

The 33rd report of the



2005

NEW ZEALAND PRESS COUNCIL

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Sir John Jeffries	Independent Chairman, Retired High Court Judge (until June)
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(CNZM, OBE, QC)	
Mary Major	Secretary

Representing the public:

Ruth Buddicom	Barrister, Christchurch
Keith Lees	Teacher, Christchurch (from February)
Denis McLean	Retired diplomat, Wellington
Aroha Puata	Lawyer and mother, Upper Hutt
Lynn Scott	Company Director, Whangarei

Representing the Newspaper Publishers Association (NPA)

Suzanne Carty	Editorial Consultant, FairfaxNZ, Wellington (until June)
Clive Lind	Editorial Development Manager, FairfaxNZ, Wellington (from July)
Jim Eagles	Travel Editor, <i>New Zealand Herald</i> , Auckland (until February)
John Gardner	Assistant Editor, <i>New Zealand Herald</i> , Auckland (from March)

Representing Magazine Publishers

Terry Snow	Editor, <i>The Shed</i> , Auckland
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Representing the NZ Engineering, Printing and Manufacturing Union (Media Division)

Alan Samson	Lecturer, Massey University School of Journalism
Murray Williams	Freelance journalist

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Chairman's foreword

I was appointed as a member and Chairman of the Council from July 1, 2005. As such, I am not conversant with the affairs of the Council during the first part of the year. At the invitation of the previous Chairman, Sir John Jeffries, I did attend a meeting of the Council in May last year. All the then members of the Council were present at that meeting. I knew that five of the members were industry representatives and that six were independent public members. My initial impression as I listened to the debate on the various adjudications was that I was unable to discern which of the members were industry members and which were public members. A casual observer at any meeting would, I am sure, come to the same conclusion. That observer would be impressed by the way the members from different backgrounds and experiences apply themselves diligently to consider complaints against the Council's Statement of Principles.

During the year 41 complaints were considered. Of these, eight were either upheld or partly upheld. The majority of the complaints fall for consideration under principle No. 1 of the Council's Statement of Principles, namely the need to "be guided at all times by accuracy, fairness and balance, and should not deliberately mislead or misinform readers by commission, or omission". Compliance with this principle will not only fulfil the third objective of the Council, namely the maintenance of the New Zealand Press "in accordance with the highest professional standards", but also will increase the value of and respect paid to good journalism.

In one or two cases, the Council has noted that if a complaint had been addressed at an early stage and the matter properly investigated and appropriate action taken, the matter would not have reached the Council. On more than one occasion, a complaint to a newspaper remained unanswered until a subsequent complaint was made to the Council. It was observed during consideration of one complaint that if the matter had been properly investigated by an independent person, rather than the reporter complained against, the matter would almost have certainly been resolved without recourse to the Council. There is a need for some editors to take complaints more seriously and have them investigated in a responsible manner by a senior member of staff.

The second objective of the Council is to promote freedom of speech and freedom of the press in New Zealand. This objective is prominently referred to in the preamble to the Statement of Principles. The Council constantly upholds the principle. However, freedom of speech does not permit comment, particularly editorial comment, if the facts on which they are based are not factually accurate. Cases have come before the Council where the facts upon which an opinion piece has been based are not accurate. In such circumstances, the Council will uphold the complaint. As noted in Principle No. 7 of the Statement of Principles, a publication is entitled to adopt a forthright stance and advocate a position on any issue. There have been complaints against robust views held by newspapers. Though such a view might be controversial, a newspaper is free to express such views unless it offends other principles, particularly the principle requiring accuracy, fairness and balance.

A continuing source of complaints relates to failure to publish letters to the editor or the editing of such letters. In this respect, the Council has maintained its constant view that letters to the editor are the prerogative of editors. They must, however, be guided by fairness, balance and public interest.



The New Zealand Press Council, December 2005: From left, Clive Lind, (Wellington); Keith Lees (Christchurch); Aroha Puata (Upper Hutt); Terry Snow (Auckland); Lynn Scott (Whangarei Heads); John Gardner (Auckland); Barry Paterson (Chairman, Auckland); Mary Major (Secretary); Alan Samson (Wellington); Ruth Buddicom (Christchurch); Denis McLean (Wellington). Absent: Murray Williams, (Wellington). Barry Paterson, formerly a judge of the High Court, is the independent chairman. The members representing the public are Ms Buddicom, Ms Puata, 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 Mr Williams are the appointees of the Media Division of the New Zealand Engineering, Printing and Manufacturing Union.

As it had done in 2002, the Council implemented a fast-track procedure for complaints arising from the General Election held during the year. There were no such complaints. However, the Council did consider three complaints in respect of newspapers' handling of the last local body elections. None of these was upheld.

Currently, the Ministry of Consumer Affairs is conducting a review of industry-led regulation. The purpose of the review is to assist industry, consumers and government in developing, operating and evaluating industry-led regulatory structures, including self-regulatory schemes and codes of practice. The effectiveness of particular schemes will be reviewed. It is the Council's view that it is now timely to conduct an independent audit of the Press Council. Though the Council itself has implemented changes to the scheme from time to time and, in particular, adopted the Statement of Principles, and has moved to make changes where it believes criticism has been appropriate, there has not been an independent audit. It is now more than six years since the Statement of Principles was adopted and it is appropriate to review them.

One particular matter that has led to comment is the question of the meaning of "public interest". This is relevant when applying some of the Council's principles, particularly the principle relating to privacy, which should not interfere with publication of matters of public interest. As yet, the Council has not given a definitive meaning to this term, unlike

the Australian Press Council which defines it “as involving a matter capable of affecting the people at large so they might be legitimately interested in, or concerned about, what is going on, or what may happen to them or to others”.

Other matters that should again be looked at include whether there should be any right of appeal from an adjudication and whether the appropriate sanction on an uphold adjudication is always to request a substantial publication of the adjudication. It has been suggested that on the less serious complaints, it may merely be sufficient to uphold without requesting publication. In response to a suggestion that publication is not in itself a sufficient penalty, the contrary view expressed is that editors take great professional pride in their newspapers and magazines and that publication is, in effect, a severe penalty.

A matter that might be worthy of consideration in the future is that of conciliation and/or mediation. The Australian Press Council resolves many of its disputes by these processes. If a review proceeds, this is a matter that could and should be considered.

Two matters have arisen since the end of 2005 that are worthy of mention here. The first is that there are indications that the Council might have to grapple with the application of Principle 5 which requires particular care and consideration for reporting on and about children and young people. Akin to this principle is the principle entitling everyone to privacy of person, space and personal information and the need to respect these rights. Reporters should be sensitive to the need of children and young people in particular and should appreciate the effect reporting of some incidents has on young immature persons, who, in many cases, are innocent bystanders but vitally affected by the publication of news stories about them.

The Constitution of the Council is not conducive to its taking a proactive approach in matters of public importance. This is particularly so if the matter is likely to come before the Council as a complaint. It can not prejudice such a matter. Since the end of the year the Council has been criticised by at least one correspondent for not making a statement at the time of the Muslim/cartoon controversy. It would not have been appropriate for the Council to have made a statement in isolation. If and when a complaint is received, both the complainant and the editor will have a full opportunity to present their side of the matter. The Council under its procedural rules will be required to consider both sides of the argument before it can make any adjudication. Rarely, if ever, will there be an opportunity for the Council to make a general statement relating to a national controversy without there being a formal complaint before the Council.

Finally, I note the contributions of those members of the Council who have retired since last year. The major and important contribution made to the Council by my predecessor, Sir John Jeffries, is dealt with elsewhere in this report. Suzanne Carty and Jim Eagles representing the Newspaper Publishers Association, retired during the year and have been replaced by Clive Lind and John Gardner, respectively. Particular thanks must go to Suzanne Carty, who served the Council, the public and the industry so diligently over the 12 years she was a Council member. In addition, Murray Williams, representing the NZEPMU, resigned in December 2005 on his move to Auckland. Their contributions to the Council’s deliberations are much appreciated. I am indebted to the assistance and cooperation received from all Council members and acknowledge the contribution to the efficient running of the Council made by its long-serving secretary, Mary Major. Her work is invaluable.

Sir John Jeffries

Chairman, New Zealand Press Council, 1997-2005

John Jeffries has put his mark on New Zealand life in many ways – in the judiciary and local government as well as in corporate affairs and public administration. The breadth of this experience and the range of his public service then lent a commanding dimension to his eight years as Chairman of the Press Council, which concluded in June 2005. His strong commitment to the Council’s work and role sprang from a love affair with the English language and literature and above all from deeply-held beliefs in the vital place of a free press in a free society. A self-confessed compulsive reader of newspapers and media “junkie”, he brought to the Council an unwavering dedication to freedom of speech, balanced by insistence on the responsibilities of editors to “get it right” and a clear recognition of the rights of individuals in the face of the power of the press. These are not easy boundaries to work.

As Chairman, Sir John was at pains to remind members of the Council that for the most part their deliberations turned on ethical issues. For these sorts of reasons he set out to formulate – with representatives of the newspaper publishers and unions – a clear Statement of Principles to be used by editors, complainants and the Council alike as a yardstick against which to assess the issues.

It is testimony to these efforts that almost all complainants now rely on the Council’s Statement of Principles in formulating a case against what they see as transgressions by newspapers and magazines. The issues surrounding press freedom of course extend well beyond the behaviour of newspapers into the realm of politics. In this regard John was always ready and willing to make representations on behalf of the Council or to offer public comment whenever it seemed that basic principles of free expression might be infringed. In particular he made clear the Council’s radical opposition to proposed legislative moves to restrict the qualified privilege of journalists to offer vigorous commentary on the lives and personalities of public figures, or to cut off reporting in the lead-up to elections.

John came up the hard way, which conferred an ingrained sense of realism about the world and its affairs and a keen nose for cant and pretension. His qualities of great commonsense and fairness as well as intellect enabled him, seemingly effortlessly, to cast a spotlight on the key issues – on the Press Council, as on the bench.

Very fond of sport, he brought his own lively opinions, coupled with a good understanding of the referee’s role, to resolution of argument around the Council table as well as to the arbitration of complaints. Council members will miss his reports on progress in the World Series baseball matches in the United States. They will nevertheless remember some of his pungent, guiding principles. “Never trust a man who buys his ink in barrels”, he was prone to grumble on being obliged to read through complaints of excessive length. “That dog won’t hunt” was often enough offered in response to a weak argument.

John Jeffries contributed hugely to the work of the Press Council. During his tenure the Council codified its procedures, developed its website and turned the Annual Report

into a journal of record and of commentary on issues concerning the print media. He expanded contacts with other similar bodies in like-minded countries and was ready to take up the cudgels for a free press around the Pacific and elsewhere. His advocacy of the principle of self-regulation as the mechanism for arbitration of complaints was unequivocal; he saw clearly that adjudication by any government-appointed body would take the country into dangerous waters indeed.

In all this John served the Council, the newspaper industry and the national interest in style. We wish him well for the future.

The Media in a Globalising World

In a globalising world the media too are subject to unstoppable forces for change. The expanding universe of the internet now impacts on almost every aspect of the communications business. Onrushing technology and crumbling barriers to the free exchange of goods, services and – above all – information are inexorably imposing the need for new investment and changes to corporate practices to keep pace with competition from electronic newcomers in the field. John Fairfax Holdings Ltd's recent purchase, for a startling price, of the on-line auction company Trade Me, is a case in point. A corporate enterprise that began life in the traditional newspaper business has greatly expanded a comparatively new role in internet advertising. Since 80 per cent of households in New Zealand now have access to the internet and Trade Me had built up a commanding position in the electronic marketplace, Fairfax obviously saw the opportunity to expand advertising market share.

The issues go further than the pursuit of the advertising dollar. To many it already seems quaint, in the age of the internet, to fell forests to produce paper on which to print the news, which must then be delivered door-to-door at great expense, when so much news and commentary are available at the click of the mouse. One third of Americans under the age of 40 are now believed to revert to the internet as their main source for news. There are other consequences for the print media. Declining readership – attributable in part to wider use of electronics for communications, news and entertainment – is one.

The population of the United States has increased by nearly two-thirds in the past 35 years to 280 million while daily newspaper circulation, according to one recent report, has dropped by 3.7 million to just over 55 million. (By comparison the New Zealand population grew by more than a third over the same period to reach four million in 2005; daily newspaper circulation declined from 1,022,476 in 1970 to 729,285 in 2005. As a cautionary note to these figures it should be said that, in this country as elsewhere, there has been an explosion in the growth of community newspapers during the same period. Equally, Sunday newspaper circulation in New Zealand has increased from 243,263 in 1970 to 406,281 in 2005.)¹

Another worry is to do with what has previously been unchallenged: the role of editors and journalists to decide what is news and therefore what, from the flood of material available, should be presented to their readers. Where there are other sources of information on the internet and where internet video offers expanded scope for entertainment, innovation and imagination will be called for to maintain the authority and place of newspapers in people's lives.

In the face of the new pressures, there is a trend for ownership of newspaper and other media to be consolidated. In New Zealand two major corporate enterprises now dominate the newspaper industry; both are making substantial investment in digital technology to publish on-line and centralise operations to achieve cost savings. The objective, obviously, is to secure their position in a fast-changing environment, as with the Fairfax investment in Trade Me. In Australia current proposals to revise rules restricting takeovers

in the media industry are generating concerns that consolidation could cut across public expectations about the need for competition to allow choice between sources of news and opinion. New Zealand experience, however, is that the two dominant newspaper chains have resisted any temptation to harmonise editorial policy. But that is clearly a danger.

Elsewhere – and in very different circumstances – this process of consolidation has caused dismay in newspaper circles. The acquisition, in 2000, of the *Los Angeles Times* – a major and respected newspaper – by the Tribune Company of Chicago has cast a light on the issues.² Tribune holdings now include 11 daily newspapers, 26 television stations, the Chicago Cubs baseball club, a quarter of the Warner Brothers network, a regional sports network and a television entertainment division. Clearly such a resource base, embracing both electronic and print operations and extending into the entertainment sector, was considered necessary to give the flexibility needed to cope with a fast-changing environment.

Managerial decisions in such a wide-ranging enterprise – driven by the often massive investment needed to introduce new technologies or to respond to fluctuating fortunes on the stock market – will, however, not necessarily be driven by the same priorities as editors in the print side of the business might wish. Corporate pressures to achieve greater efficiencies and savings will then impact on the resources available for the collection and dissemination of the news.

The *Los Angeles Times*, like other major American newspapers, has been obliged to cut back on the workforce, to restrict local coverage and slash reporting staff in major news centres such as Washington DC or overseas; there is pressure to consolidate operations in such centres in one newsroom staffed jointly with other papers in the Tribune stable. It is feared that the identity and special character of the *Los Angeles Times* will be lost because of decisions at corporate headquarters half a continent away. The prospect of major job losses for journalists looms. (This of course happened in New Zealand with the merger of *The Evening Post* and *The Dominion*.)

Contrary arguments to the effect that effort should go into building up the newspaper rather than cutting back – expanding circulation by putting the emphasis on high quality journalism – were not persuasive with management. Indeed, the evidence is there that efforts by the *LA Times* in recent years to extend coverage and invest in newsgathering have failed to halt a steady slide in circulation.

The issues here plainly go wider than the future success or otherwise of one great American newspaper. The new environment impinges not just on the means for delivering advertising, but on the capacity to cover the news, report on the issues and formulate editorial policy. To what degree will it be possible to sustain quality journalism in the new market-place? The dangers inherent in an outright clash of interest between the economic imperatives and the social/political role of newspapers, are obvious. It is dispiriting to journalists – as it is to staff in any other organisation exposed to the pressures of globalisation (which means that the issues have an almost universal application) – to be subjected to constant demands for cuts or for greater efficiency.

Workloads increase and commitment to the profession is weakened. Journalists see their role and that of newspapers in general as being to inform their constituencies about

the world and the issues of the day. Any falling away – from whatever cause – in the quality of the news and information they provide their readers will have a profound effect on the successful functioning not only of the newspaper itself, but on wider society. As an independent and authoritative source of news and opinion, newspapers still have a continuing and vital role to play in a democratic community. Yet it is clear that adaptability and the readiness to embrace new ways of doing things will be the keys to success in the electronic age – in the newspaper industry as in others.

There is more to meeting the challenges of the electronic era than simply putting newspapers on-line. The internet now provides alternative sources of news and information; individual consumers are increasingly able to make their own choices as to the aspects and kinds of news and opinion of interest to them. The internet, however, is by no means an unimpeachable source. What it provides is not subject to cross checking and close public scrutiny as on the printed page of a daily newspaper, nor is it likely to provide the same degree of focus on local events and issues.

A free and active press is a safety valve for the community as a whole. The broader democratic interest will hardly be served by a retreat into a world in which isolated individuals decide what is and is not newsworthy. Vigorous investigative journalism can still expose issues that the powers-that-be might prefer not to be exposed and that individuals might wish not to face.

Information from all sides is the indispensable ingredient to a balanced understanding of events and issues. The resource implications of this traditional approach to newsgathering can, however, no longer be ignored. A world in which newspaper proprietors could subsidise the provision of news and opinion with revenue from advertising within their own pages is disappearing. How this will play out is not yet clear.

The future will be bleak and chaotic if the internet age ushers in any diminution of the role of a free press in the promotion of the widest possible community interests. The internet is a powerful and useful tool that is bringing in great change in the media world. Yet there is nothing in the new environment that diminishes the importance to society of a free press, freely reporting the “news” according to its own values and what it perceives to be the wider interests of readers. Quite the reverse.

¹ NZ circulation data provided by NPA. Daily newspaper circulation in New Zealand over this same period peaked in 1985 at 1,062,472; the subsequent decline can hardly be attributed to the influence of the internet as circulation had dropped below 800,000 by 1998 – before the internet could have made any impact.

² See *The New Yorker*, 10 October 2004. Annals of Communications. FAULT LINE. *Can the Los Angeles Times survive its owners?*

Name Suppression

The issue of whether the Council will consider a complaint that a newspaper has breached a suppression order is a difficult one for the Council. The Council has adjudicated on this matter in some cases but has declined to adjudicate in others. Now the Council is considering the view that a breach of a suppression order is a criminal offence and as such, the Council, which deals with ethical matters, should not be involved. It is for the Police to take appropriate action where what is alleged is a crime.

Section 140 of the Criminal Justice Act 1985 allows the Court to make 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. In some cases the law requires automatic suppression of a name. A person commits an offence if he or she breaches such an order or evades or attempts to evade any such order.

If the matter is of sufficient importance to interest the Police, there is likely to be a prosecution of the alleged offender. However, in many cases where there appears to have been a breach, the Police take no action. At times, this might be because the apparent infringement does not warrant the expenditure of time and resources in prosecuting.

In 1999, the Council did not uphold a complaint where the Council decided that the only grounds for complaint lay in the disclosure of the complainant's age. This was thought to be insufficient information to lead to identification and the complaint was therefore not upheld (Case 748).

In another case, a complainant had her name permanently suppressed after pleading guilty to theft. The newspaper did not publish her name but published details about her age and employment. The complaint was not upheld as the Council was of the view that only her name had been suppressed and the newspaper did not publish this (Case 858).

In a third case, the Council did uphold a complaint where a newspaper published the name contrary to an order made under Section 140 of the Criminal Justice Act 1985. The complainant had been a witness in a murder trial and, in the course of reporting the evidence of another witness, the complainant's name was inadvertently mentioned. The editor admitted the breach and stated that the publication was an oversight, for which he apologised in writing to the trial judge, the complainant and to the Press Council. The Police in this case had decided not to lay any charges arising out of the oversight and the Police referred to the breach as being technical in nature (Case 894).

Another case involved publication of the name of a man claiming refugee status who was identified in the House of Representatives by an MP. In this case, publication of the man's name was prohibited by a provision of the Immigration Act 1987. A separate complaint alleged that the newspaper had published the name after there had been a court order prohibiting publication of the identity of the complainant. After taking legal advice, the Council determined that there was no breach of the provisions of the Immigration Act as an accurate report of a parliamentary proceeding could constitute a reasonable excuse for publishing the name. In respect of the breach of the court order, the Immigration Service requested the Solicitor General to prosecute for contempt. No prosecution was

taken, apparently on the grounds that contempt prosecutions are rare and reserved for the most serious of breaches.

The legal advice received by the Council was that the law is uncertain as to how any conflict between the legislature and the courts is to be resolved in a situation where there is an accurate publication of what was said in Parliament that could otherwise amount to a contempt of court. The Council noted an English decision that suggested that a newspaper can repeat comments made in Parliament without fear of any proceeding for contempt of court. The Council therefore did not resolve this issue and left it to be decided elsewhere (Case 984).

The Council did not uphold a complaint (Case 919) when a newspaper published the name of an elderly man found unconscious beside his dead wife. Both were members of the Voluntary Euthanasia Society. At a later court hearing the man was granted name suppression and the lawyer for the complainant argued that the newspaper should have known that charges would be laid and that the man was likely to receive name suppression. The police had refused to say whether or not the husband would be charged.

The Council's adjudication states:

In the Council's view this complaint requires it to weigh the competing values of freedom of speech and the right to privacy. In the Preamble to its Statement of Principles the Press Council affirms the "there is no more important principle than freedom of expression." Principle 3 affirms the right to privacy, with the proviso that "the right of privacy should not interfere with publication of matters of public record, or obvious significant public interest." Principle 3 also states that "those suffering from trauma or grief call for special consideration."

The Press Council thinks that the newspaper was fully justified in giving such front-page prominence to this highly topical story of a couple who had committed themselves to acting on their belief in euthanasia. The Council considers that The Dominion Post exercised appropriate consideration in presenting the story, and was not obliged to hold back from giving full details of the incident until the issue of possible name suppression had been resolved. It could not reasonably have been expected to weaken or blunt its story on that particular day because of what might occur later. The ordinary expectation is that people at the centre of important news stories will be identified.

In another case, the Council upheld a complaint where the newspaper in breach of the mandatory provisions prohibiting publication of details that might identify witnesses to sex crimes, published such details. The newspaper was prosecuted, after pleading guilty. The complainant pressed the case before the Council on the grounds that the court action was not hers and that the court had not considered the moral or ethical issues of the publication. The Council, noting that the publication of the details was a breach of journalistic ethics, upheld the complaint (Case 921).

The two complaints upheld by the Council involved admissions of breach by the newspapers. In the other cases, the Council did consider the facts when coming to its conclusion.

The Council has recently declined to rule on an alleged breach of suppression order but this was after the complainant indicated he did not want it to so rule. Normally, the Council will not get involved in an issue where what is alleged is a crime.

But it might be appropriate for the Council to consider the ethical issues in those circumstances where there has been an admitted breach of the suppression order or the complainant says the facts are clearly ascertainable to the degree that the provisions for protection of privacy (Principle 3 of the Statement of Principles) might apply.

The Council has not yet been asked to consider a case where the allegation is that the newspaper attempted to evade the suppression order by publishing other details that would clearly identify the complainant.

Nor has the Council yet been asked to consider a case where a newspaper has named an arrested person before that person appears in court. There are judicial statements that suggest that doing so might be a question of contempt because it defeats the course of justice. It prevents a person who has a legitimate right to apply for a suppression order, obtaining the order because his name is already in the public domain.

The Council will treat with some caution complaints relating to breaches of suppression order but in appropriate circumstances, will consider the same on purely ethical grounds. It will, however, not make any determinations that, in effect, are findings of criminal guilt.

Internal Complaints Procedures

As in previous years, a number of complaints to the Press Council over the past year could have been quickly resolved by early publication of a correction or a letter to the editor

The Press Council has repeatedly ruled that it is the prerogative of the editor where to place an article, whether to publish or not to publish a letter to the editor, and the right of the editor to publish opinion pieces, and where to position such pieces within the publication.

However, the Council has also noted that where a newspaper or magazine has a complaints procedure, and makes it known through publishing details of it regularly, a reader may use this process to express a concern directly to the editor. The action then taken may often satisfy the reader, who might take the complaint no further.

In the case of the *New Zealand Herald*, a daily corrections and clarifications box is an appropriate place for amendments to be made. Amendments can also be made by way of publication of a letter as soon as possible after the matter has been raised with the editor. Indeed, in some cases, the complainant is satisfied to know that the editor has personally considered the issue raised and has taken the trouble to respond.

The Press Council considers that it is in the interests of each publication, and of the public, for internal complaints procedures to be developed, and made known to readers by publishing and highlighting the complaints procedure on a regular basis.

Complaints, the Press Council believes, should be sent to the editor in a form that states clearly that it is a formal complaint to the editor, in order to avoid its being overlooked. The editor can then decide how to proceed. Frequently, the complainant will withdraw the complaint when he or she feels that the matter has been given due attention.

The Press Council has also noted that the tone of some letters from editors to complainants is hostile and occasionally provocative. This is not conducive to a happy result. Most complaints are not undertaken lightly; they involve the complainant in significant time to prepare the complaint, and then to answer the editor's response. The Press Council would urge editors and others responding to complaints to consider the impact of the tone of their response on the complainant.

What has been learned from John Manukia?

Some well-publicised instances where journalists in recent years have been exposed as fabricators and plagiarists, particularly in the United States, have rightly drawn attention to ethics and newsroom practices. Journalists such as Stephen Glass (*The New Republic*), Jayson Blair and Michael Finkel (*The New York Times*) and Jack Kelley (*USA Today*) are remembered for their infamy after what had been regarded as good, even excellent reporting was discovered to have been made up.

One result has been a far greater vigilance among journalists and executives. The August-September 2005 issue of *American Journalism Review* contained a list of 13 cases of fabrication or plagiarism discovered between March 21 and June 24, 2005. The consequences have sometimes been far beyond the disgrace befalling a rogue journalist – even editors have lost their jobs because investigations revealed avoidable cultural flaws within the newspaper.

In the year under review, New Zealand journalism has had its first experience of what appears to have been a serial fabricator, and the Press Council has noted with interest how the newspapers involved have handled the issue.

Fabricating articles, even parts of them, strikes at the very heart of what journalism and all responsible journalists stand for. It is, in fact, the ultimate sin. Journalists have to operate in a climate of trust. This is not unusual – most organisations work on such a basis. But in journalism, despite its reputation for cynicism, being able to trust each other is paramount. Without trust at all levels, any publication is severely hampered.

Journalists rely on their sources of information, they rely on each other. It follows that if they are to be successful, their work should be trustworthy. Readers have to know that what they read can be relied upon. A pillar of a successful news-gathering operation has to be that journalists are honest and have integrity. In that respect, New Zealand has been lucky. It has avoided the tabloid excesses of the United Kingdom; until now, it has faced no great fabrication embarrassments like those in the United States.

The case of John Manukia, an Auckland journalist, attracted quite considerable publicity in New Zealand. The reporter was dismissed from the APN-owned *Herald on Sunday* after an article he had written for the edition of October 16 purporting to be an interview with a former South Auckland police officer Anthony Solomona was challenged and subsequently found to be a fabrication. Mr Manukia was a reporter of some 13 years' experience, having previously worked for the *New Zealand Herald*, *New Zealand Truth*, *Sunday News* and Pacific radio station Radio 531.

In the event, after a solicitor acting for Mr Solomona contacted the *Herald on Sunday*, Mr Manukia was dismissed after due process when he admitted he had fabricated the story. Subsequently, Shayne Currie, editor of the *Herald on Sunday*, undertook an investigation into other stories written by Mr Manukia for the newspaper and found discrepancies in a small number, notably people whom the paper was unable to identify.

On October 23, the newspaper apologised to Mr Solomona and, in a personal piece,

Mr Currie wrote: “Here on the *Herald on Sunday* we have struggled to understand why a seemingly capable journalist would turn to invention and denial. Reporter John Manukia initially denied then admitted fabricating an entire interview with former South Auckland police officer Anthony Solomona. Manukia, 38, said he felt personal pressure to perform and accepted full responsibility for his actions. Yet, until then his performance had not been under question – he was a senior reporter with 15 years’ experience, including many years on large newspapers, and had been considered an asset in the newsroom.”

Once the fabrication story broke in the *Herald on Sunday*, Fairfax New Zealand editor-in-chief Peter O’Hara announced inquiries would be made into articles written by Mr Manukia when he worked for Fairfax’s *New Zealand Truth* and *Sunday News* between 2001 and 2003. “We accept that some mistakes can and will be made by all print and broadcast organisations from time to time and we will correct, retract and apologise when this happens,” Mr O’Hara said. “But the deliberate faking of an interview – if that is, indeed, what has happened at the *Herald on Sunday* – raises concerns of a different dimension for everyone in the wider media community. When we became aware of the *Herald on Sunday*’s claim that Manukia had fabricated the Solomona story we decided we needed to re-examine the output of this journalist during his time with us.”

That investigation also uncovered articles written by Mr Manukia that could not be satisfactorily verified. A random sample found 12 could not be verified in whole or in part. Some could not be substantiated at all, others contained quotes from people whose existence could not be confirmed, some contained quotes from people who confirmed they had said such things but not to the reporter and one contained quotes from a man who denied he had spoken to a reporter on the topic. The articles in question were presented to Mr Manukia but he did not respond.

Both Mr Currie and Mr O’Hara emphasised the importance of the public’s trust. “Readers can rest assured that the *Herald on Sunday*’s staff are ethical and honest – and feel as betrayed and disappointed as their editor about their former colleague’s action,” said Mr Currie.

Said Mr O’Hara: “Above all, we want to preserve the public’s trust in our publications. Our initiative in undertaking this inquiry, when it would have been easy to say the reporter had long since left our employment, shows, we believe, our commitment to the highest levels of journalistic responsibility.”

Both newspaper companies emphasised the importance of the Press Council’s Statement of Principles in their investigations. Both set a high standard of verification.

While at least one media commentator was critical of the lack of coverage given to the inquiries, the fact that both the *Herald on Sunday* and Fairfax NZ were prepared to undertake investigations and publish the results themselves indicates both appreciate the importance of telling readers what went wrong. There should, however, be continuing debate on why Mr Manukia did what the inquiries revealed he did. The reporter himself has said very little, but those found guilty of fabrication overseas have sometimes claimed work pressure drove them to it.

This is an unacceptable argument but it does raise questions about newsroom cultures and extreme competitiveness, either within the newsroom or with other publications. One

trend noticed about fabricators is that they often worked alone, and sub-editors and others were discouraged from changing or questioning their copy. Some US newspapers have also found staff believe they are under too much pressure to produce good stories constantly, according to the *American Journalism Review*. It has been argued by some that plagiarism or fabrication were an inevitable result of such pressure. That, too, is an unacceptable argument but it is something those in control of newsrooms need to consider.

The response of New Zealand's two major newspaper publishers to this very serious breach of journalism ethics in the year under review was heartening. Both were swift to initiate substantial inquiries; both were prepared to take on the chin the embarrassment of revealing to their readers a story of ongoing deception on the part of a senior journalist. Modern technology might now be making it almost inevitable that plagiarists will be found out, but this episode of fabrication is a powerful reminder of the need for checks and balances to be built into newsroom processes. Sadly, it seems, trust is no longer enough.

Select Committee Submission on the Coroners Bill

Over the years, the Press Council has received complaints about suicide articles. In the course of the adjudications, the Press Council has from time to time expressed concern about the restrictions still imposed on reporting suicide by the Coroners Act. Despite the restrictive reporting regime, one of the harshest in the world, the rates of suicide in New Zealand have been alarmingly high. The Press Council has felt that the need to discuss this tragic social problem openly has been hampered by the Coroners Act provisions.

The revision of the Coroners Act offered the chance for these provisions to be re-examined. However, when the Bill was released in 2005, the provisions were largely unchanged. For this reason, the Press Council decided to make a submission to the Justice and Electoral Committee on the Bill in April. The full written submission is below.

In July, a report reviewing the 1999 Ministry of Health booklet, *Suicide and the Media*, was released. *Suicide and the Media: a study of the media response to 'Suicide and the media: the reporting and portrayal of suicide in the media – a resource'* was commissioned from Jim Tully and Nadia Elsaka, of the School of Political Science and Communication, University of Canterbury. Among their key findings were that the media guidelines developed by the Ministry of Health had been largely ignored by the news media, that senior media professionals strongly opposed prescriptive restrictions on suicide reporting and believed the Coroners Act 1988 was unduly restrictive, and that the development of suicide reporting guidelines acceptable to the news media would require a process of extensive consultation between health professionals and media professionals.

In November, a meeting chaired by Jim Tully was held between officials from the Ministry of Health and representatives of the media, including the Press Council. The result of this meeting was a resolution that a set of protocols for the reporting of suicide was to be drawn up by Jim Tully for further discussion by health professionals and the media.

Submissions to the Justice and Electoral Committee by The New Zealand Press Council on the Coroners Bill

About The New Zealand Press Council

The Press Council was established in 1972 by the newspaper publishers and by the then journalists' union. It is funded entirely by the industry. The Council comprises an independent chair, (a retired High Court judge) five members representing the public, two appointed by the Newspaper Publishers' Association, one appointed by the magazine publishers, and two journalists, appointed by the journalists union, the NZ Amalgamated Engineering Printing & Manufacturing Union (EPMU). Accordingly the Press Council has a majority of public members.

Its objectives are to receive complaints from any person against the print media (some exceptions), to promote freedom of expression and to maintain highest journalistic standards.

Abstract Of Submissions

Freedom of expression is at the heart of these submissions. The Council is strongly of the view that the present statutory provisions inhibiting publication of information and discussion of self-inflicted deaths (with no proposed change in the Bill) is against the public interest. Whatever the reasons in the past for restriction they have now been overtaken by the wish of the public to be informed and to discuss the major health issue of suicide, particularly for the young.

Submissions

In the new Coroners Bill, clauses 61 to 65 of Part 3 deal with restrictions on publication of details of self-inflicted deaths. These replace Part 4, section 29 of the Coroners Amendment Act 1996 that in turn repealed section 29 of the Coroners Act 1988. The broad restrictions on publication imposed by the earlier Acts remain in place in the new Bill, with the extension of publication to include the internet and other electronic means.

The New Zealand Press Council is strongly of the view that the sections dealing with restriction on publication (s29 of the 1988 Coroners Act) should be changed. This concern echoes the same views held by the Media Freedom Committee of the Commonwealth Press Union and a constituent body of the New Zealand Press Council, the Newspaper Publishers' Association.

The New Zealand Press Council has as one of its principal objects to promote freedom of speech and freedom of the press in New Zealand. The Council has made frequent reference to the restriction on publication of details about suicide imposed by the Coroners Act, in the hope that greater freedom to report on suicide would allow the press to make more information available for public discussion.

The Press Council's interest in this Bill arises through complaints about the reporting of suicide in the press. Major adjudications issued have been: Cases 783,784,785,786,787, July 2000, five complaints against *Craccum* (partly upheld); Case 758, October 1999, Complaint of B. M. Reynolds against *The Southland Times* (not upheld); Cases 855, 856, 857, November 2001, Three complaints against the *Manawatu Standard* (partly upheld).

It is a fair claim to make that the Press Council has filled a unique role on the subject of the effect of the very restrictive regime that has now been in force for at least 17 years since the last Act was passed. In the Council's opinion, gained from experience in handling complaints about reporting of suicide cases and on other public issues, there has been a shift in the public's disposition with a greater readiness to openly discuss issues that were for one reason or another avoided or voluntarily suppressed. This has been particularly evident on social and moral matters such as change in sexual mores, recently civil unions, and euthanasia, that is a special aspect of suicide. Many other examples could be given. The Press Council believes the public now expects that the tragic effects

of suicide, particularly with young people, is one of those issues. The public now actively seeks information and guidance, as they have never done before. It is the media as the main agent in society for the transmission of information and knowledge to whom the public turns.

New Zealand's print media increasingly regard the issue of suicide as one of urgent public interest and a major public health problem. But newspapers and magazines still face what the Press Council has called the "impenetrable thicket" of the Coroners Act 1988, especially Section 29, which deals with publication of details of suicides. Section 29 says that coroners may provide publicly the basic details of a deceased person's age, name and occupation, and find that a death was self-inflicted. They have discretion also to release the "manner" of a death, but because of confusion about what that term means, few coroners exercise that power.

The Press Council sent to the Justice Department the adjudication concerning the *Manawatu Standard*, asking that Section 29 be thoroughly examined when the legislation was reviewed. The response from the Justice Department was to welcome the assistance offered by the Press Council, but they failed to consult with us as we asked them to do and as they promised to do.

In the important adjudication concerning the *Manawatu Standard*, the Press Council noted that it had had drawn to its attention, by a complainant, the provisions of section 29 of the Coroners Act 1988 as amended in 1996. While, the section makes provision for the authority of a coroner to be sought for publication, the *Manawatu Standard* in the case in question confirmed such authority was never requested.

The Council avoids making, for obvious reasons, pronouncements on legal issues such as statutory interpretation. This is particularly apposite in respect of s29 of the Act. There are difficulties with the section as to its precise meaning. It was public knowledge that the subject of coroners' functions and duties were (currently) under examination by the government and the Law Commission published Report 62 in August 2000 entitled Coroners. The exact problems of s29 were not addressed in that report.

Furthermore the problems attendant on the true interpretation of s29 were considered in Board of Trustees of Tuakau College v Television New Zealand Ltd (HC Auckland, CP 96/96, 22 March 1996), which decision seemed to suggest s29 might now need to be interpreted in the light of s14 on freedom of expression in the Bill of Rights Act 1990. The Council has no knowledge whether this issue has been the subject of examination by those responsible for the drafting of the new Bill. However freedom of expression as contained in s14 of the Bill of Rights Act 1990 is at the heart of these submissions.

With the law in this somewhat confused state the Council has put the legal issues to one side and makes its decisions on ethical considerations applying to journalism in New Zealand. Undoubtedly the problems inherent in s29 needed to be thoroughly examined by the legislature when it decided to amend the Coroners Act.

The Press Council eschews debate on the issue of "contagion" or "copycat suicide" except to say that the evidence to support this is very unclear. We do not agree with the conclusions the Ministry of Health seems to draw from their readings of the academic literature for the booklet *Suicide and the Media, The reporting and portrayal of suicide in*

the media. If we had been given the opportunity we would have expanded on this basic issue, which seems to influence greatly the Ministry's thinking.

Now the Act is under review by the Government the Council agrees with calls to relax reporting restrictions on self-inflicted deaths, given the incidence of suicide in New Zealand. We stand with the general public who, at this turning point in the tide of interest, want to know about the causes of this tragic social phenomenon and for it to be openly debated.

Not surprisingly, newspapers are gradually testing the water by more often reporting suicides in their communities in order to explore their causes where there may be a public interest. Inevitably complaints have followed and the Council wholly accepts that this is a sensitive matter involving the private grief of families and, sometimes, the cultural practices of the diverse races living in this land.

Among those who watch with some trepidation the expansion of media interest in suicide are a number of mental health professionals who continue to express their fear that such media interest will trigger a "copycat" effect. Yet we stress that New Zealand's restrictive reporting regimes, set alongside the rise in suicides in recent years, would suggest the opposite and even that the strategy of "censorship" has been unsuccessful.

The Council has now dealt with several complaints about the reporting of suicide. In order to reach its findings, some study of the subject was obviously necessary. The Council found, as a result, that the research often relied upon by health experts is not as conclusive as it had been led to believe.

In general terms, therefore, when it comes to reporting suicide in New Zealand, the Press Council is of the view that editors need to continue to exercise the utmost responsibility to readers while exercising the freedom of the press more fully than in the past. Reports should, in the Council's view, 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.

Whilst we do not know the statutory position in Australia we attach the Reporting Guidelines issued by the Australian Press Council which at least suggests that the Press Council there has taken an initiative to reinforce self-regulation in the press rather than rely on statutory prohibitions.

The Council is firmly of the view that the press has a crucial role in any public debate about suicide, its causes and its effects. It subscribes to the philosophy of the Canadian Suicide Information and Education Centre: "Suicide affects us all. Let's talk about it."

Suicide and the Media

One of the frequent arguments advanced by health professionals about the restrictions they consider desirable on reporting suicide in the media is the fear of a “copycat” effect. The Press Council and other senior media representatives have frequently expressed reservations about whether this effect is as clear-cut as is claimed.

It should be clear from the Press Council’s submissions on the Coroners Bill and its adjudications on complaints about reports on suicide that the Press Council is strongly of the view that editors need to continue to exercise the utmost responsibility in reporting on suicide.

Yet, though the press, health professionals and the community at large should naturally be concerned about the tragic problem of suicide that looms large in New Zealand society, any blanket statements about “copycat” suicide fail to address two major unresolved issues associated with such declarations.

1. It is regularly stated that “factors which lead a person to wanting to end their life are complex ... just as there is no one cause of suicide there is no one answer.” (*Suicide and the media*, Ministry of Health, 1999). Yet the declarations by health professionals of a simple “link between media coverage of suicide and a subsequent increase in suicides”, claiming a single cause, contradicts the notion of a complex cause. Blaming the messenger as the direct cause – this story was published and so these suicides occurred – runs counter to the professional health view that suicide has many causes. Nor can it be certain what the trigger is in any given case.

2. The major presumption about the simplistic argument that suicide stories lead to suicides is the presumption that the tragic victims actually saw or read the story. This can hardly be tested. A leading researcher into suicide causes confirmed this paradox that is at the heart of suicide research.

This emerged during Press Council inquiries into a well-known and oft-quoted psychological paper about suicide in Vienna (Sonneck G, Etzersdorfer E and Nagel-Kuess S, 1992, *Subway suicide in Vienna (1980-1990: a contribution to the imitation effect in suicidal behaviour)*). Replying to the Press Council, Professor Elmar Etzersdorfer, said this:

“You read our paper very carefully and you are totally right that it should read CAUSAL. We wanted to stress, similar to Phillip’s earlier papers, that such results however intriguing they are, have to be interpreted in terms of probability. In our study, however, the most probable explanation was that media reports had led to an increase in subway suicides and the change in reports was responsible for the following dramatic decline of such suicides and suicide attempts.

“There is a methodological problem, however, as you rarely get any information about suicide victims and whether they read a certain report prior to the suicide. In one or two cases it was reported that the suicide victim had read the newspaper which reported on a previous subway suicide. However, even in this case, it might have been an intervening variable and not the cause, although it seems at least likely that they worked as a trigger.

“A causal relationship in the strict sense could only be proved if a person having attempted suicide is interviewed, which is hard to achieve.

“In our discussions with media colleagues we always stressed that we do not want to

blame them, and it is also necessary to stress that a media report never works as a single cause, but may add, if someone is in a suicidal crisis.”

The number of suicides on the Viennese subway perhaps have to be put in context. The figures were 1983-1984, nine; 1986, 13; 1987 (Jan-Sept), nine; 1988, four; 1989, three. They compare with the total number of suicides in New Zealand in 1998, for example, of 574.

The careful qualifications in Professor Etzersdorfer’s letter are not always observed when some mental health professionals claim with absolute certainty that a copycat effect is observable. Other mental health professionals and studies have challenged this view.

“We conclude that the best explanation is that television stories about suicide trigger additional suicides, perhaps because of imitation (Clustering of teenage suicides after television news stories about suicide, Phillips, Carstensen, *New England Journal of Medicine*, 315, 6785-689).

“A recent study reported a significant increase in teenage suicides after television newscasts about suicide in the period 1973-1979 and suggested that the increase might have resulted from an imitative effect of television. In the present study, the authors found no significant association between newscasts and subsequent teenage suicides over the period 1973-1984 ... Furthermore, during 1981-1984 teenage suicides decreased after newscasts about suicide; the reversal differs significantly from the association before 1981.” (Clustering of teenage suicides after television news stories about suicides: a reconsideration. Kessler RC, Downey G, Milavsky JR, Stipp H, Department of Sociology, University of Michigan, Ann Arbor 48106-1248.)

Sometimes close examination of reporting and suicides reveals no probable association. A Canadian report examined the frequency of newspaper reporting of suicides in Toronto subways before subsequent similar suicides, and found there was not conclusive evidence in support of an association between the publicity and subsequent suicides. There were more reports in the local press of suicide before subsequent suicides, but this increase did not attain statistical significance (Littman, SK. *Suicide epidemics and newspaper reporting. Suicide and Life-Threatening Behaviour* 1985, 15, 43-50).

Potent television cases that are often quoted in this field – an overdose by the character Angie in an episode of the *EastEnders*, and a case of paracetamol self-poisoning in an episode of *Casualty* — were seized on by researchers who concluded there were significant copycat effects in the following days, tracked by deaths and hospital admissions. However, the counter-research was not long in surfacing.

In respect of *Casualty*, researchers at the East Surrey Health Authority (BMJ Vol 306 1993 March 22) found not only an increase in admissions of women of all ages in South West Thames region during the same period (week ended January 9), but also an increase in the week ended December 5 that could not be attributed to *Casualty*, and increases in the week including November 5 for two years running, declaring that “despite the association we do not believe that Guy Fawkes is responsible”.

In respect of the *EastEnders*, a paper by Platt (Platt S. *The aftermath of Angie’s overdose: is soap (opera) damaging to your health? British Journal of Psychiatry* 131, 528-32) found increases in drug overdoses in 63 hospitals during the period immediately after the episode was screened. Research teams at the Hackney and St Bartholomew hospitals

found similar increases in the same period (138 and 103 admissions respectively), but the rise had begun several weeks before the programme and continued for up to a month after it. Though the team said the factors that contributed to the overdose cases remained unclear, “behaviour imitative of this television programme is unlikely to have contributed”. (*The Lancet*, 11 July 1987).

Sometimes the “suicide and the media” research quoted, might not always reach the conclusions which it is made to serve.

“A further report by Barraclough et al in 1977 showed a significant rise in male suicide in Portsmouth after newspaper reports of suicide” (*Suicide and the media*, Ministry of Health, 1999).

“Of 20 male suicides under 45, 10 were preceded in the previous four days by at least one [newspaper] report about a male, four by at least one report about someone under 45, and two by a report of someone using the same method. None of these findings significantly exceed what would be expected by chance.” (Barraclough, Shepherd, Jennings, *Brit J. Psychiat.* (1977) 131, 528-32)

The paper *Do newspaper reports of coroners’ inquests incite people to commit suicide?* (Barraclough et al.) also said its research showed that in tests [of newspaper reports causing suicide] on men and women suicides over 45, the relationship was the reverse of that predicted.

In the short term influences studied, where a newspaper report might hasten or provoke a suicide “there is no confirming evidence from our study to prove that reports do have this effect”. The paper concludes: “Our findings cannot provide the evidence for banning suicide reports on the grounds that reports cause suicide; but they do suggest that this measure is worth further consideration.”

Closer to home an oft-cited paper is Professor Riaz Hassan’s *Effects of newspaper stories on the incidence of suicide in Australia* (*Aus and NZ Journ Psychiat* 1995 29: 480-83). He found that “in Australia exposure to the print media is probably an important factor in elevating the incidence of male suicide. High impact suicide newspaper stories raise the suicide risk of vulnerable persons, although it is difficult to say precisely how this happens.” However, speaking at a 1996 Australian Press Council seminar on “The Reporting of Suicide, particularly youth suicide”, Professor Hassan was recorded as saying: “I think it is very difficult scientifically to say that suicide stories cause more suicides. The causal link is something that I don’t think anybody can really establish. I certainly can’t establish that and my study is the most recent on the subject.”

Among the psychological literature there are also reports on the positive effects that suicide reporting might have. The most well-known paper concerns the death of the high-profile rock musician Kurt Cobain (*The Kurt Cobain suicide crisis: perspectives from research, public health, and the news media*. Jobes DA, Berman AL, O’Carroll PW, Eastgard S, Knickmeyer S, Catholic University of America, Department of Psychology, Washington, DC 20064, USA. *Suicide Life Threat Behav* 1996. Fall; 26 (3): 260-69; discussion 269-71).

The paper notes: “The suicide of rock star Kurt Cobain in 1994 raised immediate concerns among suicidologists and the public at large about the potential for his death to spark copycat suicides, especially among vulnerable youth ... The data obtained from the

Seattle King County area suggest that the expected “Werther effect” apparently did not occur, but there was a significant increase in suicide crisis calls after his death. It is hypothesised that the lack of an apparent copycat effect in Seattle may be due to various aspects of the media coverage, the method used in Cobain’s suicide, and the crisis centre and community outreach interventions that occurred.”

The Council reiterates its position that suicide reports should, in the Council’s view, 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.

In an adjudication (Case 758) the Press Council said “Blaming the messenger for causing or worsening the problem, whose basic causes must be sought elsewhere, fails to recognise the important and cleansing nature of the blaze of publicity being focused on the darker side of New Zealand life.”

However, that greater openness, if it can be achieved, does not absolve editors of the responsibility of recognising that suicide is a complex phenomenon, usually with inter-linked causes, and with effects on many people, not only the deceased person’s family and friends.

A question of balance, or over-balance?

“Publications (newspapers and magazines) shall be guided at all times by accuracy, fairness and balance ...” The Press Council’s first Statement of Principles has been a guiding light throughout its recent history. Balance is usually easily defined – both sides (or sometimes more) of an issue are explained and the varying opinions or explanations of fact are recorded together. Readers can make up their own minds, and the principles of accuracy, fairness and balance are met. But could there ever be a circumstance where the pursuit of balance might, in fact, lead to distortion?

In the year under review, the Press Council considered a complaint by Barbara Sumner Burstyn and Ron Law against an editorial in *Hawke’s Bay Today* headed “Foolish Not to Vaccinate” (Case No 1019). The editorial began: “As the meningococcal-B vaccination campaign is rolled out through the region, the thoughts of the anti-immunisation lobby have begun to appear in the letters to the editor column once again.” Though acknowledging the right to hold different opinions, the editorial supported the vaccination campaign.

The complainants denied they were anti-immunisation but said there were errors in the editorial. They went on to say: “It is essential, for parents attempting to gather information to make an informed choice, that the media in New Zealand remain neutral.” The Council did not uphold their complaint. This was, after all, an editorial where opinion firmly expressed is to be expected, the newspaper was entitled to its views and it had already aired the views of parties to the debate elsewhere in the newspaper.

Nevertheless, in its decision, the Council said: “The Press Council receives complaints from time to time about newspaper stories on controversial social issues of the day such as immunisation and climate change ... The combination of advocacy by those challenging authorities in a technical subject along with the publication of their views, presents the news media with a dilemma. Those not scientifically qualified in a topic under debate might still claim rights to air their views on an equal footing as a matter of balance. The press in general might dispute that claim, but not have the expertise in its own ranks to assess the merits of the claim, nor the desire to assert that in some stories there may be no case to answer.”

The Council has visited this issue before. In 2001 (Case No 847), the Immunisation Advisory Centre (IMAC) complained about two issues of *Investigate* magazine and its inquiries into immunisation and the actions of health authorities. The magazine was undertaking a campaign to expose alleged deficiencies in official policy and publicity about immunisation and, though it gave space to some of IMAC’s statements, it was unapologetic about its actions.

In not upholding the complaint, the Council said: “This is clearly not a situation in which the Press Council can apply any simple test to determine the accuracy and balance of the claims and allegations made in the particular articles about which IMAC complains. The council is not constituted or resourced to pursue inquiries that might enable it to adjudicate on the complex issues, even if that were a feasible task in the short term.

There are other sound reasons why it should not make an adjudication founded on accuracy and balance. These are very large public issues under almost permanent surveillance and adjustment, often directly affected by a robust confrontation and exchange of views by the protagonists to the debate.”

Similarly, the Council did not uphold a complaint by Professor Michael Mann, of the Department of Environmental Sciences at the University of Virginia, about two articles in the *New Zealand Herald* relating to climate change, which were written by science reporter Simon Collins (Case No 962) in 2004. The professor complained because the articles recorded how an Auckland University geographer Dr Chris de Freitas had been part of a study which had challenged the established scientific view of growing global warming. The *Herald* did not believe it needed to publish the 1300-word rebuttal Professor Mann offered, and the Council agreed.

But it noted: “The press has a difficult job in reporting complex subjects with a technical base. Yet there is a public interest in such topics as climate change, genetic modification, immunisation and any number of scientific debates, and such articles have to be clear and simple, and appealing to read. Professor Mann may have expected too much from the newspaper in this instance in what was generally a well-handled exposition of a topical debate, coupled with a personal backgrounder which gave a local angle to the subject.”

The vexed question of “balance” on scientific or technical topics recently came to the attention of the *Columbia Journalism Review* in its November-December 2004 issue in an article written by Chris Mooney and headed “Blinded by Science: How ‘Balanced’ Coverage Lets the Scientific Fringe Hijack Reality.”

The article recorded how on May 22, 2003, the *Los Angeles Times* Houston bureau chief Scott Gold wrote a story about a Texan law being passed that would require abortion doctors to warn women that the procedure might lead to breast cancer. Gold noted that no mainstream scientists or the likes of the National Cancer Institute believed there was such a link. Gold also said that anti-abortionists had pushed for “so-called” counselling laws because they had failed to have abortion banned. He noted the author of the bill “had a professional background in property management”.

Gold found himself in trouble, not with anti-abortionists, but with his own editor. *Los Angeles Times* Editor John Carroll wrote an internal memo which was – perhaps inevitably – leaked to a website. Carroll said Gold’s story vindicated the paper’s critics who accused it of having a liberal bias. The “so-called” counselling line was “loaded with derision”. Of the “property management” quip, “seldom will you read a cheaper shot than this”. Wrote Carroll: “The story makes a strong case that the link between abortion and breast cancer is widely discounted among researchers but I wondered as I read it whether somewhere there might exist some credible scientist who believes in it ... Apparently, the scientific argument for the anti-abortion side is so absurd that we don’t need to waste our readers’ time with it.”

The CJR article noted there is one such person, but no other expert agrees with him. Still, Carroll’s memo might have had an effect on his Houston bureau chief. Gold subsequently reported on a push in Texas to revise the way biology text books teach the scientific theory of evolution, of which there has been much news and debate over “intelligent

design” lately in the US. Gold profiled William Dembski and described him as a scientist and “an evangelical Christian at heart who is convinced that some biological mechanisms are too complex to have been created without divine guidance”. According to his website, however, the CJR article says, Dembski is a philosopher and mathematician, not a biologist.

The CJR article author, Chris Mooney, reached the conclusion: “If reporters want to take science and its conclusions seriously, their reporting should reflect this reality.” He also argued: “Scott Gold had it exactly right on abortion and breast cancer. Then he produced an article on ‘intelligent design’ so artificially ‘balanced’ it was downright inaccurate and misleading.” Mooney railed against “a prevalent but lazy form of journalism that makes no attempt to dig beneath competing claims. But for journalists raised on objectivity and tempered by accusations of bias, knowing that phony balance can create distortion is one thing and taking steps to fix the reporting is another.”

Mooney made another interesting observation. The journalistic norm of balance has no corollary in the world of science. Scientific theories and interpretations survive or perish on their publication in highly competitive journals practising strict quality control, replication by other scientists and winning over scientific peers.

Reporters, on the other hand, have to deal with editors who want “balance” and their own lack of real scientific knowledge that would help them determine how much space to give both sides of a scientific debate. Their reporting has not endeared them to the scientific community, and as recent events have shown, the media have shown themselves to be gullible in the extreme. Mooney mentions the 2002 cloning hoax where a company called Clonaid with links to the UFO-obsessed Raelian sect claimed before the world’s media the birth of the world’s first cloned baby. The baby was never produced. (History repeated this year when a South Korea dog cloning that captured the world’s attention similarly turned out to be false.)

Yet part of a publication’s dilemma is that those holding views on issues such as immunisation, fluoridisation of water supplies, global warming and other topics are often powerful and knowledgeable advocates, and quick to challenge if not denigrate anyone they believe holds views contrary to their own. They can make life difficult for editors and journalists. The traditional “he said/she said” article might well not satisfy these advocates. Moreover, editors might well ponder what really has been achieved when the reader is left to consider not clarity but contradiction.

One option, of course, is for publications (and journalism schools) to encourage and develop more reporting staff who can write authoritatively on complex scientific and technical issues, and who in their own community or beyond can show valuable leadership. With difficult scientific or technical issues, it is incumbent on journalists to go beyond quoting the usual vested-interest representatives and determine the facts for themselves, and thus provide useful information that their readers can understand. It has been said that many journalists find scientific and technical information difficult to report because of its complexity, but it is the very essence of the skilled reporter’s work that important complex material is rendered into readable and informative articles.

This does not mean denying advocates their space in a publication but it does mean publications should consider how they cover complex issues likely to generate more heat

than light, and that require reliable reporting of the actual issues – as well as the debate – if the public is to be well-served. Well-informed and knowledgeable staff are a prerequisite. This, of course, is beyond the influence of the Press Council, but New Zealand newspapers and magazines would surely want to avoid the embarrassment that recently befell the *Los Angeles Times* as it tipped balance on the fulcrum to the point where coverage was lopsided.

An Analysis

Of the 41 complaints that went to adjudication in 2005, four were upheld in full and four were part-upheld. Thirty-two complaints were lodged against daily newspapers, two against Sunday newspapers and seven against community newspapers.

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 five complaints in which one or more members declared an interest in 2005.

While the meetings of the Council are not open to the public, complainants can, if they wish, apply to present their claims in person. Two complainants took this opportunity in 2005, and one of these was also represented by legal counsel.

The Statistics

<i>Year end Dec</i>	<i>2003</i>		<i>2004</i>		<i>2005</i>	
Adjudications Issued		52		45		41
Upheld	14		9		4	
Part upheld	5		3		4	
Not upheld with dissent	2					
Not upheld	31		33		33	
Declined						
Not Adjudicated		27		30		39
Mediated/Resolved	3		3		3	
Withdrawn	2		1		5	
Withdrawn at late stage	2		1		1	
Not followed through	9		12		11	
Out of time	2				2	
Not accepted	2		2		2	
Outside jurisdiction			3		7	
In action at end of year	7		8		8	
Total Complaints		79		75		80

Adjudications 2005

Peeping at penguins – Case 1006

Lorraine Adams has complained about an article published in *The Oamaru Mail* in mid-August 2004. The article concerned a proposal to create a new daytime viewing area at the Oamaru Blue Penguin Colony. Specifically, it reported on submissions made at a public meeting of the District Council by Susan Houston, general manager of the Waitaki Development Board, which oversees the colony. In the course of her submission, Ms Houston referred to other parties, which included Ms Adams, whom the Board had consulted that supported the proposal. Ms Adams says that she does not support the proposal and the paper should have checked her stance before referring to her in the article.

The editor has provided the Council with copies of the reporter's notes, which record that Ms Houston told the District Council that Ms Adams had been consulted and "she is quite comfortable with daytime viewing". The editor also contacted Ms Houston, in response to this complaint. Ms Houston advised that she had met with Ms Adams on August 2 and outlined the proposal to her. Ms Adams said she had "no real problems with the proposed daytime viewing facility if certain welfare related conditions were met but that she would absolutely oppose night time viewing". Those conditions were included in the proposal that was put to the District Council. Further, the editor notes that a letter to the editor from Ms Adams was published on August 17, 2004. In that letter, Ms Adams said that it was incorrect to say she supported the proposal.

In response, Ms Adams accepts that she met Ms Houston to discuss the proposal but that "there is no point opposing something when it is going to proceed". It was on that basis that she had suggested the welfare conditions but, she says, that does not mean that she supported the proposal. That is why she wrote a letter to the editor clarifying her position.

In the view of the Press Council, *The Oamaru Mail* exercised an appropriate amount of care. The paper is not required to check submissions made in a public meeting and there was nothing to suggest that it would be prudent to check such a minor detail. The only opposition Ms Adams communicated to Ms Houston concerned night-time viewing and that was not the subject of the article. In any event, any possible misunderstanding arising out of the subtle difference between a lack of opposition to and support for the proposal was squarely addressed when Ms Adams' letter to the editor was published.

The complaint is not upheld.

Press Council members considering this complaint were Sir John Jeffries (Chairman), Ruth Buddicom, Aroha Puata, Suzanne Carty, Lynn Scott, Alan Samson, Keith Lees, Murray Williams, Denis McLean and Terry Snow.

Rating of mayor and councillors – Case 1007

Jim Pringle of Tauranga complained to the Press Council on October 7 about aspects of coverage of local body elections by the *Bay of Plenty Times* of September 18. Although not himself a member of Tauranga City Council he objected – apparently on behalf of some councillors – to an article in which the mayor and sitting members had been rated by

the newspaper on their performances in the council chamber.

The Press Council has not upheld his complaints.

Mr Pringle acknowledged that “Leading-up to the elections this paper was doing an excellent job of informing and encouraging the public re the candidates and addressing the responsibility of voting etc”. Nevertheless, the article of September 18, 2004 had been an “obvious attempt to influence voters”. He commented, “When a reporter becomes judge and jury with the support of the editor, they are abusing the freedom of the press.”

Moreover, failure to publish letters to the editor written by incumbent councillors had, been “totally inconsistent” with the newspaper’s campaign to inform the voting public. As an elected member of Environment Bay of Plenty he had written a letter on the subject of mangrove management that had not been published. The editor had explained, “In an election environment we are rejecting more letters than usual in order to ensure fairness in the upcoming vote.”

As noted by Mr Pringle, the *Bay of Plenty Times* went to considerable lengths to promote interest in the 2004 local body elections, conducting what it described as “Operation Democracy”. The newspaper sponsored a forum for the five candidates for Mayor of the Tauranga City Council to present their views. In an editorial headed, “Exercise your vote this month or button up for the next 3 years”, on September 18, (the day most voters would have received their ballot papers) the editor noted that the paper, had also “taken a look at the Bay of Plenty Health Board, Western Bay of Plenty District Council, Environment Bay of Plenty and finally the Tauranga City Council”.

Mr Pringle’s complaint was directed at the latter report – a half-page spread under the headline “How Tauranga’s councillors rate”, also published that day. Along with a brief analysis of their performance in the Council chamber, mayor and councillors were rated on an ascending scale of one to 10. In the introduction, or standfirst, it was made clear that the piece was the work of the paper’s civic affairs reporter, who had covered local body politics in Hawke’s Bay for nine years and in the Bay of Plenty for 10 years. It was stated that he had been asked to give a “warts-and-all assessment of the Mayor and latest crop of councillors”. The editor, in his associated editorial said that he had asked the reporter to do the piece in the interest of helping voters “make an informed vote”.

On September 21, in an editorial under the headline, “We defend your right to know”, the editor acknowledged that some councillors “had cried foul” but insisted, “our council report was not done for the council or councillors, it was done for you, to help you make an informed vote. It was done to encourage democracy.” On September 24 – two weeks before the poll was to close – the paper published almost three quarters of a page of letters for and against the coverage of September 18 – under the headline “Democracy or plain unfair?”

In response to the editor’s contention that his aim had been to inform the voters, Mr Pringle argued that “he did not consider judgement or assessment by individuals employed by the paper to be real information”. Another local – and rival – paper, *The Weekend Sun* also questioned whether such assessments could fairly be made by a single individual in the employment of the newspaper – “to publish one man’s point of view together with his ranking out of 10 – based solely on his observations at a few meetings over a three-

year period on the Saturday after voting papers were sent out – was beyond the pale”.

Opinion is the lifeblood of a free press. Newspapers are not, and never should be, passive. They are put together by observers, often very experienced observers, of human affairs. Their points of view are valid and important to the cause of public discussion. The “ratings” article in question was no doubt provocative. The report card technique is, however, increasingly used in the media. There is cause for some care in that a mathematical measure can convey a doubtful notion of accuracy. Nevertheless voter apathy sometimes calls for the blunt approach. In making it clear that the article was the work of one experienced reporter, the editor emphasised that there had been no interference in the assessments by himself or other members of the editorial staff. This is all as it should be with an opinion piece of this kind.

Election outcomes are determined by many things: public meetings, advertisements and the prior reputation of the candidates all contribute. A newspaper like the *Bay of Plenty Times* will also have been regularly reporting council business over the years and thus giving voters a continuing impression of the performance of their representatives. A single article during an election campaign is only part of the process. The *Bay of Plenty Times* clearly did well in attempting to foster interest in the local elections and acted in the broad interest of its readers and consistently with the role of a free press in a free society. The Press Council finds nothing contrary to the public interest in the newspaper’s coverage. This aspect of Mr Pringle’s complaint is, accordingly, not upheld.

The Press Council equally does not find any inconsistency between failure to publish a letter on a political topic during an election campaign and the broader objectives of the newspaper in promoting voter engagement in the elections. This part of the complaint too, is not upheld.

Press Council members considering this complaint were Sir John Jeffries (Chairman), Ruth Buddicom, Aroha Puata, Suzanne Carty, Lynn Scott, Alan Samson, Keith Lees, Murray Williams, Denis McLean and Terry Snow.

Editor’s prerogative to close correspondence – Case 1008

Titahi Bay resident John Watson has complained to the New Zealand Press Council about the editor of his community newspaper abruptly closing off correspondence on a subject “leaving the public none the wiser”.

The Press Council has not upheld the complaint.

The disagreement began last November when Mr Watson wrote to *Kapi-Mana News* challenging a Porirua Licensing Trust trustee, Sarah Dow, to tell the community what she had learned about the trust’s profitability since her election, because she had campaigned on being prepared to “ask the hard questions about trust performance”. Mr Watson was also trying to learn more about the trust’s finances.

He was keen to know more about its gaming machine operations because the trust itself had told him the information he sought was held by a charitable trust and not subject therefore to freedom-of-information legislation.

Mr Watson’s letter was published, abridged slightly, and headed, “Licensing trust accounts still not really transparent”. The paper acknowledged the abridgement. A week

later, the paper published a letter from trust president John Burke responding to Mr Watson. His letter was published under the heading, “Constant swipes at PLT getting tiresome” reflecting the content of the letter.

At the foot of Mr Burke’s published letter, editor Matt Dallas said that both parties had had their say and that “debate between the two parties on this matter is now closed”.

Mr Watson was not happy and sought to have the editor change his mind. When he had no success, Mr Watson wrote to the Press Council. Raising a number of points, he was particularly unhappy that Ms Dow had not replied or been encouraged to do so by the newspaper and that the editor had removed the letter’s final paragraph. Mr Watson saw this as only encouraging Mr Burke, rather than Ms Dow, to respond.

Mr Dallas, in the paper’s defence, said he removed the final paragraph because he believed it implied dishonesty and he would not allow such allegations to be published without evidence. He countered, too, that because Mr Watson’s letter was published in a newspaper, anyone who wanted to could reply. In this case, Mr Burke rather than Ms Dow had responded, though he knew she was aware of the letter and had chosen not to react to it.

The Press Council found it could not uphold either leg of Mr Watson’s complaint. It accepted the editor’s argument that no one can be compelled to respond to a letter to the editor and that the final paragraph of the letter, as published, was a clear challenge to Ms Dow, not to the trust president, to respond.

Mr Dallas told the Council that *Kapi-Mana News* was not “soft” on the licensing trust, and said that Messrs Watson and Burke were long-time political adversaries who had debated the trust, its finances and its openness in the paper’s pages many times in the past.

The Press Council said Mr Watson’s frustration at debate being suddenly stopped was understandable – it had recommended to editors in the past that, where letter-writers were subject to criticism by other letter writers, they should ideally be allowed an opportunity to respond.

That Mr Dallas chose not to allow Mr Watson to come back on this occasion because of the paper’s first-hand knowledge that the correspondents were long-time sparring partners on this particular issue, however, was not unethical or an improper use of editorial discretion.

Editors, the Council repeated, have the sole right to decide what letters to the editor will be published and when debate on a particular subject has run its course. In the usual run of events, a public discussion involving only a claim and counter-claim would be a tad short, in the Council’s view.

In this particular case, however, the paper has offered Mr Watson an alternative to another letter on the subject of the trust’s finances, an opportunity the Council urges him to consider taking up.

In correspondence between the parties and the Press Council, Mr Watson revealed that the information he had been unable to wrinkle out of Mr Burke, Ms Dow or the licensing trust secretary had, in fact, been made available to him by the Department of Internal Affairs’ gaming and censorship regulation division.

The Council suggested Mr Watson consider accepting the invitation extended to him by Mr Dallas to pass that new information about the trust’s gaming-machine operations to

a *Kapi-Mana News* reporter. It also observed that at the 2007 local body election campaign, Mr Watson had given the paper at least one question it might put to licensing trust trustee Ms Dow.

Press Council members considering this complaint were Sir John Jeffries (Chairman), Ruth Buddicom, Aroha Puata, Suzanne Carty, Lynn Scott, Alan Samson, Keith Lees, Murray Williams, Denis McLean and Terry Snow.

‘Man of the sea’ reports giant waves – Case 1009

Mr Steve Blakemore has laid a complaint against the *Wairarapa Times-Age* about the front-page article published in its December 30, 2004 edition. The article is under a headline “Giant waves off Palliser” with a relatively large photograph of the source of the story of wave sighting, Mr Tory Castle. The complaint of Mr Blakemore is that “... the headline and story were misleading and unjustified sensationalism”. It is alleged the newspaper was exploiting the Asian tsunami event, which occurred 20 hours after the supposed sighting, by Mr Castle. Mr Blakemore also complains that a letter he wrote to the editor and hand delivered to the office on January 3, 2005 has never been published.

The complaints are not upheld.

We deal first with the contents of the article apart from the headline. The story is that Mr Castle accompanied by his three teenage sons were in a motor vehicle driving along Cape Palliser Road at about 5.30pm on Christmas Day when his attention was drawn to the behaviour of the sea on the horizon. He stopped his car to get a better look and his account as contained in the article as to what he saw was “... giant waves building and building. The sea was fairly flat all round, but they stood out like a ship on the horizon.... They were just massive. They were as tall as ships. You couldn’t help but see them. They were big and steep.” The paper reported that Mr Castle knew what he had seen was a remarkable sight and put it down to “... the tide going out and a big swell.”

There was no attempt in that story to link the event with the Asian tsunami although that event was mentioned.

Other relevant matters contained in the article were that the Harbour Control Station in Wellington confirmed that there had not been reported any unusual event as described by Mr Castle. The article also said Mr Castle was a “man of the sea” and that he adhered to what he reported as seeing.

The problem is that the headline standing alone is a statement that avers there were giant waves off Palliser when the article reports it simply as the sighting of one man, and uncorroborated.

The Council fairly regularly has had to deal with complaints about headlines. The reason is that headlines use language in a materially different way from ordinary prose. It is universally understood that a headline in a newspaper must be condensed and terse, often not bound by ordinary grammar, but it still must not mislead as to the contents of the article beneath it. Most readers regard the headline as a pointer to what is contained in the article. A headline cannot be judged solely as a stand-alone set of words without reference to the article.

In this case the Council is satisfied that the headline plus the article leaves no one in doubt that it was one man who said he witnessed an unusual phenomenon of wave behav-

our and leaves the readers to decide the accuracy or likelihood of the event in the light of the countervailing information contained in the article. There is no evidence to say categorically that what Mr Castle said he saw was wrong.

Mr Blakemore complains his letter to the editor was not published. The Council has always said that the decision to publish or not is that of the editor but Mr Blakemore's complaint is understandable because the editor said he would publish it but that owing to industrial trouble it was overlooked. The complainant has had the benefit with this adjudication of having his complaint dealt with on the merits and the Council makes no finding against the newspaper about non-publication.

The complaints are not upheld.

Press Council members considering this complaint were Sir John Jeffries (Chairman), Suzanne Carty, Aroha Puata, Alan Samson, Denis McLean, Murray Williams, Keith Lees and Terry Snow.

Fornigate – Case 1010

Bishop Denis Browne, on behalf of the Catholic Diocese of Hamilton, complained that an article, headline and photograph published in the *Waikato Times*, on November 6 2004, seriously breached a number of what he called the paper's obligations and duties.

The Press Council upholds the complaint in part.

The complaint concerned a weekend edition front-page banner pointing to the paper's Inside Word column, intended to be a light-hearted, satirical look at an issue of the day. The article considered previously-reported papal concern about Italy's low birthrate, in the context of a new Vatican-approved sex guide called "*It's A Sin Not To Do It*".

The column noted that while the Vatican might want Catholics to be more active sexually, this should be within the confines of marriage, and further attention might have been avoided had the banner not included a photograph of the Pope and been headed "GO FORTH AND FORNIFICATE".

The first letters of protest, published on November 9, included one from the Hamilton Diocese communications advisor, Judith Collins, who said fornication was seriously sinful and the Pope had never advocated it. She said presumably the intended word was procreate, which was used correctly in the column, and asked the paper to apologise and amend the error as soon as possible.

In a footnote to Ms Collins letter, with the introduction "Editor replies", the editor responded, "You are quite right. Procreate would have been a better word for us to have used. Apologies".

Bishop Browne said that response, and another footnote closing the correspondence, that repeated the apology and noted the Catholic community's feelings, was totally inadequate. He invited the editor to present an "appropriate or substantive article" or editorial, saying the error concerned more than one word and disregarded "ordinary standards of decency". The combined effect of the linkage of the photograph, the banner headline and the column was "grave, wrong, misleading and sensational" and none of the editor's responses went close to addressing those issues.

The editor, in correspondence, acknowledged an embarrassing "bad error" but did not accept it was a serious breach of obligations and said the heading would have been

accurate had “procreate” been used. He said the column’s “Go Forth and Multiply More” heading was accurate, and the apology at the end of Judith Collins’ letter was “*extremely appropriate*” because letters were very well read, there were others on the same issue and the error needed to be cleared up quickly.

The editor’s December 24 letter, responding to Bishop Browne’s complaint, said admitting an error in print was the most serious admission a paper could make and hurt its credibility. He said the power of apology should not be underestimated and he was perplexed by references to the headline, sensationalism, insult, inaccuracies and untruths because the initial complaints from the diocese concerned only the use of the word “fornicate”. The editor said it was offensive to suggest the paper had discriminated against Catholics when it had begun a weekly “Your Faith” page and though Bishop Browne had every right to be angry, appropriate redress had been made.

The Press Council’s Statement of Principles says accuracy, fairness and balance should guide publications at all times, that headlines should be accurate and fair; and that care should be taken in selection and treatment of photographs. Though fairness and balance might not be essential to a satirical column, the accuracy of the front-page banner pointing to it is, and the complaint highlights the need for care in that regard. Banners are, in effect, headlines and should accordingly not be misleading or inaccurate.

Furthermore, the Press Council’s Statement of Principles says corrections should be prompt, given fair prominence and sometimes an apology and right of reply will be appropriate. Though in this case an apology was offered promptly, the question is whether it was adequate and sufficiently prominent.

The editor’s initial response said “procreate” would have been a better word, instead of acknowledging, in something more substantial than footnotes to letters, that “fornicate” was the wrong word. Though the editor said the misuse of “fornicate” was the result of someone misreading a dictionary it is hard to understand how anyone who checked could have made such an error. It is easier to believe that the difference between the words, and the significance of that difference, was simply not known nor appreciated.

Though some readers thought the column was wrong too, the issue there is taste, not accuracy. The intention was to write in a light vein, but some readers might well have thought that references to, among other things, the absence of “sexy nun centre centre-folds ...” in the guide were anything but light.

Freedom of speech, however, includes the right to be insensitive and offensive, and though some might have seen the column as juvenile and not very funny, humour is subjective. Some of those who were upset might have emulated the Bishop’s decision to cancel his subscription, while others wrote letters to the editor, who conceded the paper had taken a “fair degree of flak” and learned a lot.

The Council acknowledges that, but upholds the complaint in part because the use of “fornicate” in a banner beside a photograph of the Pope with his arm extended, as if conferring a blessing, is such an egregious error that it demanded a better response than the initial footnote, and subsequent explanations that “fornicate” had been misinterpreted.

The editor’s reluctance to take up Bishop Browne’s invitation to publish an appropriate article or editorial is understandable, from the perspective of the editorial prerogative to decide what is or is not published.

Some on the Council questioned the editor's decision, on grounds of commercial viability, to delete a sentence from the Bishop's letter saying he was choosing not to subscribe to the paper, and predicting others would do likewise. But because the prediction was effectively a footnote to the Bishop's letter, not the main point, and because letters to the editor are routinely edited, that aspect of the complaint is not upheld.

Despite Bishop Browne's view that "the whole saga should now carry the headline FORNIGATE", the rest of the complaint is not upheld. The Council saw no intent by the newspaper to deceive, discriminate, mislead or deliberately antagonise.

The complaint is part-upheld as to the inadequacy of the apology.

Press Council members considering this complaint were Sir John Jeffries (Chairman), Suzanne Carty, Aroha Puata, Alan Samson, Denis McLean, Murray Williams, Keith Lees and Terry Snow.

Local body election coverage ruled fair – Case 1011

Mr John Clements complained to the NZ Press Council about the overall coverage of local body politics by the *Rodney Times* during the lead up to the local body elections in early October 2004.

In summary, Mr Clements argued that the incumbent Mayor, Mr John Law, and incumbent councillors of Rodney District Council were treated unfavourably by the *Rodney Times*'s coverage of candidates and events. On the other hand, in his view, various challengers, including a candidate for mayor, Mr Larry Mitchell, were treated much more favourably. His complaint traversed several areas where he believed the *Rodney Times* had transgressed against the Statement of Principles established by the Press Council.

He detailed examples (in his own words "each ... perhaps, on its own, of only small importance") that, in his opinion, cumulatively led to a lack of fairness and balance.

First, Mr Clements contended that a headline highlighting the results of an electoral poll conducted by the *Rodney Times* did not accurately reflect voter opinion and provided "a favourable connection" for the mayoral candidate, Mr Mitchell. However, that headline, "Mitchell popular with HBC voters" is technically accurate. In the eastern ward, Hibiscus Coast, Mr Mitchell was indeed more popular, albeit by a slim margin of 2.2 per cent. Further, the headline supposedly favouring the challenger was immediately counter-balanced by a sub-heading explaining that in the other two voting wards, the public remained "loyal" to the Mayor, Mr Law. Comments by both candidates were given prominence in an adjoining story.

Mr Clements also complained about the newspaper's headline over an article about a press release from Rodney District Council. The press release was titled "Rodney gets thumbs-up from residents". The newspaper questioned whether the survey provided a genuine "thumbs-up" by asking "Feel-good survey or electioneering spin?" It was a reasonable question, as the measure of the council's performance over the previous year was only in the 50 per cent – 60 per cent range and somewhat mixed. It was also vaguely positive perhaps, but hardly justified a resounding "thumbs-up". The complaints about misleading headlines are not upheld.

Another complaint referred to unbalanced coverage in the letters to the editor section of the newspaper, suggesting that letters in support of the mayor were not published.

However, the editor supplied sample pages for the three week period (September 14 – October 5) immediately before the local body elections. Letters were published that supported the mayor and, further, three letters were published by the Mayor, Mr Law and one by the challenger, Mr Mitchell. This complaint is not upheld.

Mr Clements also complained about a lack of balance in an article relating to a “secret” land swap deal. He submitted a front page article from August 12 pointing out that Mr Law was not given a right of reply to the comments by a businessman who felt disadvantaged by the council’s actions. However, this was the second article on this issue. Mr Law had been given much room for comment when the story first “broke” on August 10. He was also given space for comment in a lengthy right of reply letter published on August 17. Journalistic balance is not necessarily provided in a single one-off article but often appears gradually, in overall coverage. This complaint is also not upheld.

Another complaint concerned the placement of an advertisement, just four days before the elections, encouraging readers to a website where they could apparently check candidates’ performances. The website contained extracts from various papers, including the *Rodney Times*, that were criticisms of the Mayor, Mr Law.

Advertisements do not fall under Press Council jurisdiction. However, it is worth noting that once the editor became aware of the advertisement, which was initially handled by the Advertising Manager, she cancelled further placements, published a disclaimer, obtained legal advice and ensured that no further material be published that might draw attention to the website while it was still online. In short, she acted sensibly and responsibly.

Finally, Mr Clements seems to complain about the editor not publishing a letter submitted by him for publication, shortly after the elections. The newspaper is not obliged to publish his letter – selection of letters is the prerogative of the editor. Mr Clements had also asked the editor for the contact details of other correspondents to the newspaper. Many newspapers have a policy of not disclosing such information and editors are certainly not obliged to supply these details.

The complainant suggested that, taken overall, and cumulatively, the coverage of events by the *Rodney Times* leading up to the local body elections was a “litany of lopsided letters, editorial comment and articles”. It is the Press Council’s view that the examples provided by the newspaper’s editor clearly show that different views were represented during a lively campaign to inform readers about issues and about candidates. Considerable space was devoted to the local body elections and the coverage was commendably fair and balanced.

Given the Press Council’s rejection of the specific complaints by Mr Clements, it follows that his general complaint about lack of fairness and balance is also not upheld.

All complaints are not upheld.

Press Council members considering this complaint were Sir John Jeffries (Chairman), Suzanne Carty, Aroha Puata, Alan Samson, Denis McLean, Murray Williams, Keith Lees and Terry Snow.

Sunday’s take on tragedy brings complaint – Case 1012

The National Collective of Independent Women’s Refuges has complained about an article in the *Herald on Sunday* edition of October 10, 2004. The article was headed “Mo-

ment of rage led to heartbreak”, and the standfirst said, “They were college sweethearts with their lives in front of them. But one moment of madness changed their futures forever.”

The Press Council does not uphold the complaint.

The article told how a 20-year-old man had left an Auckland house after an argument which had resulted in his wife, aged 19, suffering head and neck injuries that led to her being hospitalised. The man died after he got into his car with his one-year-old child unrestrained in the front seat “and careered into a tree, ending it all in a flash”. The newspaper reported that he had taken off “in a blind rage” with his daughter. The child survived.

The report went on to quote an uncle talking about his nephew in a family context, about his sports achievements and the fact that he and his wife met at high school and were married a year after they left school. The newspaper reported on the man’s funeral and quoted the pastor saying that the couple were college sweethearts, that the man was a real gentle giant who did not get into trouble at school. The pastor said people were puzzled about what was going on in the man’s mind and about what went wrong.

The article also said that at the time of the man’s death the couple were living in separate houses. It quoted the police confirming that difficulties in the relationship had been the reason for the man’s actions that morning.

In a letter to the editor, the National Collective of Independent Women’s Refuges criticised the story as biased and unbalanced, saying the story was clearly sympathetic to a man who had injured his wife so badly that she needed hospital treatment and who had driven his car at high speed with his daughter unrestrained in the front seat.

The letter said the story failed to answer questions about who inflicted the wife’s injuries, if the man was such a good father why he drove with his daughter unrestrained, how often the woman and her daughter had been the victim of the husband’s violence, how many times the police had been called to the house and the extent of the child’s injuries.

The Collective set out its view of what it contended happened, concluding that readers deserved to have “those facts provided to them and to be given an accurate and balanced account of the story”. The Collective asserted that the reporter’s intention was to make readers feel sorry for the dead man.

“Men who assault their partners and endanger their children are not ‘gentle giants’ or loving fathers, they are abusive and violent. A violent incident such as this one is almost never ‘a moment of madness’. Research shows that a violent assault is almost always part of a pattern ... The sympathetic portrayal of this man in your story supports the view that it is acceptable for men experiencing relationship difficulties to assault their wives and put their children at risk.”

In the absence of a response from the editor to this letter, the Collective lodged a third-party complaint to the Press Council. The complaint reiterated the concerns expressed to the editor, saying the story misled readers by omission of facts, was sympathetic to the dead man but did not give facts to support this stance and minimised the violence the mother and child suffered.

The then-editor Suzanne Chetwin responded that the newspaper stood by what was a

legitimate news story, and that readers could draw their own conclusions about the man's actions and behaviour. She noted that the story had been in the headlines for several days and that the facts had been fairly well reported.

She said the Collective's accusation of the newspaper being "unacceptably sympathetic" to the man was not the case at all, and should not be confused with legitimately quoting family members of the man or the pastor who conducted the funeral service.

"Had we been able to obtain full details of the relationship between the pair – as we attempted to do – we would have reported them." The newspaper's attempts to get to the bottom of the physical dispute between the couple were unsuccessful.

The Collective did not accept the response from the editor, particularly taking issue with the tone of the article. "The National Collective of Independent Women's Refuges is speaking as advocates for domestic violence victims. Domestic violence is an epidemic in this country and newspapers have a responsibility to report that without minimising or romanticising the actions of a violent man."

The subsequent editor, Shayne Currie, replied that the newspaper attempted to contact both sides of the family but was left having to speak to people at the funeral. For example, he said the term "gentle giant" was directly attributed to the pastor and it was not the newspaper's job to suppress others' views.

Two forces seem to be at work here. The National Collective of Independent Women's Refuges, in criticising the story, talks about balance, but is really deciding what emphasis should have been employed. The newspaper, while defending the story, has actually trapped itself in a sentimental scenario of college sweethearts, tragedy and "heart-break" to quote the headline, fairly typical of tabloid-style journalism. The newspaper did select the views of the people quoted, and the story as published swerves from any detailed examination of a more complex picture that might upset the original imagery.

Although newspapers invariably approach each new story on its merits, the Collective as advocates for domestic violence victims clearly feels in any story of domestic violence, whatever the circumstances, there should be a full and blanket denunciation.

In this case the newspaper does not go far enough to breach actual standards of accuracy or balance – there is enough reference to the domestic dispute, the police and the circumstances of the man's death to reveal some of the background to the story, even if not providing the show of disapproval and condemnation the Collective would have liked.

But the newspaper is not entirely without fault. Sunday newspapers search vigorously for new angles to stories covered as news during the week. Even if various facts had already appeared, about the child's serious injuries, for instance, their re-use in this article would have made it more well-rounded. Here the newspaper appears captive to the particular angle chosen to freshen a week-old story, perhaps driven on by the heart-tugging prose of the opening paragraph, "A single framed photograph – a solitary reminder of a fairytale love. Now the smiles are gone and all that remains is grief and tears."

The complaint is not upheld.

Press Council members considering this complaint were Sir John Jeffries (Chairman), Suzanne Carty, Aroha Puata, Alan Samson, Denis McLean, Murray Williams, Keith Lees and Terry Snow.

Shackleton or Rutherford? – Case 1015

A Levin man, Bill Stirling, has complained to the New Zealand Press Council about the way the *Horowhenua-Kapiti Chronicle*, a community newspaper, handled a letter he wrote to the editor for publication.

The Council, at its May meeting, did not uphold the complaint.

Mr Stirling, who is a long-time letter-writer to several publications, was unhappy at errors in the letter that was published on January 17, 2005. The letter dealt with the status of the North Pole and the territorial aspirations of Canada, Denmark and Russia.

His lengthy missive as published, contained a number of errors; the North Pole became the South Pole, the Arctic was misspelled, a wooden-hulled ship was referred to as a “wooden-pulled” ship and was misnamed, and British explorer Ernest Shackleton became Nelson scientist Ernest Rutherford.

Mr Stirling drew these mistakes to the attention of editor Bernie Whelan and they were corrected on January 22 in a box.

Dissatisfied at the lack of an apology and the way the errors had been corrected, Mr Stirling sought that the letter be republished in its entirety and correctly. He then came to the Press Council, saying he had had no reply.

In his correspondence with the Council, Mr Whelan explained that he believed the corrections to Mr Stirling’s January 17 letter and published five days later were sufficient. When Mr Stirling had complained further, Mr Whelan said, he had incorporated that letter in an occasional column he wrote for readers, *Letter from the editor*.

The *Chronicle*, he said, gave Mr Stirling and his views good coverage in the paper, “particularly given that we request letters are kept under 200 words and his generally run to well over that – 300-750 words, covering two to three A4 pages of handwritten opinion and it is rarely edited”.

The Press Council found, therefore, that Mr Stirling did get a reply from the paper to his second letter, though perhaps not in the form he expected.

The Council agreed with Mr Whelan that the paper was generous in its treatment of Mr Stirling’s letters, considering its general word limit.

Though the Council could understand Mr Stirling’s disappointment at the errors in the January 17 letter, it believed the paper had corrected them promptly. The editor could not be fairly criticised for refusing to publish the lengthy letter a second time.

It commended Mr Whelan on his honesty in explaining to readers how the errors came about and the way he felt about mistakes.

Though to the Press Council – and no doubt to readers – the errors in the published letter amounted to sloppy editing, it was evident from the information provided that this was not a case of unethical behaviour by the newspaper but carelessness.

The Council noted too that there can be a risk in transcribing handwritten letters into a newspaper’s computer system, especially when the handwriting is not always easy to read.

The complaint is not upheld.

Press Council members considering this complaint were Sir John Jeffries (Chairman), Suzanne Carty, Aroha Puata, Lynn Scott, Ruth Buddicom, Alan Samson, Murray Williams, Keith Lees, Terry Snow and John Gardner.

Trouble on Trust Board – Case 1016

Mr Tahu Taia, the Secretary of Whakatohea Maori Trust Board, complains (in a private capacity) about an article in the *Opotiki News* on February 3, 2005. Specifically, he complains that the headline “Snubbed trustees call for removal of secretary” and the accompanying photograph of him combined to compromise his position of employment and that the article was so unbalanced as to be unfair. He maintained that he was not offered any opportunity to respond to allegations that he described as targeting him in a rather libellous manner. He also complained that the article failed to distinguish between fact, conjecture and opinion.

His complaint is not upheld.

The editor of the newspaper provided responses both to Mr Taia personally and to the Council. The editor advised that Mr Taia had been given the opportunity to discuss this matter with him in a telephone call on February 3, 2005 but Mr Taia had failed to avail himself of that opportunity. He explained that the intention of the article was to report on the call by some trustees for Mr Taia’s resignation and because the article did not comment on those calls, the editor did not consider it to be necessary to invite Mr Taia to immediately respond. Even had he done so (which he did not), there would have been an additional difficulty in relation to seeking a response from Mr Taia. The editor advised the Council of a pre-existing arrangement between Mr Taia and the newspaper that required that communications between these two parties take place via a second nominated reporter. This arrangement arose because Mr Taia’s employer had “blacklisted” one of the two employed reporters in the newspaper and had directed its staff that there was to be no communication with him at any time. The “blacklisted” reporter was the person responsible for the report about which Mr Taia now complains so in terms of the arrangement earlier reached, there were attendant difficulties in his ability to seek any comment by way of reply.

The editor advised that in line with the pre-existing arrangement, he had requested the nominated reporter to make contact with Mr Taia the day after publication of the article complained of. The editor’s intention with this directive was to invite Mr Taia to provide his observations on the calls being made by the group of trustees and to use Mr Taia’s response as a follow-up story.

Mr Taia failed to make explicit the alleged “detrimental effect on his employment”. The editor was unable to respond to this allegation except in general terms. He indicates that Mr Taia’s employment was in some measure of jeopardy as a consequence of the calls being made by the four trustees irrespective of whether *Opotiki News* reported on their calls or not.

The editor rejects the claim that its report was “conjecture” or “opinion” by the newspaper. He maintains that the opinions expressed were worthy of reporting. Further, the editor rejects any claim that the newspaper treats either Mr Taia or his employer with an “hostile attitude”.

The Council commends Mr Dawson on the helpful and timely response he has provided to the Council. It is apparent from that response that he has gone to most unusual lengths for a newspaper editor in seeking to accommodate Whakatohea Maori Trust Board sensitivities concerning its communication with *Opotiki News* staff.

The Council observes that in August 2004 the Maori Affairs Minister instigated a ministerial inquiry into the management of Whakatohea Maori Trust Board. The inquiry recommendations included a direction that Whakatohea Maori Trust Board hold full board meetings monthly. The Minister announced that he would be reviewing the situation on a month by month basis. There is no doubt that the story is an important one and, particularly so, in the Opotiki region. The article complained about reports on the facts of a proposed action and reports the opinions of one of the trustees on how the Board could implement a new style of governance. It reports on the group's intentions to seek a dissolution of the iwi's executive and asset management committee and on its call for the removal of Mr Taia from his position as secretary.

The Council finds nothing in the article complained of that offends against the principles of the Council. Mr Taia was provided with an opportunity to respond and failed to utilise this. His employer's stance in blacklisting one reporter from the newspaper might have been, in this instance, a factor that exacerbated the situation that has now displeased Mr Taia. That is not, however, of the newspaper's making.

Press Council members considering this complaint were Sir John Jeffries (Chairman), Suzanne Carty, Aroha Puata, Lynn Scott, Ruth Buddicom, Alan Samson, Murray Williams, Keith Lees, Terry Snow and John Gardner.

Two views of Cuba collide – Case 1017

Julie Webb-Pullman of Wellington has raised a series of complaints with the Press Council arising from two articles published in the Lifestyle and Leisure section of the *New Zealand Herald* on September 29 and November 30, 2004 and a film review published on December 18. All were by Peter Calder and touched on aspects of life in Cuba. The Cuban Ambassador to New Zealand, H E Miguel Ramirez, also took issue on several points in a letter to the deputy editor, but did not complain to the Press Council. His letter was forwarded to the Council by Ms Webb-Pullman but is not discussed in this adjudication.

The Press Council does not uphold the complaints.

The articles in question were opinion pieces in that all, including the film review, were published under the by-line of Mr Calder, whom the *Herald's* deputy editor described as a "professional journalist who has written for this newspaper for many years". Ms Webb-Pullman's extended complaints centre on questions of accuracy, fairness and balance and confusion of facts and opinion. She contends that Mr Calder's negative comments about Cuba, the everyday life of the people and the record of the regime, in the November 30 article, were factually incorrect. She claims too to have been misrepresented in the piece dated September 29. She also accused the journalist of subterfuge, in terms of the Press Council's Principle No. 9 to the effect that editors should not sanction misrepresentation, deceit or subterfuge to obtain information, and breach of privacy (principle No. 3.) Moreover she strongly contested Mr Calder's observations about the deeds of Che Guevara, the central character in the film, *The Motor Cycle Diaries*, in his December 18 review

Ms Webb-Pullman has taken the trouble to mount a vigorous and voluminous defence of her strongly held points of view. She has had experience of living in Cuba – for about

12 months over a period of four years. She has studied Cuban politics and the political theories espoused by leading figures in the Cuban revolution. She claims to speak Spanish well enough for purposes of day-to-day exchange. She obviously knows much about contemporary life in Cuba and has acquaintances there.

Mr Calder would not claim any such degree of engagement in Cuban affairs. He is reported by his deputy editor, nevertheless, to speak “impeccable” Spanish. He was in Cuba for a period of about a week on a trip covered in part by LAN, the Chilean airline.

Two of the articles in question were contributions to the Lifestyle and Leisure section of the paper: one (September 29) mainly reported a season of Cuban film in Auckland; the other (November 30) was a travel piece presenting far from unsympathetic personal impressions of Havana. The December 18 film review was just that; one reviewer’s opinion about a movie. These were not theses on the Cuban revolution.

On the question of confusion of opinion and fact, the Press Council has consistently upheld the argument that editors who publish opinion pieces that might be deliberately provocative – even offensive – to some. The Council cannot say it often enough: a good newspaper is a forum for the exchange of ideas. It is not – at least in a free society – a vehicle for the transmission of a preconceived version of the truth. The idea is still as John Milton expressed it nearly 400 years ago to “let her (Truth) and falsehood grapple; who ever knew Truth put to the worse in a free and open encounter.”

Equally the Press Council is not about to sit in judgement on what is or is not factual in impressionistic commentary about a place and a situation so saturated in controversy and ideological dispute as Cuba. All coverage, where there are so many opinions about the rights and wrongs, is useful. One person’s facts are another’s heresy. Only through debate can readers make up their own minds. In this regard, the Press Council commends the *New Zealand Herald* for providing space to two other complainants about this series of articles. On the Perspectives page on January 11, 2005, the Cuban Ambassador and a representative of the Auckland and Hamilton Cuba Friendship Societies were given prominence for their points of view. Ms Webb-Pullman was offered the same opportunity but preferred to complain to the Press Council.

In the article of September 29 about the Cuban film season in New Zealand and the counterpart New Zealand season in Cuba, Mr Calder took Ms Webb-Pullman to task for contending that New Zealand and Cuba “have much in common”. Ms Webb-Pullman complained that this phrase misrepresents her views. She did not use it. The Press Council notes however that in the flyer for the *Si! Cuba!* season she, as the organiser, is quoted as making several assertions about supposed parallels between the situations of the two countries, which can only be interpreted as things “in common”.

Ms Webb-Pullman contended that Mr Calder had been guilty of “subterfuge” in travelling to Cuba under a “tourist” as opposed to a “journalist” visa. Plainly, Mr Calder travelled as a tourist and wrote an informed travel piece published as such in the Lifestyle and Leisure section (November 30). The issue of “privacy” was raised by Ms Webb-Pullman because the deputy editor replied to her complaint and that of the Cuban Ambassador in the one letter. There is an issue of etiquette and courtesy here, of which the deputy editor might have been more mindful, but which is outside the Council’s jurisdiction.

Ms Webb-Pullman asked that the *Herald* publish corrections of various errors of fact she had detected. The newspaper accepted that it was in error in two instances only, and published corrections in an appropriate place on the Perspectives page on 11 January. As for the numerous other “errors” traversed by the complainant, it is clear that the two sides to this argument have different views as to what was fact and what was opinion in the articles in question. The newspaper is entitled to its point of view and Ms Webb-Pullman to hers. But there is no cause for the newspaper to “correct” the views of its correspondent. For the Press Council to require it to do so would be censorship.

Ms Webb-Pullman’s complaints are not upheld.

Press Council members considering this complaint were Sir John Jeffries (Chairman), Suzanne Carty, Aroha Puata, Lynn Scott, Ruth Buddicom, Alan Samson, Murray Williams, Keith Lees, Terry Snow and Denis McLean. John Gardner of the *New Zealand Herald* did not take part in the consideration.

Concerns over pixilation and juxtaposition – Case 1018

On December 1, 2004, the *Southland Times*’s Queenstown community paper the *Queenstown Mirror* published a story addressing a perceived local problem of night-time drunkenness.

The story was accompanied by a partially masked picture of an unnamed young man with blood streaming down his face and clothes, with the caption: “Downtown Queenstown on any given weekend, and this blood-soaked horror story is common, according to Queenstown police”.

The story began with a statement of the paper’s intent to investigate how bad the resort’s late night scene was, then referred to the photographed incident as an example of how “drunken high-jinks” could go horribly wrong. It continued to say the man in question had, after climbing a tree outside the courthouse, fallen, cracking his head on the pavement and breaking a leg. Further down, the piece said he was “incoherent” as he sat slouched, with blood pouring from his head.

The subject of the photograph has complained to the Press Council that the article, which went on to refer to people urinating in shop doorways, vomiting, smashing bottles and fighting, erred in suggesting he was party to such behaviour. The complaint is not upheld.

Through his lawyer the man says that he and his companion had had a small amount to drink, but were not drunk, and that the tree climbing had been purely high jinks. The article, coupled with the photograph, had displayed “inaccurate, distorted, unbalanced, misrepresented journalism”.

It was said because he had a high profile in Queenstown’s business scene, he was “readily identifiable”, despite the paper’s attempt at masking his identity. Further, to describe him as incoherent was a fallacy: in fact he had been unconscious for 20 to 25 minutes after the accident and had suffered reasonably serious injuries.

In response, *Southland Times* and *Queenstown Mirror* managing editor Fred Tulett stands by the reportage of local “frustration and irritation” at late-night revelry that, he says, often ties up the resources of police and other emergency services. He says police told his reporter the man was drunk and that it appeared he had climbed up on to the roof

of the courthouse to reach the lower limbs of the tree.

On investigation this latter allegation was not established.

He adds the police also told his reporter that the man's friend had confirmed he was drunk and that when his sister complained he had been wrongly identified as drunk, the paper had gone back to the police and received an assurance the article was correct. These facts are disputed by the man who, through his lawyer, says the police subsequently denied making such comments.

Mr Tulett says the photograph was graphic and intended to shock. The paper was a community newspaper and the community and the police were frustrated and threatened by late-night drunken behaviour. The *Mirror* – and the police – had seen the incident as an opportunity to reinforce the message.

The newspaper walks a fine line, however, in its meagre attempts at cloaking the identity of the complainant. The narrow mask inserted across his face would have done little to preclude recognition by those who know or encounter him.

The newspaper might also in future be wary of blurring the lines between a larger issue and the particulars of an individual case it uses as an example. Descriptions of some people “urinating, vomiting, smashing bottles and fighting” are, at the very least, an unfortunate juxtaposition to an individual's accident that has only been minimally investigated.

Newspapers reporting incidents that reflect badly on individuals must take particular care to ensure accuracy and relevance. It is beyond the scope of the Press Council to test the truth of the respective claims about police comments, and therefore the truth of assertions of sobriety. Nevertheless it is possible to see the man's stunt within the frame of the drunken behaviour the paper and the police were complaining of. At the very least, a late-night scramble up a tree can be seen as part of the silliness under concern. The fact of the climb is not in question. And a related report in the *Southland Times* that climbing trees is part of a drunken tradition in Queenstown has not been disputed.

It is also worth noting that all newspapers have established routines for dealing with the police. When Mr Tulett says his staff went back to the police after the first suggestion his paper had got it wrong, it fits established newspaper practice.

After the police brought no charges against the man because he had not climbed on the roof of the courthouse, the *Mirror* decided not to name him. But it proceeded with the story – and photograph – because of its perception of a larger problem.

When his sister wrote a letter of complaint under the pseudonym “Disgusted”, the *Mirror* carried it in full. On the same day it carried an editorial reiterating its larger stance – that there was a problem of drunken incidents that the police should not have to deal with and that the graphic image had been necessary to bring the behaviour to public attention. In a later letter to his lawyers, Mr Tulett offered the complainant an interview that would have allowed him to put his side.

Like it or not, the man found himself at the centre of a worrying behaviour issue upsetting police and the local community. The *Mirror* set out to investigate the type of behaviour going on, witnessed an incident in a public place, photographed, and, after seeking confirming detail from the police, wrote about it. It was entitled to do so.

The complaint is not upheld.

Press Council members considering this complaint were Sir John Jeffries (Chairman), Suzanne Carty, Aroha Puata, Ruth Buddicom, Alan Samson, Murray Williams, Denis McLean, Keith Lees, Terry Snow and John Gardner.

More on the immunisation debate – Case 1019

Barbara Sumner Burstyn and Ron Law complained about an editorial in *Hawke's Bay Today* headed "Foolish not to vaccinate", and published on April 18, 2005.

The Press Council does not uphold the complaint.

The editorial opened with the statement, "As the meningococcal-B vaccination campaign is rolled out through the region, the thoughts of the anti-vaccination lobby have begun to appear in the letters to the editor column once again."

The editorial referred to the "anti-immunisation lobby" having a right to their opinions, but quoted statistics concerning meningococcal disease, the epidemic in New Zealand and deaths since 1991. The editorial concluded, "The sooner all the children in the region, whose parents consent, are vaccinated, the safer all of us will be."

The complainants had first objected to the editor that "this editorial contained a number of factually incorrect statements and falsely characterised all attempt at public discourse on this vaccine as anti-immunisation".

The complainants asserted that the main lobby to ensure that the Ministry of Health's full documentation on the MeNZB(tm) vaccine was made publicly available was not connected to any anti-immunisation organisation, but consisted primarily of the complainants. "We are not anti-immunisation and are not affiliated with any anti-immunisation group. Our motives are grounded in the belief that the public has a right to know about the bad science and policy that surrounds this particular medicine."

To the Press Council, the complainants reiterated their objection to the statements in the editorial. "It is essential, for parents attempting to gather information to make an informed choice, that the media in New Zealand remain neutral. This requires at least a modicum of recognition that those with a vested interest and the concomitant budget will, of necessity, employ spin-doctors and that such information could be tainted. In order for parents to achieve [informed consent] we seek a published retraction of the false statements made in the editorial and the publication of a more balanced view of this subject."

The editor initially offered the complainants a chance to have their response to the editorial published in a letter to the editor, which the complainants rejected as inadequate. To the Press Council, the editor responded that the editorial was fair opinion, and that the newspaper was willing to publish unfavourable reaction to its opinions as letters, not as a lengthy retraction. He said the newspaper was not in the habit of "publicly recanting to appease one side in an issue in which there are strong, polarised views".

The editorial did include an error referring to a figure of "about 200 deaths a year" which was then self-corrected further down the editorial which stated, since 1991 220 people have died. The editor could have acknowledged this inconsistency.

Press clippings the editor submitted with his response included a feature story "Vaccination – a shot in the dark?" published in *Hawke's Bay Today* on March 21, less than a month before the editorial. In this feature, the complainants' views were quoted at some length. Run in association with the feature were a story about a woman who gave reasons

for not having her two primary school-age children vaccinated, and another about a mother who urged vaccination after her 19-year-old son contracted meningococcal disease and almost died.

Also quoted in the feature were Ministry of Health statistics about the disease and deaths that were re-used in the editorial. The editor quoted from an email from one of the complainants that commended the health reporter who wrote the feature story. The editor also included other stories from the newspaper that covered the debate about immunisation and the meningococcal vaccine.

The Press Council receives complaints from time to time about newspaper stories on controversial major social issues of the day such as immunisation or climate change. Even statistics and factual matters can be open to debate, which suggests that the subject matter might not be as clear-cut as either side may declare it to be. The facts in the editorial that are disputed by the complainants can be demonstrated to have been sourced from medical authorities. That they are a matter of debate does not prevent the newspaper from using them.

The combination of advocacy by those challenging authorities in a technical subject along with the publication of their views, presents the news media with a dilemma. Those not scientifically qualified in the topic under debate may still claim rights to air their views on an equal footing, as a matter of balance. The press in general may dispute that claim, but not have the expertise in its own ranks to assess the merits of the claim, nor the desire to assert that in some stories there might be no case to answer.

It is not for the Council to determine the rights or wrongs of one side or the other where expert opinion is in direct conflict. In the case of the immunisation debate, both sides cite well-qualified medical authorities with strong opinions and interpretations of various factual matters, and sometimes the views expressed are diametrically opposed.

The Press Council can comment only on the ethics of the journalistic coverage. Here *Hawke's Bay Today* has expressed the newspaper's own opinion, as it is entitled to, in the most appropriate place, the newspaper's editorial column. The newspaper showed that it had already aired the views of parties to the debate before deciding to declare its own point of view, and this simply reinforces the proper nature of its behaviour.

The complaint is not upheld.

Press Council members considering this complaint were Sir John Jeffries (Chairman), Suzanne Carty, Aroha Puata, Ruth Buddicom, Alan Samson, Murray Williams, Denis McLean, Keith Lees, Terry Snow and John Gardner.

OSH not responsible for cancelling pipe band – Case 1020

The Department of Labour complains about an article “Red tape means march cancelled” published in the *Ashburton Guardian* on January 26, 2005 and a subsequent editorial “Community generosity alive and well” published on January 27, 2005.

The complaint is upheld.

The essence of the complaint by the Department of Labour is that the newspaper wrongly attributed the cancellation of the annual Pipe Band Festival street march as being due to an inability on the part of the Ashburton Scottish Society to meet the Occupational

Safety and Health (OSH) requirements necessary to hold the event.

The Department of Labour responded to this article the next day by sending a letter and press release to the newspaper explaining that OSH had no involvement in the process leading to the cancellation and advising that the body responsible would have either been an individual road control authority or the local council.

This information was not received by the newspaper until after the deadline for publication of the next issue of the newspaper. This was unfortunate because a follow-up editorial had already been prepared and this was duly published the following day. This editorial maintained the same tenor as the earlier article.

The new editor candidly admits that the reporter had relied on representations made by the organising group and had failed to make any independent inquiry of OSH. The deputy editor has apologised to the Department of Labour for reporting incorrect information.

The pipe band street march was held during the weekend and in the Monday edition (January 31, 2005) the correct position was set out in an article “The rules have changed for street events”.

The newspaper clarified that the local authority had to comply with the regulations of the Land Transport Safety Authority and it was, in fact, Ashburton District Council that had imposed the requirements for the street march. It was reported, towards the end of the article, that “[t]he Department of Labour occupational and health service has taken exception to being blamed for the street event rules ...”. To the Press Council this seems an eminently fair response from the department.

The Department of Labour maintains that its reputation has been damaged and readers have been misled by the inaccurate publications.

The editor believes that the correction in the subsequent report suffices to rectify the earlier conceded lapses.

Though noting that the editor has accepted that the reporter should have sought comment from OSH and that it later published a more accurate article, the Council nevertheless upholds the complaint by the Department of Labour.

The factual error formed, in effect, the whole story with the follow-up editorial proceeding on the same erroneous information. This is a situation where the responsibility for the inaccuracy should properly be borne by the newspaper.

Press Council members considering this complaint were Sir John Jeffries (Chairman), Suzanne Carty, Aroha Puata, Ruth Buddicom, Alan Samson, Murray Williams, Denis McLean, Keith Lees, Terry Snow and John Gardner.

Swimming in regulations – Case 1021

Mr Gary Osborne has complained about a report in *The Aucklander* of March 9, 2005. He complains the report was inaccurate and biased.

The Press Council does not uphold the complaint.

The complaint has its origins in an approach to Mr Osborne on February 23 by a reporter. She was researching what was then the state of play in proceedings between Waitakere City Council and pool owners. Regulations administered by local authorities have been a long-standing source of controversy and dispute with pool owners and Mr

Osborne, as a vocal member of the Pool Owners Action Group formed in 2004, was an obvious source of information.

The reporter received information from Mr Osborne and from Waitakere City Council. She spoke to Mr Michael Pepper whose name, among others, was given to her by Mr Osborne.

The article was published on March 9 under the heading “Pool owner wants day in court”. The account reported Mr Pepper’s dissatisfaction with the procedures adopted by the council since a ruling by Justice Randerson on the regulation regime in October. It said Mr Pepper was declining to seek an exemption and wished the situation to be tested in court.

The report went on to provide some details of the status of a number of proceedings in which the council was pursuing prosecution of pool owners.

On March 29 Mr Osborne telephoned the editor-in chief of *The Aucklander*, Mr Ewan McDonald, to complain about the article and on the same day he communicated his complaints by e-mail.

He said the article was inaccurate and showed bias. He particularly objected to a passage in the article that concluded “The judge upheld the council approach for the most part but also allowed for shades of grey over most aspects of the immediate pool area.” He challenged the figures given by the council for the status of proceedings and strongly objected to the inaccuracy of the reporting in claiming “of 117 properties due to face prosecution only four are compliant according to Justice Randerson’s October ruling”.

Mr McDonald replied by e-mail on 30 March saying he would pursue the matter with the reporter. On 31 March Mr McDonald e-mailed Mr Osborne accepting that there might be some discrepancies in the figures and explained the District Court was unable to provide any further clarification.

He did, however, stand by the report and in particular “because only four of the cases were withdrawn in the light of the Randerson ruling, we stand by our use of the phrase “the judge upheld the council approach for the most part.” Mr McDonald said he considered the matter closed.

Mr Osborne was unhappy with this and laid a complaint with the Press Council on April 3.

The editor responded to the complaint on April 19 and Mr Osborne replied to that response on May 3. In those exchanges some new material was introduced. There was a difference of opinion over whether or not Mr Osborne had been responsible for critical e-mails to *The Aucklander*. Mr Osborne quoted at some length from the Randerson ruling. But the nub of the complaint remained inaccuracy and bias.

Mr Osborne lays great stress on the detail of the status of the proceedings. It is clear *The Aucklander* had difficulties in obtaining an independent version of the figures and after the complaint to the Press Council on April 3 went back to the Waitakere Legal Services Manager seeking further clarification on April 11. The newspaper also made a further attempt to obtain a meeting with the relevant District Court officer but was not successful. A further difficulty appears to have risen in the way the numbers are calculated, whether on a number of properties or a number of individuals facing prosecution.

What does seem to be clear is that after the Randerson judgement four cases were

immediately withdrawn as a result of that judgement and the council is proceeding with a number of other prosecutions and is attempting to deal with others through different processes. It might have been helpful to readers if the March 9 report had attributed the figures it quoted to Waitakere City Council.

But it is not obvious that had a different set of figures been provided it would have materially changed the tenor of the article.

It is also clear that the October ruling by Justice Randerson, on an application by Waitakere City Council for a declaratory judgement to clarify the law, did not resolve all the difficulties of implementation and he suggested that further legislation might be required.

The debate appears to have been highly partisan and differences of interpretation can be expected. The claim in *The Aucklander* that both the council and pool owners have claimed victory from the ruling appears to be accurate. The report does not purport to be a judgement on the merits of the argument but reflects a particular stage in a developing situation.

In the context of a report that gives ample space to Mr Pepper's dissatisfaction with council Mr Osborne's suggestion of bias cannot be sustained nor, given the problem with the figures, can his complaint of inaccuracy.

The complaint is not upheld.

Press Council members considering this complaint were Sir John Jeffries (Chairman), Suzanne Carty, Aroha Puata, Ruth Buddicom, Alan Samson, Murray Williams, Denis McLean, Keith Lees, Terry Snow and John Gardner.

Editing the Chief Justice's speech – Case 1022

Michael Thomas complains that an edited transcript of a speech published by the *New Zealand Herald* on February 10 had wilfully misled the public by failing to report certain comments the Chief Justice made the previous day to the conference of the Australian and New Zealand Society of Criminology.

The Press Council does not uphold the complaint.

In a March 26 letter to the editor Mr Thomas said the edited transcript completely changed the impact of the address by omitting comments "deeply political in their content and observation".

Mr Thomas did not identify the comments, which he said must be addressed publicly, and sought confirmation the *Herald* had the Chief Justice's permission to publish her speech and that she had agreed to the editing.

On April 8 he wrote to the Press Council, saying he had received no response and lodging a complaint, citing article one of the Statement of Principles (accuracy, fairness and balance).

On April 12 assistant editor John Roughan replied, apologising for the delay, which he thought had occurred because the deputy editor David Hastings was on leave. Mr Roughan said he had not seen the statements Mr Thomas had in mind and no longer had the full speech. A lot of space had been devoted to the speech, but it had to be kept within reasonably readable proportions, while covering the essential points. Permission to publish would not have been needed if, for example, the speech had been made at a confer-

ence open to the news media. The Chief Justice had not been asked, and nothing had been heard to suggest she was unhappy.

On April 17 Mr Thomas said by omitting 40 per cent of the speech the *Herald* misled and misinformed the public, and on May 5 he reiterated his concerns, saying Mr Roughan had refused to confirm he had permission to publish or edit the speech.

Mr Roughan had, however, in his letter of April 12 explained how the speech was published, why it was edited, and that there had been no complaint from the Chief Justice.

Mr Thomas, however, did not disclose the nub of his complaint until a letter to the Press Council on May 16, when he said current criminal processes in New Zealand were not “a settled discourse and it is certainly the case in parts of America, Great Britain and in parts of the EU that once held views on ‘being nice’ to criminals may be counter-productive”.

Mr Thomas also said recently announced changes in Britain meant more attention was being given to “old fashioned conventions in regard to the treatment of male offenders”.

The Chief Justice was said to be entirely silent on these matters and remained unchallenged on her particular comments regarding offenders’ human rights, while the *Herald*, by design or default, had allowed her to “slip below the radar”.

If Mr Thomas is referring to the entire speech it is hard to see how the *Herald* could have omitted matters on which the Chief Justice is said to be silent. And, if he is referring to the edited version, it includes various references to the continuing debate about criminal behaviour, the worth, or otherwise, of rehabilitation programmes, the retreat from them during the 1980s, and widespread public and professional disillusionment about the effectiveness of rehabilitation and parole.

The Press Council does not accept the *Herald’s* coverage is misleading. An unusual amount of space was allocated to what was clearly thought to be a significant speech on an important public issue. It would be very rare for such a long speech to be published unedited. The Press Council is of the view that the *Herald* did a professional job of editing speech.

The complaint is not upheld.

Press Council members considering this complaint were Sir John Jeffries (Chairman), Suzanne Carty, Aroha Puata, Ruth Buddicom, Alan Samson, Murray Williams, Denis McLean, Keith Lees and Terry Snow. John Gardner took no part in the consideration of this complaint.

The mayor and the Sarjeant – Case 1023

Ms Carol Webb complained to the Press Council about the *Wanganui Chronicle’s* coverage of her complaint to Wanganui District Council alleging breaches of the Council’s own Code of Conduct by the Mayor of Wanganui, Mr Michael Laws. In her view, various aspects of the newspaper’s coverage showed bias in favour of the mayor.

In particular, Ms Webb contended that the repeated publication of derisory comments about herself and others, made by Mr Laws, and the failure of the newspaper to publish a story about her formal objection to the way the council was addressing her complaint, were two examples where the *Wanganui Chronicle* was in breach of the Press Council’s

overriding principle that publications should be “guided at all times by accuracy, fairness and balance”. In support of her well-organised written material, Ms Webb also appeared before the Council to make a personal and thoughtful, oral and written submission.

Neither part of her complaint is upheld by the Press Council.

The complaint needs to be seen in the context of a contentious mayoral campaign during the lead up to local body elections in October 2004. For several months Mr Laws had enjoyed much scope and space for his views via a weekly contributed column in the *Chronicle*, although the newspaper ceased his column once he announced he was standing for the mayoralty. Once elected to the position, the newspaper re-established Mr Laws’ opinion piece, although unpaid this time.

Ms Webb argued that he frequently used his column, both before and after the election, to make personal attacks on those who opposed his views and this, in her view, was an indication of the close relationship between the newspaper and the mayor – a relationship that seemed to her to lack “balance and fairness”. It is worth noting that in her written submission to the Council Ms Webb said that she unreservedly accepted the editor’s assurances that he had no special relationship with Mr Laws. It should also be noted that the local political environment remained heated in the immediate aftermath of Mr Laws’ election, especially when he raised doubts about the long-term future of the region’s art gallery, the Sarjeant. Some citizens formed a Save Our Sarjeant lobby group. Verbal jousting continued, not only reported in the *Chronicle*’s news articles but also featuring in the mayor’s contributed column.

Then, on February 15, the *Wanganui Chronicle* published a story announcing that three residents had filed complaints about the mayor under the Wanganui District Council’s Code of Conduct provisions. Two of the three complainants, including Ms Webb, detailed their complaints in the story.

The obvious follow-up – Mr Laws’ reaction – was printed the next day (February 16) and although Ms Webb would argue that her complaint about the *Chronicle* includes a range of stories and the way they were handled, this response by Mr Laws is central to her submission to the Press Council. Mr Laws mocked the complainants and made a series of disparaging remarks, referring to “single issue nutters” who were making a “laughing stock of themselves” and to people who were “showing signs of personal paranoia”. He maintained a similarly disparaging tone in his weekly column (February 21) and in a later page one lead story (March 9).

What is not in dispute is the accuracy of the reporting of the mayor’s words. But was the newspaper taking a “fair and balanced” approach when it gave such public voice, and repeated voice, to Mr Laws treating the complainants with such contempt? Was it “fair” for the complainants to be ridiculed so publicly, especially in a provincial community where many would know the complainants personally?

First, the column contributed by Mr Laws was an opinion piece, in his typically abrasive style, and the Council has repeatedly stressed the right of columnists to take an “unbalanced” view if they so wish. Secondly, some balance was provided by a “sidebar” to the February 16 story, which quoted the views of a third complainant about Mr Laws (“I’m an elderly ratepayer ... just fed up with his bullying.”) More balance, and fairness too, were clearly provided the very next day by the *Chronicle*’s editorial (February 17)

which was critical of the mayor's vehement response. The editorial expressed concerns about his "flippant" reaction, pointed out that the mayor "is obliged to treat (the views of others) with respect" and urged the District Council to listen to the complaints, which "must be heard". And finally the March 9 lead (largely featuring Mr Laws) was countered and challenged on March 10 by a story that gave ample space (and a bold headline) to another of the complainants.

This complaint required the Press Council to weigh the importance of freedom of speech against the expectation of individuals that they would not be embarrassed and humiliated so publicly.

The Council accepts that Ms Webb found Mr Laws' remarks both offensive and hurtful. Yet residents, and readers, might expect that political debate be blunt, robust and vigorous. At what point does a newspaper's reporting of such "blunt and vigorous" debate become "unfair" to citizens trying to exercise their rights in a democratic society?

The Preamble to the Press Council's Statement of Principles stresses that "there is no more important principle than the freedom of expression". Later, the Preamble continues . . . "individuals also have rights (which) must be balanced against competing interests such as the public's right to know".

Here, the Council upholds the "public's right to know" and the right of the *Wanganui Chronicle* to report Mr Laws' remarks which, although very strongly expressed, were clearly newsworthy. Indeed, it is through such reports that citizens can judge for themselves the merits of the issue and the merits of the people involved. That is the public's right in a democratic society. Ms Webb, and other complainants, were discomforted by the mayor's words being published in the newspaper. Nevertheless, in the Council's view, the *Chronicle* properly exercised its freedom and its right to inform its readers.

That part of Ms Webb's complaint is not upheld.

Ms Webb also pointed to the non-publication of the story that the complainants were disputing the process of hearing their Code of Conduct complaint as further evidence of the newspaper showing bias and lack of balance.

The council proposed to set up a hearing of the complaints under the chair of the deputy-mayor. The point of view of Ms Webb and others was that the proposed tribunal would not appear to be independent.

She sent information about her objections to the procedures proposed by the District Council to the *Wanganui Chronicle* on February 23. She followed up with a phone call, an e-mail and finally a formal letter of complaint, all trying to get the newspaper to "break" the story. In Ms Webb's view, this "newsworthy and valid story of high public interest" was "deliberately suppressed for more than a week".

The story might have been "of high public interest" and the *Chronicle* somewhat slow in its release but the Press Council cannot find evidence that it was "deliberately suppressed".

The Local Government Act of 2002 required all local authorities to adopt a "Code of Conduct" for elected members. Wanganui District Council's own Code of Conduct had only been formally adopted as recently as November 2004, by the newly elected council and mayor. Reporters, and readers, had to grapple with a relatively new and largely untested procedure. Moreover, this seems to have been the first case in New Zealand of such

a complaint being laid against a sitting Mayor. In short, it was a complicated story and a story not easy for a newspaper to background for its readers.

The editor of the *Chronicle*, John Maslin, agreed with Ms Webb that the story was indeed newsworthy but explained that the reporter had been delayed through attempting to question the council CEO, Colin Whitlock, and representatives of other bodies, such as the Local Government Commission. The editor also acknowledged usual constraints of resources and time – “occasionally stories have to be held over for attention later”.

That the complainants were formally objecting to the Code of Conduct procedure adopted by the Council was eventually covered on March 7, 12 days after Ms Webb had sent the information to the *Chronicle*. It received front page coverage and Mr Whitlock, the council’s CEO, was quoted at some length. That report was followed by Mr Laws’ reaction (another page one lead) on March 9 and then counter-balanced by a story (page four) on March 10 giving an opposing view.

The Press Council cannot agree with Ms Webb’s submission that a delay of 12 days between being given the information and then publishing it, especially after seeking the views of various authorities to background the issue, shows either bias or deliberate suppression and this second part of the complaint is also not upheld.

Press Council members considering this complaint were Sir John Jeffries (Chairman), Suzanne Carty, Aroha Puata, Ruth Buddicom, Lynn Scott, Murray Williams, Denis McLean, Keith Lees, Terry Snow and John Gardner.

And still more on immunisation – Case 1024

Tom Reardon complains that two articles in the *New Zealand Herald* (November 10, 2004) contained significant factual errors and were based on wrong or misleading information. His complaint, specifying “misleading facts and perspectives”, is not upheld.

The first of the articles, “Health experts hit back at anti-vaccine campaign”, is a small and straightforward news story about pro-vaccine concerns that parents are declining meningococcal B vaccine injections for their children because of safety fears. The article comprises advice from Health Ministry strategy director Jane O’Hallahan that the vaccine is “the best protection we can offer” during an outbreak of “epidemic proportions”. Dr O’Hallahan also hits out at what she calls the “fallacies and misinformation promulgated by a small group of activists with an anti-immunisation agenda”. The story does not attempt to revisit a longstanding pro- versus anti-immunisation debate.

The second story, “Enough of this ‘debate’ on vaccine”, is a clearly labelled comment piece by Immunisation Advisory Centre director Nikki Turner on why she believes vaccination to be a good thing. The piece includes a personal account of Dr Turner’s “years spent trying to find a reason” for her own daughter’s congenital handicap, “because having a reason seems to make it easier to cope with”.

In a lengthy letter of complaint, Mr Reardon questions the accuracy of claims that the meningococcal disease is of epidemic proportions when he says he has figures to show it is in decline. He accuses Dr O’Hallahan of deliberately exaggerating the number of clinical trials done to test the vaccine; upbraids Dr Turner for her delight that a vaccine is available to protect her children; demands “proof” of an earlier story’s claim for the vaccine, saying the *Herald* is allowing incorrect statements to be made without substantia-

tion; questions the number of control trials done in New Zealand, the adequacy of these, and the accuracy of health professionals' evaluations; and further complains about the paper's non-publication of letters to the editor.

In response, *Herald* editor Tim Murphy says that the vaccination debate is one engendering strong opinions. He says Mr Reardon clearly disagrees with the country's health officials and their vaccination policy. The paper had earlier carried a substantial series on the vaccination programme – with prominent inclusion of views against its implementation. The paper stood by its reporting and rejected any accusation of breaches in professional standards.

The Press Council finds the complaints to be unfounded. The second article complained of is clearly identified as an opinion piece: Dr Turner is entitled to put her honestly held views and the newspaper is free to carry them. For the following reasons, the first article is also found to be justifiable.

In a wide-ranging debate such as the vaccination one, the *Herald*, especially after earlier giving space to criticisms of the practice, is entitled to write about specific concerns of health experts. It would be asking too much of any paper to revisit all sides of such a complex and controversial argument every time a newsworthy aspect comes before it. It is also reasonable for a newspaper to lean in its coverage toward the views of mainstream medical experts. Mr Reardon has forthright views on the practice and viability of vaccination. He has a clear right to hold those views – but so too does the *Herald* to report the issue as it sees it. Mr Reardon cannot reasonably take umbrage with the newspaper for promulgating views different from his own.

It is beyond the scope of the Press Council to rule on the pros or cons of the much-debated immunisation issue. An earlier judgement (Case 847) found that the breadth of the immunisation debate precluded any simple test to determine the accuracy and balance of claims and allegations made. It resolved that the Council was not constituted or resourced to pursue inquiries that would enable it to adjudicate on the complex issues involved. With very large public issues under almost permanent surveillance and adjustment, it could not make an adjudication founded on accuracy and balance.

On the question of letters not being published, that is a prerogative that lies with the newspaper editor.

Mr Reardon's depth of feeling is acknowledged, but he should be careful not to overstep reasonable boundaries of argument himself in the manner in which he expresses his opinions. To claim, as he does, that named health experts are "deliberately" putting wrong or misleading facts before the New Zealand public is a serious allegation and one wanting clear proof before airing. His complaints are not upheld.

Press Council members considering this complaint were Sir John Jeffries (Chairman), Suzanne Carty, Aroha Puata, Alan Samson, Denis McLean, Murray Williams, Keith Lees and Terry Snow.

Wouldn't or couldn't – Case 1025

Awatapu College complained about a story published in the *Manawatu Standard* (formerly *Manawatu Evening Standard*) on March 15, 2005, and headed "Text threats to kill and rape sparked feud".

The complaint is partly upheld.

The article concerned acrimony between some pupils of Palmerston North Boys' High and Awatapu College, fights between students from both schools and the expulsion or suspension of students. These particular facts in this serious situation appear to be undisputed by either side. However, the sequence of various events and reports bear on the complaint, and need to be outlined.

The newspaper reported that text threats sparked a fight between students on March 1. It quoted a Boys' High incident report that said a text message contained threats. The story said four Boys' High students were expelled and an Awatapu College student suspended and five others stood down.

The story then quoted the father of one of the expelled Boys' High students in indirect speech saying that text-messaging had been going on since at least November. The man was also quoted saying that his son had gone to Awatapu with a friend "after seeing the text", which had death threats against someone's family.

The newspaper quoted from a report by Boys' High rector Tim O'Connor saying "it began in November" and that he [Mr O'Connor] had asked the police to follow up the threatening texts his students had received. Mr O'Connor was also approached by the newspaper directly and commented that Boys' High had acted appropriately. He was unable to comment further because the matter was confidential.

The story then quoted the Boys' High incident report by senior master Peter Truter which was described as "the boys' version of events". It referred to text messages, contents of the texts, that a planned fight on February 23 was averted by the presence of teachers and the police, that other threats were made, that the fight on 1 March was arranged by text, and that another planned fight on March 4 was prevented by the prior disciplinary action by the schools and a significant police presence.

The newspaper quoted the Awatapu College principal, Mrs Tina Sims. It reported her rebuttal of the Truter report claim that one Awatapu student had a hammer, saying that police had found no sign of one. The newspaper again reported Mrs Sims saying an Awatapu boy had denied to the police, and to the school, sending a threatening message. She was reported saying there were different versions of how the [March 1] incident started but none of them could be confirmed because the text messages had been deleted.

Finally, the newspaper reported Awatapu College board of trustees chairman Tony Coffin saying one boy came before the board disciplinary committee but "he [Mr Coffin] wouldn't say whether he was reinstated or expelled". The newspaper said it understood that the five other Awatapu College boys who were stood down were back at school.

In its formal complaint to the editor, Awatapu College Board of Trustees requested a front-page retraction for a story it said was based on unsubstantiated claims without evidence, and allegations rather than facts. The story was also biased and sensationalised. Two particular complaints were that text messaging was not continuous, as implied – there was a gap between the first message in November and the next in February – and that Mr Coffin was misreported. He did not say "wouldn't" confirm a student has been reinstated, but "couldn't" because of confidentiality.

The editor responded that while the word "allegation" was not used in the story, there were three sources. The exact wording of the text messages was not known because they

were deleted, but that was not proof the messages did not exist. The action of the schools was evidence they accepted the claims made. The editor disputed the claims of bias and sensationalism (“if by sensationalised you mean this story was given front-page coverage, I agree”). The quote about continuous texting had been from the father.

Because the student suspended was not named, the editor said the issue of confidentiality did not arise and “Mr Coffin’s claim that he ‘couldn’t’ comment, in effect meant that he would not comment.” The editor offered a front-page story expressing the Awatapu board’s concern while warning of the publicity that would result.

The complaint to the Press Council expanded the points, saying the headline and report of threatening text messages “does not attempt to make it clear that such a threat is alleged to have been made, nor does it allow for the possibility other factors may have led to the fight”. The complaint reinforced the concern about the “continuous text messages” account and the misreporting of Mr Coffin.

The Awatapu College principal and deputy chairperson of Awatapu College Board of Trustees said the editor’s view of why the schools acted was “speculative at best as the editor does not know the information placed before the board members or the reasons for the decision of those board members...” They said the disciplinary reaction was invoked in relation to the fight on March 1 rather than text messaging that might have preceded that conduct.

The complainants cited the Press Council principle about care and consideration in reporting on and about young people, and said their complaint was “made in good faith in light of our concern about the good name of our school and the impact of the reporting on our students”.

The editor’s response to the Press Council was that there was enough evidence from the three sources quoted to make the headline and introductory paragraph a fair summary of what the story contained. The paper had also acknowledged that the offending text message in question had been deleted, quoting Mrs Sims, but believed there was enough evidence to support the fact text messages were sent.

“Abuse of text phones and using them to pre-arrange fights between groups from two Palmerston North schools are serious issues that should be covered by Palmerston North’s daily newspaper.”

It’s understandable that a school will want to protect its good name and its students, but it seems that the report of the grave incidents between two schools was fairly and fully covered by the *Manawatu Standard*. The paper seems to have offered both sides a chance to have their say about a fairly traumatic set of events in the city and might have been limited in its inquiries by some of the confidentiality restrictions within the schools.

The detail of the surrounding events or messages seems to pale significantly when set beside the resulting aggression. Nowhere did the newspaper suggest that text messages were the cause for any of the disciplinary action that ensued. It would be naive to believe that text messages were not exchanged between students regularly, even if one deleted message could not be found.

It is not disputed that a fight did take place, and the newspaper reported on this and the text messaging that seemed to be relevant to the whole incident in that context. The Palmerston North Boys High incident report was the source of the content of the text

message. However, this was not clearly apparent from the headline or the opening paragraph. In the Press Council's view there should have been an attribution in the headline to the report, and also in the first paragraph, either by the use of quotation marks or by a reference. This omission, however, is not sufficient to warrant an uphold adjudication on this point.

The editor in citing evidence to the Press Council said the newspaper had run a story on texting and text bullying in April, interviewing school principals, because this issue among students was a valid subject that should not be ignored.

The one area where the paper fell down was in reporting that Mr Coffin "wouldn't" comment on the status of a student, rather than couldn't. The editor said that was minor semantics, and that Mr Coffin's claim that he "couldn't" comment "in effect meant that he would not comment". But there is quite a serious distinction, and the implied criticism that has resulted in the story is clearly unjustified in this case.

Someone who "will not" do something is showing a will to obstruct, while someone who "can not" do something might be willing, but not able to for many reasons. It is unethical of the newspaper to exchange one description for another, when the simple addition of the words "because of confidentiality" would have explained the situation clearly. This part of the complaint is upheld.

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

The RSA, The National Front and Anzac Day – Case 1026

Mr K R Bolton, a representative of the Wellington Committee of the National Front, complains that an article published in the *Sunday Star-Times* on April 24, 2005 under the headline "National Front angers Anzac vets" was inflammatory and sensationalist, and that the article failed to achieve balance and fairness. The article was accompanied by a recent photograph of the Prime Minister, Helen Clark, entering Auschwitz where she laid a wreath in memory of those who had died there.

The article was published the day before Anzac Day, and reported that the chief Executive of the RSA, Pat Herbert, had received a number of e-mails from members who were angry and upset that members of the "neo-fascist" organisation, the National Front, were intending to attend Anzac Day services around the country.

Mr Herbert was reported as saying that the organisation "represented everything Anzac soldiers had fought against".

Kyle Chapman, National Front director, was given several paragraphs to explain his views. He said that National Front members had attended Anzac Day services in previous years; his members were patriotic New Zealanders who stood by the flag; and the National Front was working hard to remove members who promoted pro-Nazi views or were involved in racist attacks on immigrants.

The article then went on to report that National Front websites frequently posted white supremacist and fascist views, and that their views were abhorrent to many RSA members and those who had lost family in World War II.

Finally, the article reported comments from the president of the RSA in New Brighton

who said that the National Front were welcome to attend a parade in New Brighton provided that there were no protest signs or “hanky panky”. New Brighton is Mr Chapman’s “home ground”.

Mr Bolton complains that the article failed to mention what he believes to have been a concerted campaign against the National Front by Messrs Barrie Sargeant and Robert Trigan, two of those who had e-mailed the RSA. These men had also been quoted in the article. He further complains that the *Sunday Star-Times* invariably portrays the National Front as a neo-Nazi organisation, linking its ideology with fascist people who are not members.

He maintains that placing the photograph of Helen Clark at Auschwitz is an example of dubious journalism, and that the paper has manipulated the RSA into supporting the views of “a small group of violence oriented smear-mongering self-styled ‘anarchists’.”

In response to Mr Bolton’s complaint, the deputy editor of the *Sunday Star Times* submitted that the paper had not connived with Messrs Sargeant and Robert Trigan to inflame the RSA against the National Front or manipulate their opinion. It simply reported the RSA’s view that National Front attendance at Anzac services would be disagreeable to them.

The paper had given good coverage to Mr Chapman’s views, did not offer any opinion on the story, and reported Mr Chapman as saying that his organisation was trying to remove members with pro-Nazi views.

The Press Council does not uphold Mr Bolton’s complaint. It found that the article was newsworthy, being published the day before Anzac Day. Clearly, as reported, the proposed attendance of National Front members at Anzac Day services was abhorrent to many RSA members although it was also reported that one branch at least was prepared to accept their presence at its service.

The National Front leader’s comments were quoted at length in the article. The photograph of Helen Clark entering Auschwitz was newsworthy, and also linked appropriately with the article alongside.

The Press Council did not find that the article was inflammatory. It found that the article was balanced and fair, given the sensitivity of the issues raised.

Mr Bolton further complained about the non-publication of a letter to the editor on this topic, which he had written some months previously. The Press Council has always maintained that the selection of letters to be published is the prerogative of the editor, and has not upheld that complaint either.

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

Local body report cards – Case 1027

David Bosley is an ex-councillor of Napier City Council; he was not re-elected in the 2004 local body elections. Mr Bosley has complained to the Press Council about articles published in *Hawke’s Bay Today* that, he says, contributed to his election loss. The complaint essentially has three prongs. The first two concern specific articles that Mr Bosley says were inaccurate, misleading and unfair. The last is an allegation that the editor of

Hawke's Bay Today and his civic reporter were biased and deliberately set out to nobble Mr Bosley's attempt at re-election.

The complaint is partially upheld on one of the specific complaints. The general complaint of bias and campaign sabotage is not upheld.

Mr Bosley complains that two articles were inaccurate, unfair and misleading.

The first was a "report-card" opinion piece entitled "On their marks, set ... vote!" published, on September 15, 2004, in the lead up to the local body elections. Each serving Councillor was given a mark out of 10 and a pithy comment on their performance. Mr Bosley was given a rating of three out of 10. The comment on his performance included the following statement:

"Cr Bosley complained bitterly when Hawke's Bay Today publicised his conviction for theft and again when we reported his U-turn on water meters, the main plank of his last election campaign. The Press Council has not upheld any of his complaints this term."

The Press Council has previously ruled that there is nothing inherently wrong with report-card opinion pieces at election time (see rulings 867 and 1007). That is, of course, subject to the overriding requirement that publications should be guided at all times by accuracy, fairness and balance, and should not deliberately mislead or misinform readers by commission or omission (see Principle One). In this case, the reference to Mr Bosley's criminal conviction without recording that it was entered in 1978 was both unfair and misleading. In the context of the piece as a whole, the average reader would assume that the conviction had occurred during his term on the council and was therefore relevant to his performance as a councillor. The complaint on this point is upheld.

Mr Bosley also argues that it was inaccurate and unfair to refer to a U-turn on water meters, particularly as opposition to water meters continued to be an election platform. There was evidence upon which the newspaper was entitled to raise the issue. This aspect of the complaint is not upheld.

The second article in question, entitled "Councillors' comments on meters bring confusion", was published on October 4, 2004. That article reported that two members of the public had sought clarification on Mr Bosley's stance on water meters. Confusion had arisen because the campaign flier of another councillor, John Harrison, included a statement asserting that Mr Bosley was promoting the fitment of parking meters and water meters despite his campaign promises. Cr Harrison had been contacted and his comment referred to previous coverage of Mr Bosley making a U-turn on water meters. The article reported that Mr Bosley had not responded to messages asking him to contact the paper and provide comment.

Mr Bosley had, in fact, written to the paper on October 4, 2005 by way of complaint. In that letter, Mr Bosley said "*why bother this late in the piece to request from me a response to whatever it is about water meters & parking meters ... Cr Harrison happened to give you?*" It was, therefore, generous for the paper to have reported an inability to contact rather than a refusal to comment.

On October 5, 2004, Mr Bosley sent a letter to the editor by way of reply to Cr Harrison's reported comments. It was not printed. On October 7, 2004 Mr Bosley re-sent his letter with a handwritten note asking that it be printed in the interests of fairness. It was not printed. It might not have been immediately clear that Mr Bosley's letter of Octo-

ber 5 was intended for publication. However any doubt should have been removed by the addendum of October 7. Was it unfair not to publish it?

The Press Council has repeatedly stressed that the publication of letters to the editor is a matter of discretion for the editor. In cases where adverse comment has been published without any reply from the affected party and no follow-up article is planned, fairness would ordinarily lead to publication. But that does not mean that all letters sent under those circumstances must automatically be published. In this case, parts of Mr Bosley's letter were little more than name-calling and though the editor might have invited him to redraft it with a view to publication he was not obliged to do so. This aspect of the complaint is not upheld.

Mr Bosley's complaint comprised a large amount of material intended to support an allegation that the editor of *Hawke's Bay Today* and his civic reporter deliberately set about sabotaging his re-election campaign by means of unfair reportage.

At the heart of the matter is the issue of what, if anything, the civic reporter said to a third party. The Press Council has not heard directly from that third party, and the reporter denies any wrongdoing. There is simply not enough evidence to determine the issue. The complaint of bias and campaign sabotage is not upheld.

Bias against 'solo mums' not substantiated – Case 1028

Ms Annette Conroy complained to the Press Council that the *New Zealand Herald* frequently published editorials and articles that made derogatory and disparaging references to female single parents and this stereotyped portrayal of a minority group was clearly discriminatory.

As an example, she cited two articles about drug abuse, which included a story about a single mother who worked as a prostitute to support her addiction to "P".

The Press Council does not uphold her complaint.

In her submissions, Ms Conroy mentions "inaccurate statements" and "fabricated information that portrays single mothers in a negative slant". Further, the complainant maintains that the *New Zealand Herald* "regularly employs as a device, the polarisation of single mothers as a group" and the newspaper holds "entrenched discriminatory views". She took particular exception to the newspaper's continual use of the term "solo mum".

However, Ms Conroy submitted little evidence that would back up such a sweeping and general accusation. Although she does refer to "editorials", examples are not provided and the core of her complaint lies in a report into New Zealand's drug industry, published by the *New Zealand Herald* in April, 2005.

Over several days and at considerable length, the *Herald* backgrounded the "industry" featuring areas such as international drug lords, the power of gangs in this trade, the marketing of drugs, treatment centres and victims.

In the first of these features, on April 16, one sentence concerned Ms Conroy: "It seems amphetamines are for everyone – night clubbers, professionals, solo mothers." This sentence was further highlighted in an adjoining side bar.

Ms Conroy sees this as polarising single mothers as a "lower caste of society". There is a sense of a contrast here, between professional and solo mother, though of course one could easily be both (and a night clubber at the same time for that matter), but the

Press Council is more inclined to the deputy editor's point of view – that this was merely an attempt to show how amphetamine abuse can affect varied people in New Zealand society.

In the later feature on victims, on April 20, three stories are told. “John” is a self-employed tradesman but now faces a lengthy jail term; “Fiona” is a “solo mum” who has “lost everything” to “P” including her two pre-school children; “Dave” (whose heritage is Pacific Island/European) finds that crime is the only way to feed his habit.

The complainant suggests that “Fiona” is so much a stereotype, “a drug-addicted prostitute solo mum on the domestic purposes benefit” (Ms Conroy's words) and so improbable, that she may well be a composite character. At any rate, “Fiona” is apparently used as a scapegoat to “perpetuate ... derogatory myths associated with single motherhood”.

The complainant questioned whether “Fiona” should even have been referred to as a “solo mum” because of a later reference to her partner.

In reply, the deputy editor of the *New Zealand Herald* clarified that “Fiona” had indeed been a single parent when her use of “P” first began. He further explained that “Fiona” was used because she had a real story to tell about the damage caused by drugs and stressed that she was indeed an individual and not a composite character. Her identity had not been revealed for obvious reasons.

The Council accepts the *Herald's* assurance that “Fiona” was not an artificial collage constructed from several drug-related stories. The Council also finds that the newspaper's telling of the story of a single mother is not discriminatory towards single mothers in general. The reference to John as a “tradesman” does not polarise all tradespeople as a group. Nor does a background detail about Dave's Pacific Island/European heritage discriminate against all those from a similar ethnic background.

The Press Council includes in its Statement of Principles the proviso that “publications should not place gratuitous emphasis on gender, religion, minority groups, sexual orientation, age, race, colour, or physical or mental disability” and Ms Conroy's complaint is indeed a valid reminder of the need for journalists to use a term such as “solo mum” with great care. It can lead to negative stereotyping. In this example, single mother or single parent would have been described “Fiona” accurately while avoiding the connotations inherent in the expression “solo mum”.

However, given the context of establishing for the reader the reality of “Fiona” and her circumstances and the single use of the term in this article of April 20, the *New Zealand Herald* was not being gratuitously emphatic.

Overall, the Press Council rejects Ms Conroy's suggestion that the *New Zealand Herald* repeatedly exhibits blatant discrimination towards single mothers and is careless of offending such individuals. That might very well be her view but the evidence that she provided does not substantiate such a serious accusation.

The complaint is not upheld.

Mr John Gardner took no part in the consideration of this complaint. Press Council members considering this complaint were Barry Paterson (Chairman), Aroha Puata, Lynn Scott, Alan Samson, Murray Williams, Denis McLean, Clive Lind and Terry Snow.

Riding to defence of gym-based exercise – Case 1029

Fitness New Zealand (“FitnessNZ”), through its chief executive Richard Beddie, has complained about a feature article, entitled “Failing to Shape Up”, published in *The Dominion Post* on March 17, 2005 and syndicated in the *Timaru Herald* on March 26, 2005. The article is a feature story on the reasons why people who go to the gym do not necessarily get into shape. The story was built around responses to specific questions and general comments from various people with some form of expertise or involvement in gym-based exercise and its effects. Mr Beddie complains that the article lacked balance, was inaccurate, did not clearly differentiate between fact and opinion, and that the headline, lead-in and captions did not fairly reflect the content of the story or were biased. Further grounds raised were not properly before the Press Council.

The complaint is not upheld.

Balance

There are no hard and fast rules for balance. In this case, the Press Council is of the view that the article as a whole presented a balance of views from an appropriate balance of qualified people on a suitably balanced range of specific issues relevant to the question raised. It might be that a very different story would have resulted if different people had been approached. It might also be that more statements supportive of personal trainers and the potential benefits of gym exercise could have been included without breaking up the story. And it might be that a counter-opinion could have been included for each statement that Mr Beddie has objected to. But that does not mean that the article as written therefore lacked balance. The reporter was entitled to choose the angle that she would take. The “significant omissions” that Mr Beddie pointed to as examples of lack of balance were either counter-arguments or differences of opinion and emphasis. The editor invited Mr Beddie to submit a letter to the editor. That is the appropriate forum for Mr Beddie to air FitnessNZ’s particular point of view.

Accuracy and distinction between fact and opinion

Mr Beddie complains that three statements included in the story are inaccurate. The first is a quote, from an academic from the Sport and Life Sciences faculty at Massey University, to the effect that gym exercise is not fat-burning unless extraordinarily prolonged. Mr Beddie provided a survey recording that many of FitnessNZ’s members disagreed with the academic. Mr Beddie also provided letters from an academic at a different university and from a practitioner, expressing a contrary opinion. That does not mean that the statement reported was factually incorrect. It simply means that there are different opinions about this matter. A different take on the issue was included in the article in the form of comment from another academic, discussing how gym exercise can lead to weight loss and muscle toning.

Mr Beddie also complains that the Massey academic’s quoted opinion on fat-burning and gym exercise is repeated as the caption to one of the photographs without being attributed to him or clearly identified as an opinion rather than a statement of fact. The editor concedes that this was an oversight. In light of that concession and the limited impact of the error on the article as a whole, it is not necessary for the Press Council to intervene.

The second statement referred to quality assurance in personal training through a registration scheme that “requires at least one year of training”. Mr Beddie provided the Press Council with a letter from Nathan Burrows, the Registration Manager of the New Zealand Register of Exercise Professionals. He says that the organisation “...does not use length of study in any of its criteria, and instead uses the worldwide agreed process of ensuring both competency and experience to ensure that individuals meet the standards required by the industry.” Mr Burrows does not say that registration is possible with less than a year of training or that it would take longer than a year. The reporter used the one-year minimum referred to by a person being interviewed who turned out to be a member of the registration board, because it was more readily understandable than a competency and experience matrix. There is nothing before the Press Council to suggest that it was wrong.

The third statement, that body builders often become personal trainers, is a paraphrase of part of a quote. Mr Beddie argues that (1) it is presented as a fact when it is actually opinion; (2) the person being quoted is not qualified to make such a claim; and (3) it is wrong. The statement appears between two quotes, following on from each other, from an osteopath. Read in context, it is obvious that the statement is related to, and part of, the osteopath’s comments; it is not presented as an independent fact. Mr Beddie points to the results of FitnessNZ’s annual survey on the make-up of exercise professionals in New Zealand, which indicates that less than 1 per cent of personal trainers have a body building background. However, the survey does not record what percentage of body builders become personal trainers, which is the point that the osteopath was making. The editor argues that the comment was based on commonsense rather than a claim to in-depth knowledge of the personal training industry. Again, read in context, the statement is not in any way inaccurate or misleading.

Mr Beddie also complains that an English academic, Chris Riddoch, was misquoted in the article and that he was incorrectly described as “a physiology lecturer at Bristol University”. In the article, an osteopath commented that it is healthier to exercise on your own feet than on “a weight machine bolted to the floor” because they strengthen one set of muscles at the expense of other joint-stabilising muscles. The article went on to note that such machines only began to appear in gyms in the past 20 years. Chris Riddoch (whose name was misspelt as Ruddoch in the article), was then quoted as saying that the claims made for a lot of them were “wildly exaggerated and nearly all of them are untested”.

In support of the complaint, Mr Beddie provided copies of email correspondence in which he tracked down Mr Riddoch, referred him to the article and asked him to comment on what he was reported as saying. Mr Riddoch replied that he had made some comments like that about weight loss gimmicks but not about gym equipment “most of which ... is excellent”. The email correspondence shows that Mr Riddoch is now the head of the London Sport Institute at Middlesex University. It also shows that he was at Bristol University but the details of that appointment are unclear. It does not show when he left Bristol University. The editor has provided the Press Council with the full quote from which Mr Riddoch’s comment was taken and notes that he has not complained or sought any correction, despite having the matter drawn to his attention. The Press Council is not persuaded that Mr Riddoch was misquoted or taken out of context. Further, although the

editor acknowledges that Mr Riddoch's name was misspelt, there is nothing to suggest the error was deliberate or intended to mislead.

Headline and captions

Mr Beddie complains that the headline and the introductory paragraph do not fairly reflect the content of the story as a whole or, as an alternative, that it demonstrates that the story is biased. The Press Council does not agree. The headline is "Failing to Shape Up". The lead-in reads "Gyms are not the cure-all for saggy bottoms and flabby underarms they might seem. They could even be bad for your health." The caption to one photograph is the unattributed statement about gym exercise and fat burning (see above). But the other photograph is of Suzanne Prentice doing a pose-down for her personal trainer. The caption notes that she lost 43kgs after joining a gym. The story is about why gym membership will not necessarily mean that you get into shape. Various reasons are debated within the story, including spot exercises, metabolic stimulation, and the possibility of ill-effects. The headline, lead-in and photograph captions as a whole accurately reflect the story as a whole which, as noted above, is balanced.

Other grounds raised

FitnessNZ's complaint included claims that one of the people interviewed for and quoted in the article was misled as to the purpose of the article in order to secure his involvement and, further, that he was misquoted and taken out of context. That person's complaint was dealt with by the newspaper. He has not complained to the Press Council, and Mr Beddie does not speak on his behalf. In these circumstances, the Press Council will not consider the further grounds of complaint that relate to him.

The complaint is not upheld. Both *The Dominion Post* and the *Timaru Herald* invited Mr Beddie to submit a letter to the editor expressing FitnessNZ's views. The Press Council is advised that *The Dominion Post's* offer remains open.

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

Reporting on arson not inflammatory – Case 1030

Jane Shaw has complained about an article in *The Dominion Post* of February 14. The report contained comments made by members of the Shaw family after Francis Shaw was found guilty of being party to the arson of the historic Rangiatea Church.

Ms Shaw is Mr Shaw's sister and complains that comments made by her and her mother were taken out of context and are thus inaccurate. Ms Shaw says that the heading on the article, based on those comments, was inaccurate and provocative and further complains that the telephone interview of Mr Shaw's mother was intrusive and obtained by subterfuge.

The Press Council does not uphold the complaints.

The burden of the inaccuracy complaint is that the comments by Peggy and Jane Shaw referred not specifically to the case but to Mr Shaw's life-long campaign for treaty-based government. There is no suggestion that the remarks were reported incorrectly. The issue is one of context.

Ms Shaw raised the matter in telephone calls to the newspaper and was dissatisfied with the response. She wrote to *The Dominion Post* on April 19 detailing her complaints and informing the newspaper the matter would be pursued with the Press Council. *The Dominion Post* was slow to respond, not replying to Ms Shaw until May 23 by which time Ms Shaw had complained to the Press Council in a letter of May 18.

In his letter of May 23 to Ms Shaw, the editor of *The Dominion Post*, Mr Tim Pankhurst, says “the reporter did not see the response as a reference to Francis Shaw’s activities over 25 years.”

Given that the approach to the Shaw family closely followed the end of a high profile trial it seems a reasonable assumption that the reporter was seeking comment on the specific, rather than the general. The apparently determined efforts of the reporter to obtain the comments should have indicated to the family that she was pursuing a response to current events rather than historical activities.

In the circumstances it seems unrealistic to suggest that Peggy Shaw’s remarks “it’s not sad. He did it for the social order of all Maoridom, not just himself” should not have been taken to be a reference to the burning of the church or to Mrs Shaw’s feelings after her son had been found guilty. The subsequent comment “although he is not too happy about it.... he didn’t expect anything else” can only be taken to refer to the trial.

In later contacting Jane Shaw for her opinion, including her comments on the remarks made by her mother, *The Dominion Post* was providing an opportunity in which it might have been explained that the remarks were historical rather than specific. This seems not to have happened.

On the issue of privacy it is clear that the Shaw family expressed a preference for Jane Shaw to be their spokesperson. But there is no evidence of subterfuge. No physical approaches were made. Peggy Shaw’s reported comments, the accuracy of which are not challenged, are lucid and give no indication that she was not capable of terminating the conversation had she wished.

It is suggested by the complainant that because Peggy Shaw did not give her name she did not think her comments would be published. But her actual identity was clear and the occasion for contacting her was unmistakable.

When Jane Shaw’s brother explained that Peggy Shaw was unwell it seems no further attempts were made to contact her and the next call was to Jane Shaw when Peggy Shaw’s comments were put to her.

The complainant objects the headline was provocative. The case is one that obviously has the potential to raise high feelings in the community but the headline accurately reflects the substance of the report.

Jane Shaw further raises the question of public interest and public record, implying that the court hearing was the proper source of information. It is, however, legitimate and routine reporting to obtain comment and background to a case, particularly one as high profile as this, and *The Dominion Post* was not acting improperly in pursuing this.

Finally Jane Shaw says she sought and was denied a correction. That this request was made is in dispute and in any event, given that the newspaper was standing by its reporting it is difficult to see what form any correction could have taken.

As the complainant points out, the incidents are the result of a complex and difficult

set of circumstances in a tightly knit community but *The Dominion Post* reporting in this instance is not inflammatory.

The complaint is not upheld.

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

Borrowing petrol can opens can of worms – Case 1031

Derek Williams of Napier complained through his lawyer, Andrei Sharko, about a report in *Hawke's Bay Today* of September 24, 2004 on an argument between Mr Williams and a Napier resident, Selina Crouch, arising from the loan of a petrol can. The Press Council does not uphold the complaint.

The report of September 24 appeared under the headline "Trespass order against council hopeful after petrol-can debacle". The article gave both Ms Crouch's and Mr Williams's version of events focussing on a confrontation between Mr Williams and Ms Crouch in which she claimed that he had been "swearing his block off" and could clearly be heard by children in the house. Mr Williams was standing for election to Napier City Council at the time and the article reported that he had sent a fax to the newspaper after the incident accusing it of discrediting "non-establishment candidates".

The central issues are to do with fairness, accuracy and balance. Mr Sharko, acting for Mr Williams, contended to the Press Council on December 19, that the headline had been inaccurate and damaging. No trespass order had been served against Mr Williams. "It cannot be disputed that some readers of the paper will have read the headline, seen the photograph, read, or not read the article, and then formed a negative opinion of Mr Williams." Mr Sharko insisted on the distinction between a trespass order, which he said had a "criminal connotation" and a trespass notice. In fact no form of restraint had actually been issued against Mr Williams at the time of publication. The complainant also maintained that it was inappropriate in an election campaign to publish a photograph more than a year old. In sum it was contended that the newspaper had published "a pile of hearsay"; that the article was nothing more than the report of another person; and that it was "irresponsible" to publish such a damaging article and to hide behind (1) Mrs Crouch and (2) public interest.

Mr Sharko, on behalf of Mr Williams, formally complained to the editor of *Hawke's Bay Today* on September 24, the day of publication of the article. The editor responded the same day maintaining that an altercation between a campaigning council candidate and a citizen is a matter of "extreme public interest". The editor said the newspaper was obliged to accept Ms Crouch's version of events. She had confirmed several times that she had taken out a "trespass order" against Mr Williams. For his part, Mr Williams had responded to inquiries by first refusing to talk to the reporter and then "with threats".

The Press Council agrees that the incident was newsworthy in the context of an election campaign. Obviously a candidate would prefer that a spat of this kind not be brought into the public arena in such circumstances. Nevertheless the September 24 report balanced the accounts of the two principal parties. Mr Williams's side of the story received rather more than half of the space allocated. It is noteworthy – since Mr Williams plainly

believes the newspaper is engaged in some sort of conspiracy against him – that the editor of *Hawke's Bay Today* then agreed “to set the record straight as soon as possible if there (are) inconsistencies in our report”. The complainant was given the opportunity to comment on a draft, which cited Mr Sharko’s arguments on the matter of a trespass “order” as against a “notice” and the circumstances in which such a restraint could be regarded as effective. Mr Sharko asked, on behalf of his client, that two insertions be made and this was done. This process obviously took a little time. The follow-up piece was published on September 28 duly making the point that Mr Williams had provided a signed declaration from his partner to the effect that he had not used foul language and that what was said between him and Ms Crouch could not have been heard in the house. The headline was “Council candidate denies using foul language in front of children”. Again the report carried a photograph.

Mr Williams requested a hearing before the Press Council. His case was ably presented by Mr Sharko (with Mr Williams present) at the Council’s meeting on June 20. Mr Williams has since submitted further material in support of his case which he said he had realised had not been provided to the Council by his lawyer. Again the nub of his complaint is that the report of September 24 failed as to accuracy, fairness and balance. In particular it is contended that the reporter had failed to inquire whether a trespass notice or order had in fact been issued and as to the actual circumstances as reported by the complainant (Ms Crouch). The reporter had moreover not informed Mr Williams before publishing the first report on September 24 that he was alleged to have sworn at Ms Crouch.

The editor of *Hawke's Bay Today* responded that the reporter had in fact checked with the police “on the day the story ran” and been told that a complaint had been laid. As for the circumstances surrounding the complaint, they had been reported as told by Ms Crouch; when the reporter had attempted to check back with Mr Williams he had warned her against undertaking a “character assassination.” The editor also denied the claim that the reporter had repeatedly telephoned Mr Williams when he had asked that all dealings be in writing. He had instructed staff not to get involved with Mr Williams. Nor was there any conspiracy against Mr Williams.

The Press Council is obviously in no position to arbitrate between differing versions of what transpired between the various parties. Its role is to determine whether coverage of the incident was appropriate. In this regard the Council considers that the second article provided any necessary balance in that Mr Williams was given the opportunity to get his point of view across during the course of the election and to clear up any problems arising from the first report. His repudiation of the accusation of swearing was made clear both in the article and in the headline. As such the full coverage of the incident was effective and fair. There were errors in the headline to the first article on September 24 because at the time of going to press the trespass notice had not been issued, but more importantly a “trespass order” is incorrect. These points, which were covered in the second article, were stressed by Mr Sharko at the hearing and in other material supplied by Mr Williams, and are noted by the Press Council.

They are not of sufficient weight to uphold the complaint.

Run rabbit run – Case 1032

Environment Southland has complained about an article about the haemorrhagic disease Rabbit Calicivirus Disease (RCD) published in *Invercargill This Week*, a small magazine-cum-pamphlet produced by *Hometown Publications* and distributed free to Invercargill households.

The complaint is upheld.

The article, in the magazine's June 16, 2005 issue, headlined "Calicivirus Affects Everything" begins with an assertion that the Ministry of Agriculture and Forestry is planning "another drop" of the disease, suggesting a legal repeat of a 1997 illegal release. The article confirms the plan by quoting a named Environment Southland biosecurity officer. It then makes an assertion that the virus has the ability to mutate to affect other species, before using a local rabbit breeder to graphically describe how an infected rabbit dies.

Environment Southland complains that the article contravenes Press Council principles requiring accuracy, clear distinction between comment and fact, accurate and fair headlines, and prompt correction of errors. As well as insisting the named biosecurity officer was never spoken to by the reporter, it says:

- The headline's claim of adverse effects on non-target species is not borne out in the article.
- The article's announcement of a planned drop by MAF is wrong: MAF has nothing to do with the virus's importation.
- The descriptions of calicivirus-induced rabbit deaths exaggerate the pain felt.

Communications' co-ordinator Nikki Waghorn also says Environment Southland is concerned about the fear likely to be generated among pet and livestock owners. It is preparing information to counter the article to be issued when an "importation" of the RCD virus is completed.

In response, *Hometown Publications* owner Ray Tinker says that when his reporter rang Ms Waghorn to "sort out the problem", she was not given a fair hearing and was hung up on. If Environment Southland had accepted the chance to give its side and list the article's inaccuracies, the problem would have been dealt with. The article had been "perhaps from an emotional point of view", but was supported by background internet research and an interview with a breeder who could be seen as "an expert in the field".

Mr Tinker has enclosed his reporter's notes, with names of interview subjects above their answers, but these are too sparse and clumsy to draw any conclusions of interviewing veracity.

But regardless of disagreement over whether the Environment Southland biosecurity officer was spoken to, the information conveyed in the article – that MAF is planning a drop of RCD – is simply wrong and should have been promptly corrected.

Though it would have been wise for the article to clearly attribute the assertion, the internet-originating claim that studies show that the virus can mutate and affect other species is a scientific assertion beyond the scope of the Press Council to deliberate on. The headline, however, though intended as a summary of a breeder's comments about the virus killing "everything in its way" is, at kindest reading, a careless one. Putting "everything" in quotation marks might have removed ambiguity. As things stand, readers are

confronted with unsubstantiated assertion as fact.

It would have been similarly wise for descriptions of rabbits' painful death to have been gleaned from a significant authority on the disease, but these words are clearly attributed and legitimately open to reader judgement of right or wrong.

In making its judgements, the Press Council acknowledges the nature of the publication: a small home-delivery giveaway, supported by minimal editorial content, and unlikely to employ an experienced journalist. But shortcomings such as outlined, not to mention the naïve reliance on unsourced internet material for fact, cannot be overlooked.

Ironically, the reporter might have touched on a significant story for the region, as confirmed by Ms Waghorn's correspondence: that the RCD virus is being imported, not by MAF, but by Environment Southland. The reporter simply got her facts wrong. A mainstream newspaper, where such a story might more properly belong, could have had a field day.

Nude rugby not to everyone's taste – Case 1033

Madeline McGilvray of Invercargill complains that a photograph published on page one of *The Southland Times* breaches clause 11 of the Press Council's Statement of Principles: "Editors should take care in photographic and image selection and treatment".

She believes the editor did not take care, and offended by placing a photograph that "exceeded the bounds of decency" on page one on June 20, 2005.

The Press Council does not uphold the complaint.

The photograph showed 10 men – six of them Barmy Army supporters clad in beanies, capes and running shoes, the rest Otago supporters wearing only beanies, socks and footwear. The Barmy Army supporters were lined up to face a haka before a nude rugby match, which is apparently a tradition before any big rugby occasion in Dunedin.

The Otago supporters were shown from behind, their limbs and their opponents' capes hiding anything Mrs McGilvray might have found even more offensive than the sight of three sets of bare buttocks.

The editor, Fred Tulett, wrote to Mrs McGilvray on June 24 saying he regretted she had been offended as the photograph was taken during a "light-hearted interlude" during the Lions tour and had been published as such. It had not been intended to offend and appeared to have been well received by the wider readership.

Although the paper had received, and published, several other critical letters, Mr Tulett said there had been support too, including comment from an elderly woman who said she appreciated having something to laugh at in place of the more common images of disasters and tragedies.

In a subsequent letter to the Council he repeated that most readers saw the photograph as light-hearted fun, the photographer managing to capture the occasion without "over-exposing" any of the participants.

Mr Tulett said Mrs McGilvray often expressed her views in letters published in *The Southland Times*, repeatedly objecting to homosexuality and gay marriage, prostitution law reform and Freemasonry.

He said although the letters prompted little support from other correspondents their strongly-held opinions and beliefs were a welcome part of the mix of a "lively and well-read public forum".

Mrs McGilvray said children read newspapers, too, and did not accept she had little support. She said other correspondents supported her and she had received a number of phone calls, which led her to believe she represented “quite a significant group of people”.

The Council accepts Mrs McGilvray would not be alone in her objection – but it also acknowledges that the so-called bounds of decency are not fixed and that what might have offended a larger number of people a generation ago is much less likely to do so today.

In the early 1970s the appearance of “page Three” girls in tabloid newspapers such as *Truth* and *Sunday News* prompted a number of complaints, and in 1973 the Council published an “An Appraisal of Sex, Nudity and Related Topics in the New Zealand Press”.

It observed that editors and publishers could “wisely acknowledge the existence of a significant body of public opinion” critical of the standards some publications had adopted.

That remains a valid observation, but the sort of image needed to invoke a reminder would have to be much more gratuitous than *The Southland Times* photograph, which is probably not the sort of image the Council had in mind in 1973, and is unlikely to have offended a large number of people even 32 years ago.

The Council accepts care was taken in the selection of the image and the complaint is not upheld.

Press Council and newspaper not the forum for re-litigation – Case 1034

Jay Reid complains of biased coverage by the *Dannevirke News* in a series of articles. At the relevant time, he was in dispute with Tararua District Council. The complaint is not upheld.

The first article appeared on June 25, 2005 under the heading “Litigious Man Wages Crusade”. Its first paragraph read:

“Each time he goes to Court, James Robert Reid who says he has half completed a law degree, conducts his own case so his costs are minimal. However his respondents, who have included the New Zealand Fire Service and Tararua District Council, have to hire lawyers and bear the resulting costs”.

Mr Reid was suing the council over the sale of land neighbouring his own property. The cost to Tararua District Council for successfully defending this action was nearly \$100,000 which equated approximately to 1 per cent of the total rate revenue of the council. The article referred to numerous other court actions taken by Mr Reid against the Attorney-General, Minister of Labour, the Governor-General and the Minister of Justice (jointly) and the New Zealand Fire Service (more than 20).

At one stage the Attorney-General had applied to the High Court to have Mr Reid declared a vexatious litigant but that matter had not been resolved at the date of publication.

The article referred in part to the history of some of Mr Reid’s court proceedings, which had resulted in awards of costs against him. These proceedings included the Fire Service proceedings (an employment matter) as a result of which Mr Reid was reinstated by the Employment Court. The dispute with Tararua District Council over the sale of a block of land involved several steps through the court system including an application that the High Court Master in Wellington disqualify himself from hearing the matter. The

Master declined to do this. Afterwards Mr Reid sought interlocutory relief and endeavored to have the Mayor of Tararua District held in contempt of court. Judicial review proceedings against Tararua District Council ultimately failed and in November 2004 the council was awarded costs of \$29,010 against Mr Reid. The council's actual costs were near \$100,000. At the time of the first article Mr Reid had not paid these costs and the council had instituted bankruptcy proceedings against him to recover the amount.

An appeal to the Court of Appeal against the cost ruling was dismissed and further costs of \$1500 were awarded against him. Notwithstanding that he lost the High Court judicial review proceeding, it was noted that Mr Reid still claimed that the council had acted wrongly over the land and that this was confirmed by the High Court decision. It was noted that he had recently brought a petition to have the Woodville area removed from Tararua District Council and made part of Palmerston North City Council.

A second article under the heading "Reid Pays to Avoid Bankruptcy" was published on July 27, 2005. It noted that Mr Reid had paid \$35,116 into the Court to cover the High Court costs award against him plus interest. This was after a judge in the High Court had given Mr Reid until 10am the next day to pay this amount. The article further noted that Mr Reid had not paid the costs award by the Court of Appeal nor had he paid approximately \$19,000 awarded to Land Information New Zealand at the judicial review hearing. It was reported that Mr Reid noted that the money awarded to Land Information New Zealand existed as a debt against him and that he had no plans to pay the Court of Appeal costs and "joked that he might make them go through the same process again to collect those from him". It was also noted that Mr Reid "still had a few choice words for Tararua District Council and his opinion of their activities as well as a damning indictment of what he called 'the judicial dictatorship' of the New Zealand Court system".

Mr Reid's complaint is that though a newspaper is entitled to publish background research into individuals in dispute with a local council, news items should also include research into the basis of the dispute. Thus when referring to the dispute over the sale of land the reporter should have sought answers from the council as to why the deputy mayor was awarded sole agency for the sale of the land and obtained a commission in doing so, why the chief executive of the council did not advise that he was considering an offer from the deputy mayor's client, and why the purchaser and price were not made known when the council was considering whether or not to sell the land and voting on the sale and purchase agreement. Mr Reid in his complaint also alleged that the paper should have inquired why the council paid nearly \$100,000 to a top national law firm to defend litigation when local barristers were available. He stated "it is common practice for corrupt organisations to buy influence with the judiciary by hiring expensive law firms". Mr Reid also raised peripheral issues that will be referred to later in this decision.

The editor of the newspaper dealt with each of the allegations made by Mr Reid in his reply to the complaint. Some of the matters, including those relating to the commission received by the deputy mayor, the procedure by which the council had approved the sale and the fact that there had been a breach of the council's statutory obligations had been issues in the High Court proceeding and the judge had found against Mr Reid. In respect of these matters, the *Dannevirke News* saw no point in covering claims of Mr Reid that

had been determined against him by the judge. Other issues such as the complaint about not using local barristers had not been raised with the newspaper but if they had would not have been reported because this was quite a common practice. The newspaper did not report Mr Reid's allegation that the council had fast-tracked its procedure to beat a pending change in the law as Mr Reid had conceded to the reporter that this was pure speculation on his part and that he had no evidence of it although he said it was indicated by the circumstances.

As noted previously the complaint is not upheld. In this Council's view the *Dannevirke News* did not breach the principles of accuracy, fairness and balance (Principle one of its Statement of Principles). It did not deliberately mislead or misinform readers by commission or omission.

Many of Mr Reid's complaints effectively seek to re-litigate a matter that has been determined by a judicial review proceeding in the High Court. Mr Reid had an interest in the land in question because the information indicates he was a potential purchaser. He failed in his judicial review proceeding and effectively seeks to re-litigate the matter in another forum. In the circumstances, there is no obligation on the newspaper to allow him to do this.

Mr Reid does not dispute that the thrust of the two articles are correct when they refer to his propensity to become a litigant. The articles are about Mr Reid and his litigious nature. The accuracy, fairness and balance of those comments are not challenged.

The progress and the cost of the judicial review proceeding were essential elements of the article. The nature of the proceeding was stated, as was the result. Mr Reid lost his case. The Council sees no obligation on any newspaper to then conduct an inquiry as to the underlying facts to support what is, in effect, a contention that the judge got it wrong. The merits or otherwise of the decision were not essential parts of the article. The newspaper was perfectly entitled to accept the judgement at face value. There is no obligation on the grounds of accuracy, fairness and balance to go into the underlying merits of a dispute when that is not the thrust of the article.

In giving accuracy, fairness and balance to the essence of the article, it was not necessary for the *Dannevirke News* to mention some of the peripheral matters raised by Mr Reid, namely the employment of outside legal advisers and the unsupported allegation that the council had accelerated the process to avoid a pending law change.

A further complaint made by Mr Reid related to the reporter who in a submission organised by a council employee to the Local Government Commission on the petition initiated by Reid stated: "The very concept is a result of a fermented brain trying to produce a non-toxic outcome."

Mr Reid alleged that this showed bias by the reporter to him. When responding to this complaint, the editor of the *Dannevirke News* noted that the reporter's comment was made in a private capacity and indicative of the frustration experienced by Tararua residents over what they saw as Mr Reid's pointless and costly actions. The editor accepted that although the comments were not used in any "news" context, they might be considered injudicious coming from a reporter from the local newspaper. This Council agrees with the editor that in the circumstances of the report it was injudicious and his comment did

show partiality when signing the petition. This in itself however did not in this case lead to a breach of the principle of accuracy, fairness and balance in the newspaper articles.

Just one more step... – Case 1035

Over a period of days starting on June 13, 2005, *The Daily Post* ran a series of stories and readers' letters concerning a controversy over the calling of a hui to discuss the possible introduction of Maori wards for Rotorua District Council. Mr Arapeta Tahana, who was originally nominated by the Council to facilitate the hui, complained to the Press Council about the substance of the reports.

Subsequent correspondence between the newspaper and Mr Tahana and the offer of the publication of more material satisfied most Mr Tahana's objections. But one complaint remains unresolved.

On June 20 on a readers' letters page the *Post* published a picture of Mr Tahana and three people who had been embroiled in the controversy, councillors Glenys Searancke and Mike McVicker and Mr Hamuera Mitchell, a member of Rotorua District Council Te Arawa Standing Committee.

Mr Tahana complains that the publication of his picture in this way suggests he has expressed a view in support of the Maori wards.

The Daily Post maintains the photograph was used because Mr Tahana was one of the principal figures in the original controversy and that the readers' letters had mentioned him and the other three individuals. It suggests that there was no implication that Mr Tahana was an advocate of a particular view.

It is clear from the reports and from the correspondence that this is a divisive issue in the community. The first batch of correspondence published by the *Post* on the wards and the proposed hui carried the heading "Maori versus non-Maori." This reflected a polarisation both in the public positions and the readers' letters, which displayed a commitment to one or other set of opposing views.

This was the background against which the disputed picture was run on June 20. Councillors McVicker and Searancke had been established as partisan on one side and Mr Mitchell on the other. In these circumstances the layout of the illustration with the pictures of councillors McVicker and Searancke on one side of a reprint of the original story, and Mr Mitchell and Mr Tahana on the other, could have contributed to an immediate impression that Mr Tahana is a supporter of a particular view.

But the Council has consistently held the view that reports must be taken as a whole. Newspapers do regularly use photographs of individuals in the body of text without the placement carrying any particular significance.

None of the stories or letters attributes any partisan view to Mr Tahana and for this reason the complaint is not upheld.

Nevertheless *The Post* did have the opportunity to correct even the hint of such an impression by recording Mr Tahana's unequivocal statement that he had never expressed any view on the Maori ward question. Given that the newspaper had been willing to meet the bulk of Mr Tahana's objections it is unfortunate that it did not take one further step.

The complaint is not upheld.

Newspaper urged to clarify off-the-record – Case 1036

Early on the morning of June 7, 2005, a man was found shot dead on a remote rural property about 8km northwest of Waingaro, Waikato.

On June 13, Mr Grant Wilson, the uncle of the dead man, contacted the editor of the *Waikato Times* to voice concerns about the newspaper's coverage of the fatal shooting of his nephew, Dwayne, known as Andre, whom he had helped raise as a child.

A first article had been published on June 8 and was headed *Body Sparks Murder Probe*; the second *Guns, Bikes 'Put Off' Resident* was published the following day.

The editor readily agreed that the paper should interview Mr Wilson so he could give another perspective to the life of his nephew, who had gang connections, and an interview with a reporter and photographer took place at Matamata on June 15.

Before the interview started, the reporter and Mr Wilson agreed to speak off the record for a short period. Mr Wilson says they spoke about speculation that Andre had not shot himself accidentally and that the circumstances of his death were suspicious. From what was subsequently transpired, it is obvious they discussed who might be responsible for Andre's death.

After a short time, the interview went on the record. During the on-the-record session, topics raised during the off-the-record portion of the interview arose again.

There was an arrangement that the reporter would contact Mr Wilson the next morning to read him a draft of his article, and this duly occurred. Mr Wilson's memory of what he was read was that the article was "90 per cent favourable to express our love for Andre."

When the article appeared on June 18, Mr Wilson described himself as "totally blown away ... nothing in the article reflected what I had been read that Thursday morning."

Subsequently, Mr Wilson complained to the Press Council. The complaint is not upheld. But the Council believes the editor of the *Waikato Times* should clarify the newspaper's policy about off-the-record conversations and what the term means, not just for staff but also interview subjects who make such requests.

The heading over the June 18 article read "Shot Man's Family Blame Fugitive".

A supra intro said: "The killer of a Waingaro man may be a gang member already on the run from police."

The opening paragraph of the article said: "The family of a man shot dead at a farm near Waingaro say he was killed by an unnamed fugitive who betrayed an offer of sanctuary." It went on to quote Grant Wilson as saying his nephew was kind and generous and that his generosity in providing sanctuary had cost him his life.

Mr Wilson wrote a formal complaint to the *Waikato Times* on June 20 to which the editor replied on June 22. However, the editor's letter went astray and Mr Wilson did not receive it. When he received no reply, Mr Wilson wrote another to the editor on July 1, saying he would be taking up the matter with the Press Council. The missing letter no doubt added to Mr Wilson's sense of grievance.

In his complaint to the Press Council, Mr Wilson said the article, which he described as "incredibly irresponsible," had placed his family in danger. "Half of my family won't even speak to me now and one of my nephews is so scared he is moving to Australia, he lives in the same town as this gang and fears for the lives of his one-year-old son and partner."

In his letters both to the editor and the Council, Mr Wilson raised four principal issues:

1) Referring to the June 8 article, he said it was irresponsible to quote road workers as to what had happened at his nephew's house on the grounds that such reporting could not provide a balanced, relevant or informative perspective.

In response the editor said that such reporting was essential to readers. It was a case where police were making little comment. Talking to people who know the deceased is common and accepted practice. In this case, those quoted did not know the deceased but they did add to the substance of the article.

2) Referring to the June 9 article, where an anonymous man is quoted as referring to gunshots and noisy motorcycles being heard on Andre's property, Mr Wilson asked if the man was referring to normal farming activities or mechanical repairs, or talking about senseless and careless acts. If so, why had he not made official complaints to authorities before Andre's death?

The editor said they were reporting concerns expressed by a neighbour about activities on the property and it was right and balanced for the paper to put these concerns in the public domain.

In the context of this story, seeking comment from people not directly associated with a police investigation who might have information, is a standard and well accepted reporting practice. The comments are unremarkable and the newspaper was perfectly entitled to interview somebody it believed might cast light on the situation.

3) The *Waikato Times* had quoted a police officer as saying that while the inquiry proceeded, it would be "foolish" for police to pre-empt a situation without knowing "the true facts." Mr Wilson said that was exactly what the newspaper appeared to be doing.

In his reply of June 22 to Mr Wilson, the editor denied any pre-emption but said journalists did run their own investigations. In this case, because of the lack of police information, information from alternative sources became more important. Again, this is standard journalistic practice on a story of major importance, such as a murder inquiry.

4) The family wanted only a story that provided balance about Andre. Mr Wilson says he believed this was what had been agreed with the editor when he first telephoned and agreement was reached about an interview. As such, he believed other remarks were off the record and, as a result of the story, he and his family had been placed in considerable danger.

Clearly, this is the nub of the complaint. Mr Wilson believed he would be able to put his nephew in another, more positive context through the interview, and that the paper had agreed to publish only his remarks about the positive sides of his nephew and how the family had loved him.

The editor, in his letter to Mr Wilson of June 22, agreed that he had offered Mr Wilson in their telephone conversation before the interview an opportunity to share his side of the story. However, even in such stories, the reporter must find a news angle and the most interesting angle to the paper and readers would no doubt have been Mr Wilson's theories on the murder, the letter said.

In his reply to the Press Council, the editor also agreed that the interview started off-the-record. But even after it went on the record, Mr Wilson kept referring to issues of blame, so much so that the reporter, whom the editor described as exceptionally formal,

warned Mr Wilson that this was likely to be the angle of the story, as it duly became.

The editor also pointed to the reporter's reading back of the story to Mr Wilson before it was published, which is not the paper's policy but encouraged if sensitive issues are involved. Mr Wilson's reaction had not been negative and though the article was edited after that, "the thrust was largely the same as Mr Wilson heard." The introduction was changed but only in the way it was worded, and the subject material was the same. All the information that was in the final version was in the original read to Mr Wilson.

(In a later letter, Mr Wilson asked for a copy of the original version but the editor said it was no longer available.)

In his response to the editor's rebuttal, Mr Wilson argued that if information is off the record and the reporter acknowledges that, then it should be the subject of the interview who decides when it should be on the record, and asked if information considered off the record initially is still off the record when raised during an on-the-record discussion.

The editor, however, believes the reporter took extraordinary steps to define off-the-record and on-the-record. He argued: "When those boundaries are laid out, and an interview subject has been told, then what they say becomes valid material, particularly if it is of public interest."

The Press Council has debated "off-the-record" before, noting how it means different things to different people. In 2003, the council advised ". . . the Press Council suggests that editors counsel their staff as to how their newspaper, magazine or internet site prefers to handle information provided 'off the record'. There is also profit, in the Council's view, in ensuring what their journalists understand the term to mean."

"Does it mean, for example, that what the source says to a journalist is quotable but not in a way that can be tracked back to him or her? Does it mean that what a source says cannot be reported at all? Does it mean that in a face-to-face interview, the reporter must not take notes?"

Mr Wilson says he was of the view that it had been agreed that some of what was eventually reported would not be reported at all. The paper, on the other hand, says it clearly told him what it was going to report, and read it out to him.

There is a factual dispute as to what happened between Mr Wilson and the reporter. Though the Press Council cannot resolve the dispute it appears there might have been a misunderstanding between them. The Council, on the information before it, does not believe the reporter acted in an unethical manner.

In these circumstances, Mr Wilson's complaint cannot be upheld. He had opportunities to object vociferously before publication – when the reporter told him that his comments would be the angle of the story and when the article was read out to him.

In this case, however, presentation – a large headline about a fugitive with no mention of what Mr Wilson wanted prioritised – would have added to his anguish.

The *Waikato Times* should clarify its policies with staff and interview subjects about what "off-the-record" means. As the Council noted inter alia in 2003: "The Council is aware that some publications have a policy that staff will not accept 'off-the-record' or 'background' briefings at all . . ."

"The Press Council's view is that such policy questions are for editors to decide and to share with their staff.

“But the Council suggests that there is benefit in all parties to an interview where a source seeks to go off the record and where the reporter agrees, in the reporter asking him or her what they mean by that term.

“There is then less room for misunderstandings later and, perhaps, less likelihood of a complaint about a newspaper’s conduct becoming the subject of a Press Council complaint.”

The complaint is not upheld.

Tiff at tip – Case 1037

Mr Robin Goulden, a Wellington City Councillor, complained to the Press Council about *The Dominion Post*’s coverage of an incident at Wellington’s Southern Landfill site, on April 4, 2005.

His complaint is not upheld.

On April 5, the newspaper reported that onlookers believed Cr Goulden had acted in a bullying and aggressive manner towards a council employee, after losing his weigh-in docket. Under the headline, “Goulden explodes in anger over lost tip ticket”, two witnesses were quoted. They accused the councillor of “abusive” and “arrogant” behaviour as he “harangued, bullied and intimidated the young lady in the booth”. He was “shaking his finger and fist, aggressively gesticulating” said one of the witnesses.

On April 15, *The Dominion Post* followed with a brief report explaining that the city council would formally investigate the incident, apparently after requests by both Cr Goulden and a council employee. Some of the earlier claims by witnesses were repeated.

On June 3, *The Dominion Post* reported the results of the Wellington City Council Risk Assurance Investigation, dated May 31. The headline stated “Goulden cleared of conduct breach” and accompanied a photograph of Cr Goulden, above the caption “cleared of wrongdoing”.

Unfortunately, here the newspaper’s reporting becomes confusing because the Council’s investigation did not “clear” Cr Goulden. Examination of the surveillance camera tapes had cleared Cr Goulden of the charge that he had gesticulated and waved his fists but the Incident Report also found that he “did not treat the operator with courtesy and respect due staff”.

On June 4, the newspaper published a correction, admitting that their report of the day before was wrong in stating that the investigation had cleared Cr Goulden and that he had been found not to have treated a council employee with courtesy and respect.

Finally, on July 9 the newspaper reported that according to the Mayor, Kerry Prendergast, and Wellington City Council CEO Garry Poole, Cr Goulden had apologised to the council employee and the dispute was now resolved. The newspaper checked with Cr Goulden who confirmed meeting with the worker but denied offering any apology – because in his view, there was “nothing to apologise for”.

A letter from Cr Goulden’s lawyer detailed his complaint to the Press Council regarding *The Dominion Post*’s overall coverage.

In summary, the complaint is that the initial report and three subsequent articles were neither fair nor accurate nor balanced and were “heavily biased against Councillor Goulden”. Further, the reporter had paid “scant attention” to Cr Goulden’s view of the events.

Thus, the complaint traversed several of the Press Council's Principles, especially those concerned with accuracy, fairness and balance; comment and fact; and headlines and captions.

The complaint is not upheld for the following reasons.

The complainant refers to the lead in to the first article – “carloads of people ... couldn't believe their eyes as they watched” – as inflammatory. Yet that was the honestly held view of independent witnesses who seem to have been in separate cars as they watched the incident. There were several other cars at the scene. Another witness from another car, the car immediately behind Cr Goulden at the weigh-in, gave further confirmation of concern at Cr Goulden's behaviour, during the Council's formal investigation.

In addition, the reporter approached Cr Goulden for his view and also quoted his response. Some balance was clearly incorporated into that first report.

Balance was also provided in the second report when Cr Goulden was again approached for comment on developments and quoted. Here, a photograph of Cr Goulden was also used, with the caption “Upset by the swearing”. This helped to emphasise his side of the story.

In the third article (June 3) about the result of the Council investigation, ample space was once again devoted to Cr Goulden's differing view. And in an eleven paragraph article on July 9, four paragraphs conveyed comment by him. The accusation that the paper gave “scant attention to his side” cannot be sustained.

The complainant might perhaps have been more appreciative of the newspaper's error on June 3 in stating that he had been “cleared of any wrongdoing” as a result of the Council Incident Report. Certainly, and importantly no doubt, he was cleared of the suggestion he had acted in a physically threatening manner but equally clearly, the report found that he “did not treat the kiosk operator with the respect and courtesy due to staff members”.

Further, that Incident Report states that “both kiosk operators and two members of the public found Councillor Goulden to be aggressive and abusive, if not with actual words used, in his manner and tone”.

Cr Goulden would have it that *The Dominion Post* was inaccurate in reporting allegations that he was “aggressive and abusive” to a council worker (June 3) but the Press Council is satisfied that the article does not breach the principle of accuracy.

The headline to the first report, “Goulden explodes in anger over lost tip ticket” was emphatic but confirmed by onlookers. In the circumstances it was hardly sensational. It is also worth noting the headlines to the other articles in the sequence i.e. “Council looks at landfill incident”, “Goulden cleared of conduct breach”, and “Goulden tip row seems resolved”. They do not support the complaints about overstating the incident and inflammatory coverage.

Neither does the Press Council uphold the complaint, under the fairness principle, that the reports were given undue prominence. Given that Cr Goulden is a city councillor and that the incident occurred at a council site in front of members of the public, it was clearly a matter of public interest and both relevant and proper for the newspaper to report on the matter.

Finally, the complainant suggests that this is not the first time he has discovered “per-

ceived bias” against himself in this newspaper. These reports do not, in the Press Council’s view, give weight to that suggestion.

The various complaints against *The Dominion Post* are not upheld.

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

The ‘Gaza disengagement farce’ – Case 1038

Wesley Parish complained to the Press Council on September 3 about what he described as “one-sided and bigoted reporting of a major trouble spot in the world” by *The Press*. He claimed eight articles published during August mainly focusing on the anguish of Jewish settlers forced to evacuate from Gaza represented “excessive coverage of one side of a particular conflict”. It should be noted that Mr Parish also acknowledged that two other reports that month had looked at issues from a Palestinian perspective.

The Press Council does not uphold the complaint.

Mr Parish asserted that coverage in *The Press* of what he called the Gaza Disengagement Farce “amounts to bad faith in presenting the news”. He cited Press Council principles relating to accuracy and discrimination. In support of his particular contentions about reporting in *The Press*, he forwarded a telling critique of the failure of Western media to represent the Palestinian and/or Arab viewpoints, by Jennifer Lowenstein.

Two reports from the Palestinian corner as against eight mainly representing Jewish points of view might not appear to be balanced coverage of the Gaza withdrawal. But the issues as to journalistic responsibilities in matters of this kind are not as simple as that. As the editor of *The Press* points out, the newspaper has been covering Middle Eastern events and issues for many years. A survey of reporting during a single month is not a reasonable measure of balance or fairness. Moreover it could be argued that coverage that focuses on the drama of Jewish settlers obliged to leave their homes implicitly acknowledges the other side of the story. Jewish settlers’ pain was Palestinian gain, as the two stories giving a Palestinian perspective made clear. Evacuation of Jewish settlements from Gaza was a major development in the long-running agony of the Palestinian-Israeli conflict. As such it became a global media event. The focus was inevitably going to be on what was most newsworthy and dramatic – uprooting established homes and the intransigence of those proposing to defy the order to leave.

It is understandable that readers with particular interests in particular issues should feel thwarted by reporting which they find fails to do justice to their point of view. The Press Council, in its 2004 Annual Report, noted that many complainants approached “the Council as a sort of court of last resort able to uphold this or that perspective against reporting they see as unfair or unbalanced”. It was pointed out that “newspapers are about news; space and time do not allow weighing of every shred of evidence or the production of an academic treatise. For that readers must resort to a library”.

There is another consideration. New Zealand newspapers are not, on the whole, able to maintain their own sources of reporting major international issues. Resources are severely constrained by the size of the local market. Accordingly they must rely on established overseas agencies for much of their copy. This *The Press* clearly did in publishing

the reports of which Mr Parish complains – as with the two reports supportive of his point of view. As the editor points out, a range of agencies supplied the August reports. The various agencies offer differing perspectives. Certainly in a matter of such complexity, in which opinion is often so bitterly at odds, the aim should be to consider all feasible sources of news and views.

The Lowenstein article claims there is a systemic failure on the part of Western media to take the Arab viewpoint into account. A single New Zealand newspaper cannot be expected to correct any such trend, if indeed it exists, when its own resources for coverage of a major international happening like the Gaza withdrawal are strictly limited. Events in Gaza generated almost feverish international media interest mainly because an Israeli government was implementing a policy deeply unpopular with many Israelis. In the circumstances it is not surprising that in this case the focus of news agency reporting should have been on the impact of this policy on Israelis. *The Press* is not to be faulted for reflecting such interest.

The articles cited by Mr Parish were news reports arising out of a single development in a long and bitter saga and do not, in the opinion of the Press Council, support his contention that *The Press* contravened Principle 1 as to fairness. Such reports, sourced and clearly marked as such from overseas agencies, are not to be equated with editorial opinion. As for Principle 3 relating to discrimination there is nothing to suggest bias or a deliberate slighting of the Palestinian point of view or cause.

The complaint is not upheld.

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

Letter edited but not substantially altered – Case 1039

Stuart Young of Wellington has complained to the Press Council about alterations and omissions made to his Letter to the Editor published on September 17 2005.

The letter sent to *The Dominion Post* for publication had previously been published in its entirety in the *NZ Autocar* magazine, and had been awarded “Letter of the Month”. The writer expressed his concern that people buying cars with ABS brakes need to understand that these brakes operate differently from old braking systems; that buyers of cars with ABS braking systems need to be alerted to the differences; and that drivers practise using the ABS system so that they react properly in an emergency.

The Dominion Post has a policy that letters for publication should not exceed 200 words. This rule and others concerning editing are published at the foot of the Letters to the Editor column each day. The original letter submitted by Mr Young was 293 words, and was edited down to 220 words. The omissions and alterations complained of by Mr Young were as a result of the editing process. However, the Press Council found that the editing had not substantially altered the tone or the main messages of the letter.

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. Letter-writers should find that making their salient points within the 200-word limit reduces the likelihood of their letters being edited.

The complaint is not upheld.

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

Judgement on Body Enhancer public and newsworthy – Case 1040

The directors of Zenith International Limited (“Zenith”) complained to the Press Council about six articles published in the *New Zealand Herald* on April 10, 2004, May 31, 2004, June 24, 2005, June 6, 2005, June 11, 2005 and July 23, 2005 respectively.

Before turning to assess this complaint, the Council records that it declines to adjudicate on Zenith’s complaint in respect of the first two of those articles published on April 10, 2004 and May 31, 2004 respectively. The complaint procedures of the Council stipulate that a complaint must be submitted within three months of the publication of the material in issue.

In relation to the remaining four articles, Zenith contends that the articles were inaccurate and lacked balance, contained gratuitous comment or opinion, displayed a lack of journalistic integrity and contained inflammatory reporting, and that the newspaper failed to exercise sufficient care with two photographs which accompanied three articles.

The Press Council does not uphold Zenith’s complaint.

Before setting out the reasons for this conclusion, it is helpful to set out some contextual background to the articles, which were published by the newspaper and about which Zenith complained.

Zenith was prosecuted by the Commerce Commission on 51 charges (of which 24 pairs were laid in the alternative) under the Fair Trading Act 1989. The judge’s decision was released on June 3, 2005. As best the Council can discern Zenith was found guilty on 26 charges. The articles upon which the Council now adjudicates were all published after the release of the judgement but before the sentencing process on the convictions having been completed.

The Council identifies the dominant focus of each of the four remaining articles complained about was (in chronological order) the Court’s decision; the response of the directors of Zenith to the Court’s decision; a more wide-reaching inquiry into the case with comment from the directors of Zenith and consumers of Zenith’s products as well as further reporting of excerpts from the judgement; and (in the final article) reporting of the sentencing submissions made on behalf of the Commerce Commission to the Court. It is relevant here to also record that on September 2, 2005 the newspaper published an article reporting the sentencing submissions made by defence counsel on behalf of Zenith.

Zenith forwarded a large amount of material to the Council in support of its complaint. Much of that material was not, however, directly relevant to the issues this Council is charged to adjudicate upon.

The material deemed less directly relevant by this Council can best be grouped by identifying it as information that appeared to assert that the judge’s finding was (at best) flawed or (at worst) demonstrably wrong. The editor of the *New Zealand Herald* submitted that Zenith appeared to be trying to use Press Council procedures to “re-litigate” mat-

ters already determined by the Court. Insofar as some aspects of the broad ranging complaint made by Zenith is concerned, the Council agrees with the Editor on this point.

It is axiomatic that it would be quite improper for the Press Council to embark on any fact-finding venture about the accuracy of claims made by Zenith or to make any assessment of the Court's findings. There are legal avenues within which Zenith can choose to exercise those rights of appeal.

The Council now turns to set out its reasons for declining to uphold the complaint. The articles complained about do not, in Council's opinion, offend against the principle requiring accuracy, fairness and balance. Though the Zenith complaint articulated specific examples of alleged inaccuracies, for example, that the price of its product "Body Enhancer" was incorrect and details about its composition were inaccurate, these are not either in themselves, or viewed cumulatively, sufficient for the Council to rule against the newspaper. The "Body Enhancer" product had, over time, changed its formulation as well as its price. The name of the product, however, remained the same. Understandably, there will be difficulties when reporting on products where it might be difficult to ascertain the precise character of them at any particular time. The Council nevertheless reiterates that a newspaper must be vigilant to ensure the accuracy of its articles. However, the Council must also view inaccuracies (where they might be shown to exist) within the context of the overall reportage of the article/story. It is within that context that the performance of the newspaper is to be assessed to determine whether the first principle has been offended against. Looked at in an overall context, the claims of inaccuracy are not such that they go to the heart of the story nor are they such that this Council should properly require the newspaper to correct any inaccuracy.

Insofar as the more general assertion about an overall inaccuracy in the newspaper's reporting, it seems apparent that this allegation arises predominantly from the directors' dissatisfaction with the contents of the Court's judgement. The Council is satisfied that the reporting of the judgement and its aftermath was accurate. It is also satisfied that the reporting, viewed as a whole, was balanced. The directors of Zenith have been given substantial scope for airing their responses and their response was reported in an appropriately timeous manner. It is satisfied that by allowing the dominant focus of the second article published on June 6, 2005 (this being the first issue of the newspaper after the publication of the first article on June 4, 2005) to be Zenith's response, that the newspaper struck an appropriate balance in its reporting of this story. This view is consolidated by the nature of the balanced coverage in the article of June 11, 2005. Though the directors of Zenith also take issue about the lack of balance in that later article, it is pertinent to observe that balance will frequently not equate with a party accepting every aspect of the story or even a dominant part.

The editor claims that this story is one of public interest and that the newspaper had a public duty to draw this decision to the attention of its readers. The directors of Zenith, in turn, assert that the story is being fuelled by competing interests of their company and that without this fuelling, it would not be newsworthy. Again these are not matters that the Press Council needs to consider in its complaint adjudication procedures. The complainants have argued that their case has been over-reported. The Press Council does not endorse this view. This Council frequently, and repeatedly, states that the decision as to what

stories are, or are not, newsworthy is a matter solely for the exercise of the editor's discretion. The Council re-iterates that statement here.

Zenith took exception to descriptions of each of the directors contained in the article published on June 11, 2005. These are necessarily subjective but of a very minor character. Perhaps they add little to the story being reported upon but they are not, however, unethical. The reporting viewed overall does not contain gratuitous comment that offends against the principles of the Press Council.

The newspaper described the directors as having come under "blistering attack" in the District Court judgement and quoted extensively from that judgement, which the newspaper described as "unusually impassioned". These, and other, expressions of opinion are largely founded on the judgement. The Council finds that the newspaper has clearly distinguished between the reporting of facts and the passing of comment and opinion.

The fourth ground of complaint (as best the Council can discern) seems to be founded on an allegation of bias against Zenith. It was asserted that the newspaper's reporting propped up one side of the case to the detriment of the other. The Council observes that the reporting upon which it is adjudicating all post-dates the release of the judgement. To a large extent, the newspaper has derived its story from the contents of that judgement and then sought comment from parties around it. As already noted, the newspaper recognised that the judgement was expressed in strong terms. It is a public document and if the Editor deems it to be newsworthy, then he is entitled to make reference to it.

The Council recognises that the directors of Zenith are aggrieved by much of the judge's decision but as already noted, they have legal avenues within which to address these grievances. The Council expects that if they chose to do so, then the newspaper would continue to consider the story as one of public interest.

The Council turns to address the complaint as it relates to the photographs of the products sold by Zenith. Two separate photographs are complained about.

Zenith contended that the photograph that accompanies the article published on June 4, 2005 is not of the product involved in the proceedings. Subsequently, the newspaper contended that the product pictured is one to which three of the convictions attach. It is not possible for this Council to properly determine this impasse but nor, in the end, does it become necessary to do so. The differences in the packaging between the products are not great. The name, the most discernable feature of the photograph, remained the same and the directors chose subsequently to be photographed with the same product.

The second photograph complained of is the photograph published with the articles of June 6, 2005 and June 11, 2005. Again, Zenith alleges that the products pictured did not form any part of the criminal trial about which the report concentrated. By way of reply, the Editor states that this photograph (which shows both of the directors with some examples of the products sold by their company) was taken with their consent and co-operation and it is evident from the photograph that it is a posed one. The accompanying articles make explicit reference to the formulation of the particular product having changed from that to which the criminal charges refer. For the reasons set out, the Council is not satisfied that the actions of the newspaper breach the principle relating to the use of photographs.

For the sake of completeness, the Council records that Zenith also argued (at least in the first instance) that the publication of the prosecution sentencing submissions ahead of the sentencing hearing amounted to a contempt of court and that this was a justifiable basis of complaint to the Council. The editor said publication of these submissions did not occur before the sentencing hearing but on July 23, following the first day of the sentencing hearing, July 21 (which was then adjourned to a later date).

Zenith has been advised that the Council does not rule on contempt of court, and Zenith has provided written confirmation that it would not be pursuing a contempt of Court action against the newspaper.

The Council has already concluded that the article of July 23, 2005 (which reported the prosecution's sentencing submissions) does not offend against the principles. That reportage must be seen in the context of the newspaper also reporting the defence sentencing submissions when these were later presented to the court. The fact that there was a lengthy adjournment of the court between these two stages of the sentencing process is not a matter over which the newspaper had any control. Having been advised that the reporting did not predate the hearing of the prosecution submissions, and noting that these submissions were given as part of the normal open court process at which any members of the public could, if they chose, be present, the Council does not depart from its earlier conclusion in respect of the July 23, 2005 article.

The complaint is not upheld.

Press Council members considering this complaint were Barry Paterson (Chairman), Lynn Scott, Aroha Puata, Ruth Buddicom, Alan Samson, Denis McLean, Terry Snow, Keith Lees and Clive Lind. John Gardner, of the *New Zealand Herald*, did not take part in the consideration of this complaint.

The trials of living and reporting in a small town – Case 1041

On August 26, 2005, the *Ashburton Guardian* carried a front-page report about a couple who were the victims of a home invasion on October 4, 2004. They had initially refused counselling and in seeking it later had discovered the delay meant they would have to fund it privately. The report carried a brief account of the incident and one paragraph recorded that Dayle Julian Barker had been sentenced to six years' imprisonment in July 2005 on what was described as "a raft of charges" in connection with the incident.

Mr Graham Barker, father of Dayle Barker, has complained about the publication of the details of the incident. The complaint is not upheld.

Immediately after publication, Mr Barker contacted the newspaper and spoke to managing director Bruce Bell. The burden of his complaint was that it was unnecessary to give details of his son's conviction and sentence. Mr Barker also complained the account of the events of October 4, provided by the mother of one of the victims, was inaccurate. He objected to the use of the term "raft of charges" when there were actually four.

On September 1 Mr Barker spoke to Mr Bell again, repeating his complaints and seeking an apology. On the same day he relayed the complaints to the editor, Grant Shimmin. The next day, at the request of Mr Shimmin, Mr Barker provided some extracts of police statements referring to the case.

On September 7 Mr Shimmin wrote to Mr Barker saying the newspaper would not carry an apology as it believed there were no grounds for making one. The report was primarily about the plight of the victims and there had been no obligation to approach the Barker family. The extracts from the police statements presented by Mr Barker were selective. Mr Shimmin suggested Mr Barker had the option of submitting a readers' letter for consideration or pursuing the matter with the Press Council. Mr Barker lodged a complaint with the Council on October 5.

As Mr Barker senior was not the subject of the report he was asked to obtain the consent of his son for the pursuit of the complaint and this was received by the Council on October 21.

Mr Shimmin's response was received on October 17. He repeated that the subject of the story was the continuing difficulties of the victims. Any inaccuracies appeared to be minor and there was no suggestion that substance of the particular paragraph referring to Mr Barker – that he had been responsible for the home invasion and had been jailed – was incorrect.

In a lengthy reply Mr Barker responded to Mr Shimmin, continuing to state that he believed the newspaper had had an obligation to contact the Barker family. He said the substance of the article was based on hearsay. He no longer sought an apology (and the Council had pointed out that the proceedings could result in further publicity about his son) but wished the journalistic standards of the *Guardian* to be condemned.

The burden of his complaint is that Ashburton is a small town where many people know each other. "We did nothing wrong. We are the ones left and have to keep smiling while the *Guardian* is happy to open old wounds."

In his final response to the Council of December 6 Mr Shimmin said it was his understanding that Mr Barker did not want his son's actions publicised again and the sweeping nature of the apology Mr Barker sought was unacceptable to the newspaper. Mr Shimmin said he had always been willing to correct any inaccuracies, provided the specific details could be provided. Mr Barker's partial provision of statements did not make this possible.

Mr Barker's complaint is not upheld. The sourcing of the story to the victim's mother is reasonable given that the substance of the article was the plight of the victims. Mr Shimmin's suggestion in his letter to the Council of December 6 that the mother would have been given a detailed and immediate account is credible.

Mr Barker failed to identify to the *Guardian* any substantial errors in its report and the Council has no evidence before it of any such major errors. The one-paragraph recapitulation of the verdict and sentence is not challenged and is a necessary part of the report to explain the outcome of the incident to the reader. It is not elaborated upon and there are no references to Mr Barker's family. Whether four charges is "a raft" is a matter of opinion.

Mr Barker's suggestion that the apology take the form "we apologise to the Barker family for the unbalanced and one-sided story which differs from the true facts" is one that, given the circumstances, would be unacceptable to any editor and could, in fact, have left him liable to complaints from the subjects of the report.

It is clear the *Guardian* took Mr Barker's complaints seriously and devoted considerable attention to them. But the decision not to apologise was justifiable. Newspapers serv-

ing small communities do have the obligation to consider the impact of publicity but the argument that the *Guardian* has acted irresponsibly cannot be sustained.

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

Christianity and the General Election – Case 1042

Christian Heritage New Zealand, through its secretary, David Simpkin, complained to the New Zealand Press Council on October 14, 2005, of four articles that appeared in the *New Zealand Herald* between September 1-15, 2005, the height of the election campaign when newspapers can expect to come under criticism for failing to provide the right balance as politicians punch and counter-punch.

The complaint is not upheld but it provides an example of the sensitivities of small political parties at election time and raises the old question of when a newspaper, in the middle of a flurry of political, often extravagant rhetoric, should realise an obligation to seek another view.

The first article complained of was a September 1 column by Garth George headed *Independent Idealists in Parliament . . . if Only*. Mr George made it clear, although he was by no means unkind to the Christian philosophy, that he was holding to his long-held view that he had no time for Christian political parties, and mentioned Christian Heritage and the Destiny parties as examples. The reference was a small part of the column.

The second article was a *New Zealand Herald* editorial of September 9 headed *Clumsiness Not Exclusive to Brethren*. The editorial was mostly a criticism of Exclusive Brethren church members who had been exposed as being behind pamphlets attacking the Greens and Labour. The editorial noted at one point – well through the editorial – how parties allied closely to religion had won little electoral support in New Zealand. It mentioned its own poll showing Destiny and Christian Heritage had little backing, which suggested this was not about to change.

The third was published on September 12. It was an opinion piece by John Hinchcliff, an Auckland city councillor and chaplain at Auckland University, which did not mention Christian Heritage by name. Professing himself to be Christian, John Hinchcliff wrote critically mainly about the linking of fundamentalism, mainly Christian, and political ideologies.

The fourth was another Garth George column of September 15 headed *Why This Voter is Returning to his Roots*, that is, National. He did not mention Christian Heritage by name but well through his column mentioned that he believed the two Christian parties “will register barely a blip on the count of votes, and I pray that they will both dissolve themselves and that their members will go back to their churches and preach the gospel of Jesus Christ, by which they might do some good”. This mention was far from the dominant theme of the column.

The fortnight before the election on September 17 was, of course, a critical time for both newspapers and political parties. The *Herald* was publishing an enormous amount of information for voters.

Much of the complaint refers to the first opinion piece by Garth George. Mr Simpkin says CHNZ leader Ewen McQueen sent a letter of rebuttal of Mr George's views to the *Herald* for publication. It was not published. Mr Simpkin wrote to the council: "When contacted about this we were told it was not the *Herald's* policy to have letters to the editor published by politicians during the election campaign."

This policy is perhaps understandable. During a political campaign, there might be little space left for other letter writers if politicians were allowed a free rein and newspapers would run into interminable criticism if they were to select one politician over another.

Instead, the letters editor, according to Mr Simpkin, suggested an opinion piece, which was duly written. That too was not published. When contacted, the opinion page editor, according to Mr Simpkin, said the article would not be published, and suggested a letter which, of course, had already been refused.

Both the article and letter referred only to the initial Garth George column.

In his submission to the Council, Mr Simpkin says, among other things, Christian Heritage is not claiming the *Herald* was obliged to give the party more election coverage but, having raised criticisms of the party on four occasions, it was bound to offer a right of reply before the September 17 election. The *Herald* had therefore breached the council's principles of accuracy, fairness and balance and had deliberately misled and misinformed readers in refusing the party a right of reply.

As for letters to the editor, Mr Simpkin noted the council's principle 12: "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."

In his view, the *Herald* had breached principle 12 by declining to publish the letter and/or opinion piece and by publishing the four articles, it had deliberately misled or misinformed readers by suggesting there was no "other side" to the assertion that the public should not vote for Christian political parties.

In response, the *Herald's* deputy editor, David Hastings, denied that each of the articles was aimed at Christian Heritage with the intention of discouraging people to vote for the party and its candidates.

He pointed out the party had been mentioned in passing in three of the four opinion pieces, each time predicting it was unlikely to achieve much electoral success. The party's letter and article had been considered for publication but, as the party had been informed, chances of selection were slim.

The *Herald*, Mr Hastings said, rarely published direct responses to opinion pieces and, "for obvious reasons, are particularly disinclined to do so from representatives of political parties during an election campaign".

The four articles of which the Christian Heritage complains were a small part of the *Herald's* overall coverage, which was considerable. All four were matters of opinion. Clearly, they caused some disquiet with the Christian Heritage party.

On balance, however, the Press Council does not believe the *Herald* breached its obligations over accuracy, fairness and balance or that, in refusing to give the party a right of reply over three small references to the party in four opinion pieces, it had deliberately misled or misinformed readers. It was also within the boundaries of its responsibilities to

decline both the offered letter and opinion piece.

Had there been a direct attack on the party, its policies or particularly politicians standing for the party, it may have been a different matter. In this case, however, the references were passing and, given the political climate at the time after the newspaper's poll and the relevance of the Exclusive Brethren story, the mention of Christian Heritage in opinion pieces is neither surprising nor remarkable.

The lapse in communication between the letters editor and the opinion page editor, though perhaps understandable, is to be regretted because it no doubt added to Mr Simpkin's frustrations.

The Council is not sure if the Herald had informed political parties of its policy on politicians' letters and submitted articles at the height of an election campaign, but it would be helpful if all newspaper editors, at the start of election campaigns, made their letter-writing and op-ed rules for correspondents and political aspirants crystal clear.

The complaint is not upheld.

Press Council members considering this complaint were Barry Paterson (Chairman), Lynn Scott, Aroha Puata, Ruth Buddicom, Alan Samson, Denis McLean, Terry Snow, Keith Lees, Clive Lind and Murray Williams. John Gardner, of the *New Zealand Herald*, did not take part in the consideration of this complaint.

Factually incorrect editorial – Case 1043

Introduction

The principal of Tokoroa High School, Elgin Edwards, complains that an editorial in the *Waikato Times* on July 21, 2005 lacked balance and was factually incorrect. The complaint is partially upheld.

Background

Under a heading "Tough Times at Tokoroa High", the editor began by saying "There will be some anxious parents in Tokoroa justifiably questioning the standard of their children's education." The editorial dealt largely with a recently released report of the Education Review Office ("the Report").

There are three parts to the complaint: First, Mr Edwards takes exception to the comment that:

"The Education Review Office has just released its latest report on Tokoroa High School which reveals the school is failing even at the most basic levels of maths and reading."

The second point was, in fact, a criticism of Mr Edwards himself when the editor said: "It is clear from the report the school has been largely dysfunctional and the management problems of the past year have affected student learning. For this principal, Elgin Edwards, must shoulder a large share of the blame."

The final point was that in the last paragraph of the editorial it was stated:

"Mr Edwards has a tough job convincing the school community he is the right man for the job. His refusal to speak publicly about the school's difficulties makes it difficult to assess his commitment. It is to be hoped he is communicating openly with parents and the wider community – a generation is depending on him."

The Basis of the Complaint

In respect of the allegation that “the school is failing even at the most basic levels of maths and reading”, it was submitted that this was, in effect, not correct. The overall NCEA results were above those of many schools of a similar decile.

Secondly, Mr Edwards pointed out that the Report nowhere stated that he “must shoulder a large share of the blame”. He said the statement made by the editor was simply incorrect. Mr Edwards thought that the manner in which the editor attacked him was unfair and unbalanced.

Lastly, Mr Edwards said that he was under a clear instruction not to talk with the media or make public statements to the school community. The *Waikato Times* knew this. In these circumstances, the statement that it was difficult to assess his commitment was unfair and unjust in that the editor based it on “his refusal to speak publicly”.

The Newspaper’s Response

The editor suggested that Mr Edwards was unaware of the role of a newspaper editorial. That role was to give an opinion on an issue and the editorial in this case was the honestly held opinion of the paper and therefore the editor.

It was the opinion of the editor based on the Report that the school had failed even at the most basic levels of maths and reading. The editor acknowledged that the Report does contain statements on areas of good performance and areas of improvement.

In respect of the comment suggesting that Mr Edwards must shoulder a large share of the blame, the editor acknowledged that though the report did not say this specifically, it was the paper’s opinion based on what the report said, plus the problems that have come to light over months of stories on the school, that this was the case. In the editor’s words “It would be highly unusual in most organisations if the top man did not take a large share of the blame for any dysfunction on display”.

In respect of the comment that Mr Edwards refused to speak publicly, the Editor also stated that this was the honestly held opinion of the paper. The Editor said: “by his own admission, he has refused to speak out, and the fact that it is the Commissioner who has muzzled him is for him and his employer to sort out.”

It is relevant in respect of this point that in a letter to Mr Edwards dated September 2, 2005, the editor said: “For the record, we rang your office on the day the report was released, and were told you were on holiday, and that you had a media ban on you anyway. [The education reporter] who you have spoken to at least once, also tried another time and was told you weren’t allowed to speak. Other reporters over the past year have also been told the same thing – which I think proves how seriously we have tried to talk to you ...”

Conclusion

An editorial is an opinion piece. It is the “column” where the newspaper, invariably directed by the editor, expresses its views on matters of public importance. This Council has always upheld an editor’s right to express his or her opinions, notwithstanding that they may be strongly worded. Freedom of the press in this respect is an underlying principle of democracy. However, as this Council noted in Case No. 887 (2002) “opinion may be freely expressed in the editorial column but any information given as fact should be accurate”.

The allegation that the school was “failing, even at the most basic levels of maths and

reading” is not a specific quote from the Report. The Report noted the difficulty in appointing good quality staff and that in some areas the students were enrolled in the Correspondence School for their English courses and other courses were also taught through correspondence. There is no comment in the Report on any failure of maths. The editor, in the Council’s view, could not have formed the view from the Report that there was a “failing even at the most basic levels of maths and reading”. The statements suggest that this was a reasonable inference from the Report itself. It was not and as such this part of the complaint is upheld.

In the Council’s view, the opinion that Mr Edwards must shoulder a large share of the blame, was an opinion based on facts. The Report, although containing some positive statements, was in the main critical of the school. It noted that the school was “having difficulty providing a satisfactory education for its students, particularly those in Years 9 and 10; Curriculum leadership and curriculum management was of a low quality; effective quality assurance systems were lacking at all levels” and there were several other criticisms. This part of the complaint is not upheld.

The Council is also prepared to uphold the complaint relating to the statement that Mr Edwards’ commitment is difficult to assess because of his refusal to speak publicly. It is apparent from the quotations above from the letter of September 2, 2005 that the newspaper and several people in it knew that Mr Edwards was not allowed to speak publicly. Thus, to infer that Mr Edwards’ commitment is difficult to assess because of something he was not allowed to do is both misleading and inaccurate.

The practice of the newspaper in seeking comment from Mr Edwards in the circumstances is questionable. The reporters knew that a Commissioner was in charge of the School and the principal had been asked not to speak to the media. In such circumstances, questions in respect of the Report should have been addressed to the Commissioner and not to the principal.

Finding

The Council upholds the complaint in respect of Mr Edwards’ first and third complaints, namely that the editorial was both inaccurate and misleading when it stated that the Report revealed a failing even at the most basic levels of maths and reading, and also when it stated that Mr Edwards had refused to speak publicly and as such it was difficult to assess his commitment.

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

11th hour editorial creates storm – Cases 1044 and 1045

Introduction

Ian Findlay and Tony Smith, in separate complaints, complained that an editorial published in *Hawke’s Bay Today* on Friday September 16, was not fair or balanced, and sought to mislead readers because it was clearly identified as an editorial and was timed to deny readers a right of reply. Four other complaints were received but have not been pursued. The complaints are not upheld.

Background

The single column item that prompted the complaints was headed “Why this Govt should go”. Although the paper began by-lining editorials a year ago the piece in question ran on the front page under a small “We say” banner the day before the election.

The Basis of the Complaints

Both complainants said the editorial was timed to deny public feedback because no letters in response could be published on election day. They said this failed to meet the requirements of the first of the council’s 13 Principles by making no attempt to be fair or balanced.

Mr Smith acknowledged Principle No. 7 gave editors a right to take a forthright stance and advocate a position, but said that did not over-ride their obligations in regard to fairness and balance.

He said the banner, and the position of the item, did not make it clear it was an editorial, and in a September 19 letter to the Press Council, he said this breached the principle that readers should not be misled or misinformed by commission or omission.

In a letter to the editor on September 18 – he said the editorial’s language was “overwhelmingly emotional”, transparently urging readers to vote National and making no attempt to analyse Labour’s performance or give any rationale for its “vitriolic attacks”.

Mr Smith, who said he was an undecided voter and objected to the editor’s assumption that he was a Labour Party supporter, also suggested the timing was intended to prevent “a subsequent retraction enforced by the Press Council”.

The Newspaper’s Response

The editor told the complainants and the Council he knew of no rule requiring editorial comment to be fair or balanced, or for a requirement to take both sides, even when considering a complex issue.

Most of the points had been aired in previous editorials and the bewilderment about the status of the opinion piece as an editorial had “largely been disingenuous”.

However, to rule out the possibility of ambiguity, future “We say” front-page editorials would be labelled as such.

The editor said the paper supported no political party and had taken a deep breath and courted unpopularity out of “passionate, rational frustration with government policies”.

He said he reserved the right to invoke a convention that committed the paper to a point of view and decided run the editorial on September 16 because his “politically uncompromising stand” was so unusual other news media would have picked it up had it run earlier.

The complaints directly challenged the principle of freedom of speech and the editor said if they succeeded that would effectively impose restrictions on what might be said, where and when it could be said, and on who was entitled to say it.

Conclusion

Mr Findlay said his complaint had nothing to do with freedom of the press and would not have been made if the editorial had been published earlier and on the leader page.

And Mr Smith said the key point of his complaint was that the obligations of the first of the 13 principles were not totally over-ridden by the rights protected by the seventh.

He said it was clear the editor disagreed and he sought a ruling on the point.

Finding

The Press Council has always said freedom of speech – and the right to adopt a forthright stance and advocate a position are matters on which editors can stand, or fall, which is why previous complaints about the content of editorials have not been upheld, unless they contain factual errors, or mislead or misinform.

Although the complainants said the timing and placement and the “We say” heading did mislead and misinform, the Council considered most readers would know that what followed was an editorial.

The editor is entitled to advance his point of view when he chooses — for example, it is not uncommon for newspapers in countries like England to do so just before an election.

Nevertheless, the timing invited the sceptical response it received from some readers and that scepticism was likely to have been heightened by the explanation for deciding to publish on the Friday.

Instead of saying it was up to him to decide when and where editorials were published, the editor said he had left it till the last day to avoid attracting attention, and the risk of being seen as “darling by National Party supporters”.

By deciding not to allow an opportunity for response, and by responding in a sometimes intemperate manner to the complainants, the editor is also entitled to run the risk of alienating or losing readers, as well as being seen as something he says he is not.

For the reasons given above, the complaints are not upheld.

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

Unison and the Commerce Commission – Case 1046

Philip Ward complained against *Hawke’s Bay Today*, on the basis that the newspaper had not effectively covered the consequences of a Commerce Commission decision to take proceedings to declare control over the Hawke’s Bay-based power lines company Unison, which it accused of over-charging. The complaints are not upheld.

Background

Unison is 100 per cent owned by the Hawke’s Bay Power Consumers’ Trust on behalf of consumers connected to the company’s network in Hawke’s Bay.

In the wake of the Commerce Commission’s announcement, Mr Ward sought a meeting with the editor of *Hawke’s Bay Today* to “solicit the support” of the newspaper “to help me gather support to oppose the Commerce Commission”. He maintained that the Commission’s actions had reduced the value of Unison, which would impact on the dividend payable to the community and on the capacity of the company to undertake necessary improvements. The editor replied that the newspaper was not in a position to support his cause, but would report it. Exchanges between Mr Ward and the editor then deteriorated.

Basis of Complaint

Mr Ward contended that the newspaper in its coverage of the issues arising from the

Commission's decision, failed to show fairness and balance, did not make sufficient distinction between comment and fact, and published headlines that did not properly convey the substance of the report; the Council is also asked to determine whether his letter to the editor on the issues was treated with fairness and balance.

The Newspaper's Response

Mr Ward compiled a dossier of relevant articles and letters and the exchange of e-mails and correspondence between himself and the editor. An examination of this material does not support the allegation of a lack of fairness and balance. The matter of Unison v. the Commerce Commission is a developing story. The company applied for a judicial review of the Commerce Commission's actions; in his letter to the Press Council of December 2 the editor of *Hawke's Bay Today* advised that the High Court had "just this week cleared the way for the Commission to impose price controls on Unison". In other words the implications of the move against the company were, at the time the complaint was submitted, unclear. Whether or not the story has been adequately covered could not accordingly be assessed.

Hawke's Bay Today reported on the original announcement and its immediate significance on September 12. This was followed by an extensive article on October 14 in which Ewing Robertson, a former chairman of the Power Consumers' Trust, was given free rein to offer trenchant criticism of recent operations. The present trustees and Unison's directors have, he claimed, "broken the law by hiking line charges, and mucked up what was once a functionally and financially sound enterprise". This was followed on October 18 by a statement of the company's point of view, signed by the chairman and chief executive of Unison, under the headline "Unison hasn't broken laws". Ann Dixon, member of the Power Consumers' Trust, was given an opportunity in a letter to the editor published on October 25, to rebut some of Mr Robertson's points. Mr Robertson, in turn was then given space for two more letters taking issue with arguments advanced respectively on behalf of Unison and the trust. Finally the chairman of the trust was reported on November 4 in response to Mr Robertson's criticisms of Unison's sponsorships programme.

It appears – although this is far from clear – that the burden of Mr Ward's complaint is that the newspaper, through this coverage, failed to promote effective debate on behalf of consumers who are beneficiaries of the Trust. As a result few members of the public made submissions to the Commerce Commission during the hearing process in the wake of the announcement of intention to declare control over prices. Mr Ward suggested, *inter alia*, that the newspaper had an interest in promoting the views of a single critic (Mr Robertson) of the ways Unison and the Power Consumers' Trust were being run, and, by extension, of failing to be more supportive of the wider community interest.

Conclusion

The newspaper did give prominence to the views of a stern critic of present operations at Unison and the Consumers Trust. That is not objectionable – especially in relation to a public utility and when the critic knows the business. The editor of a newspaper with a strong local base such as *Hawke's Bay Today* has a responsibility to dig after the issues in pursuit of a community story of this kind. Balance was provided by printing the signed statement of the chairman and chief executive of Unison and the letter from Ann Dixon a

member of the Consumers' Trust plus a statement from the chairman of the trust responding to criticism of Unison's role as a sponsor of local events and facilities. The Council, accordingly does not find that the newspaper transgressed on grounds of fairness or balance.

On the other elements in Mr Ward's complaint, the Council was unable to find any confusion of fact with comment and reiterates its position that it is the prerogative of editors to handle the Letters to the Editor section in their own way; abridgement of Mr Ward's letter in the edition of November 3 was not inappropriate in the circumstances.. Nor could the Council take issue with the newspaper over the headlines employed.

The complaint accordingly is not upheld.

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

Decisions 2005

<i>Complaint name</i>	<i>Newspaper</i>	<i>Adjudication</i>	<i>Publication</i>	<i>Case No</i>
Lorraine Adams	<i>Oamaru Mail</i>	Not Upheld	17.02.05	1006
Jim Pringle	<i>Bay of Plenty Times</i>	Not Upheld	17.02.05	1007
John Watson	<i>Kapi-Mana News</i>	Not Upheld	17.02.05	1008
Steve Blakemore	<i>Wairarapa Times-Age</i>	Not Upheld	17.02.05	1009
Catholic Diocese of Waikato	<i>Waikato Times</i>	Part Upheld	6.04.05	1010
John Clements	<i>Rodney Times</i>	Not Upheld	31.03.05	1011
Independent Women's Refuges	<i>Herald on Sunday</i>	Not Upheld	3.04.05	1012
Eion Walker	<i>Wanganui Chronicle</i>	Upheld	10.05.05	1013
Martin Rothman	<i>Wanganui Chronicle</i>	Upheld	10.05.05	1014
Bill Stirling	<i>Horowhenua-Kapiti Chronicle</i>	Not Upheld	10.05.05	1015
Tahu Taia	<i>Opotiki News</i>	Not Upheld	10.05.05	1016
Julie Webb-Pullman	<i>New Zealand Herald</i>	Not Upheld	10.05.05	1017
Complainant	<i>Queenstown Mirror</i>	Not Upheld	1.07.05	1018
Barbara Sumner Burstyn & Ron Law	<i>Hawke's Bay Today</i>	Not Upheld	1.07.05	1019
Department of Labour	<i>Ashburton Guardian</i>	Upheld	1.07.05	1020
Gary Osborne	<i>The Aucklander</i>	Not Upheld	1.07.05	1021
Michael Thomas	<i>New Zealand Herald</i>	Not Upheld	1.07.05	1022
Carol Webb	<i>Wanganui Chronicle</i>	Not Upheld	1.07.05	1023
Tom Reardon	<i>New Zealand Herald</i>	Not Upheld	1.04.05	1024
Awatapu College	<i>Manawatu Standard</i>	Part Upheld	16.08.05	1025
K R Bolton	<i>Sunday Star-Times</i>	Not Upheld	16.08.05	1026
David Bosley	<i>Hawke's Bay Today</i>	Part Upheld	16.08.05	1027
Annette Conroy	<i>New Zealand Herald</i>	Not Upheld	16.08.05	1028
Fitness New Zealand	<i>The Dominion Post</i>	Not Upheld	16.08.05	1029
Jane Shaw	<i>The Dominion Post</i>	Not Upheld	16.08.05	1030
Derek Williams	<i>Hawke's Bay Today</i>	Not Upheld	16.08.05	1031
Environment Southland	<i>Invercargill This Week</i>	Upheld	10.10.05	1032
Madeline McGilvray	<i>Southland Times</i>	Not Upheld	10.10.05	1033
Jay Reid	<i>Dannevirke News</i>	Not Upheld	10.10.05	1034
Arapeta Tahana	<i>The Daily Post</i>	Not Upheld	10.10.05	1035
Grant Wilson	<i>Waikato Times</i>	Not Upheld	10.10.05	1036
Rob Goulden	<i>The Dominion Post</i>	Not Upheld	14.11.05	1037
Wesley Parish	<i>The Press</i>	Not Upheld	14.11.05	1038
Stuart Young	<i>The Dominion Post</i>	Not Upheld	14.11.05	1039
Zenith Corporation	<i>New Zealand Herald</i>	Not Upheld	17.11.05	1040
Graham Barker	<i>Ashburton Guardian</i>	Not Upheld	29.12.05	1041
Christian Heritage NZ	<i>New Zealand Herald</i>	Not Upheld	29.12.05	1042
Elgin Edwards	<i>Waikato Times</i>	Part Upheld	29.12.05	1043
Ian Findlay	<i>Hawke's Bay Today</i>	Not Upheld	29.12.05	1044
Tony Smith	<i>Hawke's Bay Today</i>	Not Upheld	29.12.05	1045
Philip Ward	<i>Hawke's Bay Today</i>	Not Upheld	29.12.05	1046

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 enquiries 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 2005 (Audited)

<i>2004</i>		<i>2005</i>
	INCOME	
2,700	Union	2,700
140,000	NPA Contribution	140,000
5,000	NZ Community Newspapers	5,000
8,500	Magazine Contribution	8,500
968	Interest Received	1,299
-	Loss on Sale of Asset	-
157,168	Total Income	157,499
	EXPENDITURE	
436	Acc Levy	353
533	Accounting Fees	583
303	Advertising and Promotion	309
680	Auditor	680
38	Bank Charges	11
-	Chairman's Expenses	1,123
471	Cleaning	481
1,200	Computer Expenses	2,200
2,024	Depreciation	1,642
2,033	General Expenses & Subscriptions	4,416
2,375	Insurance	2,375
775	Internet Expenses	689
1,500	Legal Expenses	1,130
-	Motor Vehicle Allowance	388
2,013	Postage and Couriers	1,707
1,576	Power and Telephone	1,835
7,725	Printing and Stationery	8,176
6,462	Reception	6,222
18,155	Rent and Rates	18,344
90,902	Salaries - Board Fees	112,659
15,661	Travel and Accommodation	11,906
-	Interest - Term Loan	-
154,862	Total Expenses	177,229
2,306	Income over Expenditure	(19,730)
35,251	Plus Equity at beginning of year	37,540
(17)	Prior Period Adjustment	586
37,540	Equity as at end of year	18,396

Statement of financial position

As at 31 December 2005 (Audited)

<i>2004</i>		<i>2005</i>
	Represented by:	
	ASSETS	
7,175	BNZ Current Account	5,907
24,886	BNZ Call Account	7,888
-	Accruals and Receivables	-
634	Computer hardware (less depreciation)	329
10,871	Fit out (less depreciation)	9,534
-	Taxation	95
43,566	Total Assets	23,753
	LESS LIABILITIES	
586	Creditors and Provisions	3,210
5,440	GST	2,147
-	PAYE Payable	-
6,026	Total Liabilities	5,357
	EQUITY	
35,233	Accumulated Funds	38,126
2306	Income over Expenditure	-19730
37,539	Total	18,396

Auditor's report

cornish
and associates ltd

accountants and business advisers

4 April 2006

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 2005 (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 2005 Financial Statements.
- The accounts comply with the generally accepted accounting practice, and give a true and fair view of the financial position as at 31 December 2005 and financial performance and cashflows for the year ended on this date of the organisation.

Our review was completed on 4th April 2005 and our unqualified opinion is expressed at this date.

CORNISH & ASSOCIATES LTD.



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