,000. The editorial centred on the peculiar horrors of big earthquakes and the difficulty of preparing for them, including a discussion of whether it was sensible for people to continue living in the most serious danger zones. Making the point that in a free world some people would always choose to ignore the dangers, it referred to China as a “police state” whose population could be required to move.

Specifically, it said: “In a free world, unlike a police state such as China, whose citizens are at the mercy of the dictates of the state, some people will inevitably insist on living in seismologically-dodgy places despite dangers”. Ms Haist said the sentence was discriminatory and cast a slur on the Chinese.

She also said the newspaper had neither responded to her letter of complaint, nor published it. The newspaper has since acknowledged its failure to respond, blaming it on a breakdown of systems: the complaint had gone to a generic email address and never reached the editor. The editor has apologised for the breakdown.

The Complaint

The complaint asserts that discrimination arises because the comment does not relate to the editorial topic. “I ask what living in a police state has to do with the title of the item. Nothing. This is outright discrimination, the comment does not relate to the headline.”

In an email to the *Manawatu Standard*, Ms Haist further says: “Why do I take offence? I belong to the New Zealand China Friendly Society that ‘promotes friendship, understanding and goodwill between the governments with Chinese’, I teach Chinese students at Massey who are well aware of how their government differs from ours, and I take great exception to my local newspaper using an editorial column on the topic of earthquakes to badmouth the politics of another country.” She concludes: “When I read such runaway commentary as this, I hurt too.”

The substantive complaint therefore relates to the Press Council’s principle of discrimination, requiring publications not to place gratuitous emphasis on, in this instance, race. Below this sits a criticism that a letter of complaint to the *Manawatu Standard* was ignored and not published.

The Newspaper’s Response

Manawatu Standard editor Jo Myers stands by the words used in the editorial, citing the following dictionary definition of a police state: “A totalitarian state controlled by a

political police force that secretly supervises the citizens’ activities.” She says this is a fair comment about the political state in China, “as evidenced by incidents such as the 1989 Tiananmen Square massacre, the banning of the spiritual movement Falun Gong, the fact that western news agency websites such as the BBC are inaccessible in China, and most recently, a decision by the web search company Google to censor its search services so it can gain greater access to the Chinese market”.

She defends the editorial’s reference to China in a discussion of whether all people have the freedom to choose where they live, saying, “places like China have been seriously affected by devastating earthquakes”. The headline fairly reflected the thrust of the editorial, and could not be expected to relate to every word within it. Far from the terminology being discriminatory, it was “a legitimate statement of fact”.

Mrs Myers apologised for not responding to the initial complaint, saying she had no knowledge of it, and that there appeared to have been a breakdown in her newspaper’s systems, which would be addressed.

Conclusion

An editorial is an editor-directed opinion piece expressing a newspaper’s views, usually on matters deemed to be of public importance. It is widely understood by readers to be opinion. As such, this Council has consistently upheld newspapers’ rights to present views that for many reasons might upset some sections of the community.

That freedom is not unbounded: editorials are still required to be accurate and not to overstep ethical lines as expressed in the Council’s Statement of Principles. In this case it is the Council’s view that no such line has been crossed.

The editor is entitled to pay attention to recent and not-so-recent events in a country’s history and to make judgments about the nature of its governmental controls. That is especially so in a democracy.

On the question of non-reply to the first email of complaint, it’s important that editors be as thorough as possible in ensuring all complaints are responded to. But Mrs Myers has apologised and that is accepted. Subsequent non-publication of the letter of complaint is the newspaper’s prerogative.

Finding

Though some might see criticism of another country’s government as hurtful, freedom of speech, within the boundaries already alluded to, is a fundamental right of a newspaper functioning in a democracy. The Council does not uphold the complaint.

Press Council members considering this complaint were Barry Paterson (Chairman), Lynn Scott, Aroha Puata, Penny Harding, Ruth Buddicom, Denis McLean, Terry Snow, Alan Samson, Keith Lees, Clive Lind and John Gardner.

Rushed story brings approbrium – Case 1053

The Press Council has upheld a complaint against the *Kapiti Observer*.

Background

On Monday October 24, 2005, the *Kapiti Observer* published a story headlined “Students fighting, parents worried about safety”. The story centred on three incidents of stu-

dents assaulting other students at a local school. The story referred to each of the incidents and speculated as to the underlying causes. Specifically, the story stated that the incidents “appeared to be racially motivated” and made four separate references linking the incidents to the death of a student a week earlier. The thrust of the story was that there was an atmosphere of fear at the school and that some students were too afraid to attend.

The source of the facts and opinions relied upon for the story would appear to be a group of four unnamed mothers of students at the school. The story explicitly stated that “several mothers” had contacted the newspaper the week before “to express concerns about their children’s safety”. The story itself cites four different “mothers”. One of them was identified as the mother of one of the three students assaulted. The parents of the other two assault victims were not approached for comment. The complainant, who was not approached by the newspaper, is the parent of one of the children assaulted referred to in the story.

The story does not contain any comment from or reference to any other person or organisation. About a third of the way through the story, the newspaper reported that the principal of the school concerned “...was in meetings throughout Friday and school staff said it would be inappropriate for anyone else to comment”.

The school board wrote to the newspaper by way of complaint on several heads, including lack of balance, inaccuracy and lack of sensitivity to the students and families involved. By way of resolution, the Board requested:

“...a balanced response to the article be published and an apology be made to the [school], its students, staff, parents and wider community. Particular apologies should be given to those directly affected by the mis-reporting”.

On Monday October 31, 2005, the newspaper ran a follow-up story headlined “Apologies over student assaults”. (The headline referred to the fact that the students involved in the assaults had apologised to their victims.) The story reported on measures taken by the school to deal with grief and distress over the death of one of the students. It noted that the principal did not wish to comment but that he had forwarded a copy of the school’s newsletter to the paper, excerpts of which were reproduced in the story. Paraphrasing from the newsletter, the story noted that:

“A ‘very small’ number of pupils ... had struggled to cope with the [death of a student] and had acted inappropriately in response to ‘the circulation of inaccurate and hurtful stories’ around the college after the tragedy

It also reported that the principal:

“...strongly refuted suggestions by a couple of mothers of students at the school that the recent attacks could have been racially motivated. He expressed regret that the incidents had occurred and said the school had spoken to victims and their parents”.

On November 3, 2005, the complainant wrote to the newspaper, by way of complaint, having already spoken to the editor on the telephone. The letter objected to the failure to contact the complainant’s child before publishing details about the assault and stated that it was inaccurate to suggest that it had been “racially motivated”. The complainant also argued that it was inappropriate to report on the incident at all given “...the sensitive nature of the circumstances or the sensitivities of [the young people] who would hate their personal responses to be aired publicly”. The complainant acknowledged the follow-up

article but argued that it did not redress the damage caused by the original article. The newspaper did not respond to the complainant's letter.

Complaint to the Press Council

The complaint to the Press Council was advanced under two heads. The first, although expressed in various ways, was essentially a complaint that the story breached the requirements of accuracy, fairness and balance (principle 1). The second was a complaint that publication of details of the events at the school was an inappropriate breach of privacy, particularly given the age and sensibilities of the people involved and the distressing circumstances (principles 3 and 5).

The school has not complained to the Press Council. However, it does support X's complaint and the principal has provided the Press Council with copies of the school's correspondence with the newspaper and background information.

The Newspaper's Response

The editor of the *Kapiti Observer*, Diane Joyce, apologised unreservedly for not responding to the complainant's letter of November 3. She explained that, during their telephone conversation, the complainant had said the matter would be discussed with the Board of Trustees. She therefore assumed that her letter to the Board had addressed the complainant's concerns. In hindsight, she accepts that she should have sent a copy of that letter to the complainant.

The editor argues that the events at the school were a matter of public interest and they were reported honestly and without sensationalism. The newspaper's response to the specific grounds of complaint are set out below.

Accuracy, Fairness and Balance

The editor argues that the descriptions of events at the school and discussion of possible causes were clearly reported as the opinion of two of the mothers interviewed rather than fact.

On the question of balance, the editor says that the reporter tried to telephone the principal but was told that he would be in a meeting all day. On being told the proposed content of the story the principal's secretary offered to leave a message on the principal's cell phone but advised that he would be unlikely to get it before the newspaper's deadline. The reporter asked whether anyone else could comment. The secretary offered to check, did so, and rang back to tell the reporter that "it would not be appropriate for anyone else to comment". It appears that the reporter made no effort to check facts or obtain comment elsewhere, for example from the Board of Trustees or parents of students other than those cited in the story.

The principal rang the newspaper that afternoon but, the editor said, the paper was already "going to print" and the reporter had gone to lunch. When the reporter returned from lunch, she telephoned the school. The principal had returned to his meeting so the reporter told his secretary that she would contact the principal "as soon as possible" for a follow-up story. The reporter telephoned the principal "numerous times" in the ensuing week and left messages. When she did speak to the principal, he advised that the matter had gone to the Board of Trustees and he did not wish to comment. He did, however, advise

that the newspaper could refer to the school newsletter and supplied her with a copy.

The editor says that four mothers contacted the newspaper independently about events at the school. Other parents were approached for corroboration and the story clearly stated that the only person able to comment was not available. Although it was “not ideal”, she argued that the follow-up story of October 31, based on the school newsletter and published on the “next practicable same-day edition”, provided balance.

Privacy and Children and Young People

The editor says that the story did not determine or speculate on the cause of the student’s death; the references to the possible cause of death were made purely to place the assaults in context. As to the assaults, the editor says that the bulk of the story came from the child of one of the mothers cited and concerned the assault of that child. The rest of the story, including the paragraph dealing with the assault of the complainant’s child, came from mothers of children who had witnessed those assaults and were thereby traumatised. The editor says that the reporter was not able to interview the complainant because none of the parents she spoke to would name the assaulted children. Finally, she argues that the story was clearly a matter of public interest.

Relevant principles

The applicable principles are:

Principle 1- Accuracy

Publications (newspapers and magazines) should be guided at all times by accuracy, fairness and balance, and should not deliberately mislead or misinform readers by commission, or omission.

Principle 3- Privacy

Everyone is 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 matters of public record, or obvious significant public interest.

...Those suffering from trauma or grief call for special consideration, and when approached, or inquiries are being undertaken, careful attention is to be given to their sensibilities.

Principle 5 – Children and Young People

Editors should have particular care and consideration for reporting on and about children and young people.

Discussion

The story of October 24, 2005, and its follow-up on October 31, 2005, concerned serious and upsetting events at a local school. From the moment that the newspaper decided to investigate, it should have been thinking about the need for particular care. Instead, on the strength of unsolicited contact from four women it published a sensationalised one-sided story that was both unbalanced and unfair.

It was unfair to the school, which was dealing with a crisis and clearly should have been given the opportunity to respond to the assertions that students were too afraid to attend school and that the assaults may have been racially motivated. The reporter made

only a token attempt to obtain comment from the school or to check the facts in an objective and thorough way. The principal returned the reporter's call on the same day and was told that it was already too late. The sensational effect of the opinions expressed in the story was due to the lack of response or comment from the school.

It was also unfair to the other assault victims. They were known to other students and they should at least have been offered – through their parents or guardians – the opportunity to comment on the opinions expressed about motivations behind the assaults and the alleged effects on other students.

The follow-up article one week later did not absolve the newspaper. A follow-up article a week later will sometimes satisfy the dictates of fairness and balance in some situations. It depends on the circumstances. In this case, the school was dealing with a very difficult situation. There was a legitimate public interest in what was happening at the school and what parents had to say about it. However, there was no urgent need to go to print on October 24, 2005, particularly so when it would, quite obviously, add to the distress of and pressure on the children and young people caught up in the crisis at the school and the bereaved family. There was time to get it right.

The Press Council should not be understood to say that newspapers should not cover upsetting or delicate matters or crises at schools. Nor can schools manipulate publication by refusing to comment. The timing and form of coverage will be for the editor to determine in the circumstances of the particular case.

However, in this particular case, the Press Council rules that the story was unbalanced and unfair and the decision to publish showed little regard for the sensibilities of and distress to the young people involved, including the complainant's child. A follow-up story a week later was never going to make amends. The newspaper could have and should have waited.

Decision

The complaint is upheld. The story of October 24, 2005 was unbalanced and unfair and it showed insufficient regard for the privacy and sensibilities of the young people involved. The follow-up story of October 31, 2005 was insufficient, in the circumstances, to redress the damage.

Press Council members considering this complaint were Barry Paterson (Chairman), Lynn Scott, Aroha Puata, Penny Harding, Ruth Buddicom, Denis McLean, Terry Snow, Alan Samson, Keith Lees, Clive Lind and John Gardner.

Anonymity a moot point – Case 1054

Introduction

The New Zealand Press Council has not upheld a complaint by Bob Harrison, of Karitane, Otago, about the editing of his letter, dated March 4, 2006, to the editor of the *Otago Daily Times*.

Background

Mr Harrison had written a letter of about 200 words to the editor following a report in the *Otago Daily Times* on March 2 that quoted statements by Act leader Rodney Hide and

National MP Judith Collins in the privileged environment of Parliament relating to a Dunedin MP, David Benson-Pope. Mr Harrison wrote that the statements in the report either stated or implied that Mr Benson-Pope was a “liar, a bully and a pervert. These accusations, had they been made outside Parliament, would have been held to be slanderous, and subject to prosecution”. He wanted the newspaper to inform readers why MPs were given this “protection from prosecution not available to the people who put them in Parliament”.

He also sought explanation from the *Otago Daily Times* why, in the same March 2 edition, and under the heading “Fellow Teacher Put Through Hell,” it had given another critic of Mr Benson-Pope anonymity when reporting her allegations. He claimed the paper did not publish anonymous letters to the editor so granting anonymity for the news report implied “flagrant double standards”. Mr Harrison had headed his letter “Double Standards?” in capitals. Similarly, he had capitalised a phrase in the letter, “under the cloak of anonymity”.

Mr Harrison’s letter, in a slightly edited form, was published on March 8. The newspaper editor sought to answer Mr Harrison’s questions through a note at the end of the letter which read: “MPs are given parliamentary privilege so they can speak freely, without fear of defamation action. We agree to withhold names when asked to do so if we believe the issue is of over-riding importance. In the case you mention, we later published the teacher’s name in a followup report (ODT, 4.3.06).”

The Complaint

Mr Harrison complained to the editor after seeing his letter published on March 8 about changes made to his letter “without my permission” which he argued considerably diluted the thrust of the points he wished to make. The capitalised heading “Double Standards?” and the phrase, “under the cloak of anonymity,” had been omitted. “There is not much point in publishing readers’ letters if you can make changes which undermine or confuse the intention of the writer,” he wrote. He did not accept the editor’s explanation about parliamentary privilege. He also argued, when referring to the paper’s practice of withholding names on issues of over-riding importance, that it was more important that readers knew who was making serious allegations so that they could form their own opinions on the veracity and relevance of the views expressed.

On March 11, the editor responded in a note to correspondents: “As our rules for correspondence state, we do not enter into discussion on selection or editing of letters.” Mr Harrison then complained to the Press Council on March 24, stating that the editor’s note “implies to me the editor believes he has the right to make any alteration he wishes to any letter regardless of the effect of the writer’s intended emphasis or meaning. If editors do have such a right, it appears to fundamentally undermine the integrity of the whole concept of provision of space for readers to express their concerns.” He went on to say: “The right of readers to express their criticism of editors, without deletion or amendment, seems quite central to the concept of a genuinely ‘free press’.”

The Newspaper’s Response

Responding, the *Otago Daily Times* editor, Mr Robin Charteris, said the Press Council had always made it clear that the handling of letters to the editor was at the discretion

of editors. He referred to the newspaper's rules for letters, which said, *inter alia*:

- 1) The newspaper will abridge some letters that exceed length guidelines (normally 150 words)
- 2) The newspaper did not enter into discussion about selection or editing
- 3) Noms de plume were permitted for some letter writers, but only "where a suitable case for anonymity is clear".

Mr Harrison's letter was published substantially as received and the newspaper had never allowed correspondents to use their own styles of capitalising or italicising words or phrases for emphasis. As for the five words omitted – "under the cloak of anonymity" – Mr Charteris was unsure, given the length of time that had passed, if this was to abbreviate the already lengthy letter (about 200 words versus the recommended 150) or because the woman's name had been published on March 4, two days after the report Mr Harrison had criticised. The name was published before Mr Harrison's letter was received.

"I submit the purport of Mr Harrison's letter was in no way changed by the deletion of five words," Mr Charteris wrote. "As a responsible editor, I have no wish whatsoever to change a writer's emphasis or meaning."

In his right of reply, Mr Harrison claimed the letter was not published "substantially as received", questioned why an editor should have the right to deny a correspondent to use capitals for emphasis and clarification, repeated his assertion about the right to know who is making complaints anonymously, and claimed replacing his headline led readers away from the point he was making.

Conclusions

The Press Council has always maintained that it is the right of newspapers to publish or not to publish, and to edit or not to edit, letters sent to them for publication, providing the intended meaning is not changed. The omission of Mr Harrison's suggested headline falls within that category. The deletion of the five other capitalised words does not affect the meaning of Mr Harrison's letter because it is clear from other parts of the letter that he is complaining about the granting of anonymity to a complainant. Such editing is perfectly acceptable for an already-too-long letter. In any case, the point is moot because the teacher was named just two days later, and well before Mr Harrison's letter was published.

It is not reasonable for Mr Harrison to insist on capitalisation. Taken to extremes, such liberties could render letters to the editor columns a hotch-potch of different styles that would adversely affect the legibility of an important public forum. Newspaper editors have to have the right to make their own rules.

In any event, as the Press Council has noted before, following the rules should mean editing disagreements such as the above are less likely to occur, and Mr Harrison did not follow the rules. The newspaper's policy not to engage in debate over editing had also been made clear.

Further, the newspaper was entitled to grant anonymity to the teacher in its article of March 2. The Press Council has not been made aware of the circumstances that led to the name being published soon after but, regardless, nothing suggests the newspaper did not act professionally and properly.

Finding

The Press Council does not uphold the complaint.

Press Council members considering this complaint were Barry Paterson (Chairman), Lynn Scott, Aroha Puata, Penny Harding, Ruth Buddicom, Denis McLean, Terry Snow, Alan Samson, Keith Lees, Clive Lind and John Gardner.

No more than a dirty joke – Case 1055

The New Zealand Press Council has not upheld a complaint against *The Dominion Post* by Eamon Sloan of Elsdon about a cartoon by Tom Scott which was alleged to be “no more than a dirty joke”.

Background

Mr Sloan’s complaint to the Press Council was triggered by a cartoon published on February 6, 2006, which depicted two male characters, apparently sheep farmers or musterers. An insert draws attention to a recently released film, *Brokeback Mountain*, which achieved some notoriety by raising the question of homosexual love. One man is saying to the other, “Two guys out on the plains, herding hundreds of perfectly attractive sheep, get lonely and hit on each other? I don’t get it...”

The Complaint

In an email to the editor Mr Sloan contended that this “was more than a bit over the edge”. He noted that he had previously pointed out Tom Scott’s “proclivities for smut and sexual innuendo The latest effort enters forbidden territory to recommend bestiality as an alternative for lonely shepherds.” Writing again to the editor on February 23 Mr Sloan observed that while a cartoonist might be allowed some “poetic licence” this should not be “exploited so as to cause offence”. He noted that the newspaper, in the section advertising “Adult Entertainment”, printed a statement expressly reserving the right “not to print any words or sentences ... unsuitable to our readership” and suggested that the “same standard” be applied to Mr Scott’s cartoons.

The editor of *The Dominion Post* replied on March 1 declining “to censor Mr Scott’s work” and noting, “As with our columnists (he) is given wide licence to bring his imagination and skill to the issues of the day.” He acknowledged that “this may not always be to everyone’s taste, but good cartoons are often provocative”.

Not satisfied with the editor’s response Mr Sloan wrote to the Press Council on March 15. He did not accept the editor’s defence of Tom Scott’s abilities to deal with “the issues of the day” contending that “Advancing a case for bestiality is hardly a burning issues of the day. The entire subject is in no way humorous and I would say the less we hear about it the better.” Adding that his complaint “turns on the issue of decency and particularly as it relates to cartooning in a family newspaper”, he asked that the Press Council make “a finding that the cartoons [the reference is to the cartoon of February 6 and an earlier effort of October 21, 2004] in question ... contain unnecessary and offensive sexual innuendo”. The earlier cartoon is outside the time-limit for complaints to the Council and was not considered.

Making the point that the Council’s Statement of Principles makes no specific provision for the matter of giving offence, Mr Sloan cited Principle 8 to do with Discrimina-

tion, warning against placing of gratuitous emphasis on gender, religion, etc. (Mr Sloan submitted that the New Zealand Council should add to its Statement of Principles, the Australian Press Council's Principle # 6 which refers to "material expected to cause offence". This suggestion is not further pursued here.)

Conclusions

The Press Council notes that Mr Scott's cartoons appear as a feature of the editorial page in *The Dominion Post*, directly beneath a sub-heading "Opinion". The page almost always carries a major opinion piece as well as the day's Letters to the Editor and the Editorial. There is no question but that this is a forum for the expression of differing points of view, for putting into the public realm individual slants on issues and events. As such the page in every way fulfils the duty of a newspaper to provide for the free expression of opinion.

It goes without saying that cartooning is integral to this vital function and purpose in a newspaper. Equally there is no doubt that the views and interpretations of matters in the public eye of cartoonists, as other contributors to the page, will not satisfy everyone or be to the taste of all.

The Press Council 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 that should not be crossed. But it is the prerogative of editors to make judgments on such matters, in the interest of their newspaper. The Press Council has consistently ruled in favour of editors' responsibility for their editorial page. It would take extreme circumstances to do with risk to the public interest or gratuitous offence to a particular group, for the Council to rule otherwise. This is not one of those cases.

Mr Sloan's complaint is not upheld.

Press Council members considering this complaint were Barry Paterson (Chairman), Lynn Scott, Aroha Puata, Penny Harding, Ruth Buddicom, Denis McLean, Terry Snow, Alan Samson, Keith Lees, Clive Lind and John Gardner.

Diplomatic rumblings – Case 1056

S S Agarwal complained about a story in the fortnightly English-language newspaper *Indian Newslink* published in Auckland on March 12, 2006. The article was headed "Recall of Indian envoy ripples" and Mr Agarwal complained that the statement "...the government in Wellington has refused to interfere in the affairs of the high commission" was inaccurate.

The Press Council has not upheld the complaint.

Background

From its own description, the newspaper *Indian Newslink* sets out to be a voice to the Indian community in New Zealand, claims more than 65,000 readers for each issue and is distributed free throughout major Indian outlets in New Zealand. When there was news early in 2006 that the Indian High Commissioner to New Zealand, Mr Harish Dogra, was being recalled by the Indian government after complaints, it was natural that *Indian Newslink* would have its own story about this issue of vital interest to the community.

After the story in question appeared, Mr Agarwal emailed a letter to the editor. He

complained that the statement "...the government in Wellington has refused to interfere in the affairs of the high commission" was untrue. His reasoning was that, in an edition a year previously, the newspaper had an article "Delhi to probe High Commission problems". In this, there was the sentence "Foreign Minister Phil Goff said he had discussed the issue [of problems facing ... the high commission] with his Indian counterpart Natwar Singh during his visit to New Delhi on March 5." Mr Agarwal said the paper should have referred to past issues before making sweeping statements, which included the subject of his complaint.

His letter was not published and when he emailed asking why, the editor replied that lack of space was the main reason as the newspaper received more than 200 letters for each issue.

Complaint

Mr Agarwal complained to the Press Council about a breach of the principle relating to accuracy, fairness and balance, saying the editor had deliberately misled or misinformed the readers. Mr Agarwal set out the same grounds as he had to the editor. He also said that after his complaint, the editor had refused to correct what Mr Agarwal claimed was inaccurate reporting. He also felt the principle on keeping clear the distinction between facts and opinion had been breached.

The editor responded that the issues Mr Agarwal referred to were separate. The article complained of related to the non-interference of the New Zealand government in the recall of the then-Indian High Commissioner Mr Dogra. The earlier story related to complaints about delays in processing visas at the Indian High Commission in Wellington. He said the reader had confused the two issues.

The newspaper stood by the story, and the editor said the public had not been misled. He valued readers' opinions and believed there would have been more than a single complaint if the story was misleading or inaccurate. The editor also offered to publish a clarification if required along with the reader's letter in a later edition of the newspaper.

Decision

In the first story, then Foreign Minister Phil Goff was quoted as saying it was not his intention to complain against a diplomatic mission but that he had the responsibility to redress the complaints received at his parliamentary and electoral offices in Wellington and Auckland. In the Press Council view, passing on such messages did not amount to interference.

The ordinary dictionary meaning of "interfere" is "to meddle, obstruct a process, be a hindrance, get in the way, take part or intervene especially without invitation or necessity". If the earlier story were relevant, normal diplomatic exchanges on matters of common interest or concern scarcely constitute "interference".

More significantly, in the story that is the subject of complaint, there is clear reference to Foreign Minister Winston Peters, the New Zealand government and MPs maintaining "a stony silence" about the matters earlier this year. The newspaper said the government and politicians kept themselves out of even informal discussion for fear of raising a diplomatic incident.

Such reporting in the relevant story justified the conclusion that the government was refusing to interfere in the affairs of the high commission.

The complaint is not upheld.

Press Council members considering this complaint were Barry Paterson (Chairman), Aroha Beck, Ruth Buddicom, John Gardner, Penny Harding, Keith Lees, Clive Lind, Denis McLean, Alan Samson and Terry Snow.

Reflections of retired principal OK – Case 1057

Introduction

A J McCracken complains that an article “Culture Change” published in the *New Zealand Listener* on February 11, 2006 was unbalanced, presented assertions as facts, repeated “lies” about Glenfield College (“the school”), and lacked accuracy and balance. This, Mr McCracken asserted was “mischievous and wilfully damaging” to the school and the article was “damaging to the profession of journalism”.

The complaint is not upheld.

Background

After allegations made in late 2004 that the staff of the school were being bullied and intimidated, the Education Review Office (ERO) undertook a special review to evaluate particular areas of governance and management of the school. ERO reported in February 2005 (relevantly) that it had found the school staff culture divisive, the Board of Trustees (the Board) not governing effectively, and the principal not managing staff relationships well. Because ERO was not confident the board could resolve these serious issues, it recommended that it be dissolved and a commissioner be appointed.

Each of those steps duly occurred.

ERO identified for the commissioner three key areas that it hoped could be improved. These were governance, school management and staff culture. ERO indicated it would return to the school within 12 months to evaluate the progress made.

The follow-up review took place in about September 2005. A letter dated November 25, 2005 summarising ERO’s findings on this review was sent to parents and school community. This recorded (as relevant here) that concerns remained about “the management of student behaviour, the physical and emotional safety of students and staff and the lack of collaborative leadership. In some instances, positive developments have been undermined by staff, who have responded negatively to new initiatives.

“This has frustrated other staff who are committed to providing high quality learning opportunities for students. The best teachers and most effective heads of department have had considerable difficulty in sharing and consolidating good practice. The lack of a shared vision for school improvement and the low level of self review compound these problems”.

The (then) principal resigned subsequent to this second review.

The Basis of the Complaint

Mr McCracken complains that the article published breaches Principle 1, which requires accuracy and balance, and Principle 6, which requires publications, as far as possible, to make proper distinctions between the reporting of facts and opinion, comment or conjecture.

Mr McCracken further complains that the article was “wilfully damaging” to the school.

The Magazine's Response

The editor asserted that the article was an accurate reflection of what was the first interview conducted with the former principal. She observed that his resignation “followed substantial media attention amid allegations of bullying”. The magazine article referred to the reports by ERO and drew from these as well as from the comments made about the school by the former principal and the former chair of the board. The author of the article also sought comment from a psychologist regarding effective organisational change and the problems that can be encountered with that process.

The editor stated that the article was intended to provide another insight into what had happened at the school and stressed it was the first interview with the former principal who, to date, had not made public comment. She maintained that as a person with more than 25 years' experience in education, he was entitled to an opinion and the magazine was entitled to report it.

The business manager of the magazine (in a later response to the complaint) rejected the claim that the article had done further damage to the school relying on the findings of the ERO reports to illustrate that the damage had already been done.

Finding

The Press Council does not uphold the complaint despite having some sympathy with Mr McCracken's complaint.

The article was intended to be a reflection of the views of the former principal and the former chair of the board. The magazine could have helped itself by making this more apparent on the face of the article. For example, the standfirst of the article could be read as suggesting a wider intention. If, as the standfirst suggests, the intent of the article was to determine “what went wrong” then this Council would incline to the view that more balance was required. However, reading the article as a whole makes it clearer that the primary focus was to hear the views of the former principal.

The article itself does not purport to provide a complete picture from all interested parties' perspectives. It seeks only to provide one opinion, which, according to the magazine, had not previously been reported. The editor has the prerogative to elect to publish such a story. The magazine nevertheless failed to be as clear as it should have been that, despite the standfirst, this was never more than a friendly platform for the former principal's views, and so a much narrower story than readers and other staff at the school were led to believe.

It is evident that Mr McCracken disagrees with the views expressed but mere disagreement is not sufficient for the Council to find the magazine in breach of the Statement of Principles.

Insofar as the article set out only to report the views of two people (with comment from a third disinterested person), the Council finds that the article does not offend against the principle requiring accuracy. Further, the Council is satisfied that the article is sufficiently clear that what is being reported is opinion placed in the context of the two ERO reports about the school. The Council finds that fact and opinion are distinguishable in the article complained about.

Press Council members considering this complaint were Barry Paterson (Chairman),

Aroha Beck, Ruth Buddicom, John Gardner, Penny Harding, Keith Lees, Clive Lind, Denis McLean, Alan Samson and Terry Snow.

Defending the Catholic Church – Case 1058

The Press Council has not upheld a complaint by Mr Richard Ryan about the decision of *The Press* not to publish two of his letters to the editor.

Background

In the first instance Mr Ryan wrote to the editor in response to a letter published on February 1, on the controversy over the screening of the Virgin Mary episode of *South Park*. Mr Ryan's response suggested that the letter-writer had implied the Catholic Church showed a lack of respect for homosexuals.

Mr Ryan wrote to *The Press* again in response to an editorial on February 3, which commented, mostly in laudatory terms, on the encyclical *Deus Caritas Est*. In this case Mr Ryan "took umbrage" at the passage "his encyclical offers little hope to those groups who feel ostracised by the church – women shut out of the clergy and homosexuals in particular".

Neither letter was published and Mr Ryan complained to the Press Council, arguing that by not publishing his letters truth had been suppressed. He supported his complaints with a variety of references that might be summarised as explaining the Church's position that while the practice of homosexuality is "intrinsically disordered" individuals with deep-seated homosexual inclinations "must be accepted with respect, compassion and sensitivity".

The Newspaper's Response

The editor of *The Press* in a letter to the Press Council of May 15 said that in respect of the *South Park* controversy, the letters columns had carried a lively debate "with the Catholic perspective well represented". He pointed out the newspaper received far more letters than it could publish and aimed at using a wide range of writers. Although Mr Ryan's letters were not used in these instances, he had had 28 letters published since November 1996, most of them defending Catholicism.

The editor also submitted to the Press Council articles that it published containing further analyses of the position of the Catholic Church on homosexuality and the priesthood.

Mr Ryan rejected *The Press*' argument. Mr Ryan said the other letter-writer had been allowed three letters in four weeks. He said the past record of his own letters being published was irrelevant in these instances.

Conclusion

The Press Council has stated on many occasions and in its Statement of Principles that it is the right of newspapers to publish, or not, letters submitted to them for publication. The principles also require editors to be guided by fairness and balance. *The Press* has demonstrated that overall its coverage of the issues here has canvassed a range of opinion.

The Press Council does not uphold the complaint.

Press Council members considering this complaint were Barry Paterson (Chairman), Aroha Beck, Ruth Buddicom, John Gardner, Penny Harding, Denis McLean, Alan Samson and Terry Snow.

Keith Lees and Clive Lind took no part in the consideration of this complaint.

Council split on privacy complaint – Case 1059

Introduction

A complaint against *The Dominion Post* by a relative of a person convicted in a serious drug case been part-upheld by a majority of the members of the Press Council.

Background

A news feature in a Saturday edition of *The Dominion Post* covered aspects of the life of a person who had pleaded guilty in the Wellington High Court to serious drug charges.

The article referred to family members. It is these references that were the subject of the complaint. They identified relatives by name and gave other identifying details, for example, relating to occupation and business.

The Complaint

The complainant alleged that the newspaper had breached several of the Council's principles. In the letter of complaint to the editor of *The Dominion Post*, the complainant referred to the principles of Accuracy, Comment and Fact, Discrimination and Privacy. In the formal complaint to the Council, the objector particularly addressed the Privacy principle.

There was also a reference in the complaint to the Council of the reporter breaching an undertaking he gave to the offender, namely that the article would not be published until after the offender had been sentenced. There has been no complaint from the offender in respect of this alleged undertaking and the Council is unable to consider an allegation on behalf of a third person without the support of that third person.

The particular portion of the Council's Privacy principle which the complainant alleged had been breached reads:

“Publications should exercise care and discretion before identifying the relatives of persons convicted or accused of crime where the reference to them is not directly relevant to the matter reported.”

The complaint was that the reference to the complainant, place of work, previous work activities, and a medical condition breached the principle and was in no way relevant to the story. Further, it was said that the mention of another family member was also irrelevant. It was further contended that *The Dominion Post* did not exercise care and discretion by identifying relatives of persons convicted or accused of crimes and that the reference to family members was not directly relevant to the matter reported.

The Newspaper's Position

The Dominion Post referred to the contents of a letter which it had sent to the complainant in reply to the original letter of complaint to the editor. In essence, the newspaper's position was that the offender had spoken at length to its reporter about his family and the change he had brought on them. The family background was therefore relevant.

The basis of the article was an interview with the offender, freely given by him, about the effects of his drug importing/drug taking and the impact on friends and family around him. It was also stated that it was relevant to include in the story the prominent position that a family member had taken on a matter of public interest (unrelated to drug offending) and that much of the information in the article was on a family website or was available from normal library sources. In respect of the complaint about the medical condition, it was stated that this was mentioned by the offender. The reference to the company for which the offender worked, linked to the complainant, was included to give readers an insight into the offender's working life. In respect of the complaint about one family member, it was stated that they were pointed out to the reporter by the police at a court appearance. (The complainant's position is that this relative was not in court at any time.)

The Dominion Post's response to the Council clarified certain matters and in particular repeated that the information featured in the article was in the public domain, available on the complainant's family website and some of the information was readily provided by the offender who spoke at length about it during a pre-arranged interview. The editor confirmed the newspaper's position that the information was accurate and there was no discrimination against the complainant by referring to a medical condition.

The Majority View

This is a case on which the views of the Council differ. The majority, however, uphold the complaint on the grounds that the newspaper breached the complainant's privacy. It does not uphold the complaint on other grounds. The information upon which Accuracy and Discrimination are raised would not have been in the article if it had not been for a breach of the privacy provision. The majority does not consider that the Comment and Fact principle has been breached. On the matter of the presence of a family member in court we note that the editor has accepted a mistake was made in relying upon the identification of a police officer. The newspaper has corrected its library files to reflect the position

Though it is accepted that much of the information used was in the public domain, some was on the complainant's website, and much was provided by the offender, these points are not, in the view of the majority, a sufficient answer to a breach of the Privacy principle. The breach of privacy arises through linking the complainant to the offender. Some readers, including those who knew the complainant, might not have made the link with the offender if it had not been for the article. The majority accepts that this linking might well have had led to the significant stress and trauma of which the complainant complained to the newspaper.

The Privacy principle of the Council reads:

“Everyone is 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 matters of public record, or obvious significant public interest.

Publications should exercise care and discretion before identifying relatives of persons convicted or accused of crime where the reference to them is not directly relevant to the matter reported.

“Those suffering from trauma or grief call for special consideration, and when approached, or inquiries are being undertaken, careful attention is to be given to their sensibilities.”

The complainant was on the face of it entitled to the privacy of person, space and personal information. In this case, in the view of the majority, the first paragraph of the Principle should have been tested against the issue of whether or not there was a direct relationship between what was on the public record or of obvious significant public interest about the family and matters relating to the offending. The family concerned had not sought the limelight or public office. There was no linkage between them and the offending other than the family connection with the offender which, in the view of the majority, could have been handled without breach of privacy.

The Principle requires care and discretion to be exercised before identifying relatives of persons convicted or accused of crime if that identification is not directly relevant to the matter reported. One of the issues covered in the article was the effect on the offender’s family. However, in the majority’s view it is a breach of the Privacy principle to bring in specific details of the family circumstances and positions in an article that refers to the effects on family members. That aspect could have been covered by merely referring to the effects as such. The fact the complainant had been involved in a controversial public matter was not in the majority’s view relevant to the effect on the complainant. Details including the identification of the family members were not necessary in the article. The references to them in this case were an unnecessary invasion of their privacy. Thus the majority upholds the complaint on the grounds that it was a breach of the complainant’s privacy.

This is the first time since the adoption of the Statement of Principles that the Council has considered the issue of identification of a relative of an offender. Its Privacy principle is not as stringent as the privacy policies of either the Australian Press Council or the Press Complaints Commission of the United Kingdom. The former says publications should not identify relatives or friends of a convicted person “unless reference to them is necessary for the full, fair and accurate reporting of the crime or subsequent legal proceedings”.

The PCC code includes “Relatives or friends of persons convicted or accused of crime should not generally be identified without their consent, unless they are genuinely relevant to the story.”

In the view of the majority unless the matter is one of public concern that requires the identification of the relative, they should not generally be identified.

The Dissent

A minority does not uphold the complaint for the reasons set out below.

The Statement of Principle relating to privacy, as with all of the principles, should be read against the overriding principal objects of the Press Council. They are complaint resolution, to promote freedom of speech and freedom of the press in New Zealand and to maintain the New Zealand press in accordance with highest professional standards.

These goals are further elaborated in the Preamble to the Statement of Principles where the Council acknowledges that individuals have rights and these must be balanced against competing interests such as the public’s right to know. The preamble then states,

“In complaint resolution by the Council freedom of expression and public interest will play dominant roles.”

The article that is the subject of the complaint must be seen in the context of how the newspaper covered the whole story of the drug offender. There were straight crime reports from the court with some background to the crime, the article complained about, which was presented with the strap “News Feature” at the top of the page, an article when the sentence was imposed and a story of police reaction. *The Dominion Post* story that is the subject of complaint represented no more than normal coverage of such high-profile cases.

There was no reference to the family in the crime reports, but the News Feature, as the description indicates, was a backgrounder and typical of the contextual stories about famous and notorious people. In these articles, everything is relevant. It is knowledge that informs our understanding of the people and their actions. For the famous, mention of schooling, parents, their background, siblings and many personal details give an insight into the subject. Readers would expect a background piece to cover all this territory; a background article that failed to detail much of this information would seem inadequate, at best. For the criminal and less savoury, the function of the revealing background piece is no less important and logically should be no less comprehensive. Otherwise there would be an undesirable, strongly inhibiting effect on the press of not being able to mention real names and details that fill out a true background story.

In this case, the offender himself gave much of the information in a voluntary interview with the newspaper. Far from reflecting badly on the family, the connections made with the complainant, called “prominent” by *The Dominion Post*, led the reader to ponder even more on the fall from grace of the offender and his divergence from his family. The fact certain details were visible on a family website for anyone to access, not simply emailed, gave the newspaper legitimate support for its claim that what appeared in the newspaper was already part of the public record. What is published on a website is no longer private. In an Internet age, with comprehensive search engines, such knowledge has been set free.

When tragic and unhappy circumstances afflict a family, the family members naturally want to contain and possibly hide their hurt. They value what they perceive as private. But the press has an equal and opposite duty to report the context of such events for the public record and in the public interest, whether the circumstances relate to criminal offending, calamities, fatal accidents or the heartbreak of suicide. In a high-profile drug case, for a society afflicted by the scourge of illegal drug use, the detailed origins of an offender and his effect on his victims and his family are lessons for the public. Such offenders do not exist in isolation and the most natural questions are “Who is he and what is his background?” In this context, anonymity would be untenable and the linking of the complainant and the criminal offender was not a breach of privacy.

The line of privacy moves across these events, but for society as a whole the press is there to reveal not conceal, and freedom of expression is jealously guarded because of this. The Press Council has given varied decisions in the past on privacy complaints. In Case 946, the Council did not uphold a complaint about privacy being breached for the complainant because the story was essentially about the life experience of another person.

There, the Council “did not regard the references to [the complainant] as unduly intrusive. It decided that, given the totality of the article and that the references to [the complainant] were brief and not egregious, it would not uphold the complaint”. In the minority’s view the same can be said in this case. *The Dominion Post* in this case ethically and legitimately obtained information through an interview and a publicly accessible website. Because freedom of expression plays a dominant role in complaint resolution, there is a strong case for the Council to support the way *The Dominion Post* used that very freedom of expression which is the lifeblood of the newspaper’s work. The minority does not uphold the complaint.

Decision

The complaint is upheld on the basis of a majority decision of the Council by six to five.

Press Council members upholding the complaint were: Barry Paterson, Ruth Buddicom John Gardner, Keith Lees, Denis McLean and Lynn Scott.

Press Council members not upholding the complaint were: Aroha Beck, Penny Harding, Clive Lind, Alan Samson and Terry Snow.

Neither Posh nor Jen pregnant – Case 1060

Introduction

Trina Stevens complained that the headlines on the cover of an issue of *Woman’s Day* published on November 7, 2005 did not accurately or fairly convey the substance of the articles carried within the magazine itself. She further complained that *Woman’s Day* misled the public by not making a sufficient distinction between what was fact and what was conjecture.

This complaint was initially made to the Advertising Standards Complaints Board because the complainant believed it provided an example of misleading advertising. After carefully considering information received, the board declined to adjudicate because members believed they did not have jurisdiction. The board recommended the complaint be forwarded to the Press Council, which accepted jurisdiction.

A majority of the Press Council upheld the complaint, with a minority view being expressed in the dissent below.

Background

Two large headlines on the front cover supplied the core of Ms Stevens’ complaint. The first was “POSH pregnant AGAIN!” (magazine’s capitals), superimposed over a photograph of Victoria Beckham, and the second was “JEN’S PREGNANT!” over a photograph of Jennifer Aniston. The latter was accompanied by a circle enclosing the words “SHOCK BABY NEWS”.

Ms Stevens’ complaint is that these cover statements seem to be incontrovertible statements of fact. There is no hint, nor suggestion, that these “pregnancies” were actually rumours or speculation. This became evident only when she purchased the magazine, then turned to and read the articles within. The complainant pointed out that a mere switch of question marks for the exclamation marks used on the cover might have more accurately conveyed the truth of the matter. Similar comments were made by the complainant

about other headlines within the magazine. For example, the contents page repeated the words “Posh pregnant again!” and adds “Jen’s baby shock” for those seeking direction to the apposite articles.

The article about Posh Beckham on page 8 made it clear that her “pregnancy” was speculation, not fact. Suddenly the headline became “Is Posh pregnant ?” and questions rather than statements of fact followed, with “is there new evidence?” and the repeated use of the word “may” linked with Mrs Beckham’s condition. The accuracy of the article itself on this matter is therefore not under question.

The headlines for the Jen Aniston article on page 15 maintained the tone of the cover teasers with “JEN’S JOY” and “I’m having a baby” superimposed over her photograph. However, the opening lines of the article – in fact the opening word – revealed the correct position ... “Speculation is rising that Jennifer Aniston is pregnant...”

The Basis of the Complaint

Ms Stevens’ complaint is that *Woman’s Day* breached three of the Press Council’s principles, namely:

- (a) Principle 1 – publications ... should not deliberately mislead or misinform readers by commission or omission
- (b) Principle 6 – publications should, as far as possible, make proper distinctions between reporting of facts and conjecture, passing of opinions and comment;
- (c) Principle 10 – headlines, subheadings, and captions should accurately and fairly convey the substance of the report they are designed to cover.

Taken as a whole, Ms Stevens’ submission was that the magazine deliberately misled and sensationalised for commercial gain.

The substance of the complaint is that, if the various statements on the cover are given their normal meaning and the headline on page 15 is given its normal meaning, both Victoria Beckham and Jennifer Aniston were pregnant. However, when the articles inside the magazine were read, it was clear that neither of these women had confirmed that she was pregnant, there was minimal evidence offered to confirm such a situation, and the magazine was merely speculating.

The Magazine’s Response

The Editor in Chief of *Woman’s Day* submitted that the complaint was fundamentally about free speech. She added that magazine staff should be able to choose punctuation unconstrained by a pedantic approach to punctuation, such as using question marks rather than exclamation marks in the headlines complained of. It was submitted that freedom of expression was neither served nor advanced by requiring women’s magazines to engage in a prolonged assessment over which forms of punctuation might best be employed for headlines or captions calling attention to sensational stories about celebrities who themselves court publicity.

In respect of the principles of the Press Council, the magazine’s position is:

- (a) the magazine did not set out to deliberately mislead or misinform anyone (Principle 1);
- (b) the articles associated with the headlines make proper distinctions between

the reporting of facts and conjecture (Principle 6);

- (c) overall, and in context, the headlines accurately and fairly conveyed the substance of the stories to which they relate (Principle 10).

In respect of Principle 10, the submission was that celebrity headlines on the cover of the magazine had long been designed to convey the thrust of the gossip inside. To do that, it was imperative that the headlines ensure readers were aware of:

- (a) the celebrity concerned; and
(b) the angle or theme of the current speculation about that celebrity.

In this case, the magazine contended that it was simply telling its readers that Posh and Jen were in the “news” and that in both cases the issue was pregnancy.

Finally, it was submitted that to uphold the complaint would undermine not only freedom of expression but the “fun and gentle escapism” that consumers expect from magazines such as *Woman’s Day*. It was suggested that to uphold the complaint would create “a chilling effect” – something for which New Zealanders would not thank the Press Council.

Conclusions

The NZ Press Council recognises the point made by *Woman’s Day* that it is a successful publication achieving high circulation figures and that its readers obviously enjoy the mix of gossip, rumour and speculation about the public and private lives of celebrities, along with features about food or fashion. The Press Council has no wish to deny its readership such enjoyment by taking an unduly narrow or heavy-handed approach, especially when the subjects of these stories are hardly “victims” of media speculation – the magazine itself notes that often such celebrities “actively court publicity”.

Further, a careful reading of the actual articles, one about Victoria Beckham and another about Jen Aniston, reveals no breach of Principle 6 – requiring proper distinctions between reporting of facts and conjecture, passing of opinions and comment – at least within these two reports. If anything, that there is little of factual substance and that the information is largely based on rumour is readily acknowledged, and even stressed by the use of such phrases as “speculation is rising”, “the couple are believed to have . . .”, “Posh was said to have been . . .” and “Posh was reported to have told a friend”.

Though there is no breach of this particular principle within the actual articles, the disparity between the exaggerated headlines and captions on the cover and the carefully tentative tone found here, within the magazine’s pages, is obvious.

Principle 10 states that headlines and captions “should accurately and fairly convey the substance of the report they are designed to cover”. It is the majority’s view that the categorical headlines of the cover page (and further, of the contents page) do not “accurately and fairly” convey the substance of the articles themselves which are, as noted above, conjecture and speculation.

This breach of one of the Council’s principles is linked, almost inevitably, to a breach of Principle 1, which stresses that both newspapers and magazines “should be guided at all times by accuracy . . . and should not deliberately mislead or misinform readers . . .”. It is misleading to invent headlines and present them as the truth when the articles to which they refer present only rumour, gossip and conjecture.

In addition, the majority of Press Council does not accept the argument by the editor of *Woman's Day* that the substitution of question marks for exclamation marks on the magazine's cover is merely a matter of grammar or punctuation. Such a simple change could have made those headlines less categorical. However, the Press Council does not want to rule on what punctuation a magazine might or should use on its cover. The issue is fundamentally a simple one: the magazine, as any publication, has a responsibility in its cover teasers and headlines not to mislead readers about the content found inside its pages. The magazine had various ways of drawing readers' attention to the "issues" of possible pregnancies for Mrs Beckham and Ms Aniston, without stating emphatically that they were pregnant.

The Press Council upholds freedom of expression and accepts that a publication dealing with escapist stories about celebrity figures might be given somewhat more latitude. Further, it accepts that headline and caption writers must be given licence to be inventive in their choice of language. At the same time, it is the view of the majority of the Council that it would be altogether too much licence to allow publications to fabricate claims that are not confirmed by the copy.

The Dissent

The minority view

The minority would not uphold the complaint for the following reasons:

This magazine deals in gossip, which the *New Zealand Oxford Dictionary* defines as: "A) easy or unconstrained talk or writing esp. about persons or social incidents. B) idle talk; groundless rumour." The very essence of gossip is that it might not be true, and it will be often misleading. Readers of the magazine should know that.

The front-page teasers stretch the limits. But that is their very intention – to tease the reader into buying the magazine. In this case, the teasers are presented in a dramatic style that can bear the weight of the stories they highlight only if allowed extreme licence – the sort of licence only a magazine that deals with gossip would allow. Even so, is it fair to judge the cover headings on their own? In the entire package, the "facts" emerge, as the complainant agrees.

The Press Council's Statement of Principles on the accuracy of headings and what they were meant to convey strikes difficulties with magazines that deal in gossip, magazines that now have much greater currency in the market place. People read them, it must be assumed, to be tantalised, to keep up with the latest gossip.

In such circumstances, to uphold the complaint – the Press Council's sternest sanction – is to judge the magazine articles and cover teasers on a credibility they neither deserve nor seek. *Woman's Day* has pushed the boundaries with the articles complained of, but that is its business, and, given its large circulation, what its readers expect of this genre. If *Woman's Day* is misleading its readers, they are accepting of the risk of being misled.

In saying this, the minority acknowledges this will be of no comfort to Ms Stevens. However, the minority of the Press Council is not prepared to apply an acid test of accuracy when the magazine's intent is a diet of gossip and escapism and, in the minority's view, not necessarily the facts. Indeed, it is impossible to do so.

In the end, Ms Stevens and any other readers unhappy at the way such magazines publish headlines and articles have the remedy in their own hands – don't buy the magazine.

Finding

The Press Council, by a majority, upholds the complaint, in part. Principles 1 and 10 have been breached.

Press Council members upholding the complaint were: Barry Paterson, John Gardner Penny Harding, Keith Lees, Denis McLean, Alan Samson and Terry Snow.

Press Council members not upholding the complaint were: Aroha Beck, Ruth Buddicom, Clive Lind and Lynn Scott.

The on-going saga of the Crewe murders – Case 1061

The Press Council has not upheld a complaint by Susan Butterworth about the *NZ Listener's* refusal to publish, in its print edition, her rebuttal to an opinion piece on the Crewe murders.

Background

On March 18, the *Listener* published a letter from Ms Butterworth referring to a *Sunday* programme piece about the 1970 murders of Harvey and Jeanette Crewe. In her letter, Ms Butterworth, author of the 2005-published book *More than Law and Order: Policing a Changing Society 1945-1992* (the fifth volume of an official police history), questioned programme assertions that a detective had planted a cartridge linked to Thomas's rifle.

On April 1, the magazine ran a two-page feature in reply by journalist campaigner Pat Booth entitled "Dead Ends", its standfirst reading, "Those who still accept the police case against Arthur Allan Thomas are wrong". The article's introduction made it quite clear that it was a response to Ms Butterworth's letter. It read: "So the Royal Commission that found Arthur Thomas innocent of the Crewe murders was swayed by family folklore! So says police historian Susan Butterworth, in criticising (Letters, March 18) the latest television documentary on the case."

The article was clearly labelled, "Viewpoint".

In summary, Mr Booth's piece recapped his much-publicised version of events including, among other things, that the police had planted evidence to implicate Mr Thomas, and that the likeliest scenario of the deaths was that of a murder-suicide. Jeanette Crewe shot her husband after a violent attack on her, rang her father Len Demler to help dispose of the body, then some days later shot herself.

Ms Butterworth requested a right of reply, submitting an article of roughly the same length as Mr Booth's, in which she argued that a murder-suicide could not have been possible because a post-mortem report showed Jeanette Crewe to have been shot in the back of the head. She also asserted that the Royal Commission's findings were flawed for their starting point that Mr Thomas was innocent, and that there was no evidence that a cartridge had been planted.

In response, the *Listener* offered to run her article on its website alongside Mr Booth's, but not in its printed edition. It advised her that it would, instead, "consider running" a 300-word summary letter to the editor, with a pointer to the website. Both offers were

rejected by Ms Butterworth, on the grounds that a website did not represent equal prominence, and that 300 words to rebut an attack on her research “devalued her work”. She said the magazine was prepared to “misuse editorial policy” to protect the reputation of a prominent journalist.

She was not interested in starting a new crusade on the matter; rather, she was motivated by “simple human indignation at the way the reputations of a number of innocent people – beginning with the poor, unfortunate victims – have been traduced for more than 35 years without their having anyone to speak for them”.

The Complaint

Taking her complaint to the Press Council, Ms Butterworth reiterated her argument that the *Listener* was failing to acknowledge the disparity in the amount of exposure it was prepared to give to different sides of the argument. Questioning the reliability of Mr Booth’s research and the *Listener’s* adherence to it, she concluded: “Twenty-five years later it seems the only opinion to be countenanced is that of the [Auckland] *Star* [the paper that carried Mr Booth’s original reportage], which has been long defunct ... all I have asked for is fair space and prominence to present an alternative view. I cannot accept that the *Listener* has offered either and the repetition of its limited offer does not make it more acceptable”.

The Magazine’s Response

Listener editor Pamela Stirling said Ms Butterworth had been offered an opportunity to argue her case. The magazine rejected her assertion about being prepared to misuse editorial policy, saying, “You and Pat Booth have widely different views on the Crewe murder case. That does not make his, (or your), views any less valid. Booth spent seven years investigating the case. Arthur Allan Thomas was pardoned by a Royal Commission, which heavily criticised the police and Booth was awarded an OBE, largely for his work on freeing Thomas, wrongly jailed for murder. After seven years’ investigation Booth is entitled to have developed his own theory on what may have occurred, despite your disagreeing with it”.

Ms Butterworth’s case had been well covered in her original letter, which had been published in its entirety. The *Listener* had “every right” to publish what she had called “one side” of the case.

“The facts speak for themselves. Thomas was pardoned. Booth worked tirelessly as a journalist to establish his innocence. That you disagree was evident in your published letter, but does not alter the course of events.”

Ms Stirling also questioned a Ms Butterworth assertion that older people did not look at websites, saying “the older generation” was one of the fastest growing groups using the Internet.

Another letter, written by the editorial business manager for *Listener* publisher New Zealand Magazines, Suzanne Chetwin, said the *Listener* did not espouse Mr Booth’s opinions and interests as alleged. “But it does believe that Mr Booth, as one of the country’s most senior and respected journalists and who spent seven years investigating the Crewe murder case, has standing to write on the subject and to hold a view.”

Conclusion

It is not for the Press Council to determine whether police planted evidence in this case, nor to make comment or attempt a conclusion on who committed the murders, or even on the efficacy of the Royal Commission. Nor is it for the Council to rule on news judgment. The detail of this most famous of New Zealand cases has been debated for decades and no doubt will continue to be so.

Mr Booth's article very directly questions Ms Butterworth's work. But on the question of fairness and balance, it is significant that Ms Butterworth was offered space to put her side, albeit in the magazine's internet edition, together with a 300-word summary and a pointer to the website in the magazine.

The *Listener's* choice to merely reiterate Mr Booth's much-reported views, then halting the debate in its print version, is its prerogative. The magazine has breached no principles in running an opinion piece in response to a published letter about the case. The article, clearly tagged as opinion, is entitled to carry strongly held views and Mr Booth has the credentials to put a widely held view of the case from his perspective. The complaint is therefore not upheld.

Press Council members considering this complaint were Barry Paterson (Chairman), Aroha Beck, Ruth Buddicom, John Gardner, Penny Harding, Keith Lees, Clive Lind, Denis McLean, Alan Samson, Lynn Scott and Terry Snow.

The guinea pigs and the grave diggers – Case 1062

The Press Council has not upheld a complaint by Barbara Faithfull about the decision of the *New Zealand Herald* not to publish her letter to the editor.

Background

Barbara Faithfull wrote to the editor in response to a letter published in the *New Zealand Herald* on May 24, which had criticised an article headlined "The Guinea Pigs and Grave Diggers". This *Weekend Herald* article, of May 20, concerned the jailing of animal rights activists by a British court for a campaign of harassment against the owners of a guinea pig farm. The published letter challenged the article's portrayal of the Animal Liberation Front as violent.

Mrs Faithfull's letter took issue with the correspondent's assertion that the Animal Liberation Front was a non-violent organisation. In three further letters to the *NZ Herald* (not for publication), on May 29, May 31 and June 4, Mrs Faithfull asked why her original letter had not been published and sought replies to her subsequent correspondence. Her letters claimed that the published letter had been misleading and asked the newspaper to clarify the position.

Mrs Faithfull complained to the Press Council on June 27 about the newspaper's handling of her correspondence. She said that the *New Zealand Herald* should have published her original letter to the editor, in the interests of balance and fairness, and replied to her subsequent letters.

The Newspaper's Response

The deputy editor of the *New Zealand Herald* said the pro-liberationist stance of the

published letter had itself served to balance views contained in the 2400-word article that were highly critical of the Animal Liberation Front.

On the second aspect of Mrs Faithfull's complaint, he said it was not newspaper policy to write back to correspondents explaining why their letters had not been used. The newspaper received more than 100 letters every day; it was not possible to run them all or to enter into further discussion with those writers who were disappointed.

Mrs Faithfull did not accept the *New Zealand's Herald's* response. She said the published letter contained misleading information and for that reason could not be seen to provide balance. She also challenged the newspaper's statement that it did not enter into discussion about rejected letters, citing an earlier instance concerning another letter she had written to the newspaper.

Conclusion

It is the view of the Press Council that newspapers have the right to publish, or not publish, letters submitted to them for publication. This is contained in the Council's principles, which also require editors to be guided by fairness and balance.

The Press Council accepts the *New Zealand Herald's* view that by publishing the letter, it had provided the balancing view to the opinions expressed in the article about the Animal Liberation Front.

The Council also acknowledges the difficulty of replying to a large number of letter writers each day. It has, however, been frustrating for Mrs Faithfull to have her letters unacknowledged. The Council has noted in the past that an early response from the newspaper can mean that a formal complaint does not result.

The Press Council does not uphold the complaint.

Press Council members considering this complaint were Barry Paterson (Chairman), Aroha Beck, Ruth Buddicom, Penny Harding, Keith Lees, Clive Lind, Denis McLean, Alan Samson, Lynn Scott and Terry Snow.

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

Apparent malfeasance at Fannie Mae – Case 1063

The New Zealand Press Council has not upheld a complaint by Bryan Phippen of Auckland against *The New Zealand Herald* about the inadequacy of a news report about failures of business practice and apparent malfeasance at the giant American mortgage finance company, Fannie Mae.

Background

On May 25, 2006 the Business Section of *The New Zealand Herald* carried a Reuters report that Fannie Mae would have to pay a fine of \$US400 million after an inquiry into a "\$US11 billion accounting scandal" at the company. (The name Fannie Mae is an acronym derived from Federal National Mortgage Agency.)

The piece noted that the inquiry, by a Federal regulatory agency, had uncovered what was described as a "litany of accounting problems and failures" on the part of Fannie Mae executives along with misuse of political influence in Washington to interfere with federal examination of the company's accounting problems. Employees were said to have massaged earnings in order to trigger bonuses for executives. The severely critical com-

ment of the chairman of the Securities and Exchange Commission was noted.

The Complaint

Mr Pippen, a chartered accountant, wanted to know more. He wrote to the editor on May 26 expressing concern that the report had not indicated whether an “independent auditor” had been involved in the inquiry. In the light of increased expectations about international accountability requirements arising from the Enron affair the article was unbalanced and a disservice to readers.

This letter, which does not seem to have been recognised as a complaint to the editor, went unanswered. Mr Pippen accordingly complained to the Press Council on June 15 expressing his concern that although a very large sum of money seemed to have been involved the newspaper had not provided information about “the independent audit aspect of the case” or “explanatory comment” about the nature of the accounting problems uncovered by the inquiry. Although a regular reader of *The New Zealand Herald* and a Wellington newspaper, he had never heard of Fannie Mae.

The Newspaper’s Response

The Deputy Editor responded on June 22. He said that the Press Council’s principles seemed not to have been infringed. Mr Pippen’s professional interest in the detail of the accountancy and audit issues involved in this matter was acknowledged “but, with respect, general readers would find this too much”. The piece had been clear about the reasons for imposing a fine. Far from having ignored Fannie Mae in previous reporting he found that the newspaper had in fact published 25 pieces referring to the company in the past five years.

Mr Pippen took up the matter again on June 29 to make the point that thousands of readers involved in the financial sector would be interested in knowing the detail. By failing to provide “explanatory comment in addition to the text provided by Reuters” the newspaper had inadequately served its readers. He claimed, too, that the headline to the May 25 report did not reflect the content of the article.

Conclusions

The Press Council has previously observed in relation to reports ahtt had failed to satisfy readers with specialised interests or who came at issues from a particular viewpoint (see Annual Report 2004 – The Press Council and the ‘Big’ Stories) that the function of the press is to serve their constituencies in the broadest terms. In this case the *Herald* provided a story of interest in the financial community and elsewhere to the effect that yet another major corporate enterprise had been accused of failing to observe accepted standards. These days readers with particular expertise or points of view on a subject such as this can easily delve deeper. (A quick Google search for “Fannie Mae” turned up several recent and detailed reports on apparent accounting lapses at the agency.) A daily newspaper cannot, however, be expected to provide, up front, lengthy commentary on specialised issues in the detail that would satisfy the experts. Limitations on resources of staff and space alone would make that impossible; the wider consideration is the duty to the interests of the general reader.

The Press Council also finds that there was no conflict between the headlines over the *Herald* report and the substance of the article, as printed.

Mr Pippen's complaint is not upheld.

Press Council members considering this complaint were Barry Paterson (Chairman), Aroha Beck, Ruth Buddicom, Penny Harding, Keith Lees, Clive Lind, Denis McLean, Alan Samson, Lynn Scott and Terry Snow.

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

Domestic violence cartoon not discriminatory to men – Case 1064

Dave Cook complained to the Press Council that a cartoon, published in *The Press* on March 31, 2006, was inaccurate and discriminatory. The complaint is not upheld.

Background

On April 3, Mr Cook wrote to the editor of *The Press*, complaining about a cartoon by Garrick Tremain that was published in *The Press*, on the opinion page, on March 31, 2006.

The cartoon is headed up "NEWS: grave concerns at NZ's domestic violence." In the picture, one woman is looking at a baby in a pram and saying to his mother, "what a bonny wee lad ... and he's got mummy's lovely black eyes". The mother is wearing sunglasses. The baby has black eyes.

Mr Cook complained that the cartoon portrayed family violence as exclusively perpetuated by men, which was both offensive and inaccurate. He objected to "blinkered prejudice" on the issue of violence and referred to an article that *The Press* had recently published, which reported that young women were just as likely to beat up young men as vice versa. He argued that:

"Men are just as caring of their children and just as often victims of violence as women. Men are much more often the victims of state-enforced sanctions through the Family Court separating them from those they love in a manner which amounts to violence."

Mr Cook requested a retraction, preferably in the form of another Tremain cartoon given equal prominence withdrawing the earlier cartoon with apologies.

On April 4, 2006 the Associate Editor replied to Mr Cook's letter of complaint, defending the cartoon as opinion on a topical issue that required no apology. However, Mr Cook was invited to submit a letter for publication setting out his objections to the cartoon.

Complaint to the Press Council

Not satisfied with the newspaper's response, on May 20, 2006 Mr Cook complained to the Press Council on grounds that the cartoon discriminated against men, that it was offensive and that it was likely to reinforce male stereotypes. In his opinion it was a

"... blatant and unjustified attack on a sector of the community in that if these issues are dealt with fairly and objectively instead of in an emotional, aggressive and unfair way, it will eventually be recognised that the problem of violence is community wide and involves people, not just women as victims and will make it easier for men where they are not the aggressors to care for and protect their children too". He maintained that *The Press* "would not dare to publish such an inaccurate cartoon against any other sector of society".

Mr Cook referred the Press Council to the earlier *Press* article, and a report of the research that that article was based on, in support of his argument that the cartoon was inaccurate and discriminatory. He also provided material related to perceptions of discrimination against males within New Zealand society and its institutions, including the media and schools, and in particular within the Family Court.

Mr Cook said that he did not take up the offer of a letter for publication because it would have “little or no impact in forming or modifying public opinion, certainly nowhere near as much as a cartoon”.

The Newspaper’s response

In response, the editor of *The Press*, Paul Thompson, said that cartoonists provide robust comment on current events. In this case, the factual basis of the cartoon – that women and children were victims of domestic abuse – was beyond dispute. The cartoon did not record that men were also victims of domestic violence but a cartoon could not be expected to cover an issue from every angle; to do so would stifle debate.

The Press Council was also referred to an impressive range of articles relating to men’s issues, including domestic violence against men, which have been published in *The Press* in the recent past.

The editor pointed out that complaints about the opinion page cartoon are frequently published in the letters column, which is very well read. Mr Cook was offered the same but chose not to take up that invitation.

Further comment from Mr Cook

Mr Cook acknowledged that cartoons were a traditional means of social comment and opinion. However, he argued that newspapers were required to ensure that cartoons are “as accurate as possible.” In this case, he maintained that the cartoon was both inaccurate and discriminatory. He also referred the Press Council to further material he considered relevant to the issue of discrimination against men.

On September 18, 2006 Mr Cook presented oral submissions to the Press Council. He referred to his personal experiences of violence and to perceptions of discrimination against men in New Zealand, particularly in the Family Court. Particular emphasis was laid on a research paper prepared by a third party in the course of a Masters Degree discussing perceptions of “anti-male bias” in the Family Court.

The editor did not wish to attend or present oral submissions in reply.

Decision

The cartoon appeared as a regular feature on the editorial page under a banner clearly headed “Opinion”. The Press Council has consistently ruled in favour of editors’ responsibility for the content of editorial pages. It would take extreme circumstances to do with risk to the public interest or gratuitous offence to a particular group for the Council to rule otherwise (see ruling 1055). This is not one of those cases.

Cartoons might offend some readers because they rely on bold exaggeration and stereotyping. And so it was in this case. Mr Tremain did not represent domestic violence as exclusively perpetrated by men against women. Rather, the cartoonist pointed up a contemporary news issue in a bold and provocative way.

It is not a question of accuracy or discrimination but one of symbolism. Obviously robbers do not all wear an eye-mask and carry a loot sack but that is the instantly recognisable image used to represent robbery in cartoons. So, too, the woman and child with blacked eyes was the instantly recognisable image that Mr Tremain used in this case to represent domestic violence. There was no gratuitous emphasis on the gender of the victims or the presumed perpetrator(s). Nor is the Press Council persuaded that the cartoon posed a risk to the wellbeing of men in general or particular groups of men such as to render it against the public interest. On the contrary, it highlighted New Zealand's appalling rates of domestic violence – whatever the gender of the victims or perpetrators.

Mr Cook was invited to share his perspective on the issue by way of a letter to the editor. He chose not to.

The complaint is not upheld.

Press Council members considering this complaint were Barry Paterson (Chairman), Aroha Beck, Ruth Buddicom, Penny Harding, Clive Lind, Alan Samson, Lynn Scott and Terry Snow.

Keith Lees took no part in the consideration of this complaint.

Biblical text not the newspaper's own view – Case 1065

Introduction

RT Lawrence has complained about the content of a Bible text published in the “Text for Today” slot in the *Weekend Herald* (Saturday July 15, 2006). The complaint holds the text to be offensive to non-Christians, of a tenor capable of inciting religious hatred.

The New Zealand Press Council does not uphold the complaint.

Background

Mr Lawrence's complaint against the *New Zealand Herald* ensues from his offence at a text from 1 Corinthians 16:22, which – as published – reads: “If anyone does not love the Lord Jesus Christ let him be accursed. O Lord, come!” (In less colloquial Bible versions, the text commonly reads: “If any man love not the Lord Jesus Christ, let him be Anathema Maranatha” – a line generally taken to be a prayer for the second coming).

An agnostic married to a Taiwanese Buddhist, Mr Lawrence says the text is indicative of a newspaper – or newspaper employee – motive of inciting religious hatred. He and his wife found it deeply offensive to be “attacked like this, in public, out of the blue”.

The Complaint

In his complaint, Mr Lawrence, makes the point that modern-day New Zealand is a culturally diverse country, before observing there could be few Bible passages likely to convey as much intolerance. “At this particular time it is hard to imagine why – from a Bible full of alternatives – anyone would wish to choose that particular passage other than to incite religious hatred. Assuming that people working in a newspaper have a moderate knowledge of world affairs, one can only deduce that the selector deliberately nailed a flag to the *Herald's* masthead.”

Mr Lawrence goes on to draw a link between the text message and the attitudes fuel-

ling today's several wars. "If New Zealand's leading newspaper allows its authority to be used against non-Christians here, it risks inciting the twisted response of some alienated soul who might well do as happened in Bali or the London Underground."

The Newspaper's Response

In response, *Herald* editor Tim Murphy iterates that the text is from the Bible, "reflecting the Christian heritage of New Zealand and continuing a tradition much valued by many readers". It was but one quotation of six published in any given week, 310 published in a year.

While the sentiment [in this particular text] could have been seen to be "vilification", many of the others would be seen as tolerance, love and forgiveness of both Christian and non-Christian.

He points out that the contents of the Text for Today slot do not reflect the *Herald's* own views, saying they are selected on his behalf for a set period in advance. "I am confident that, over time, they range widely across the Bible and show a variety of teachings from the Old and New Testaments. I am sorry that you found that one quote offensive and hope that subsequent texts might be more acceptable to you."

Conclusion

It is beyond the compass of the Press Council to evaluate the acceptability of the content of the Bible, an ancient document with a diverse range of messages. It is subject to variant interpretations and the meaning of the text in question is itself the subject of scholarly debate. This complaint lies not with the Bible, but with the *Herald's* text selection.

There might be some sympathy for Mr Lawrence's distaste: the suggestion that anyone not following a specific, majority, religious path is accursed, could be offensive to many. But it is unlikely Text for Today is taken widely by readers to reflect the views of the newspaper.

Realistically, most readers are likely to have viewed the complained-about words within their context: a line or two from the Bible slotted alongside other locally-produced or syndicated snippets, such as the quotes of the week, and a summary of the week in history.

Finding

For the reasons given above, the Press Council does not uphold the complaint.

Press Council members considering this complaint were Barry Paterson (Chairman), Aroha Beck, Ruth Buddicom, Penny Harding, Keith Lees, Clive Lind, Alan Samson, Lynn Scott and Terry Snow.

Letters column not forum for personal attacks – Case 1066

Introduction:

Reg Moore, a member of the Wainuiomata Community Board, has laid a complaint against the *Wainuiomata News* about a Letter to the Editor published on May 4, 2006. The complaint is not upheld.

The Complaint

The letter, under the heading “Sometimes, less is Moore,” was published two weeks after a community board meeting at which the letter writer had presented a case for a change in the by-law governing the size of residential sections.

The published letter is not specific about which by-law the letter-writer wanted changed. However, he accused Mr Moore of not listening, and “shooting down” his proposal.

The letter then addressed Mr Moore directly, using the second person “you” and “your” and ended with the suggestion that “it is retirement time” and time to give “new and younger residents the opportunity to change Wainuiomata ...”.

The Complaint

In his complaint, Mr Moore stated that not only did the newspaper make no attempt to contact him about the points raised in the letter, but that it did not make available to him a copy of the letter for his comment before publication. He had received a copy from the Hutt City Council. Mr Moore had emailed a response to the editor on April 24.

Mr Moore concluded his complaint by expressing his belief that unfounded personal attacks based solely on age should not be published in newspapers.

The Newspaper’s Response

In his first response to the complaint, the editor of the newspaper, who was not editor at the time of the complaint, stated that a first email sent by Mr Moore did not arrive as the address used was an old one.

When contact was eventually made with the complainant, he was asked to email his response to a new email address. The Press Council notes that a second email was also sent to the old address, but apparently was received.

When Mr Moore then asked for a written reply, he was told that this would not be done, but that the newspaper was happy to print his initial response.

Mr Moore did not re-email his response.

The newspaper would still welcome Mr Moore’s response, and print it.

In his final comment, the editor stated that the newspaper had a policy to seek response from public bodies when complaints are made about elected representatives (in this case the Hutt City Council). But a letter such as the one published, challenging the length of time elected representatives should serve in public office, is part of the public and political role in which Mr Moore had chosen to be involved for a long time.

Conclusion

Newspapers have a particular duty to encourage debate on issues of interest and importance to their communities. One site for such debate is in the Letters to the Editor. The Press Council has upheld the right of editors to publish, or not to publish, such letters.

The length of time a local body representative has been on a board or council, or even age, are topics for public debate. However, the Press Council also has maintained that Letters to the Editor should not become a forum for personal attacks.

The *Wainuiomata News*, albeit under an earlier editor, has previously been advised by the Press Council that ad hominem attacks on other readers were not tolerated in many newspapers. (Case 877, May 2002). Again, it recommends this approach to the current editor.

The Press Council is of the view that the headline over the published letter, while obviously intended to be a pun, was – under the circumstances – in questionable taste.

Although the Press Council does not uphold the complaint, it thinks that the newspaper should reconsider aspects of its handling of Letters to the Editor, and the standards required of contributors. The Press Council supports the view expressed in Case 877 that Letters to the Editor should focus on issues and not engage in personal attacks and that correspondents not be allowed to use the second person to attack people directly. Letters to the Editor are just that – they are not letters to somebody else. The most compelling letters are those that can stand alone and make their impact through the force and freshness of the writer’s ideas.

Press Council members considering this complaint were Barry Paterson (Chairman), Aroha Beck, Ruth Buddicom, Penny Harding, Keith Lees, Clive Lind, Alan Samson, Lynn Scott and Terry Snow.

Less prejudice and more reason please – Case 1067

Tony Noble complained that the *Bay of Plenty Times* failed to meet the professional standards expected of newspapers when it published a letter in the Letters to the Editor section on April 25, 2006, which, in his view, incited racial hatred and disharmony. The complaint is not upheld.

Background

Although Mr Noble’s specific complaint focused on this particular letter, he also submitted examples of others, published in the same newspaper, which were similar in tone and content, and sharply disparaging of aspects of Maori leadership and “Maori policy” in general. Such correspondence, largely from but not confined to one letter writer, had obviously deeply concerned the complainant because he also submitted attempts to counter such views, published over his name in the Letters to the Editor section. This exchange of opinions had been ongoing for more than two years.

That material lies outside the three-month time period allowed for complaints to the Press Council and was taken into account as background information only. Mr Noble’s complaint is confined to the letter of April 25, 2006. However, the background material was useful to the Council in placing that final letter in the context of a series of engagements from two widely divergent points of view. The Press Council notes that the exchanges became almost a pattern with vigorous, even abusive criticism of Maori being followed by letters from Mr Noble – letters that were moderate in content and conciliatory in tone, at least until his response to the Anzac Day letter.

On May 13, a response from Mr Noble was published in the newspaper. Here, he called the content of the April 25 letter “disgusting” but he reserved plenty of criticism for the *Bay of Plenty Times*, commenting that printing such a letter was “an even greater disgrace” and called for a full and unconditional apology and a “public undertaking never to print such poisonous vilification ever again”.

The Complaint

Mr Noble complained that the April 25 letter in the *Bay of Plenty Times* went far beyond robust debate when it included “specific threats directed at the Maori people”. He

pointed to a specific comment in that letter, that is: “those who preferred to be called Maori rather than New Zealanders ... should have their citizenship renounced ... their passports cancelled” and they “should either become New Zealanders ... or face deportation”.

In his final comment to the Press Council, he submitted that this particular letter had transgressed against professional standards of journalism in failing to protect a vulnerable ethnic minority from threats. In summary, he posed the question “Is it acceptable ... for a newspaper to print ... threats directed against an ethnic minority?”

The Newspaper’s Response

Bay of Plenty Times editor Craig Nicholson defended his decision to publish the April 25 letter. He pointed out that the newspaper’s role was not to censor opinions held by readers, rather it was to “encourage discussion and opinion on issues of the day”. He added that Mr Noble had every right to object to such views as expressed in the April 25 letter and stressed that Mr Noble was welcome to exercise that right through his own letters to the editor.

In a further and final letter to the Press Council, Mr Nicholson reiterated that censoring the opinions of the newspaper’s letter writers would inevitably lead to restrictions on freedom of speech and expression. He asked the question ... given that Maori issues can cause division in society, “should we ignore that division or allow people to speak their minds?”

Conclusion

In complaints concerning letters to the editor the Press Council has frequently pointed to the wording in the Council’s Statement of Principles, “selection and treatment of letters for publication are the prerogative of the editors”.

However, Principle 12 adds that “editors are to be guided by fairness, balance and public interest in the correspondents’ views”. Certainly, the strongly worded views of the correspondent complained about by Mr Noble were usually balanced at a later date – by the complainant’s own contributions to the Letters to the Editor section. It also seems that the April 25 letter arose from a local issue, the handing back of Mauao or Mount Maunganui to the tangata whenua of that region. It was therefore likely to be of considerable public interest.

Even the editor seems to have had some misgivings about the “fairness” of the Anzac Day letter. On May 20, the newspaper published a piece “From the Editor’s Desk” in which Mr Nicholson summarised a conversation he had had with a caller who had also been alarmed by the opinions of the same letter-writer that Mr Noble complained about. The editor said he realised that “there was a very fine line between the right to an opinion and outright racist comments” and that he had to ensure that the newspaper was “not just an outlet for people to express their prejudices”.

Despite such possible misgivings, the editor of the *Bay of Plenty Times* considered that the correspondent was “still entitled to his opinion in a democracy”. On balance, and weighing the issue of “fairness” against the right to express one’s opinion, the Press Council accepts the editor’s right to publish the letter.

No doubt the complainant found the letter of April 25 offensive and disturbing in its threats against some Maori people. No doubt others also found that letter offensive. But

that is the nature of living within a democratic country where citizens can express even their prejudices. Freedom of expression is the freedom to express opinions that might be offensive or abhorrent or just plain wrong.

A counter to the April 25 letter is not to ban the expression of such views, rather it is for the public to respond with less prejudice and more reason.

The complaint is not upheld.

Press Council members considering this complaint were Barry Paterson (Chairman), Aroha Beck, Ruth Buddicom, Penny Harding, Keith Lees, Clive Lind, Alan Samson, Lynn Scott and Terry Snow.

Dodgy headline but dodgy chicken not proven – Case 1068

The Press Council has upheld a complaint by the Poultry Industry Association of New Zealand about an article published by the *Sunday Star-Times* claiming a link between eating undercooked chicken and contracting toxoplasmosis. The complaint is upheld on the grounds that the report lacked balance and the heading did not accurately convey the substance of the article.

Background

On page 6 of its July 30 edition, the *Sunday Star-Times* ran a report with the headline, in quotation marks: ‘I gave my baby deadly parasite by eating undercooked chicken’. The article was an interview with a mother whose four-month old baby had contracted congenital toxoplasmosis from her in utero. The mother said she believed she herself had been infected with toxoplasmosis by eating a meal of butter chicken during her pregnancy and this had passed to her child.

The article quoted the child’s paediatrician on the incidence of congenital toxoplasmosis in New Zealand. As well, it quoted the grandmother, who warned of the potential risks to unborn children and said that her daughter had been strict about following health guidelines during her pregnancy.

The Complaint

The Poultry Industry Association complained to the *Sunday Star-Times* editor on July 31 about the content and tone of the article. It asked if the headline was, in fact, a direct quote from the mother. In further correspondence with the newspaper, the association wrote that the headline stated that the mother was convinced that chicken was the cause of the baby’s illness, but that the actual story conveyed only her fears and suspicions. The association also wanted to discover whether the newspaper had sought comment from the Ministry of Health or from the New Zealand Food Safety Authority.

On August 9, the association complained to the Press Council on two grounds. It claimed that because the headline was presented as a quote, it left readers with the impression there was a clear and undisputable link between the baby’s illness and a chicken meal eaten by her mother during pregnancy. The association said no confirmed link had been established and that the mother herself “suspects” and “believes” the chicken was responsible.

The second part of the Association’s complaint was that the article lacked balance,

containing no comment from health and food safety authorities or, indeed, from the Poultry Industry Association.

The Newspaper's Response

In response to the association, the deputy editor of the *Sunday Star-Times* said the headline had paraphrased the mother's words, was an accurate representation of the mother's belief about the source of the infection and it accurately represented her horror that she had harmed her baby. At the time she contracted the infection, the mother had no contact with cats or cat faecal material and ate very little lamb or pork. Despite the mother being adamant in her belief that chicken had been source of the infection, the story had been edited to allow for the possibility of other causes; hence the use of the word "suspects" in the introduction. This did not make the headline incorrect.

The deputy editor said had the article set out to challenge the Ministry of Health's provision of information on toxoplasmosis and its potential effect on babies, the ministry would have been consulted for comment. It said comment was sought from the paediatrician, who confirmed the facts of the story and was well informed about toxoplasmosis in pregnancy.

On the question of accuracy, the newspaper said that far from causing widespread reader alarm, the story contained a public service message to readers to make sure their food was well cooked.

Conclusion

The Press Council finds that the headline: 'I gave my baby deadly parasite by eating undercooked chicken' is not a fair representation of the mother's words as related in the article. It appears to be a direct quote from her, but on reading the story it is clear that she "suspects" and "believes" the chicken meal to be the source of the trouble. The newspaper edited the story to allow for other possible causes of toxoplasmosis, but did not apply that same caution to the headline. The headline allowed no room for doubt that chicken was to blame.

On the question of balance, if in the newspaper's view it was providing a public service about the risks of undercooked meat, it would have been appropriate to seek comment from the New Zealand Food Safety Authority, Ministry of Health, or other public health officials for expert advice. The paediatrician restricts his comments to the incidence of toxoplasmosis and does not speculate about the source of the infection or offer any advice to pregnant women about how to avoid it. That speculation is left to the mother and the grandmother.

Despite the bold assertion of the headline that a chicken meal was the offender, the newspaper did not seek balancing comment from the Poultry Industry Association or poultry farmer, supplier or retailer. The strength of the claim made in the headline only served to draw attention to the lack of other, balancing views.

The Press Council upholds the complaint on both grounds.

Press Council members considering this complaint were Barry Paterson (Chairman), Aroha Beck, Ruth Buddicom, Penny Harding, Keith Lees, Clive Lind, Lynn Scott and Terry Snow.

Alan Samson took no part in the consideration of this complaint.

Bad maths – Case 1069

The Queenstown Lakes District Council (QLDC) has complained about an article in *Mountain Scene* headed “Speak now or belt up for years,” published on May 11, 2006.

The Press Council has upheld the complaint on the grounds of inaccuracy (Principle 1) and failure to correct the error promptly (Principle 2).

Background

The article under the strap Scenespeak and the by-line Frank Marvin for the *Mountain Scene* News Team, covered the topic of the Council Community Plan. Frank Marvin is the former publisher of the newspaper. The Scenespeak piece referred to dollar sums relating to the rates, debt and capital spending and the submission time that ratepayers had to make their views on the plan known. It finished by urging readers to make their views known to the council.

Among other claims, the piece contained the sentence “Rates rising by five to 7.4 per cent for the next decade – compound, by the way, which means Year 10 rates could be 204 per cent more than Year 1 rates.”

After a phone call of complaint to the editor when the article appeared, the QLDC communications manager emailed the newspaper to say “this is a request from the Council for clarification of the article, as mentioned. Can you please let me know what you plan to do”.

Attached was a half-page statement headed “The 10-Year Council Community Plan – Clarification”. It said growth would offset rates increases and the true picture was that ratepayers would be looking at around a 1.1 per cent increase per annum over 10 years for the targeted rate. The council was not able to follow the logic behind the 204 per cent increase mentioned (it would be 65 per cent without growth factored in). In relation to debt the statement said “it would have been fair to inform the community” about debt as a proportion of value of the capital programme, and about developer contributions.

The statement called the heading misleading, saying the process allowed for community input annually.

The editor emailed back that he had gone through the request with the relevant people at the newspaper and the paper stood by the editorial. It would not be printing QLDC’s response for the reasons outlined in an attached email exchange between the editor and the author Mr Marvin.

In that exchange, Mr Marvin defended his calculation of the rates increase, the debt level he quoted from the chief executive’s introduction and the headline based on his understanding of local body politics. The former publisher told the editor what he wrote was an editorial not news, that he thought it cheeky of the council to “ask for ‘spin space’ because they may not like the approach we’ve taken. They have their own Scuttlebutt [publication] for propaganda after all”. He found the council’s request did not fit the normal “right of reply” policy.

The editor agreed in reply, saying it would be like the minister of finance having right of reply to editorial opinion in the dailies.

The communications manager responded after seeing these emails that she saw no point in discussing it further with newspaper and that it was not spin, just a desire to have

facts presented to the community. The complaint was then lodged with the Press Council.

Complaint

In the complaint, the communications manager said as a result of the article, an angry and upset ratepayer had phoned to say she would have to leave the district because of the quoted 204 per cent rate increase. The exchange with the newspaper followed.

The QLDC considered the article unbalanced and misleading, especially in a time when submissions were being made on the plan. No *Mountain Scene* staff had contacted the council for information about the finances in Council Community Plan.

The communications manager disputed the total rates increase calculated which was baffling and confusing, and said the headline and article were clearly contrary to a process that allowed for annual input. The terms “spin space” and “propaganda” were unreasonable and offensive, and the use of a nickname in the emails derogatory and insulting.

The Newspaper’s Response

Mountain Scene, in a wordy 68-page defence with appendixes, acknowledged the 204 percent figure as an error, but stood by everything else published.

Points made were that Scenepark was an editorial, a point of view, and therefore not a balanced news piece, and that the newspaper would not publish verbatim the clarification that the editor understood was the council’s requirement. He told the Press Council he would have been happy to entertain a Letter to the Editor or a Your Word column up to 350 words, used as a response for readers unhappy with a published story. Examples of corrections and clarifications made by the paper in the past were attached.

The newspaper defended its interpretations of the growth factor in rates and whether plans put in place by one council could be changed by newly elected council members, given the cycle of the review process.

Conclusion

This is a complaint of two halves, about what was in the editorial and then about the exchanges between complainant and newspaper. It might well have been solved simply if the problem had not been aggravated by the failure of both sides to use clear, direct communication with each other.

In the first part, the Scenepark editorial, fairly evidently an editorial opinion on the Opinion page, was delivered in the feisty style that readers of *Mountain Scene* are familiar with. It appears to be a classic council-budget-and-rates-rise opinion piece, echoing the dramatic climate that prevails around the country when ratepayers’ burdens are discussed. An upset ratepayer appears to have been the catalyst for the QLDC asking for “clarification” of the editorial.

At this point, if the editor had double-checked whether the council really wanted the whole of the “clarification” run verbatim, or some form of edited wording, and if the council had asked clearly for a correction of the incorrect figure, the right to respond or even a Your Word column, the issue might have been sorted out.

The Press Council complaint was mounted, and the newspaper came to the conclusion there was an error. A small correction appeared at the end of Scenepark in the June 29 issue, seven weeks after the original article (*Mountain Scene* is a weekly newspaper)

but only after the Press Council complaints process had begun. In upholding a complaint about an editorial (Case 887) the Press Council acknowledged that “opinion may be freely expressed in the editorial column but any information given as a fact should be accurate.” Though a correction will often satisfy both complainants and the Press Council that an inaccuracy has been put right, in this instance there appeared to be little initial will for the paper to do this. The error was crucial in underpinning the tone and concern voiced in the editorial, which may have been less strident with rates figures that were less breathtaking.

Though the communications manager complained about the blunt wording in the newspaper in-house emails, forwarded to the QLDC apparently in the interests of transparency, that is not a matter for the Press Council’s to deal with under its principles. A newspaper with *Mountain Scene*’s forthright style and a local council prepared to stand up for itself need to deal with this matter themselves in future, as papers made available to the Press Council show an occasional history of testy exchanges between them.

Finding

In the matter of the editorial and the substance of the principal complaint, the Press Council upholds the complaint on the grounds of inaccuracy of the rate increase calculation (Principle 1) and failure to correct the error promptly (Principle 2).

Press Council members considering this complaint were Barry Paterson (Chairman), Aroha Beck, Ruth Buddicom, Penny Harding, Keith Lees, Alan Samson, Lynn Scott and Terry Snow.

Clive Lind took no part in the consideration of this complaint.

Investors not required to stump up thousands – Case 1070

Introduction

Blue Chip Financial Solutions Limited (Blue Chip) and two of its officers, Messrs Bryers and Woodhams, complained about a front page article in the weekly business newspaper *the Independent* (now the *Independent Financial Review*). The complaint is upheld on the grounds that it was unfair in linking a ruling of the Inland Revenue Department (IRD) and a pending ASX listing, and that the standfirst did not accurately and fairly convey the substance of the report. Two members of the Council did not support upholding the complaint on the first point.

Both parties, through their solicitors, made detailed submissions and more than one reply-submission.

An unprecedented amount of material was put before the Council. It is not necessary to refer to it all.

The Article

The article in question appeared on the front page of *the Independent* published on April 26, 2006 and continued on to the second page. The heading and standfirst read:

Tax hassles for Blue Chip

If the IRD disallows the deduction, 1500 investors face stumping up thousands of dollars in extra tax.

The first and last paragraphs of the article read:

“NZX-listed property investment company Blue Chip Financial Solutions plans to raise \$A20 million in Australia for an ASX listing on May 9, though it is still awaiting an IRD Ruling on a scheme involving about \$16 million worth of investors gross tax deductions in New Zealand.”

“When asked why Blue Chip was planning to list in Australia before the ruling, she said she couldn’t force the IRD to “give Blue Chip a timetable”.”

The theme of the article was “alteration compensation” and in particular whether such compensation when received by a landlord was a capital payment.

The alteration compensation scheme is described in general terms. It said that Blue Chip paid its investors two payments each month, one on revenue account, which was taxable and one on capital account, which was not. The second payment was “alteration compensation”, which was a payment made by Blue Chip to an investor for the right not to have to reinstate any alterations or improvements to the property at the end of the lease period.

The article reported that Blue Chip had been using the scheme for nearly five years and that it had been under consideration by the IRD for about 18 months. It was stated that normally alterations compensation is non-assessable for tax purposes on commercial property only and that for the first time in New Zealand Blue Chip had claimed the deduction on residential homes. The article stated:

“If the IRD disallows the deduction, Blue Chip’s 1500 investors face stumping up thousands of dollars in extra tax. Blue Chip says in the event of an adverse tax ruling, the company will ‘cover’ the amount.”

Prior to the article being written, there had been telephone conversations between the reporter, an accountant retained by *the Independent*, Mr Woodhams the chief executive of Blue Chip and an independent accounting adviser to Blue Chip. The accountant retained by *the Independent* was clearly sceptical of the scheme and clearly had reservations as to whether alteration compensation was a non-taxable receipt in the hands of an investor. The article dealt with the likely consequences if the IRD disallowed the scheme. It was clear from the article that “Blue Chip had paid tax on the alterations compensation and had volunteered the scheme to the IRD for a ruling”. Thus if the scheme was disallowed the tax paid by Blue Chip probably exceeded what would need to be paid by the investors. It was noted there was a different structure used in Australia, and that only about 300 of Blue Chip’s New Zealand clients were now using the structure. The Blue Chip accounting adviser was quoted as saying that the other accountant’s analysis “was subjective”. Mr Woodhams noted that the firm had taken extensive legal advice from its accountants, independent lawyers and accountants, including a named Auckland “experienced tax practitioner”.

The History of the Complaint

Soon after the article appeared Blue Chip’s solicitors wrote a letter of complaint to *the Independent* alleging that the article was “likely to cause serious damage to Blue Chip’s trading reputation and reputational damage to Messrs Bryers and Woodhams”. The letter expressed the likelihood that it would cause alarm to some 1500 investors. The

letter advised that Blue Chip was prepared to resolve the matter on the basis of an agreed correction and apology, which had to be agreed within 24 hours of receipt of the letter. There was further correspondence between the parties during which Blue Chip demanded an immediate apology on terms acceptable to it. When it was unable to get such an apology it complained to the Council.

Although *the Independent* has replied to what it perceived as a complaint as to the manner in which the initial complaint was handled it is noted that this matter is not pursued in the final submissions on behalf of Blue Chip. It is doubtful, in the Council's view, whether this matter falls within the Council's jurisdiction and it does not propose to make a ruling on it.

Grounds of Complaint

The initial complaint to *the Independent* included six allegedly inaccurate or unfair meanings, three points regarding standards of journalism, a suggested correction comprising six further points, and more than 12 alleged factual errors detailed over several pages. The crux of the complaint was that the article was published at a particularly sensitive time for Blue Chip as it was about to list on the ASX. Blue Chip alleged that the article drew a connection between alleged tax issues and the ASX listing and had the potential to affect the success of the ASX listing. Further, it was suggested that this appeared to have been the intent of the article. It was alleged that the points were covered in a "sensationalised way".

There were detailed submissions alleging a lack of accuracy, fairness and balance (principle 1), the failure to draw a clear distinction between matters of fact and opinion (article 6) and that the photo and caption under it put an unfair slant on the article (principles 10 and 11). The photograph was of a substantial home and the caption under it was "A commercial or residential lease?"

The final submission from Blue Chip identified four principal issues:

- The article conveyed a false and misleading impression of the nature of a product offered by Blue Chip;
- The article misleadingly implied that the IRD ruling featured in the article was relevant to the imminent ASX listing of the company;
- The article incorrectly asserted that up to 1500 investors could face tax payments in the thousands of dollars if the IRD ruling went against Blue Chip's position on the tax status of the alterations compensation payments; and
- The article carried a clear message that the commercial ethics and integrity of both Blue Chip and Messrs Bryers and Woodhams were questionable.

The main concern of the complaint was said to be the sensationalised nature of the article and the links it misleadingly sought to draw between the pending IRD ruling and other aspects of Blue Chip's business and the conduct of its directors and officers.

the Independent's Reply

The reply from *the Independent's* solicitors comprised 16 pages including schedules dealing with the various principles, comments and alleged meanings. In substance *the Independent's* position is:

- The article was a carefully researched investigative work.
- In substantial part the article accurately reported information derived directly from the complainants and, in the absence of any independent alternative information, there was no proper basis for concluding that information was inaccurate.
- The article fairly and accurately reported the underlying issues and both positive and negative perspectives on those issues in a fair and balanced way.
- There is no substance to the complaint as to the manner in which the initial complaint was handled.

the Independent had taped some of the phone conversations between Mr Woodhams, *the Independent's* accounting advisor, Blue Chip's accounting advisor and the reporter. *the Independent* made transcripts of these tapes available to the Council and both parties made further submissions on them.

Substantive Complaint Discussion

In view of the final submission made by the complainant, it is necessary to address the four principal issues referred to above

Blue Chip complains that the product description referred to above is full of inaccuracies. It has provided its own description of the product. On the basis of that description there are errors in the article. However, the errors appear to be more peripheral than substantial. Errors relating to two payments (when there is one payment containing two components, one of which is received on capital account), the misuse of the term “the manager” and other like errors do not give a false and misleading impression of the nature of the product.

Blue Chip in its allegation that the product is misdescribed states that there is an implication that the investor is cheating the IRD because the investor “receives a portion which escapes tax”. In the description of the article there is a statement that alteration compensation “is put into a capital account that is not taxable.” And there is then the statement that:

“The upshot is that of the total the investor receives, a portion escapes tax”.

The Council does not accept that these comments carry the implication that the investor is cheating the IRD. The article is a lengthy one that contains both comments critical of and supportive of the product and in particular alterations compensation in the manner Blue Chip uses it. Clearly, the accountant retained by *the Independent* had doubts as to whether, for tax purposes, the payment was in fact a capital receipt. However, the article also quotes opposing views from both Mr Woodhams and Blue Chip's independent accountant.

The article repeats Mr Woodhams' statement that Blue Chip had taken extensive legal advice from its accountants and independent lawyers and accountants including an experienced named tax practitioner. It also makes the point that Blue Chip has been fully audited by independent experts on both sides of the Tasman. Mr Woodhams noted that the experts had considered all aspects of the company, not just financial statements but products and processes. This was an investigative article that quoted an accountant who was

impliedly critical and sceptical of the scheme. The description of the product, however, did not deliberately mislead or misinform readers by commission or omission and although there were some errors the description was in substance accurate, fair and balanced and in the Council's view did not carry the implication that Blue Chip was cheating the IRD.

The substantive complaint appears to be the reference to the pending ASX listing and the allegedly misleading implication that the IRD ruling was relevant to this listing. *the Independent's* position is the ASX listing was a matter of fact and relevant background. It noted that there were only two references to the ASX listing in the article, namely those appearing in the first and last paragraphs as quoted above. Blue Chip takes the point that these are particularly significant references and that they influenced the headline.

In the first paragraph it is stated that Blue Chip intended to list on the ASX "though" it still awaited the IRD ruling on the scheme involving about \$16 million worth of investors' gross tax deductions. "Though" often means "despite the fact that". This linkage of the proposed listing and the IRD ruling joined by the word "though", in the Council's view, is capable of raising the minds of the reader the suggestion that there is something amiss in making the application before the ruling is obtained. The standfirst adds to this impression. The rest of the article then contains a critique of the product and the likely tax consequences if IRD approval is not obtained. However, the final paragraph once again raises a suggestion that there is something amiss in making the application to list in Australia before the ruling is obtained. If the reference to the ASX listing was only background information as claimed by *the Independent*, there was no need to ask a question that, by implication, carried the suggestion that the listing should be delayed until after the ruling.

the Independent makes the point that it is a New Zealand newspaper and not read in Australia. However, in these days of electronic communication and websites, it is reasonable to assume that some potential investors in Australia would have access to and read comments published in a national business paper in the country in which the applicant operated.

Thus though most of the article does not in the Council's view infringe the principles of fairness, accuracy and balance, the wording of the first and last paragraphs suggest that *the Independent* was at least raising for consideration the prospect that there was something amiss in applying to list before the ruling was obtained. On this point the majority of the Council upholds the complaint.

Some Council members took the view that the opening paragraph was reasonable in its reference to two events: the listing on the ASX and the request to IRD for their opinion on the scheme. They suggested that it might be seen as only being fair to prospective investors to raise the matter of listing while a ruling was still pending and possibly imminent. However, that argument was not accepted – and by a clear majority of the Council.

The most substantial complaint relates to the 1500 investors and the "stumping up thousands of dollars in extra tax". Blue Chip does not challenge the \$16 million referred to in the first paragraph of the article. If there are 1500 investors involved, and this figure is also confirmed by Blue Chip, then thousands of dollars an investor are involved. The Blue Chip complaint is that it was made clear to *the Independent* that if the ruling were

adverse to the investors, then the money would be paid by Blue Chip and had already been prepaid to the IRD. This fact does appear in the article in more than one place. Immediately after the reference to “stumping up thousands of dollars”, there is the comment that Blue Chip says it will cover the amount. Then there is the further reference to Blue Chip actually getting a rebate because it had paid more than the likely tax. In the Council’s view, the article itself contained balance on this matter. This issue is whether the standfirst is misleading and inaccurate.

the Independent submitted that whether or not there were any liability on the investors turns on the IRD ruling sought by Blue Chip. The heading and the comment in the paragraph is prefaced with the word “if” which clearly identifies that this might or might not happen. The article also notes that if there is a claim on the investors it will be covered by Blue Chip. The newspaper contended that the fact that Blue Chip would refund any amount to the investors does not alter the fact that the investors would at least in the first instance face the risk of an unexpected tax burden.

The Council is of the view that the standfirst does not accurately and fairly convey the substance of the report. It suggests that if the IRD disallows the deduction, 1500 investors will have to “stump up” money. When the report is read, it is made clear that Blue Chip has said that it will meet any liability of the investors. Further it has said that it has made payments that will cover any liability. There is no suggestion in the article that Blue Chip has not prepaid the tax or that it does not have the ability to “cover” the tax. In the Council’s view the standfirst does not accurately and fairly convey the substance of the report notwithstanding that the initial claim would be made against the investors.

The final issue is whether the article carried a clear message that the commercial ethics and integrity of both Blue Chip and Messrs Bryers and Woodhams were questionable. The Council does not uphold this complaint. The only mention of Mr Bryers is a reference to his founding the company. There is no indication that he is still involved. The references to Mr Woodhams are to him as chief executive and to the questions that he answered. In the Council’s view the article certainly questions whether the listing should have gone ahead before the IRD ruling. The reasons for and against Blue Chip’s position are stated with reasonable balance. There is no suggestion of tax evasion or avoidance. Indeed, there is a suggestion that it is not even tax avoidance, which is not illegal. While the use of “manipulation of the market value yield” carries unfortunate connotations, the article when read as a whole does not challenge the ethics or integrity of Blue Chip. The Council does not read into the article that there was any challenge to the commercial ethics and integrity of these people.

There were some important sub-issues in the four principal issues referred to in paragraph 15 above that have not been directly addressed in the previous paragraphs. For the sake of completeness, two of these are noted:

The Council does not uphold the allegation that the newspaper infringed principle 6 by failing to identify opinion from fact. There is a boxed statement that says:

“The reality of Blue Chip’s substantial investment portfolio is that they will be unlikely ever to make a single renovation on behalf of the manager because it is not commercial.”

It is said that this could be treated as fact rather than comment. However, a reader of

this article would not be misled by this statement. It is clearly a quote from the Auckland accountant.

Nor does the Council uphold the complaint under Principle 10 to the effect that the caption under the photograph is an infringement of principles 10 and 11. A reading of the article as a whole makes it clear that the accountant retained by *the Independent* is of the view that residential properties even under commercial leases should not be treated as commercial properties. The caption under the photograph is “a commercial or residential lease?” The question mark makes it clear that this is a contentious issue. There was no breach of either principles 10 or 11 in respect of the photograph.

Conclusion

For the reasons given above, the complaint is upheld on the following grounds:

The article misleadingly implied that the IRD ruling was relevant to the imminent ASX listing of Blue Chip; and

The standfirst did not accurately and fairly convey the substance of the report.

Press Council members considering this complaint were Barry Paterson (Chairman), Aroha Beck, Ruth Buddicom, John Gardner, Penny Harding, Keith Lees, Denis McLean, Lynn Scott and Terry Snow.

‘Private’ letter published – Case 1071

The New Zealand Press Council has not upheld a complaint by C. E. Consedine against *NZ Catholic* about treatment of his correspondence with the newspaper concerning the commitment to the Catholic faith of Jim Anderton MP for Wigram and leader of the Progressive Party.

Background

Mr C E Consedine of Barrington, Christchurch wrote to the “Manager”, *NZ Catholic*, about a report published on June 18 under the headline “Christian Left to Meet”. He was, as he put it, “infuriated” that the newspaper continued to portray Jim Anderton MP as a Catholic. Mr Anderton, he asserted, had publicly acknowledged that he had for many years not been active in his faith. He “lived in our parish for many years, and never, in that time, practised his faith at his local church”. He also contended that the MP had supported “every element of moral legislation contrary to basic Christian teaching, including prostitution, abortion and same sex legislation”. The letter was referred to Mr Anderton for comment. His robust response was then published alongside Mr Consedine’s letter in the newspaper’s Letters section in the issue of July 16-29, 2006.

The Complaint

Mr Consedine wrote again to the “Manager” on July 17 asking: on what basis the newspaper had called Mr Anderton a Catholic and how it was that his own privacy had been breached through publication of what he had deemed a private letter of inquiry. He had “no beef” with Mr Anderton. Rather he wanted an answer from the newspaper. The issues were not such as concerned the wider readership but the newspaper itself. Therefore there had been no cause for publication of his letter. The newspaper had not only not answered a “personal” letter to the Manager seeking an explanation on a specific point,

but taken it to a third party for comment and then published it. This had constituted a gross breach of his privacy.

The editor of *NZ Catholic*, Gavin Abraham, responded on July 25 citing the public record of Mr Anderton's engagement with the church and making the point that letters to newspapers are "generally deemed" to be "Letters to the Editor" unless specifically marked otherwise. He noted that the Press Council had determined that unless letters are marked "Not for Publication" they can be published as a "Letter to the Editor". The newspaper received many letters asking similar questions to those posed by Mr Consedine. Since Mr Anderton's credentials as a Catholic were apparently being called into question the letter had been referred to the MP for a response, which had then been published along with Mr Consedine's letter.

In a follow-up letter of July 31, also addressed to the "Manager", Mr Consedine stated that his "anger" at the actions of the newspaper was unappeased. He raised matters to do with the role of the newspaper in relation to the church which were of no concern to the Press Council. Again he made his point that that he was seeking answers from the newspaper as to why Mr Anderton had been deemed a Catholic and why his letter had been referred to the MP for comment. Receiving no reply he asked again for a response on August 24.

This letter crossed with a reply from the editor on August 23 giving grounds for calling Mr Anderton a Catholic and citing another political parallel. The approach to Mr Anderton for comment could not in his opinion be considered a breach of privacy or mischievous. Normal procedures had been followed.

Mr Consedine took the matter up with the Press Council on August 31. He was very unhappy that the newspaper "took it as their right" to refer his letter to Mr Anderton for comment and that the editor had assumed his letter was for publication in the first place, when he had simply intended it as an inquiry – addressed not to the editor, but to the manager. "The process followed and subsequent publication only resulted in humiliation and embarrassment for me."

Conclusion

The differences between Mr Consedine and *NZ Catholic* seem unfortunately to have been marked by misunderstanding – on both sides. The complainant addressed his letter to the "Manager" of the newspaper on the assumption that that in this way he would elicit a statement of policy. In the absence of any specific request along those lines or any indication that the letter was not for publication, it was, quite understandably, treated as a letter to the editor. On that basis and given that it raised issues concerning a public figure, it was entirely appropriate for the editor to give Mr Anderton a right of reply. In the event the MP was able to put the record straight on an important issue – he voted against legalisation of prostitution contrary to Mr Consedine's allegation

The Letters section in any newspaper constitutes an invaluable public forum. Correspondents must assume that their letters will be seen as a contribution to debate – unless clearly marked as "Not for Publication". It is the editor's prerogative to establish the rules for management of correspondence, to select or edit accordingly and to use the space to promote free debate in line with his or her journalistic experience. There is an accompa-

nying responsibility to ensure balance and fairness. This exercise in freedom of speech will, however, often be bruising – as was clearly the case in this instance.

Questions relating to the profession of the Catholic faith in no way concern the Press Council. The Council’s interest lies in the free expression of ideas and beliefs, which it finds was, in the event, served – despite some confusion about ends and means.

The complaint is not upheld.

Press Council members considering this complaint were Barry Paterson (Chairman), Aroha Beck, Ruth Buddicom, John Gardner, Penny Harding, Keith Lees, Clive Lind, Denis McLean, Alan Samson, Lynn Scott and Terry Snow.

Newspaper has right to report court proceedings – Case 1072

Introduction

X complained by letter dated May 15, 2006 about three articles published in the *Ashburton Guardian* on February 14, 15 and 16, 2006 respectively. Each article reported on a criminal trial then taking place in Timaru where the accused was charged with sexual violation of a 14-year-old complainant.

X’s complaint was supported by a volunteer from Victim Support Services who had supported the young person during the trial including while the young person was giving evidence.

X’s complaint was a third party complaint, so the Council obtained the consent of the complainant in the criminal trial (as the person most directly affected by the newspaper reports) before it proceeded to consider X’s complaint.

The complaint is not upheld.

Background to the Complaint

The Council records that X had complained directly to the editor of the *Ashburton Guardian* in late 2005 about its reporting of an earlier stage of the Court process. The editor met X and, after their discussions, he made certain decisions about how reporting of the coming trial would be managed. These decisions are set out later in this adjudication.

Grounds of Complaint

X complained by letter dated May 15, 2006 that the reporting of the trial was “excessive and sensationalised”. X also contended that the reports made it possible (especially in a small town) for readers to identify the complainant. X claimed this caused the young person additional harm over and above that already experienced by participation in the trial process. X asserted that the newspaper reports had seriously compromised the young person’s welfare.

The Newspaper’s Reply

The newspaper advised that it did not have any record of receiving the initial letter of complaint. The editor became aware of the complaint only upon receiving a follow-up letter from X. He then promptly replied explaining the reason for his earlier lack of response and undertaking to respond to the complaint as soon as possible. The editor also

set out the complaint procedures available through the Press Council and provided the contact details for the Council.

He replied to the substantive complaint by letter dated July 6, 2006. The editor did not accept X's allegation that the newspaper's coverage had been excessive or sensationalised. He noted that the trial concerned some of the most serious offending alleged to have occurred in Ashburton for many years. Further, because of wide public concern about alcohol and drug use by young people and the potential consequences of that, the editor considered that the trial (which involved these components) was a matter of public interest.

He considered the newspaper's reports were fair and balanced reporting of the trial. The editor rejected the claim that the newspaper coverage contributed in any way to the identity of the young person complainant becoming widely known.

The editor acknowledged there were competing interests that needed to be accorded fair and balanced reporting in a criminal trial. The role of the reporter was to act as a neutral observer. Frequently reports will not please trial participants.

The editor explained that as a result of the earlier discussions he had had with X, he had determined that the coverage of the trial would not be run on the front page nor be highlighted by any other promotional means until the trial had concluded.

An experienced reporter was engaged to report on the trial and the editor personally reviewed and edited the reports prior to publication. He took particular care to ensure that locations or street names were kept to a minimum so that any risk of inadvertently identifying the complainant was reduced. He acknowledged that some readers would have known who the complainant was, but he maintained that the newspaper was not in any way responsible for contributing to that.

When the trial concluded with a hung jury, the editor maintained that it was incumbent on the newspaper to report that outcome. This was done by way of a small three-paragraph, single-column report on the front page of the newspaper with a reference to the article which was published on an inner page of the newspaper.

Discussion

The Council has considered carefully the reports complained about. Principle 5 of the Statement of Principles requires that "[e]ditors should have particular care and consideration for reporting on and about ... young people". This principle applies to all reporting.

The reports of the court case are detailed and extensive. In the main, the reports are of the evidence being given at the trial, the closing addresses of each counsel and the judge's summing up. They report both the prosecution and defence cases. The character of the evidence is such that it could be considered by some readers as sensational. The Council has concluded that this is not, with respect, the fault of the newspaper.

The Council is also satisfied that the newspaper has met the threshold so as not to offend against Principle 5. Necessarily, there has had to be a weighing of respective interests. There is a balanced reporting both of the examination in chief and the cross examination. This has been done without any unnecessary wider comment or opinion being mixed into the factual reporting. The Council recognises that there is potential for reporting, perhaps particularly in court cases of this nature, to add to distress. The Council notes,

however, that it was open to the prosecutor to make application for suppression orders to protect the complainant had this been deemed appropriate. If the Court had made such an order, the newspaper's coverage of the trial would have been constrained by the terms of the suppression order. This did not appear to have occurred.

The editor had taken account of concerns expressed by X and made certain decisions about how the trial would be covered taking into account those concerns. It is apparent from his preparedness to do so that he was not without sympathy for the position of the young person but it is also apparent that he had to balance this against the wider public interest in what he considered a compelling and important story. He has endeavoured to explain this balancing exercise to X.

Decision

For the reasons set out above, the Council does not uphold the complaint.

Press Council members considering this complaint were Barry Paterson (Chairman), Aroha Beck, Ruth Buddicom, John Gardner, Penny Harding, Keith Lees, Clive Lind, Denis McLean, Alan Samson, Lynn Scott and Terry Snow.

No ruling on name suppression complaint – Case 1073

The Press Council received a complaint against *The Gisborne Herald* of an alleged breach of an interim name suppression order.

In the circumstances it has declined to adjudicate on the complaint.

The complaint was made by a man who had been charged with three offences. When he initially appeared in the District Court, the man's name was suppressed but published by *The Gisborne Herald*. It was this breach that led to the complaint. Later, upon conviction, suppression of the man's name was discontinued.

A breach of a Court suppression order is a criminal offence and concern has been raised in the past as to the propriety of the Council adjudicating in its ethical role when there is a possibility of legal proceedings. For this reason the Council recently obtained the views of the Solicitor-General on whether it was appropriate for there to be such consideration.

The Council accepts the view expressed by the Solicitor-General that there might be possible prejudice if the Council ruled on a breach of a suppression order when there was still a possibility of a prosecution initiated either by the Solicitor-General or the Police.

In the circumstances the Council has determined that it will not consider breaches of suppression order complaints unless the complainant satisfies the Council that the appropriate authority has resolved to take no further action, or the criminal action has been taken and resolved by the Courts. In future potential complainants will be advised that though a complaint might be accepted, so that the time limits are not infringed, no action will be taken by the Council on the complaint until the complainant provides confirmation that the appropriate authority proposes to take no action or that action has been taken and resolved.

In the present case the newspaper admitted that it made a mistake.

The Council resolved that it would not proceed further with this complaint.

Old spy shines new light on Sutch case – Case 1074

Introduction

Paraparamu resident Simon Boyce complains that two articles published by *The Dominion Post* – “‘Traitor’ Sutch lied says former spy’s book” and “Kiwis ‘dug up dirt for Russia’” – are inaccurate and blur the boundaries between fact and comment. The spur for both articles was the recent publication of the book, *Spy*, by former Secret Intelligence Service officer Kit Bennetts. The first (September 30) article, written by *The Press* staff and syndicated to other newspapers in the Fairfax New Zealand group, is an account – through the eyes of Mr Bennetts – of the 1974 sequence of events that led to the arrest of top civil servant Bill Sutch on charges of spying. The second (October 2) article, an author interview also sourced from *The Press*, carries specific allegations that several high-profile Kiwis spied for the KGB. The complaint is not upheld.

Basis of Complaint

Mr Boyce says the main basis of his complaint is that the articles were part of a publicity deal done with Mr Bennetts’ publishers, “given the numerous advertisements seen in the newspaper over the last two weeks”.

According to Mr Boyce, the stories were not news “in the accepted sense”, rather unbalanced publicity items. He says they broke standards of accuracy, because they were one man’s views without independent verification; of prompt correction, because there had been no attempt to correct a mistake about the date of Sutch’s death; of comment and fact, because they attempted to present Mr Bennetts’ comments as fact; and of headlines, because they distorted truth.

To support his argument that Mr Bennetts’ views have no basis in fact, Mr Boyce cites historian Aaron Fox to assert the unlikelihood of a particular claim that Sutch had been a spy for three decades. A further claim that Sutch had collected details about public servants’ sexual and drinking habits for the KGB, was “a slander”.

Mr Boyce also complains that the articles were likely to be “personally offensive” to members of the Sutch family.

The Newspaper’s Response

In response, *Dominion Post* editor Tim Pankhurst says the articles were entirely based on Mr Bennetts’ tell-all book *Spy*, and did not pretend to be otherwise. He says it is a longstanding practice for newspapers to publish book extracts or interviews with authors about their books, and this example was no different.

The headlines were not distortions: they deliberately used inverted commas to signify quotes; the incorrect death date had been referred to the newspaper’s library to ensure such a mistake was not made in future; and, as a member of the SIS, Mr Bennetts had been entitled to make comment about the case and draw his own conclusions. “It was entirely proper to have reported Mr Bennetts’ comments, given he was involved in the case and gave a close-up view of what had happened.”

Conclusion

The practice of writing up the views of authors with inside or interesting knowledge is, as Mr Pankhurst says, a common newspaper practice. At the very least, the writings of

Mr Bennetts put a new spin on a fascinating part of New Zealand's history that has been before the public for decades. The first piece, "'Traitor' Sutch lied says former spy's book", very clearly and appropriately sets out Mr Bennetts' account: as a young SIS officer, he had been on the scene during some of the events leading to Sutch's arrest. If this article had purported to be a researched analysis of the Sutch saga, it might have been open to criticism. It did not.

The second piece, "Kiwis 'dug up dirt for Russia'", highlights allegations about KGB data collection made by Mr Bennetts in an interview around the time of his book launch. Again, it is common newspaper practice to look for a new angle in a personal interview. That Mr Bennetts' claims cannot be substantiated at this time does not detract from the importance of an historical, personal account. It is reasonable for the newspaper to carry the clearly defined views of a former SIS participant in the saga.

Specific to Mr Boyce's complaints, the paper's accuracy in reporting the opinions of Mr Bennetts has not been questioned; the paper concedes inaccuracy on the issue of Sutch's death date, but this is a minor error (the first article accurately reports that Sutch died months after the trial) and the newspaper has taken steps to prevent a subsequent error recurring; the articles clearly carry Mr Bennetts' opinion, not obscured pretences at fact; and quote marks in the headlines make it clear the views are Mr Bennetts'.

The accuracy of Mr Bennetts' information might be open to question, but it is nevertheless important material to be added to an historical mix that is still evolving. The complaint is not upheld.

Press Council members considering this complaint were Barry Paterson (Chairman), Ruth Buddicom, John Gardner, Penny Harding, Keith Lees, Clive Lind, Denis McLean, Alan Samson, Lynn Scott and Terry Snow.

Export and trade performance debated again – Case 1064

Introduction

Mr Allan Golden complained that an article commenting on the implications for external trade of fluctuations in the exchange rate which appeared in *The Dominion Post* on September 30, 2006 contained inaccuracies that misled or misinformed readers. The newspaper should have published, and promptly, corrections of such alleged inaccuracy.

He further complained that the newspaper had not maintained a clear distinction between the reporting of fact and the expression of opinion.

The complaints are not upheld.

Background

The article complained about was an economics piece headlined "Trading on the exchange rate might not be enough". It was accompanied by a graph comparing NZ's performance, in "value of goods and services exports" with the rest of the world and with OECD countries. A foot-note summarised the expertise of the contributor, Bruce White – an "independent consulting economist and, previously, a senior advisor at the Reserve Bank".

The columnist suggested that New Zealand, "compared with most OECD countries"

had a low level of external trade relative to gdp and that extreme swings in the exchange rate were a major impediment to export producers. He posed the question: might it not be better to place greater stress on attempting to stabilise the exchange rate even if this brought greater domestic economy instability. In Mr White's view, the economic implications of this delicate balance should be discussed and debated.

As might be expected in a daily newspaper, the article was not highly technical economic writing but couched in language that a lay reader (though certainly one interested in business or financial matters) would understand.

The Complaint

Allan Golden took particular issue with a sentence which read "But, irrespective of the reasons, our low level of external trade relative to gdp means we are subject to handicaps of economic insularity."

In Mr Golden's view, New Zealand does not have a particularly "low level of external trade relative to gdp" and he pointed out that it is "quite high" compared with Australia and the United States. He also pointed out that "economic insularity" was capable of various interpretations.

Overall, Mr Golden saw the article as deliberately misleading, that is "an example ... by vested interests to use sleight of hand tactics to try to convince the casual reader that we are under-exporting when this is not necessarily so".

Mr Golden also noted that the graph was based on a slide from the New Zealand Institute website. He claimed that this slide, and two others, used selected statistics to misrepresent the case that New Zealand was under-performing in exporting, and wished to extend his complaint against this "publication", the website. However, the Press Council does not accept complaints against websites, unless they are directly associated with hardcopy newspapers

The Newspaper's Response

The Dominion Post replied to Mr Golden's complaint to it by explaining that Bruce White's article was an opinion piece and he was quite entitled to express his views.

The newspaper acknowledged that the column should have been run with "Comment" under Mr White's name and photograph. It had been a simple oversight on this occasion. However, their response also pointed out that the piece appeared in the Saturday edition, page C2, where opinion pieces have been placed for many years. In addition, the foot-note, in italics, about Bruce White's credentials, would have clearly indicated the piece was not by the newspaper's regular staff but by an outside contributor.

Finally, a reply by Mr White to the criticisms of his economic analysis was sent to the complainant. The reply was courteous and in some detail.

Conclusion

Allan Golden rejected the newspaper's explanation that the word "Comment" was a minor oversight, seeing instead *The Dominion Post* "yielding" to "certain pressure groups". In the Press Council's view, however, the distinction between reporting fact and passing opinion was maintained and it should have been clear, through the combination of placement and the end note about the contributor, that this was commentary. This complaint is not upheld.

Given that Mr White's commentary is opinion, it is not necessary for the Council to determine the accuracy of his assertion that New Zealand suffers from a low level of external trade, relative to GDP. Other economists might dispute various points that he makes and other economists might dispute his overall argument that evening out fluctuations in the exchange rate is more important than domestic price stability. But that is the very nature of analysis and debate. The point is that Mr White raises the issue to stimulate such an exchange of views.

Even more importantly, daily newspapers are not, and cannot be, journals of academic scholarship.

It would be, of course, another matter if contributors deliberately, wilfully, misstate facts so as to mislead or misinform readers.

In this case, Mr Golden's view that this was intentional misrepresentation to suit Mr White's argument and to support "vested interests" is not accepted by the Press Council and his complaints regarding inaccuracy, and promptly correcting inaccuracy, are not upheld.

Press Council members considering this complaint were Barry Paterson (Chairman), Ruth Buddicom, John Gardner, Penny Harding, Keith Lees, Clive Lind, Denis McLean, Alan Samson, Lynn Scott and Terry Snow.

Council split on approach to grieving family – Case 1076

Gary Hayman complained about an article published in *The Dominion Post* on September 16 and headed "Teen died after school bus crash". The story was a report of a Palmerston North Coroners Court hearing, an inquest into the death of 16-year-old Rachael Hayman after her car was in collision with a school bus. Mr Hayman's complaint to the Press Council cited the sections of the Statement of Principles relating to accuracy, privacy, children and young people, comment and fact and subterfuge.

A 10-member meeting of the Press Council, in the absence of one member, divided equally between those for upholding and those for not upholding the complaint. The Chairman exercised his casting vote to not uphold the complaint.

He did this on the basis that a complaint should not be upheld unless a majority of the Council on the determinative vote decides to uphold.

Background

On the day of the inquest in September, or the day after (accounts vary between the Hayman family and friends and the newspaper), the reporter contacted Mrs Hayman for a comment on the reference during the inquest to the use of a cellphone. Mr Hayman says in his complaint to the Press Council that Mrs Hayman made it clear she did not wish to comment and he himself made the same comment to the reporter.

There was a flurry of phone calls between the Haymans and *The Dominion Post* reporter, with the deputy chief reporter, to the Press Council after the exchanges became heated and to the editor. The Haymans essentially wanted nothing or very little of the inquest reported, and no comments from the family.

The newspaper had decided that there was topical public interest in the issue of

cellphone use while driving, especially if this might have been a factor in the accident in question. It wanted to follow up the court hearing with further comment.

Subsequently, the newspaper article appeared. It reported that at the inquest, Senior Constable Les Maddaford told the court it was possible the deceased was using her cellphone. In his finding, coroner Graham Hubbard said there was no clear evidence that Miss Hayman was using a cellphone and therefore he could not make a finding on that. He ruled that Miss Hayman died of multiple injuries as a result of a car accident. The article concluded by quoting Mrs Hayman stressing that her daughter was not using her cellphone.

The Complaint

Two days after the article appeared, Mr Hayman wrote a formal letter of complaint to the editor. In that, he says the family was appalled that the reporter would contact Mrs Hayman for comment for an article about teenagers and cellphones, using their daughter's inquest as an example. He says that Mrs Hayman was extremely clear that she did not want to comment, explains her highly distressed state and his own impassioned plea to the reporter to show some compassion and respect for a grieving mother.

In his letter of complaint, he explains the number of calls made to explain the family's position and tells the editor he found him defensive, although the editor assured him the article would be fair and report the facts. Mr Hayman writes of inaccuracies in the article relating to the date life support was turned off, the use of seconds not minutes for the time of the text message and believes the newspaper crossed the line of common decency in its reporting.

In his complaint to the Press Council Mr Hayman reiterated his specific and general concerns, claiming their right to privacy had been breached, and that there was no care or consideration in the article which had put additional emotional stress on the family.

The Newspaper's Response

The newspaper's response to Mr Hayman's complaint to the editor was full and detailed. The deputy chief reporter most closely involved in this case said that after discussion with the reporter it was agreed to do more research on the case, including a further interview with the police officer involved and to approach the girl's family. The newspaper believed they were not at court that day and the following day the reporter contacted Mrs Hayman.

The newspaper says Mrs Hayman discussed the fact there was no evidence to support the cellphone suggestion, which was the comment used in the final article. The newspaper says in its defence that it was only later Mrs Hayman said she did not wish to be quoted.

Each side cites examples of rather extreme statements and behaviour by the other party, and these are best considered as reactions and, if challenged, perceptions formed in the heat of the moment.

The deputy chief reporter says the newspaper is mindful of Press Council guidelines on intruding on people's grief. His first comment to Mrs Hayman was to offer condolences for her daughter's death, and acknowledge that inquests revive unpleasant memories for families. He explained that he had assigned the reporter to seek comment.

He said approaches to families at inquests were commonplace in Coroner's Court

reporting and there was generally a high level of co-operation with families in this situation. Many saw the inquest as the closing of a chapter, were willing to discuss their loved one or provide a photograph, or pay tribute to the deceased.

He acknowledges Mrs Hayman was clearly distressed during their conversation and although considerably experienced in reporting Coroner's Court, he had never experienced such an extreme reaction to an intention to publish. He regretted that the Haymans found this matter deeply upsetting and it was not the newspaper's intention to add to their grief.

The discussions about reporting an inquest had the newspaper explaining to the Haymans the right to report open court hearings, a position confirmed by the coroner to the Haymans who wrote to him with their concerns.

To the Press Council the editor said his staff had acted in accordance with the special consideration for those suffering from trauma or grief. Though Mr Hayman was correct that his family's grief over the fatal crash had no public interest, the article did not canvas that grief. However, the issues surrounding Miss Hayman's crash were considered relevant by the police and presented to the inquest.

The editor says his staff acted with composure and professionalism in the face of some unfortunate remarks by the Haymans and some animosity, mindful that the Haymans were grieving for their daughter. He reinforces the attempts made by the newspaper to explain the right to report inquests although in his view the couple remained adamant that no article should be prepared or published.

Conclusion

In facing squarely the dilemma confronting the press when it has to balance freedom of expression and public interest with such competing principles as privacy and consideration for those suffering trauma or grief, the Press Council has to consider the wide picture in which these predicaments sit.

Promoting freedom of speech and freedom of the press, while maintaining the New Zealand press in accordance with the highest professional standards, are principal objects of the Press Council. But a judgment giving respective weight to these two principal objects often needs to be made.

The Press Council could declare it unethical, a breach of privacy or a breach of the principle governing consideration for those suffering trauma and grief, each time the press were to seek comment from a grieving family or friends of a deceased person. But whether before or after an official inquest or inquiry has delivered a legal finding, it would have a chilling effect on freedom of expression. The press needs to have the freedom to enlarge stories where they deem it necessary.

The Press Council could claim to uphold the highest standards of professional and ethical behaviour by supporting, over freedom of expression, greater attention to the grief and trauma of suffering persons and their right of privacy, by requiring the press to refrain from approaching anyone who is connected with a death or deceased person. But the press is allowed to report Coroner's Court and the inquiry into a sudden death. Restraining the press from making any inquiries after such a death would not be in the public interest or the interest of freedom of expression. But controlled, ethical behaviour could

be the expected norm in cases of great distress, where the public interest is not affected.

In this case, the published report of the inquest, which the newspaper was entitled to cover, is neutral. It is often the sad fact that personal tragedies play out in public and newspapers inevitably report on public occurrences such as court hearings. As far as accuracy or distinction between fact and comment go, there is no breach.

Whether a time was expressed in seconds or minutes, weightier matters are being read into what seems to be a matter of newspaper style. The report of an exact date that life support was switched off is an accurate record of what the police said in court and, as can happen, turns out to be not exact from the hands of the police. The Press Council does not find fault in the newspaper report of the court hearing, as the coroner confirmed to the newspaper.

The accuracy of the reported comment from Mrs Hayman is also not disputed, but the appropriateness of the newspaper running commentary from a private citizen who is distressed and who said they did not want to comment might be.

The newspaper advances a public interest argument in favour of getting comment from the police officer involved and from the family about cellphone use. But no commentary appears from the police, there is no discussion, and no use of Land Transport statistics about accidents resulting from “distraction by telecommunication devices” as quoted to Mr Hayman by the editor. Beyond the plain court report, a short comment from Mrs Hayman hardly qualifies as the follow-up story the newspaper suggested it needed to trouble the family for.

Mr Hayman, particularly in his last communication with the Council, stressed that he had been firm in his view that neither he nor Mrs Hayman wanted to comment to the newspaper or be published. The newspaper disputes that this was stated before the interview with the journalist took place, and it was the view of the Haymans only in subsequent correspondence.

The Press Council cannot adjudicate on disputed facts and cannot make a finding on this issue. If the Council had been able to determine that the wish for “no comment” was made right at the beginning of the interview the complaint would have been upheld.

It was clear from the family’s reaction before the article appeared that they were deeply distressed. It might be that there was confusion between what the newspaper thought the Haymans were trying to suppress and what Haymans thought the newspaper wanted to do, between the Haymans not wanting the inquest reported at all and simply the out-of-court comment from Mrs Hayman. The newspaper was entitled to report court, but it could have easily left the family alone, after receiving so many indications of their trauma.

The newspaper says it did not want to add to the family’s suffering and offered condolences. The balm of such reassurances scarcely dulls the sting of death that penetrates deep with the loss of a loved one. Seven months after the accident, it is very clear from the Hayman family comments that they remained extremely upset by the “tragic accident in which we lost a very precious daughter”.

It’s a fine line between the professional necessity that sees a tough line taken by the press despite emotional objections, and an understanding of when pushing the boundary is a practice that does not meet the highest professional standards supported by the Press Council. There is a principle under the heading of privacy that clearly takes account of

suffering from grief and trauma, and those emotions were plainly present in this case.

But the newspaper did its job correctly under difficult circumstances, and the Press Council in not upholding the complaint acknowledges this.

Five members would have upheld the complaint because they judge that the newspaper breached a Press Council principle. This states that those suffering from trauma or grief call for special consideration, and when approached or inquiries are being undertaken, careful attention is to be given to their sensibilities. Before the article was published, they believe the newspaper chose to ignore the very clear and vigorous signals from the Haymans that their distress would not countenance any comment appearing in the press. The court report could have gone ahead without the need to afflict the family with any further grief.

Press Council members who voted to not uphold this complaint were Barry Paterson, John Gardner, Penny Harding, Clive Lind, and Alan Samson.

Press Council members who voted to uphold this complaint were Ruth Buddicom, Keith Lees, Denis McLean, Lynn Scott and Terry Snow.

The complaint was not upheld on the casting vote of Chairman Barry Paterson.

The saga of the local body and the local newspaper – Case 1077

Introduction

The initial approach to the Press Council on the subject of this adjudication was made by the editor of the *Taranaki Daily News* who, on September 29, submitted correspondence from the New Plymouth District Council to the newspaper detailing 19 separate complaints between July 10 and September 20.

In response to the editor's action the council submitted its complaints to the Press Council on October 10. Subsequently both the council and the newspaper have provided voluminous amounts of material involving further points of contention.

Essentially, however, the issue is a general complaint by the council that it is being treated unfairly by the newspaper.

The Complaints

The Press Council will not in this adjudication deal individually with the merits or otherwise of each complaint, many of which have several separate components. The Council will also exclude points that have been made both by the New Plymouth council and the newspaper in their correspondence. These lie outside the complaints although they have been considered as background information in this matter.

The formal complaints have, however, been considered case by case in reaching the general conclusion which both parties are seeking.

The complaints by the council range from the use of emotive language, inaccurate headings and lack of balance through to a failure to report the council's position. The topics include increases in parking fees, responses to a reader's letter, camping ground leases, part of a tree falling on to a car in a car park, the culling of ducks and the venue of soccer matches.

The council position is summed up in a letter of October 31 from its chief executive to the newspaper. “We remain of the belief that your newspaper is implicitly biased against the council.”

The council has also taken issue with the newspaper’s reporting of the editor’s approach to the Press Council arguing that the report itself is misleading and calculated to win public support and damage the standing of the council.

The Newspaper’s Reply

The newspaper has acknowledged failings in its coverage in several instances and has carried individual corrections in respect of some of the complaints. It has also instituted a regular corrections column. But it maintains it is not biased against the council.

In a letter to the Press Council the editor traces a council change of attitude to coverage of a controversy over the establishment of a centre celebrating the artist Len Lye. He suggests a link between the centre funding and the increases in parking fees, which is one of the more substantial matters about which the council has complained.

However, as the council has not submitted any complaints to the Press Council on the Lye coverage they fall outside the scope of this adjudication.

The newspaper’s position is that the council is “waging a vexatious campaign against us in a vain attempt to manipulate the news”. The newspaper, it suggests, is merely doing its job “to act on behalf of its readers by reporting fairly and without fear or favour what is happening in their community”.

Discussion

The relationship between a local authority and local newspaper is always potentially tense. It is the role of the press to examine council decisions and actions and these inevitably provoke emotions.

Councils have to make difficult decisions and, when these are criticised, can feel under siege. The council acknowledges the role of the press in its letter to the Press Council of November 6. “Councils are no strangers to controversy and criticism and council supports the rights of the community to voice their opinions.”

Yet in some of its complaints the council seems inclined to detect hostility where there is little evidence of it. The use of the terms “hike” and “bumped up” in reports of the parking fee stories seem less loaded than the council believes

For its part the newspaper is disingenuous in implying that phrases like “flip-flop” and “move the goalposts” are neutral.

The newspaper’s belief that it has maintained its even-handed position in the face of mounting complaints is belied by indications of an increasingly confrontational attitude towards the council.

In its detailed consideration of individual complaints against the newspaper the Press Council has found very few instances where the Council’s principles have been breached. In those cases where the breach was significant, a satisfactory correction was made and the editor has acknowledged that in “at least a couple of cases” its processes were not ideal.

In other cases, though there might have been minor lapses from best practice, they have not been sufficiently damaging to sustain a ruling against the newspaper.

The council might have been unhappy with the position that its views occupied but in most cases the reader was given a fair reflection of those views.

The newspaper acted within its rights in referring the matter to the Press Council. The council had framed its complaints to the newspaper with reference to Press Council principles. Nor was the newspaper acting improperly in carrying a report on its actions, which have genuine news value. However, it is regrettable that its report introduced extraneous material.

Conclusion

The complaint that the *Taranaki Daily News* is biased against the council is not upheld. Council and local bodies need to accept that newspaper stories for general readers are not composed in the language of approved motions, committee reports or official handouts.

But the Press Council wishes to draw attention to the need to distinguish properly between fact and opinion in news reports. The editor's stance in this case that "it is my practice to give reporters some licence to make their own observations about matters that are important to our readers" is one that carries the particular responsibility that such observations are well grounded. In one case, for instance, in which inexperienced opinions on the health of a tree were given as much weight as those of an independent arborist, this was clearly not so. Lively coverage must not descend into the cavalier.

The Press Council's principle that publications should be guided at all times by accuracy, fairness and balance must be a constant obligation particularly on a local newspaper where the connection among the public, local authorities and the media is intimate and sensitive.

Press Council members considering this complaint were Barry Paterson (Chairman), John Gardner, Penny Harding, Keith Lees, Denis McLean, Alan Samson, Lynn Scott and Terry Snow.

No nuts – Case 1078

The Press Council has not upheld a complaint about two newspaper opinion pieces published by the *Sunday Star-Times* referring to a decision by Wadestown Primary School, in Wellington, to ban nut products in the school.

Background

The two opinion pieces were written by columnist Michael Laws and published on July 9, 2006 and July 16, 2006. The first concentrated mainly on the Wadestown School ban; the second revisited the subject in response to readers' reactions.

Complaint

The complaint is on the grounds that the two articles contain factual errors and that the article of July 9 is not fair and balanced. The complainants, who have a connection with Wadestown Primary School, also complain that the opportunity offered to them by the newspaper to submit a signed letter to the editor in response to the original article would have breached their privacy. The complainants, in addition, say the tone of the columns is offensive.

The complainants' view is that the articles do not accurately reflect the reasons that Wadestown School decided to put a ban in place. The reasons, given in the July 9 article, were first, "because someone, somewhere, sometime might just have a nut allergy" and, second, because a 14-year-old boy in Australia had died after being challenged to eat a nut by his friends. Instead, the complainants say the ban was introduced to protect a child who had recently experienced a serious allergic reaction, and other children at the school with allergies. A subsequent letter to the complainants from the school board of trustees chairman supports this.

As well, the complainants say the columnist misrepresents the views of Allergy New Zealand both about its attitude to the ban and about whether there have been deaths in New Zealand as a result of anaphylactic shock from a peanut allergy.

They say incorrect statements of fact in the July 9 column render the whole article misleading. They accept that the views expressed are the opinions of the columnist, but they say the opinions are based on "false" statements. They wrote to the newspaper asking it to print a correction of the facts and an apology.

The newspaper suggested they submit a letter to the editor, which they declined to do because the newspaper required the letter to be signed. On publication of the second article a week later, the complainants referred the matter to the Press Council.

The Newspaper's Response

The *Sunday Star-Times'* deputy editor has responded by saying that the articles appeared in the newspaper's Focus section, which contains opinion pieces, and covered Michael Laws' views on "political correctness" among other things. Mr Laws is a well-known politician and commentator. "Readers will be well aware of his forthright style. That is what they have come to expect from him."

On the issues of accuracy, the newspaper stands by the articles. The deputy editor says Mr Laws was using hyperbole and satire when he wrote about the reasons for the Wadestown School ban "and readers would have appreciated that this was not to be taken literally". "Furthermore, the school's reason for the ban was clarified in the second column." [July 16]

The newspaper also stands by its reporting of comments by Allergy New Zealand, saying it was Mr Laws' clear recollection that the group did not support a ban, but favoured education about allergies. It was also his clear recollection that when asked if there had been any deaths recorded in New Zealand that were attributable to anaphylactic shock, the answer had been no.

The newspaper says that, as opinion pieces, it is entirely appropriate that they reflect Mr Laws' own views. He expresses these views in a forthright way. There was no attempt to mislead readers or to offend or breach the privacy of the complainants. Those who wanted to express different views were given the opportunity to do so.

Conclusion

The Press Council is not in a position to determine the accuracy of the statements contained in the articles and whose recollection of what was said is the correct one. It is accepted, however, that Mr Laws was using hyperbole to comment on the Wadestown School's decision to impose a ban on nut products.

It is a columnist's right to express an opinion in print, however provocative, and it is part of the essential function of newspapers to provide social and political commentary and a forum to debate issues. These articles were clearly labelled as opinion pieces.

Sometimes opinions strongly expressed will offend people and it is also appropriate that newspapers give space to people to respond to these views. In this case, the *Sunday Star-Times* published a letter from Allergy New Zealand that clarified its views on the desirability of banning products to protect allergy sufferers. It also offered the complainants the opportunity to submit a letter to the editor, which they declined on the basis that a signed letter would identify them. The parties did not explore any compromise solutions.

It is not accepted that the articles breached the privacy of the complainants. The columns would not have identified them to anyone who did not already know them.

The Press Council does not uphold the complaint.

Press Council members considering this complaint were Barry Paterson (Chairman), Ruth Buddicom, John Gardner, Penny Harding, Keith Lees, Clive Lind, Denis McLean, Alan Samson, Lynn Scott and Terry Snow.

Decisions 2006

Complaint name	Newspaper	Adjudication	Publication	Case No
3 News	<i>Bay of Plenty Times</i>	Upheld	16.02.06	1047
Geoffrey Dunbar	<i>The Press</i>	Upheld	16.02.06	1048
Jeff Page	<i>Herald on Sunday</i>	Part Upheld	19.02.06	1049
Complainant	<i>Devonport Flagstaff</i>	Part Upheld	17.02.06	1050
Allan Golden	<i>The Dominion Post</i>	Upheld	31.03.06	1051
Dianne Haist	<i>Manawatu Standard</i>	Not Upheld	31.03.06	1052
Complainant	<i>Kapiti Observer</i>	Upheld		1053
Bob Harrison	<i>Otago Daily Times</i>	Not Upheld	15.05.06	1054
Eamon Sloan	<i>The Dominion Post</i>	Not Upheld	15.05.06	1055
S S Agarwal	<i>Indian Newslink</i>	Not Upheld	10.07.06	1056
A J McCracken	<i>New Zealand Listener</i>	Not Upheld	10.07.06	1057
Richard Ryan	<i>The Press</i>	Not Upheld	17.07.06	1058
Complainant	<i>The Dominion Post</i>	Part Upheld With Dissent		1059
Trina Stevens	<i>Woman's Day</i>	Upheld With Dissent	17.07.06	1060
Susan Butterworth	<i>New Zealand Listener</i>	Not Upheld	12.08.06	1061
Barbara Faithfull	<i>New Zealand Herald</i>	Not Upheld	14.08.06	1062
Bryan Phippen	<i>New Zealand Herald</i>	Not Upheld	14.08.06	1063
David Cook	<i>The Press</i>	Not Upheld	3.10.06	1064
R T Lawrence	<i>New Zealand Herald</i>	Not Upheld	5.10.06	1065
Reg Moore	<i>Wainuiomata News</i>	Not Upheld	12.10.06	1066
Tony Noble	<i>Bay of Plenty Times</i>	Not Upheld	10.10.06	1067
Poultry Industry Association	<i>Sunday Star-Times</i>	Upheld	8.10.06	1068
Queenstown Lakes D C	<i>Mountain Scene</i>	Upheld	5.10.06	1069
Blue Chip Financial Solutions	<i>the Independent</i>	Upheld in Part With Dissent	22.11.06	1070
C E Consedine	<i>The Press</i>	Not Upheld	3.12.06	1071
X	<i>Ashburton Guardian</i>	Not Upheld	20.11.06	1072
Complainant	<i>The Gisborne Herald</i>	No Ruling	20.11.06	1073
Simon Boyce	<i>The Dominion Post</i>	Not Upheld	22.12.06	1074
Allan Golden	<i>The Dominion Post</i>	Not Upheld	22.12.06	1075
Gary Hayman	<i>The Dominion Post</i>	Not Upheld on Chairman's Casting Vote	18.01.07	1076
<i>Taranaki Daily News</i>	New Plymouth District Council	Not Upheld	22.12.06	1077
Complainant	<i>Sunday Star-Times</i>	Not Upheld	24.12.06	1078

Statement of Principles

Preamble

The New Zealand Press Council was established in 1972 by newspaper publishers and journalists to provide the public with an independent forum for resolution of complaints against the press. It also has other important Objectives as stated in the Constitution of the Press Council. Complaint resolution is its core work, but promotion of freedom of the press and maintenance of the press in accordance with the highest professional standards rank equally with that first Objective.

There are some broad principles to which the Council is committed. There is no more important principle than freedom of expression. In a democratically governed society the public has a right to be informed, and much of that information comes from the media. Individuals also have rights and sometimes they must be balanced against competing interests such as the public's right to know. 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 complaint resolution by the Council freedom of expression and public interest will play dominant roles.

It is important to the Council that the distinction between fact, and conjecture, opinions or comment be maintained. This Principle does not interfere with rigorous analysis, of which there is an increasing need. It is the hallmark of good journalism.

The Council seeks the co-operation of editors and publishers in adherence to these Principles and disposing of complaints. The Press Council does not prescribe rules by which publications should conduct themselves. Editors have the ultimate responsibility to their proprietors for what appears editorially in their publications, and to their readers and the public for adherence to the standards of ethical journalism which the Council upholds in this Statement of Principles.

These Principles are not a rigid code, but may be used by complainants should they wish to point the Council more precisely to the nature of their complaint. A complainant may use other words, or expressions, in a complaint, and nominate grounds not expressly stated in these Principles.

1. Accuracy

Publications (newspapers and magazines) should be guided at all times by accuracy, fairness and balance, and should not deliberately mislead or misinform readers by commission, or omission.

2. Corrections

Where it is established that there has been published information that is materially incorrect then the publication should promptly correct the error giving the correction fair prominence. In some circumstances it will be appropriate to offer an apology and a right of reply to an affected person or persons.

3. Privacy

Everyone is 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 matters of public record, or obvious significant public interest.

Publications should exercise care and discretion before identifying relatives of persons convicted or accused of crime where the reference to them is not directly relevant to the matter reported.

Those suffering from trauma or grief call for special consideration, and when approached, or inquiries are being undertaken, careful attention is to be given to their sensibilities.

4. Confidentiality

Editors 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.

5. Children and Young People

Editors should have particular care and consideration for reporting on and about children and young people.

6. Comment and Fact

Publications should, as far as possible, make proper distinctions between reporting of facts and conjecture, passing of opinions and comment.

7. Advocacy

A publication is entitled to adopt a forthright stance and advocate a position on any issue.

8. Discrimination

Publications should not place gratuitous emphasis on gender, religion, minority groups, sexual orientation, age, race, colour or physical or mental disability. Nevertheless, where it is relevant and in the public interest, publications may report and express opinions in these areas.

9. Subterfuge

Editors should generally not sanction misrepresentation, deceit or subterfuge to obtain information for publication unless there is a clear case of public interest and the information cannot be obtained in any other way.

10. Headlines and Captions

Headlines, sub-headings, and captions should accurately and fairly convey the substance of the report they are designed to cover.

11. Photographs

Editors should take care in photographic and image selection and treatment. They should not publish photographs or images which have been manipulated without informing readers of the fact and, where significant, the nature and purpose of the manipulation. Those involving situations of grief and shock are to be handled with special consideration for the sensibilities of those affected.

12. Letters

Selection and treatment of letters for publication are the prerogative of editors who are to be guided by fairness, balance, and public interest in the correspondents' views.

13. Council Adjudications

Editors are obliged to publish the substance of Council adjudications that uphold a complaint. Note: Editors and publishers are aware of the extent of this Council rule that is not reproduced in full here.

Complaints Procedure

1. If you have a complaint against a publication you must complain in writing to the editor first, within 3 months of the date of publication of the material in issue. Similarly complaints about non-publication must be made within the same period starting from the date it ought to have been published. This will acquaint the editor with the nature of the complaint and give an opportunity for the complaint to be resolved between you and the editor without recourse to the Press Council.
2. If you are not satisfied with the response from the editor (or, having allowed a reasonable interval, have received no reply) you should write promptly to the Secretary of the Press Council at PO Box 10-879, The Terrace, Wellington. Your letter should:
 - (a) specify the nature of your complaint, giving precise details of the publication, (date and page) containing the material complained against. It will be of great assistance to the council if you nominate the particular principle(s), from the 13 listed in the next section of this brochure, that you consider contravened by the material; and
 - (b) enclose the following:
 - copies of all correspondence with the editor;
 - a clearly legible copy of the material complained against;
 - any other relevant evidence in support of the complaint.
3. The Press Council copies the complaint to the editor, who is given 14 days to respond. A copy of that response is sent to you.
4. You then have 14 days in which to comment to the council on the editor's response. There is no requirement for you to do so if you are satisfied that your initial complaint has adequately made your case.
5. If you do make such further comment, it is sent to the editor, who is given 14 days in which to make a final response to the council. Full use of this procedure allows each party two opportunities to make a statement to the council.
6. The council's mission is to provide a full service to the public in regard to newspapers, magazines or periodicals published in New Zealand (including their websites) regardless of whether the publisher belongs to an organisation affiliated with the council. If the publication challenges the jurisdiction of the council to handle the complaint, or for any other reason does not cooperate, the council will nevertheless proceed to make a decision as best it is able in the circumstances.
7. Members of the Press Council are each supplied prior to a council meeting with a full copy of the complaint file, and make an adjudication after discussion at a meeting of the council. Meetings are held about every six weeks.
8. The council's adjudication is communicated in due course to the parties. If the council upholds a complaint (in full or in part), the newspaper or magazine concerned must publish the essence of the adjudication, giving it fair prominence.

If a complaint is not upheld, the publication concerned may publish a shortened version of the adjudication. All decisions will also be available on the council's website www.presscouncil.org.nz and in the relevant Annual Report.

9. There is no appeal from a council adjudication. However, the council is prepared to re-examine a decision if a party could show that a decision was based on a material error of fact, or new material had become available that had not been placed before the council.
10. In circumstances where a legally actionable issue may be involved, you will be required to provide a written undertaking that, having referred the matter to the Press Council, you will not take or continue proceedings against the publication or journalist concerned. This is to avoid the possibility of the Press Council adjudication being used as a "trial run" for litigation.
11. The council in its case records will retain all documents submitted in presentation of a case and your submission of documents will be regarded as evidence that you accept this rule.
12. The foregoing points all relate to complaints against newspapers, magazines and other publications. Complaints about conduct of persons and organisations towards the press should be initiated by way of a letter to the Secretary of the New Zealand Press Council.
13. The Press Council will consider a third-party complaint (i.e. from a person who is not personally aggrieved) relating to a published item, but if the circumstances appear to the council to require the consent of an individual involved in the complaint it reserves the right to require from such an individual his or her consent in writing to the council adjudicating on the issue of the complaint.

Statement of financial performance

As at 31 December 2006 (Audited)

<i>2005</i>		<i>2006</i>
	INCOME	
2,700	Union	2,700
140,000	NPA Contribution	170,000
5,000	NZ Community Newspapers	5,000
8,500	Magazine Contribution	8,500
1,299	Interest Received	962
-	Loss on Sale of Asset	-
157,499	Total Income	187,162
	EXPENDITURE	
353	ACC Levy	311
583	Accounting Fees	826
309	Advertising and Promotion	60
680	Auditor	975
11	Bank Charges	41
1,123	Chairman's Expenses	4,386
481	Cleaning	549
2,200	Computer Expenses	1,370
2,228	Depreciation & Adjustments	1,744
-	Conference Expenses	818
4,416	General Expenses & Subscriptions	4,035
2,375	Insurance	3,264
689	Internet Expenses	590
1,130	Legal Expenses	-
388	Motor Vehicle Allowance	253
1,707	Postage and Couriers	1,250
1,835	Power and Telephone	3,029
8,176	Printing and Stationery	8,600
6,222	Reception	2,373
18,344	Rent and Rates	13,211
112,659	Salaries - Board Fees	119,382
11,906	Travel and Accommodation	11,880
-	Carpark	160
175,587	Total Expenses	179,107
(19,730)	Income over Expenditure	8,055
37,540	Plus Equity at beginning of year	18,396
18,396	Equity as at end of year	26,451

Statement of financial position

As at 31 December 2006 (Audited)

<i>2005</i>		<i>2006</i>
	Represented by:	
	ASSETS	
5,907	BNZ Current Account	10,548
7,888	BNZ Call Account	15,303
-	Accruals and Receivables	-
9,863	Fixed Assets	9,859
95	Taxation	420
23,753	Total Assets	36,130
<hr/>		
	LESS LIABILITIES	
3,210	Creditors and Provisions	5,718
2,147	GST	3,961
-	PAYE Payable	-
5,357	Total Liabilities	9,679
<hr/>		
	EQUITY	
38,126	Accumulated funds	18,396
-	Income over expenditure	8055
18,396	Total	26,451
<hr/>		

Auditor's report

cornish
and associates ltd

accountants and business advisers

4 May 2007

To Whom it May Concern

The New Zealand Press Council

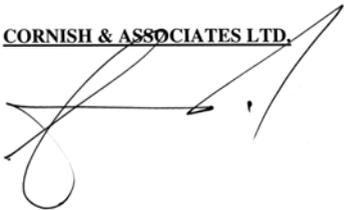
We have reviewed the accounts of The New Zealand Press Council for the period ended 31 December 2006 (12 Months).

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 2006 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 2006 and financial performance and cashflows for the year ended on this date of the organisation.

Our review was completed on 4th May 2007 and our unqualified opinion is expressed at this date.

CORNISH & ASSOCIATES LTD.



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