NEW ZEALAND PRESS COUNCIL

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Ruth Buddicom	Barrister, Christchurch (from September)
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Representing the NZ Engineering, Printing and Manufacturing Union (Media Division)

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NEW ZEALAND
PRESS COUNCIL

Table of Contents

Chairman's Foreword

THE HUTTON INQUIRY

The central issue of the Foreword is the manner in which some of the media in the United Kingdom handled its news gathering on an issue of huge public importance and how, in effect, the news gatherers became the news itself. The Hutton Inquiry report seems unlikely to have a material influence on New Zealand journalism. However, the potential chilling effect of this legalised inquiry in the United Kingdom should be countered by greater support for freedom of expression.

The terrorist attack of 9/11 on the World Trade Center, New York, and other targets on the United States mainland, which claimed about 3000 lives, including those of some New Zealanders, was a major world event. If measured in terms of human pain during the preceding century there had been many events causing greater suffering to human kind than 9/11. However, what set this event apart was the suddenness and uniqueness of the

The New Zealand Press Council 2003: *Back row: Denis McLean (Wellington), Sandra Goodchild (Dunedin), Suzanne Carty (Wellington), Terry Snow (Auckland). Middle row: Stuart Johnston (Lower Hutt), Ruth Buddicom (Christchurch), Mary Major (Secretary), Alan Samson (Wellington). Front row: Richard Ridout (Christchurch), Sir John Jeffries (Chairman, Wellington), Jim Eagles (Auckland). Absent Lucy Bennett (Wellington). Sir John Jeffries, formerly a judge of the High Court, is the independent chairman and is a public representative. Other members representing the public are Mrs Goodchild, Ms Buddicom, Messrs McLean Johnston and Ridout. Ms Carty and Mr Eagles represent the Newspaper Publishers Association and Mr Snow represents magazines on the council. Miss Bennett and Mr Samson are the appointees of the Media Division of the New Zealand Engineering, Printing and Manufacturing Union.*

terrorist attack that literally stunned the world. The perpetrators of the attack had deliberately chosen the heart of the capitalist /Western world.

Immediately following 9/11 most of the world held its breath waiting for the response of the United States. Very early the United Kingdom aligned itself with the United States. Afghanistan was invaded for the purpose of overthrowing the Taleban regime and capturing Osama bin Laden and the leaders of al Qaeda, who were almost certainly the responsible for the 9/11 attack. Many leaders of al Qaeda have been captured but to this day Osama bin Laden has not.

Late in 2002 the search for weapons of mass destruction in Iraq was resumed after four years led by the United Nations chief inspector of weapons, Dr Hans Blix. The coalition eagerly awaited his reports, supplied at intervals, and although President Saddam Hussein and the Iraqi regime were said to be co-operating no weapons were found. This was a very frustrating time for the coalition, which then appeared bent on invasion of Iraq.

During 2002 the United Kingdom Government had under preparation a major document (dossier) to be used by the Government in convincing the public of the dangers posed by the Hussein regime and the necessity for its overthrow. The dossier was prepared and drafted by a small team of the assessment staff of the Joint Intelligence Committee. From January 2002 the focus of the United States administration was on Iraq.

Dr David Kelly was a very respected British scientist who had for many years been engaged as an inspector in Iraq in the field of weapons of mass destruction. His employer was the Ministry of Defence and it was to that Department he was accountable. In 1996 for his work in this field he was appointed a CMG. Dr. Kelly was widely regarded as an expert in the field of WMD and as a reliable source of information.

On July 17, 2003 near to his home in Oxfordshire Dr Kelly committed suicide. This was the finding of Lord Hutton. The event occurred about seven weeks from the date of a BBC broadcast (to be described) at a time when Dr Kelly was making preparations to return to Baghdad to continue his work on WMD.

The reaction of the government was to establish an Inquiry to be conducted by Lord Hutton, a former law lord. The narrowly drawn terms of reference were to inquire into the circumstances surrounding the death of Dr Kelly.

Lord Hutton delivered the report to the Rt Hon Lord Falconer, the Secretary of State for Constitutional Affairs, on January 28, 2004, and at the same time Lord Hutton made a public statement concerning his report.

A highly abridged account of the facts that led to the appointment by Government of an Inquiry is necessary.

When the Prime Minister, Mr Tony Blair, released the final dossier on September 24, 2002 it included the claim that the Iraqi military was able to deploy chemical and biological weapons within 45 minutes of an order to do so. The dossier was one presented to, and read by, Parliament and the public and was not an intelligence assessment to be considered only by the Government.

Needless to say the dossier caused great alarm and naturally concentrated the attention of the media. In terms of dramatic revelation it could hardly be more riveting, and obviously alarming, remembering the attack on the US of 9/11. It seems the media then regarded it as a challenge to discover the truth, or otherwise, of the statement.

Dr Kelly had been a formal, and now, it appears, an informal source for the media.

These arrangements continued after September 2002 and could fairly be said to have contributed to the parlous position in which he found himself in May 2003.

On May 22, 2003 at the Charing Cross Hotel in London Dr Kelly met in the afternoon Andrew Gilligan, a defence and diplomatic correspondent for the BBC's Radio 4 *Today* programme. Mr Gilligan knew that Dr Kelly was familiar with the detail of the dossier containing the warning of "45 minutes from attack", (the headline of the *Evening Standard* on September 24, 2002) and that it had been in the dossier presented to the House of Commons by Mr Blair that day. It was not disputed that this meeting was unauthorised.

The May 22, 2003 meeting between Gilligan and Kelly, was the principal source (although Kelly was not convinced he was the sole source of information) for the broadcast made by Gilligan at 6.07am on May 29, 2003 on the *Today* programme. Much of what Mr Gilligan said in the live broadcast from his home was unscripted. The essence of that broadcast (hosted by John Humphreys) is contained in the following extract:

> "And what we've been told by one of the senior officials in charge of drawing up that dossier was that, actually, the government probably, erm, knew that the 45-minute figure was wrong, even before it decided to put it in. What this person says is that a week before the publication date of the dossier, it was actually rather, erm, a bland production…. [D]owning Street, our source says, ordered a week before publication, ordered it to be sexed up, to be made more exciting, and ordered more facts to be, er, to be discovered."

As already alluded to, these revelations caused a media furore attacking as they do the integrity of the Government. Alistair Campbell, the controversial director of communications to the Prime Minister, issued strident denials of the allegations and a call to the BBC to withdraw those allegations and apologise. He regarded himself as personally traduced. The Government complained to the BBC about the broadcast and the manner of handling of the complaint by the BBC became an issue in the inquiry but need not be detailed here. Dr Kelly was publicly confirmed as the source used on July 9, 2003.

After public indentification, there followed two appearances by him before Parliamentary Committees where his treatment by some was anything but gentle. Needless to say there had been the expected denials from the Prime Minister and Mr Campbell of any wrongdoing, being two of the more obvious targets, as well as from others. Naturally the BBC and its reporter, Mr Gilligan, came under intense scrutiny and their early reaction was to stand by the validity of the broadcast. It is to be remembered all this uproar was against the background of Iraq's resounding defeat at the hands of the coalition and the continued failure to find any WMD.

The first question to face is whether an event in the United Kingdom media has an effect on our media in New Zealand. In our judgment it does and has already been the subject of several opinion pieces in newspapers here. I have already observed that it was an instance where the news gatherers and disseminators made such an impact that they themselves became the news with a BBC radio broadcast that shook the Government to its foundations and resulted in the establishment of the inquiry.

It must be to the forefront of any comment on the Hutton Inquiry that it was governed by its terms of reference. It is hard to resist the conclusion that many of the more extreme adverse comments on the inquiry overlooked this point. Specifically it was not an inquiry

into the justification for the Government in taking the United Kingdom into the invasion of Iraq. That is at present under way in the United Kingdom, as are similar investigations in the US and Australia.

The Hutton Inquiry was into the circumstances surrounding the death of Dr Kelly and of the issues relevant to that event. Obviously one of the central issues was the broadcast of May 29, 2003 on Radio 4 in the interview conducted by John Humphreys of Andrew Gilligan. Having stated that, it is not for this piece to comment on the evidence (extensive) and all of the conclusions and recommendations.

The Inquiry cleared the Government (at all levels) of the main allegation of "sexing up" the dossier by using unreliable information, and thereby found the broadcast objectionable. Concessions had been made by Mr Gilligan that the broadcast contained material mistakes. The BBC, management, and reporter were quite severely criticised by the report, but virtually no one else.

The Hutton Inquiry report itself has been criticised by responsible commentators and therefore it is of interest to New Zealand to examine the report and decide how much of the criticism is valid and how the report is applicable to New Zealand.

The foregoing is impliedly a criticism of the results of the Hutton Inquiry but I want to say immediately that some aspects of the criticisms from the media were palpably unbalanced and in some cases risible. To describe the results as a "whitewash" by an "unworldly establishment figure" was not helpful.

Nevertheless the results could fairly be described as very lopsided in favour of the complainant, the Government, but that is the way a man of unimpeachable integrity made the calls.

The ethical values of news gathering in democracies, controlled as that form of government is by adherence to the principles of free speech, is now in a state of considerable uncertainty. Old words have taken on new meanings such as spinning, doctoring, controlling and managing damage, to name a few. There is much ground yet to covered with these relatively new developments.

There are many strengths in the Hutton Inquiry report. It was conducted with flawless procedure and maximum transparency. Nearly all documents connected with the inquiry were posted on the inquiry's website. The report comprised a rigorous and accurate analysis of the facts; all set out in lucid language. These factors contribute very much to the confidence the public could have in the report.

The principal and overriding conclusions from the British public's viewpoint was to learn that the central and damaging allegations of impropriety of the Government were unfounded. The targets for criticisms were the BBC and the reporter Mr Gilligan. After the report was made public, the chairman of the Board of Governors of the BBC, Mr Gavyn Davies, and the Director General, Mr Greg Dyke, resigned, as did the reporter himself. Those are issues for the United Kingdom.

From the wider perspective arising out of the inquiry was a set of findings of misconduct with recommendations for the future. It is here that the issues touch journalism worldwide. Generalisations are nearly always questionable but some of the conclusions and recommendations seem to be excessively controlled by a legal/evidentiary approach.

The set of facts under consideration was unique and that must have an influence when extrapolating lessons for future conduct. Anonymous sources were criticised. Stricter edi-

torial control is to be exercised on reporters and what they say publicly. When an internal inquiry is set up to review possible misconduct following the Government's complaint the governors themselves must roll up their sleeves and not meekly accept what the managers conclude.

If these directions are not practicable, or are incapable of implementation in the real world, it might be better they were not made. If they have sufficient substance to bring about change then it cannot be avoided that they will develop an environment of excessive caution, hesitancy, self-doubt and chilling down in the pursuit of news, to the detriment of free speech and better government in a democracy.

The canons of ethics in newsgathering ought not to be confused with rules of procedure for the orderly disposal of matters most often found in judicial and quasi-judicial proceedings. It seems that is a criticism that can reasonably be levelled against the report. Making strict directions as to how reporters and their employers are to conduct themselves in the future is an exercise of questionable value in a society where free speech is paramount.

When the subject for a public inquiry is highly contentious, surrounded often by furious controversy, we have learned in New Zealand, since the Mahon report on the Erebus tragedy that such an investigation is better done by more than one commissioner. The joint application of several minds to the delicate balancing judgments required, where the commissioners must trade and negotiate opinions and decisions with each other, is surely the proper procedure. The public is more likely then to accept findings from such a body. Man alone is to be avoided. There is also a danger in allowing the fury of the losers to be aimed at one individual, as has been shown with the Hutton Inquiry.

Finally, there are lessons to be learned from the Hutton Inquiry when ethical journalism is under consideration but in the end the influence in New Zealand may not be very extensive, for some of the reasons set out above.

Scanning the 2003 Complaints: Some Key Points

A review of the complaints considered in 2003 has brought to light some key points on which the Council makes the following comments.

"Promptly"

The Council's pamphlet states that complainants should write to the editor within three months of the date of publication of the material in issue and, having determined that they are not satisfied with the response from the editor, they should bring the complaint to the Council "promptly". This means that the Council expects complainants to make their representations without delay and to keep up the momentum of the complaint in their interaction with the Council. The involvement of lawyers can lead to lengthy delays. One complaint was not accepted because of a protracted delay between the time that communication with the editor ceased and bringing the complaint to the Press Council.

Complaints from institutions and organisations

To meet this need for prompt initial action and ongoing interaction, institutions and organisations such as schools, universities, health boards, local bodies and regional interest groups should have in place clear, up-to-date arrangements for media liaison.

In one case (No.909 *Canterbury District Health Board against Timaru Herald*) the person to whom the newspaper was directed was no longer employed by the complainant. Sometimes newspapers, when preparing stories, are handicapped in their attempts to obtain an official response by being referred to different spokespersons in turn. The absence of key personnel on holiday or for other reasons, with no arrangements made to anticipate and cover the gap, can cause great problems for newspapers seeking comment in the face of looming deadlines. The Press Council keeps stressing the need for publications to verify and check their stories and give a balanced picture, but this is hard to achieve when their attempts to communicate are frustrated.

One complaint, which was not accepted by the Council, involved lengthy delays because any formal statement by the complainant institution had to be made by the governing body, which met only monthly. The Press Council thinks that such bodies must adopt more flexible means – through delegation, sub-committees etc – to enable them to move quickly in pursuing complaints and interacting with the particular publication and with the Council.

Responding in good time

The Council's leaflet on its procedures sets out a timetable that gives 14-day response times for editor and complainant in each particular case. A few 2003 cases dragged on unnecessarily because these deadlines were not met by editors. The Council thinks that editors should anticipate the need to cover absences on leave, accommodation changes and other events that might interfere with the timetable for completing interaction with

the Council. As the Council noted in its 2002 report (p 11) some complaints that come to it might have been settled at a much earlier stage if there had been a prompt acknowledgement of the reader's initial letter of complaint to the publication, and a systematic handling of it thereafter.

Corrections

A number of the complaints that the Press Council handled last year might well have been resolved by a properly worded — and published — correction of the matter at issue.

Overseas newspapers, and New Zealand's largest daily paper, the *New Zealand Herald*, have a deliberate policy of publishing corrections and clarifications that have been brought to the editor's attention as a matter of course. It is a practice the Press Council commends.

The Council believes that a willingness to accept that newspapers make mistakes in the hot-house environment of publishing builds trust between readers and the newspapers that serve them.

The Council is aware that some editors and some proprietors are not keen on adopting a daily summary of clarifications and corrections that readers have been able to substantiate to the satisfaction of a newspaper and/or magazine. It has been put to the Council that such a policy undermines the credibility of the publication in its readers' eyes.

In the Council's view, that approach does not take account of their readers' expectations in a political environment where the public demands accountability from its politicians, its public servants and from its preferred news organisation, be it a radio station, television channel, a magazine, a news web site or a newspaper.

"Off the Record"

A particular complaint raised the vexed issue of information given to journalists by their sources but only on condition that it is "off the record". It became clear during the Council's deliberations of this complaint that some of the parties to it had differing views of what the term means.

As a result, 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?

And what if a source says he or she can talk only on "background" or "deep background"?

The Council is aware that some publications have a policy that staff will not accept "off the record" or "background" briefings at all, given that, in some cases, they can find out similar information elsewhere without the constraints of their source's anonymity. And sometimes, of course, editors prefer that their source not use their publication to float an idea so he or she can test its public acceptability.

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 Press Council understands that New Zealand journalists expect any request to hold an interview "off the record" is to, generally, be made at the outset of an interview. In practice, any request made part-way through an interview or at its end, will usually not be agreed to, a situation with which the Press Council is generally comfortable.

Anticipating readers' needs

Newspapers sometimes have to deal with complex technical terms in reporting local body issues, especially those to do with property developments that must obtain approval at several stages. It would greatly improve the overall situation if such agencies anticipated the need for legal or other technical terms to be understood by the ordinary reader. Case No. 936 *Environment Canterbury against Ashburton Guardian* illustrates this need: if the term "non-complying" had been explained clearly from the beginning much of the furore over this particular resource consent application might have been avoided.

There is a similar need for press releases to be fully informative about changes in services that affect a community if misunderstanding and ill-feeling are to be avoided (see Case No. 920 *Southland District Health Board against Mountain Scene*).

Quotation marks and how to use them correctly

One of the more complex complaints considered by the Press Council during 2003 was made by Professor Michael Neill from Auckland University (Case 924). He was unhappy with the headline over a report in the *New Zealand Herald*, quoting Human Rights Commissioner Joris de Bres.

The *Herald* headline said: *Pakeha settlers 'like Taleban vandals'.* Professor Neill asserted that the newspaper's use of inverted commas – also known as quote marks – could mean only that Mr de Bres had used the actual words thus enclosed.

The *Herald* argued that quote marks in a headline in New Zealand as well as in Australia and Britain, might refer either to the actual words used or to a paraphrase of the gist of the article. It sent the Council about a dozen examples from domestic, as well as respected overseas newspapers of this particular use.

The practice of using quote marks to paraphrase an article's import is not universal. The rule in the United States, for example, is that only words from a quotation in the article may be put in quotation marks in a headline.

New Zealand, Australian and British newspapers, on the other hand, use quote marks to quote directly from someone reported in an article but also to indicate that an assertion in a headline comes from someone else, and is not the opinion of the newspaper, magazine or Internet site itself. Common newspaper practice is to use only single quotes in headlines.

Here in New Zealand, the Neill complaint was similar to one considered by the Council in 2002.

Some members of the Council – and clearly, some members of the public – believe that quotation marks should be used only to quote directly from a source's words. The Council agrees that is the ideal.

But it accepts that the headline-writing device employed by the *Herald* is widespread and that, given the small number of complaints received about it, few readers seem to be misled by the practice.

Newspaper policy on selecting letters to the editor

A complaint that reached the Press Council toward the end of 2003 was one that involved Napier city councillor David Bosley and *Hawke's Bay Today* (Case 955).

Peripheral to it was a letter sent by the newspaper's editor to Napier City Council that, among other things, spelled out the paper's policy on letters offered for publication by local body politicians.

Editor Louis Pierard told the Chief Executive of the Council, for the benefit of local councillors, that it was his practice to give preference to letter-writers other than politicians because they had other public forums in which to express their views. From time to time, he said, the paper would consider a letter from a councillor worthy of publication as a letter or transformed into a news report.

The Council believes that Mr Pierard's decision to share with the local council his newspaper's policy on letters to the editor from local councillors was sound. Such openness left no one – even those who disagreed with it – in any doubt about how letters to the editor from politicians will be dealt with.

Other editors will, of course, have completely different views on such letters to those held by Mr Pierard, but the Council commends to those editors his frankness. It believed that such openness would be particularly useful in a local body election year.

Press freedoms at risk in an era of global turmoil

Freedom of the press, like democracy itself, is easier to state as a general principle than to pin down. This difficulty recalls the observation of Walter Bagehot, famously influential as Editor of *The Economist* in mid 19th-century Britain, when asked to define a nation. "We know what it is when you do not ask us," he said, "but we cannot very quickly explain or define it."

The classical statements of commitment to freedom of expression had their origins in times of political strife and turmoil. John Milton's essay *Areopagitica*, one of the great arguments in favour of a free press, was written in 1644 in response to the imposition of strict censorship under Cromwell's regime during the British Civil War. ("Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties.") The First Amendment to the Constitution of the United States ("Congress shall make no law...abridging the freedom of speech or of the press...") is justly famous. Yet it is more than a fine statement of principle. The Bill of Rights, of which it was a part, arose out of the need to guarantee civil liberties in chaotic political circumstances as the first Federal Administration was formed in 1789.

In our times, nations of many stripes and colours are shaken by violence and agitation. Terrorism has become a terrible scourge. Rival nationalisms and ethnic strife challenge the stability of numerous governments around the world. Dangers and threats to civil order appear to be endemic in Africa and many parts of the Middle East.

In these circumstances, threats to the uninhibited workings of a free press have sprouted everywhere. Even in leading democratic countries the war on terrorism has given cause for interference with the work of journalists in ferreting out the truth.

In many cases the checks are almost imperceptible: a whisper from on high in the ear of an editor about an opinion piece; an excess of official zeal in pursuit of a journalist's sources of information; the Pentagon's practice of "embedding" journalists in military units on grounds of battlefield safety. The "Kelly affair" in Britain is discussed in the chairman's foreword.

Such pressures are not the less serious for being relatively low key or justified by emergency circumstances. For political sensitivity easily grows into obsession. The media and its legitimate role in providing the information needed for democratic institutions to flourish can all too easily get under the skin of the powers-that-be. It is far from uncommon for authorities – however they have attained their positions – then to assume that they have the right to suspend basic democratic freedoms. In New Zealand so-called "pakeha" media were barred by local tribal authorities from marae events associated with Waitangi Day – at Waitangi itself. In Tonga the Parliament, dominated by unelected nobles, passed two laws in late 2003 that effectively bar *Taimi'o Tonga* (The Times of Tonga) from circulation in the Kingdom. *Taimi*, published in Auckland, is Tonga's independent newspaper; a man handing out copies at the airport at Nukualofa has recently been arrested and charged with circulating a banned newspaper.

Journalists plying their trade in other parts of the world are being subjected to more brutal intimidation. Targeted violence against the media is common and on the rise. The perpetrators can be outlaw groups or corrupt officials fearful of exposure. In the Philippines, seven journal-

ists were killed during 2003 for writing about corruption and the operations of gangs; in Colombia, for the same sorts of reasons, an average of four journalists a year have been killed over the past decade. Overt state-sanctioned intimidation of the media is widespread and each year grows more serious. Worldwide, in 2001, 489 journalists were arrested and jailed for their writings or the opinions of their papers; in 2002 the tally had risen to 692; in 2003, to 766. To take almost random examples, in Cuba 27 journalists, including the leaders of a nascent free press, were arrested in March 2003 and put in jail for from 14 to 27 years; as at January 1, 2004, 30 journalists were in Castro's prisons. In Burma 17 journalists are in jail for writing about democracy.

The list and the kinds of sanctions get wider. There are now no independent newspapers in Zimbabwe after the *Daily News* was closed down in September 2003; earlier in the year the last remaining foreign correspondent was expelled by the Mugabe regime. In the Middle East censorship is endemic. Iran, Syria, Yemen, Palestine and Saudi Arabia are accused by media-watch organisations of placing severe constraints on freedom of expression. Despite an encouraging proliferation of media outlets in China, none can operate outside of government control; the authorities are coming down hard on the use of the Internet to promote democratic opinion. North Korea deploys blanket controls over all information. In Russia, what is described as media-favoritism was claimed by European monitors to have "biased" the outcome of parliamentary elections held in December 2003; Government pressures on the media led to the elimination of the last major non-state TV network. In Belarus and several other of the republics of the former Soviet Union freedoms of expression and of the press are severely restricted.

It is notorious that the law is frequently pressed into the service of intimidation of the press. Loose definitions of offences can then give almost unlimited powers of restraint to the authorities. In Kazazhstan a draft media law is before the Parliament that would impose sentences of up to five years' imprisonment on journalists who engage in "propaganda and agitation" or who "reveal state secrets"; broadcasters would be obliged to act as agents of government propaganda by being forced to publicise official statements. In Zimbabawe the Supreme Court has struck down a challenge to laws that give the Government the power to decide who may be journalists and that will require all media outlets to be registered with a government-appointed Commission. Yet in Uganda the Courts have moved in the opposite direction and set aside an attempt to convict journalists for "spreading false rumours".

The ways to suppress freedom may be many and various, but the picture is not all bleak. Journalists around the world are uniting to expose the threats. The work in this regard of the International Freedom of Expression Exchange, the World Association of Newspapers, Reporters without Frontiers, the International Women's Media Federation and the Committee to Protect Journalists is greatly to be commended. In our own region Pacific Media Watch (which we acknowledge as a source of information for this report) performs the same invaluable role. In Turkey official criticism of the media in the aftermath of terrorist bombings in Istanbul in November, which took nearly 30 lives, has been turned back and has led to the formulation of new and agreed guidelines essentially enshrining press freedoms. A leader in achieving this result was Turkey's Basin Konseyi (Turkey's equivalent of the NZPC). As the saying goes, "eternal vigilance is the price of liberty".

Community Newspaper Association Conference March 2003

Terry Snow's address

From its inception the Press Council jurisdiction covered metropolitan and provincial newspapers, some community newspapers and no magazines. The partial coverage of print media was an unsatisfactory chink in the armour of jurisdiction, and of self-regulation, which ought to be in the best interests of the public and the press. That gap has been closed, even though not all publications appreciate the benefits of self-regulation. That extends to some community newspapers and the invitation to explain more about the Press Council to the Association of Community Newspapers Conference in March was welcome. Excerpts from the talk by industry member on the Press Council Terry Snow follow:

"Some of you may have a notion that the Press Council is not for you. A recent complaint against a community newspaper from a reader, who said the paper was biased for not publishing one of his letters, came to the Press Council. The reader advanced his case, but the newspaper editor did not bother to respond to the Press Council to put his side of the story. We felt that he missed an opportunity. The Press Council in that case did not uphold the complaint, but the editor's claim for his own case would have helped. It may not be so easy to resolve in future.

It would be a pity if any editors, owners, journalists or managers felt that the Press Council was not relevant or out of touch, or that we would interfere with your business or encourage complaining readers. We would like to set aside these rather dusty stereotyped notions, to "take these old ones by the proverbials and give them a good twist."

In fact, that's exactly what the editor of the local community newspaper Tauranga's *Weekend Sun* said about his paper's new approach to headlines, which gives me the title for my talk to you. The phrase was actually published in an adjudication concerning the *Weekend Sun*, Case 840:

> The Press Council did not uphold a complaint against the use of the word "bollocks."
> A headline in Tauranga's *Weekend Sun* newspaper referring to "bollocks" offended a reader, Mr J A Franklin. The headline, "Mid-winter dippers line up to freeze off their bollocks," was placed over a story about a mid-winter swim.
> Mr Franklin's complaint was published as a letter to the editor. He said he was disappointed with the use of the word and said if the writer could not have found a better headline then he or she should "give up".
> The newspaper editor, Brian Rogers, decided to attempt a light-hearted response which was published alongside the letter below the headline: "Headline writer gone off his/her nut?" It said *The Weekend Sun* was creating new standards – "we've taken the old ones by the proverbials and given them a good twist." It said the headline writer "was given a good bollocking and

sent fishing, ordered not to return until he has felt remorseful or had a bin full. Hasn't been seen since."

The Press Council acknowledges that the English language is in a continual state of transition. It accepts that the word may be offensive to some but does not accept it comes close to being completely unacceptable.

If the Press Council had not been aware of the editor's humorous response, and the general nature of that whole item, it would have taken a bit longer to assess the way the paper had treated the story and to weigh the reader's letter. But thanks to the editor's co-operation in this matter, the adjudication we felt resolved the issue quickly and satisfactorily.

The Press Council has often acknowledged the role and character of community newspapers in its adjudications, and perhaps that's something which as community newspapers you should be aware of. We know that you are in the front line in small communities where everybody knows each other, where advertisers could become adversaries and might lean on a small newspaper which is dependent on the goodwill of the community and its businesses, and where the editor is in an exposed and often vulnerable position.

But here the Press Council does examine carefully whether free speech and freedom of the press, and it is one of our responsibilities to support these vigorously, have been threatened.

Council reporting is also a difficult and sometimes tedious part of the local community newspaper's round. But it is vital to a local community. When councillors complain, there can be a history which the Press Council gets to know, and can use as the background for the adjudication on the particular complaint and particular story. Yet we are conscious of the fact the editor has to remain in that community and deal with local council, long after the Press Council's comments have faded from memory.

The moral force of self-regulation, and the power it has to fend off restrictive government and legal regulation, depends on an industry with the maturity to sign up to independent and reasonable scrutiny by its peers and members of the public, using an ethically based Statement of Principles which was endorsed by the industry.

The promotion and publicising of this work is not only the responsibility of the Press Council, but also in the interests of all New Zealand publications to pursue themselves. In this way, they will demonstrate to their readers that they act and publish in the interests of those very readers without qualification, and consequently are not afraid of having their integrity as editors and publishers scrutinised."

Visits and visitors

In 2003 representatives from the Press Council visited several organisations to speak on the work of the Council and received visitors from China and Japan. Mr Snow's speech to the Community Newspaper Association conference is reproduced in part on page 16.

Visit by representatives of the People's Republic of China

On April 9, 2003 representatives of the NZPC (Sir John Jeffries, Denis McLean, Suzanne Carty, Alan Samson and Stuart Johnston) met a delegation from the General Administration of Press and Publication (GAPP) of China.

The meeting was led by Mr Gui Xiaofeng, Vice-Minister of GAPP, and comprised a delegation of six persons, their interpreter Miss Yang Ji and Mr Gao Mingbo of the Chinese Embassy in Wellington.

GAPP is directly under the State Council. Its major functions are to formulate laws, decrees, rules and regulations on the press and publications and to administer the press, publication, printing and distribution work of the whole country to ensure the healthy development of the press and publications. (Material supplied to NZPC by Gao Mingbo, Attaché, Chinese Embassy.)

A lively and interesting exchange of views of the press took place over two hours between respective delegation members. It emerged that the number of press publications in China is growing at an enormous rate, no doubt reflecting the rapidly changing economic and social conditions in that vast country.

Professor Kenichi Asano

In March 2003 Professor Kenichi Asano, Professor of Journalism and Mass Communications Studies at Doshisha University in Kyoto, Japan, met several members of the Press Council in Auckland and Wellington.

Professor Asano, who was in New Zealand as research fellow at the School of Communication Studies at the Auckland University of Technology, had been studying press complaints and media accountability systems in several parts of the world. As yet, Japan does not have any formal press complaints body, but he was a keen advocate for such a development and was gathering material on the practice in numerous countries.

Members of the Council responded to Professor Asano's inquiries about a number of aspects of the structure and operations of the NZPC. He had a particular interest in press coverage of criminal and court news, and in the ethical issues concerning the reporting of young offenders. The requirements of the New Zealand law in this regard were described, as well as the Council's Principle regarding the treatment of children and young people.

Dr Uiliami Fukofuka

Dr Uiliami Fukofuka, Chairman of the Tongan Media Council's Complaints Committee, visited the Press Council on November 3 and 4, 2003 . Dr Fukofuka was able to watch the Council at work by attending a Council meeting on November 3, and spent time

with the Secretary the next day discussing procedure and administration. A report on Sir John's visit to Tonga, which preceded this visit appears on page 22.

Local Government Communications Officers' Conference

Denis McLean, a public member of the Council, spoke at a useful seminar for local government communications and public relations officers held in Wellington on March 7, 2003. Attendees were naturally all concerned about the projection of the roles and programmes of their local councils. There was a sense that their dealings with the local and regional media were often bedevilled by misunderstandings. It was valuable to share a platform with Paul Thompson, editor of the Christchurch *Press*, who addressed issues to do with newspaper coverage of the news in general and in the particular circumstances of local government. He confirmed that a Press Council finding against a newspaper was no small sanction. Mr McLean was then able to put into wider perspective the role of the Press Council in adjudication of complaints and thus in helping maintain balance in reporting. It was of interest that a number of the officials at the seminar were taking a close interest in the Press Council's "case studies" – the adjudications in the Annual Report.

NZ Skeptics Society

The Chairman addressed two separate groups during the year. One, the first time the council had been invited, was to the NZ Skeptics Society, which held its annual meeting at Victoria University over the weekend September 20-21, 2003.

Massey University School of Journalism

The Chairman also attended the Massey University School of Journalism on August 11 and addressed the students on the workings of the Press Council. Again the address was followed by a lively exchange of views with the students.

The print media in China

A report on China's news media, by Press Council member and Massey University journalism lecturer Alan Samson, after a secondment training new reporters for the Shanghai Daily newspaper.

To understand that China sits at the crossroads of change, one need look no further than the March 2004 enactment of a constitutional change protecting private property.

Signalled on the front pages of China's few English-language newspapers last December, the law change is a clear confirmation that the Government now accepts that the country's future lies with a market economy.

More problematic as foreign investment pours into the country, especially in the portal-to-the-west city of Shanghai, is the future of the Chinese press. Despite evidence of growing amounts of advertising and sponsorship being approved for newspapers and television, news media control still rests squarely with the Chinese Communist Party or State, whether at a national or regional level.

Until the late 1970s, all newspapers were officially the voice of the Party, entirely government funded, virtually all of them relying for their national news coverage on the state's Xinhua News Agency. Subsequent reforms have required newspapers to become self-sufficient commercially and the shackles have loosened to the degree that a state-owned enterprise might be given independence. But with control still effectively in government hands, it is difficult to gauge the true extent of advances in press freedoms.

The biggest of China's more than 10,000 newspapers and magazines appear at least on the surface to be free to tackle a wide range of issues without interference. But most publications – certainly the Chinese-language newspapers – have as a principal function the state-dictated policy of keeping readers informed of the party's or the Government's policies. Xinhua is still the principal source of domestic news and the sole source of international news for domestic newspapers and radio. Another agency, China News Service, also provides local news stories.

Under the new regime, between 1978 and 2002 the number of newspapers in China mushroomed from 186 to 2137 – daily paper sales are estimated to be more than 82 million – the number of magazines from 930 to 9029. The magazines range from the Western weekly news format to glossy monthlies, with numerous cheap English-Chinese magazines in between which have a major appeal to students of English. This inevitably introduces Western topics and thinking to readers; many of the same lifestyle issues, features and gossip covered by Western magazines are now seen in these bilingual formats in China. But restrictive government practice requires every publication to have an official publication number from the Press and Publications Administration office. This form of official licensing ensures tight control of local titles and prohibition of most overseas titles. For example, Elle publishes a Chinese-language version in China, but Time and Readers' Digest have been refused entry in the past.

Last year the government abruptly closed more than 700 papers deemed unprofitable or irrelevant. It also strongly hinted that more closures would follow. Thought to be immune from the axe are the country's two English-language daily newspapers, the China

Daily and the Shanghai Daily. The Beijing-based former, with a circulation of about 300,000, has long been entrenched as China's polite voice to the West; the newer, Shanghai-based latter has a circulation of only 50,000 but is rapidly growing, and is physically much the bigger of the two papers.

In the midst of an economic boom, the Shanghai Daily has distinguished itself for its developing sense of "news". After September 11, it was the only paper – among the thousands - to run the story of the terrorist attack as its front-page lead. It has since shown similar news appreciation for numerous local and foreign stories, including for the Sars epidemic and the southwest China gas blowout that in December 2003 killed more than 200 people. When American forces captured Iraq's Saddam Hussein, the paper's front page could have been laid out in Washington or Wellington.

But 15 years after the Tiananmen Square massacre of pro-democracy protesters, the Government still lurks in the wings – educating and informing readers of government policies remain a key newspaper role. Shanghai Daily editor Zhang Ciyun says that because his readers are mainly foreigners, his city bosses have no such expectation of him. But asked whether he has ever been told what to write, he replies: "Never on a story-by-story basis, just a general guideline."

Asked why his newspaper never runs editorials, he replies: "We are not encouraged to comment on national or world affairs. That limits the areas we can comment on."

China's news television is experiencing similar half-freedoms. It regularly airs foreign and local commentators who are free to give their honest opinions on air. And if only for the upsurge in real news coverage, there has to be optimism about the future of the Chinese news media, at least in Shanghai and Beijing while their economies flourish.

At the same time, criticism of Premier Wen Jiabao or any other state figure remains unheard of and unthinkable – and reporters freely concede that, to advance in their careers, it is wise to be a member of the Party.

Tonga

This is a report by Sir John Jeffries, Chairman New Zealand Press Council (NZPC), and Lincoln Gould, Chief Executive Newspaper Publishers Association (NPA), after their visit to Tonga, September 16-20, 2003.

The visit was at the invitation of the newly formed Tongan Media Council (TMC), which requested that advice be given on the constitution, structures and processes that they might use to establish complaints, standards and training committees in Tonga. The visit had been initiated at a recent conference of the Pacific Islands Newspapers Association (PINA) in collaboration with the New Zealand Journalists Training Organisation (JTO).

The limited nature of the invitation was kept firmly in mind with considerable care taken to avoid engagement in Tongan local political affairs.

There were two distinct groups of meetings:

- With the TMC and their people
- With government officials, ministers, etc

Particular reference was made in all the meetings to the fact that the establishment of a media complaints structure in Tonga would fall in line with the establishment of similar structures in some 60-plus developed and developing countries of the world. A schedule of these press/media councils was left with the TMC.

There are nine members of the TMC covering print and broadcasting media, both government and independently owned. The TMC itself was formed only in August after the merger of the Tonga Media Association and the Tongan Journalists Association.

Aside from a number of group meetings with the TMC, where the issues of press complaints, standards and training were discussed at some length, specific information on constitutional structures, procedures and processes were passed to the chairman of the TMC, Pesi Fonua, and will be made available to the recently appointed Chairman of the complaints committee, Dr Uiliami Fukofuka.

The TMC has very considerable work to do to achieve the objectives it has set for itself. In the first instance it seems agreed that work will be focused on drafting a constitution for the TMC, which will include new complaints and training committees. It should be noted that the TMC intends to cover print and broadcasting complaints and in time, also complaints regarding advertising.

There was initial concern expressed by government officials that Sir John and Mr Gould might have been sent by the New Zealand Government to influence the current political debate about press freedom, particularly the proposed changes to the Constitution. It was stressed that the New Zealanders were there at the invitation of the Tongan Media Council with a brief limited solely to the issue of establishment of the media complaints and training structures. NZ Aid had assisted only in respect of travel expenses.

In general the idea of self-regulatory structures seemed to be welcomed by officials.

The TMC will continue to communicate with the NZ Press Council and the NPA as it develops its constitution and new structures. Dr Fukofuka was to visit New Zealand later this year, funded by NZ Aid, to observe the Press Council in action along with other media regulatory organisations, the Broadcasting Standards Authority, and the Advertising Standards Complaints Board.

There is a very positive attitude by the TMC to move forward with the plans for a self-regulatory structure in Tonga. Government officials also seem willing to support the efforts of the TMC.

The assistance with funding by NZ Aid was gratefully received and the practical support given by Bill Southworth of the NZJTO was much appreciated. It should be noted that the visit by the NZPC-NPA team was given immense practical support by the New Zealand High Commission with transport and assistance with meeting arrangements. Without the help of the Deputy High Commissioner, Jonathan Curr, the visit would have been difficult.

An Update

When the chairman and Lincoln Gould visited Tonga in September 2003 (as set out above) it was for the sole purpose of offering assistance to the newly formed Tonga Media Council on the setting up of a viable procedure for dealing with complaints about the media.

The two Wellington representatives were not unaware of the public controversy, then very visible, of the attempts through the use of the Tongan Privy Council to control newspapers (but particularly *Taimi 'o Tonga*) that had been consistently declared unconstitutional by the Courts. Even then it was common knowledge that the Government was not going to be deflected from its course of introducing controls on the freedom of the press. *Taimi 'o Tonga* was widely recognised as a critic of the Government and governance in Tonga. Notwithstanding the two representatives kept to their stated intention of saying nothing on these issues.

The only course open to the Government was to pass legislation, which was done towards the end of 2003 in the form of the Newspapers Act and the Media Operators Act. This enabled the Government to restrict the number of licences for privately-owned news media. Obviously this legislation has caught *Taimi 'o Tonga* and the Government almost immediately sought to implement the criminal sanctions of the legislation. A New Zealand Tongan who had returned to Tonga for the funeral of his father, was arrested and jailed for attempting to distribute copies of *Taimi 'o Tonga.*

He faces charges and after being kept in jail for a period he has been released on bail to return to New Zealand but must return to Tonga to face the charges.

The actions of the Government of Tonga have not only caused dismay in the pro-democracy movement in Tonga but also attracted worldwide attention. The International Federation of Journalists (IFJ), a global organisation representing more than 500,000 journalists world wide, made a strong critical statement of the Government's action. "Whichever way you look at it, the Government of Tonga is clamping down on press freedom with these new laws", said IFJ president Christopher Warren.

The Newspaper Publishers Association of New Zealand, the Press Freedom Committee of the Commonwealth Press Union (New Zealand Section) and the New Zealand Press Council join the strong criticisms of the IFJ in opposing a regime of licensing newspapers that effectively suppresses free expression and freedom of the press in a democracy.

Personnel

There have been several personnel changes to the Press Council through 2003.

Audrey Young, representing the journalists' union the EPMU, resigned from the Council in May after six years of valuable service. Miss Young's quick recall of past complaints had been of great use to the Council. Sir John, in thanking Miss Young, noted that she had been a strong defender of press freedom and had often put an interesting slant on the debate. He also recalled the enthusiastic response Miss Young had received from students at the Massey University journalism course when she accompanied him to the sessions on the Press Council.

Lucy Bennett was appointed by the EPMU, taking her place on the Council in August. Ms Bennett's advice, in December, that she was moving to Sydney was received with regret. In the short time she had been with the Council Ms Bennett had made a useful contribution and shown a keen interest in the ethics of journalism.

Dinah Dolbel, public member since July 1996, resigned in August. Sir John thanked her for seven years of valuable service.

Having had sufficient notice of Ms Dolbel's resignation, the Council was able to advertise nationwide for a replacement public member and make the appointment in August. The selection panel comprised Sir John, John Belgrave, Chief Ombudsman, Lincoln Gould and Tony Wilton, representing the two constituent members of the Press Council, the Newspaper Publishers Association and the EPMU respectively. Ruth Buddicom, a barrister of Christchurch, was the successful candidate from a strong field of contenders.

An analysis

Of the 79 complaints received by the Press Council in 2003, 52 went through to adjudication. Of these 14 were upheld, five were part-upheld, two were not upheld but with dissent and 31 not upheld.

Debate on some complaints can be quite vigorous and while most Council decisions are unanimous, from time to time one or more Council members might ask that their dissent be recorded. This may relate to one particular part of a complaint (Case 932) or the entire decision (Cases 924 and 862, *2002*).

Of the 52 adjudicated complaints 35 were against dailies, seven against community newspapers, three against the *Sunday Star-Times*, two against business weeklies, four against magazines and one against *Rural News*.

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 17 complaints in which one or more members declared an interest in 2003.

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 2003, one of whom was also represented by his lawyer. One other complainant's case was supported by legal representation at the Council meeting.

The Statistics

Year end Dec	*2001*		*2002*		*2003*	
Adjudications Issued		**47**		**48**		**52**
Upheld	1		8		14	
Part upheld	3		2		5	
Not upheld with dissent	-		1		2	
Not upheld	43		36		31	
Declined	-		1			
Not Adjudicated		**59**		**39**		**27**
Mediated/Resolved	1		3		3	
Withdrawn	3		1		2	
Withdrawn at late stage	2		1		2	
Not followed through	18		16		9	
Out of time	5		2		2	
Not accepted	4		3		2	
Outside jurisdiction	9		3			
In action at end of year	17		10		7	
Total Complaints		**106**		**87**		**79**

An overview of 2003

Again 2003 brought to the Council a wide variety of complaints as editors from Kerikeri to Invercargill were brought to account by their readers. The subjects of the articles complained of ranged from rotting fingers, to tanalised timber, to subdivision development, to cherry tomatoes and second-hand smoke. And, of course, there were several about letters to the editor, published and not published.

Lack of balancing comment led to complainants citing inaccurate reporting in several cases (see 909, 916, 923, 911, 946 and 914). The Council noted that publications relying on a single source for a story were accepting a risk that seemed in its view to be unwise. Reasons given for the lack of comment from an interested party ranged from impending deadline (923, 909, 960) to the implausible situation where a magazine claimed to have checked the accuracy of the story with the party who had originally given them the story. This argument, in a story about an extra-marital affair as told by the jilted wife, the Council found unconvincing.

It was concerning to the Council that where inaccuracies were pointed out to editors of publications, corrections seldom followed or were less than satisfactory. In Case 957 the Council noted that a clarification is not a retraction, let alone an apology. Wellington property developer John Walsh, making a personal appearance before the Council to support his complaint (Case 916), commented that while the newspaper offered him the opportunity to write a letter to the editor for publication, this would appear to other readers to be simply a differing opinion. Likewise the offer of an interview put Mr Walsh in the position of defending himself, when the original article (for which he had not been interviewed) was seriously inaccurate. The Council agreed, though noting that the lawyers representing both parties had created a stand-off that made resolution by correction unlikely. See also Cases 913, 920, 931.

Some editors did save the day by publishing corrections/clarifications, which the Council saw as sufficient redress (Cases 925, 947).

Five complaints related to privacy issues. Of these the Council found three breaches of privacy and upheld another of the complaints on lack of balance, though not on privacy. In the fourth complaint (946) the Council found the references to the complainant not unduly intrusive though did encourage editors to consider who might be affected by "human- interest" stories particularly where children are involved.

Court reporting was the subject of four complaints of which one was upheld and one part-upheld (913, 945). The Council noted that if a court judgment is to be reported a publication has an obligation to report it accurately.

Cases 940 and 955 brought to light that letters to the editor had instead been turned into articles, to the surprise of the letter-writers. The Council, though not condemning this practice, did suggest (955) that editors could advise the letter-writers of the fact before publishing.

The largest group of complaints in 2003 related to offence taken at opinion/columnist pieces. Readers came out to bat on behalf of the English race (twice), the Roman Catholic church (twice), gays and Christians and contested the opinion that "abortion and euthanasia are really acts of murder". Again and again the Council has upheld the columnists' right to free speech, free expression of opinion provided the facts are correct.

Adjudications 2003

The case of the rotting fingers – Case 909

Michael Hundleby, then General Counsel for the Canterbury District Health Board, laid a formal complaint on October 21, 2002 about a two-column, front-page article in *The Timaru Herald* on August 15, 2002. In the story a local man, Ted Matthews, complained about his treatment by the health "system", with comment from his wife. The article carried a banner headline, *Our Health System Did This, Fingers Rot in Long Wait for Amputation*, with an adjacent large and gruesome photograph showing Mr Matthews holding out his maimed left hand with two unattached, black fingers lying alongside.

The story – both as reported directly from Mr Matthews and in the newspaper's introduction – conveys the impression that he had been left for 20 months on the waiting list for surgery to have his fingers amputated. Meanwhile two fingers had dropped off. He claims elsewhere that he actually had to cut one off himself. Mr Matthews did not blame the medical staff at Christchurch Hospital. Instead, "It's bloody terrible the system we have now. We've really gone downhill in New Zealand in health. I'm speaking out because if we don't, no one will realise how bad the system is".

The story also presents, without qualification or further inquiry, Mr Matthews' view that he was the victim of a medical error. His complaint, however, was "not about what had gone wrong, but the ongoing pain … his life had been on hold for so long and there was no certainty when it would end."

After it was finally decided that it was time to amputate the remains of his fingers he expected to wait three weeks at the most and "then I got a letter saying they hope to get me in in six months, but there's no guarantee and I just want to know how many more six months there'll be."

The complaint from the Canterbury District Health Board specified:

> First, that *The Timaru Herald* had failed to meet necessary standards of accuracy, fairness and balance (NZ Press Council Principle 1). There was no medical error; medical staff at all times acted properly. Mr Matthews had numerous interactions with health services in Christchurch and Timaru. He and his wife had been fully informed about the reasons for waiting for amputation; they had accepted that course. His GP was fully advised and able to prescribe necessary pain-killers. The health system, far from letting Mr Matthews down, had gone to considerable – and expensive – lengths to help him.
>
> Second: *The Timaru Herald* had introduced its own version of events (as opposed to relying exclusively on Mr. Mathews' account) in the first three paragraphs of the story – which blurred the distinction between fact and opinion. (Principle 6)
>
> Third: The headline *Our Health System Did This* was at variance with the text in that it reads as a statement of fact, whereas the contention of the newspaper is that the article is Mr Matthews' story. If the headline represented the view of Mr Matthews it should have said so. (Breach of Principle 10).

Fourth: *The Timaru Herald* took and printed Mr Matthews' version that the letter advising that he would be booked for surgery said "they hope to get me in in six months, but there's no guarantee.". In fact the letter said, "this means we are confident you will be offered your procedure inside six months. Only extraordinary circumstances would prevent this." The Canterbury District Health Board said the newspaper's version was an error and should have been corrected. (Principle 2)

The Timaru Herald response centred on the contention that the article represented Mr Matthews' own story and that it was fair and balanced in that light. There was no clash between opinion and fact because the article was entirely based on Mr Matthews' opinions. The headline likewise reflected the story on that interpretation.

The editor had wished to help a local man resolve his medical problems in the hope that publicity would get him up the waiting list for his operation. On that rationale he had decided to publish at once, without waiting for comment from Canterbury Hospital.

In a subsequent editorial *The Timaru Herald* claimed that its intervention had achieved the desired result: Mr Matthews has had his surgery.

The Press Council viewed the story as an expression of no confidence in the health system, which, when the facts were in, proved to be completely unjustified. The accusations made by Mr Matthews were serious and likely to raise alarm and despondency about health services in New Zealand.

The Herald, nevertheless, went to press without waiting to secure comment from the hospital. The desire of the editor to do well by a local man might have been admirable but by failing to investigate Mr Matthews' claims the newspaper conveyed an impression that a deserving patient had been left languishing on hospital waiting lists for an operation, when this was not so. What is more the story suggested, without any basis of verified fact, that Mr Matthews had been neglected and that the health system had failed to provide adequate care. The opposite was the case.

The Press Council has made it clear (Annual Report 2001: Balance in News Reporting) that in normal circumstances it is unacceptable, where serious accusations are made, not to provide an opportunity for the opposing side to express its viewpoint. Despite the seriousness of the charges levelled by Mr Matthews the story contained no comment from the Canterbury District Health Board, the South Canterbury District Health Board or Mr Matthews' own GP. By any measure these were part of the "system" that Mr Matthews claimed had let him down. There is normally no valid distinction to be made – as claimed by *The Timaru Herald* and Mr Matthews – between individual caregivers and the institutions for which they work.

The Timaru Herald noted that their reporter had tried and failed to make contact with the media spokesperson at Canterbury Hospital at 4.12pm before going to press. The hospital admits that the person she was directed to was no longer employed and that this was an error on its part. Even so, it was not responsible of the newspaper, in dealing with a matter of this sensitivity, to rely on one telephone call late in the afternoon, as an attempt to get at the other side of a story. The need to publish at once was not obvious. Again the Press Council's views have been expressed in the 2001 Annual Report: "Deadlines or token attempts at making contact are not a sufficient reason for failing to provide bal-

ance". Where issues of public policy are involved, freedom of expression and the need to ensure open debate should be taken into account.

The Timaru Herald received the Canterbury District Hospital Board's press release (also dated August 15) the next day, which would have made it clear the facts of the case did not square with the account given by Mr Matthews. The editor said that they had been unable to get anybody to answer further questions. Yet another newspaper (*The Press*) was able to go into the story and publish a full and balanced account on August 24.

Mr Matthews was evidently driven to approach his local newspaper because he had interpreted a letter from the Canterbury Hospital, saying that he had been listed for surgery, as meaning that the board "hoped" he would be treated within six months but there was no certainty. It is wise in such circumstances for reporters to study actual texts of critical documents. Failure to make the necessary distinctions in this case caused the newspaper to publish information that was materially incorrect – which warranted correction in terms of the Press Council's Principle 2.

The story and headline failed on all counts to meet necessary criteria for objectivity, fairness and balance or to separate opinion from fact. This was especially unfortunate when the issues involved touched on policy matters of serious public concern. The newspaper could have taken steps to redress the impression conveyed by its coverage of this story or, at the very least, to have published a correction.

The Press Council upholds the complaint.

Should the public be told about 'suicide bags'? – Case 910

Annette Beautrais, principal investigator, Canterbury Suicide Project, complained to the Press Council about two articles in *The Dominion Post* relating to an Australian euthanasia campaigner and his wish to introduce plastic "suicide bags" to New Zealand.

The Press Council has not upheld the complaint.

Following the appearance of a front-page single-column article headlined *Doctor Death's suicide bags on way* on August 7, the newspaper ran a follow-up article *Suicide bags 'not against the law'* on Page 8 the following day. Both stories referred to Dr Philip Nitschke who founded the voluntary euthanasia group Exit Australia, and the newspaper reported his hope to visit New Zealand, bringing controversial plastic bags developed for use in euthanasia.

The first story said Dr Nitschke has been dubbed Dr Death by his critics, and quoted him discussing how the bags worked. The second story quoted Customs and police officials saying there was no provision to stop the bags being brought into New Zealand, and that it was unlikely anyone would be charged unless someone actually used one to kill themselves and a formal complaint was lodged.

Annette Beautrais complained to the editor and to the Press Council that recommendations in the Ministry of Health resource *Suicide And The Media* (1999) were ignored and that the articles "clearly breach the widely available recommended guidelines for the portrayal of suicide in the media". The guidelines include: never report "how-to" descriptions of suicide; avoid the word "suicide" in the headline; avoid placing the story on the front page.

This complaint fails on two fundamental grounds.

First, these are not articles that illustrate "the portrayal of suicide in the media" but are about matters surrounding the contentious topic of euthanasia, which is distinct although it overlaps where death is deliberately induced and premature.

New Zealand society's concern about suicide usually focuses on the tragedy of the high incidence of local youth suicide, and there is general agreement on the need to search for understanding and preventive measures to stop this distressing phenomenon.

The discussion about euthanasia almost invariably concerns the plight of chronically ill and elderly people or those suffering painful and incurable illness, and is more focused on whether euthanasia should be permitted by law. Far from being unanimous, the schools of argument are divided on the desirability of euthanasia. Given this active debate on euthanasia – Grey Power surveying its members, an MP's private bill, the existence of voluntary euthanasia societies – it would be unconscionable for the press to be timid about reporting this issue in all its vigour and variety.

That gives rise to the second ground. Even if this story was about suicide in itself, it should be pointed out that recommendations to the news media in a Ministry of Health booklet have no force as prescriptive rules for running stories. The guidelines are essentially thoughtful suggestions that are presented as strongly worded advisories from the Ministry. But if a publication fails to observe them, that cannot be grounds on which the Press Council upholds a complaint, as Annette Beautrais has suggested.

In its 2001 annual report, under the section "What is news?", the Press Council noted: "Headline news is not what the political leadership or the guardians of special interests determine. It is what experienced newspaper people assess as most likely to impact on the widest number of readers."

Even if these articles were about suicide as such and not euthanasia, there appears to be no breach of the Press Council's Statement of Principles. They are not reports of an individual suicide and subject to the Coroners Act 1988, nor do they touch on the privacy of individuals. They are general news stories about a controversial topic of public interest. There is no criticism of the accuracy, fairness or balance in the stories. There appear to be no grounds for the complaint to be upheld on the normal ethical or professional grounds.

In any story, and this includes stories about suicide or euthanasia, publications should be guided by the general professional and ethical standards required of journalists and as embodied, for example, in the Press Council's Statement of Principles. While supporting the benefits of publicity and greater openness in the reporting of suicide and attendant issues, the Press Council reminds editors of the utmost responsibility to readers for recognising that such issues are complex.

Ms Suzanne Carty of *The Dominion Post* took no part in the consideration of this complaint.

Magazine breaches privacy – Case 911

A woman has complained to the New Zealand Press Council about her privacy being breached by the publication of a story in the weekly magazine *That's Life*, which originates in Australia and has a New Zealand edition. The story, told from the point of view of a woman reader, is about an affair that the complainant had with the woman's husband. The story was bylined *True Story as told to Kate Parsons.*

The Press Council has upheld the complaint on the grounds that there was a breach of Principle 3 of the Council's Statement of Principles which relates to respect for people's privacy.

That's Life, at the lower end of spectrum of magazine publishing, entices readers to supply their "true stories", tempting them with money and invitations to tell "have you been betrayed?" ($400), "your secret story" ($300), to "pay tribute to a special person" ($400) or tell "about your relationship" ($150). A simple coupon ("It all began like this…"; "Then this crucial event happened…"; "It ended like this…") allows readers to supply basic details, which are filled out by a magazine ghost writer.

Complainant M (to avoid further breach of her privacy) says the publication of her first name and a photograph of her have led to her being identified by colleagues, friends and family. She acknowledges having had the affair and tells of her feelings of guilt since "the betrayal", but says her alcoholism and emotional difficulties at the time made her vulnerable, and that the husband of her friend wanted the affair.

The Press Council's Principle 3 says publications should respect people's entitlement to privacy of person, space and personal information, although that entitlement should not interfere with the publication of matters of public record or of obvious significant public interest. Neither of these conditions applies here. The complainant is not a public figure, and while there may be public curiosity about this private domestic drama it is hard to see significant public interest being served by its publication. This personal story was not a matter of prior public record.

The editor explained that to ensure the article was accurate the full text was read back to the woman who supplied the story details and who confirmed it was "a fair and accurate account" of what happened, as did her family members. That is as absurd as saying criticism of a magazine was correct because it was read back to the critic who affirmed that the criticism was accurate. The photograph complained of was taken by consent at a time when the story's main players were still friends, and was not misleading, nor offensive or objectionable, the editor said. In soliciting stories from readers, the magazine says: "Photos are an important part of *That's Life*. There's a better chance of your story being used if you enclose some." It's clear the magazine is undiscriminating in its acceptance of photo offers, not limiting the choice to photos of the reader supplying the story.

As a standard disclaimer, the editor said the story was not intended to offend or embarrass the complainant, her friends or family, and offered to publish the complainant's side of the story for the same fee, a commendable corrective that yet seems exploitative, and scarcely protective of privacy.

The "first person story" is a recognisable format, especially in magazines: *Reader's Digest* has published its heroic adventure, or "narrow escape" "first person" accounts for decades; personal oral history is a valuable part of a nation's archives. Although there is no balancing view of events, the direct, dramatic nature of one person's experiences would be diminished if their views and story were constantly interrupted by another person's corrective statements.

But while such stories can appear singly focused to the readers, it should be incumbent on the editor prior to publication to ensure there is accuracy, balance and fairness and no breach of privacy, by virtue of checks that are carried out with any parties affected, not just the first-person narrator.

Such articles may accurately reflect what has happened from one person's point of view but accuracy can rarely be assured on the account of a single eyewitness. If there is doubt, the Australian Press Council has even recommended that editors seek a legally binding affidavit from the reader supplying the story.

People willing to expose their personal life to public gaze have presumably thought of the consequences; the consequences for third parties caught up in this exposure may not have been weighed equally. The person who sells a story may also not be acting from the most altruistic of motives and those with an axe to grind may use a magazine invitation to tell their story for their own purposes. Therefore, editors need to be aware of the dangers of this kind of voyeurism.

Letter not fabricated – Case 912

A Manurewa man, Maurice Hendry, has complained to the New Zealand Press Council about a letter to the editor published in *The New Zealand Herald* last September.

The short letter appeared under the heading Brevities – a column that allows for succinct comments on a range of topics and that does not publish the letter-writer's full name. It is usually published over only their initials, but does include the suburb or city in which they live.

The letter that so upset Mr Hendry was submitted by someone whose initials were J C, and who lived in Sydney, Australia. It asked what Adolf Hitler had done to suffer the insult of being compared by a German cabinet minister to US president George W Bush. It is a fact that such a statement by a German cabinet minister had been made.

Mr Hendry complained to the *Herald* a month later, calling the letter an insult and an obscenity. He suggested someone in the newspaper's own office had written the letter, given what he perceived as the *Herald*'s anti-American bias. He also said the newspaper should have been burned in the streets for so flagrantly abusing the principle of freedom of speech.

The letter was not published. On November 19 he complained to the Press Council.

Deputy editor David Hastings told the council in the paper's defence that the Hendry letter was not responded to because it was highly abusive. Further, he said, the letter from J C, in Sydney, had been pithy hyperbole not intended to be taken literally and written in response to an earlier reader.

Mr Hendry was not appeased and he sought censure of the *Herald* for its publication of the letter and repeated his belief that someone on the paper's staff had fabricated it. This allegation was firmly rejected by Mr Hastings.

Mr Hendry also made available to the Council's secretary a personal letter he had written to Mr Hastings in early January that he believed was extraneous to his Press Council correspondence. The Council disagreed – it said it preferred to see a full set of correspondence between the complainant and the newspaper concerned.

The Council declined to uphold Mr Hendry's complaint. The Council said there was nothing exceptional about this case that altered its long-held view that letters to the editor were published in any publication as the prerogative of its editor.

While newspaper executives had to expect to deal with readers and letter writers who disagreed in strong terms with them or their paper's policy, the Council said believed that

Mr Hendry had used language that was not calculated to help Mr Hastings or his colleagues accept his side of the argument.

Mr Jim Eagles and Miss Audrey Young of *The NZ Herald* were not present while this complaint was being considered.

Obligation to report court decisions accurately – Case 913

This is a complaint by Mr Robin McCarthy against Christchurch newspaper *The Press* relating to an article published in *The Press* on October 23, 2002. The article reports that Mr McCarthy had sought an Environment Court enforcement order to make the district council compulsorily acquire a Lake Tekapo privately owned airport and make it available to other commercial ventures. The article stated that the court had struck out the action as an abuse of process.

Mr McCarthy complains that the Environment Court judgment did not cite the ground of abuse of process but rather struck the proceeding out because Mr McCarthy's application, as a matter of law, revealed no substantive case.

The Press in response accepted initially that it had incorrectly reported the court decision and "offered to put the record straight". The editor stated that the paper had relied on a media release from McKenzie District Council, which had implied that abuse of process was the ground for the striking out. However, later an acting editor offered an interpretation of the legislation and the judgment that, she said, justified the reporting of abuse of process being the ground of the striking out.

Mr McCarthy was correct in that the Environment Court judgment did not cite abuse of process as the ground for striking out. *The Press* editor Paul Thompson acknowledged some initial inaccuracy.

This is a local issue and as such the Canterbury public have an interest in access to all the details in this dispute. *The Press* saw fit to report the judgment and had an obligation to report it carefully and accurately for the general reader. Once it had been drawn to *The Press'*s attention the newspaper should have corrected the error.

The Press Council upholds this complaint.

Another breach of privacy – Case 914

A woman has complained about the accuracy of a story and the breaching of her privacy in the weekly magazine *That's Life*, which originates in Australia and has a New Zealand edition. Complainant N (to avoid breaching her privacy further) referred to a first-person account by her ex-husband of their marriage and its break-up. There are four children in the family who have been the subject of custody and access disputes.

The Press Council has upheld the complaint on grounds of breach of privacy.

Complainant N said the article violated her privacy and while parts of her former husband's story were true on a very broad basis, most of it was grossly distorted. The magazine used her first name and published two photographs of the complainant without her consent. The story was bylined, *True Story as told to Louise Mills.*

The editor in what appears to be something of a formula response from *That's Life* justified the use of the photographs provided by the husband because they were not taken

surreptitiously, nor were they offensive or objectionable. She also said it would be difficult to identify the complainant from the use of only her first name and the reference to a large city.

The editor also used the formulaic argument that the publication was satisfied with the accuracy of the article because it had checked it with the husband who had given them the story, and his family members were able to verify it. This suggests that reading back to a critic the content of any criticism somehow ensures the criticism is correct.

Complainant N was also concerned that an intrusive national television interview follow-up broadcast in Australia on Channel 7 was based on the magazine story, but that does not come within the purview of the Press Council. She quite reasonably suggests that *That's Life* should have consulted her or members of her family to get a balanced account of an arguable tale.

The Press Council is not able to choose between the version of events presented in the article or the complainant's own account. In the classic "he said/she said" situation, more than single, competing accounts need to be examined for the truth to be arrived at.

However, there is a case that the complainant's privacy was breached. As has been mentioned in an adjudication on another complaint against *That's Life*, while the Press Council's Principle 3 says the entitlement to privacy should not interfere with the publication of matters of public record or obvious significant public interest, neither of these conditions apply here. The complainant is not a public figure, and while there may be public curiosity about this private domestic drama it is hard to see significant public interest being served by its publication. This personal story was not previously a matter of public record.

The "first person" story is a standard magazine format but, as the Press Council has stated about this kind of article, people who willingly expose their personal life to public gaze have presumably thought of the consequences; the consequences for third parties caught up in this exposure may not have been weighed carefully. *That's Life* draws in readers to supply their "true stories" by tempting them with money and invitations to tell their personal stories. A coupon allows readers to supply basic details that are filled out by a magazine ghost writer.

The person who sells a story may have an axe to grind and use the magazine invitation for their own purposes. Therefore, editors need to be aware of the dangers of this kind of journalistic voyeurism.

As a standard disclaimer, the editor said the story was not intended to offend or embarrass the complainant N, her friends or family. She offered to publish the complainant's side of the story for the same fee, a seemingly commendable corrective that yet would probably compound the exploitation of N's privacy, although the editor has somehow guaranteed that such a story would keep complainant N's current name and contact details strictly confidential.

The magazine says that photographs are an important part of its stories, and those supplying personal details about their life are more likely to have their stories published if there are accompanying photographs. But *That's Life* has published stories in which "all names and identifying details have been changed" and as photographic illustration has used a "re-enactment posed by model". This approach for some of the more sensitive articles might well avoid breaches of privacy in the future.

Satire wins the day – Case 915

Joseph Roehl laid a complaint with the NZ Press Council against a *Dominion Post* column by Rosemary McLeod in November 2002.

The column was headed *Get 'em off for Winston* and started by saying …"It'd be different if we'd only have it away more often. More nooky, hanky-panky, general bonking and there'd be less urgent need of a pogrom. This communal reluctance to shag for Aotearoa is getting a good man down. We've got to do it for Winston." The column continued in this vein pointing out that NZ First leader Winston Peters had got it the wrong way round. "Rather than fretting about the hordes of immigrants taking over the country, he needed to encourage population growth" and the columnist went on to suggest a number of derisory incentives for producing more children.

She also identified the gay issue as playing a decisive role in New Zealand's declining population. Mr Roehl objected to the references to the gay population that filled about one third of the column on the grounds that they were discriminatory.

The Dominion Post editor responded that the columnist is well known for her satirical style and she often used the device of irony. She used the term "pogrom" at the beginning of the column in a context that indicated the satirical nature of her writing. She had deliberately skewed the issue to attack Winston Peters' attitude towards Asian immigrants – why stop at immigrants – why not pick on gays for not boosting population. Ms McLeod had used gays as an example because they had been historically marginalised, as immigrants are now, to demonstrate the dangers and absurdity of discriminating against Asian immigrants.

The Press Council does not uphold the complaint. The columnist's comments about gays, taken in isolation without their obvious intentional irony, would be unacceptable. From the first eye-catching sentence to the end, the column was unquestionably written in a heavily satirical style and was not intended to be taken literally.

Ms Suzanne Carty of *The Dominion Post* took no part in the consideration of this complaint.

Developer had not failed to meet obligations – Case 916

The Dominion Post on August 10, 2002 published an article headlined *Agreement reached on link road*. Above the article was a large photograph (in relation to the length of article) of a somewhat disconsolate-looking woman gazing directly at the camera through thick wire netting behind which an apparently unused formed roadway winds off into the distance. The essence of the article was that as a result of an agreement reached between the complainant Walsh, and Wellington City Council as local authority, a link road was to be opened allowing, it said, 600 households to the east of No1 State Highway motorway a second access route to the motorway. Behind the agreement revealed by the article is a quite complex set of circumstances stretching over many years and many local body hearings about several subdivisions in the area of Tawa, a suburb to the north of Wellington.

The Council upheld the complaint.

The by-lined article centred on an interview with the person pictured in the photograph concerning the history of the roadway and the inconvenience encountered through

the inability of residents to have had access in the past. In the course of the interview it was stated "the access problem would be a recipe for disaster if there were an earthquake or other emergency". The developer of the subdivision was named as John Walsh through his company Kilkelly Developments. The interviewee said residents had bought into the area after assurances that the link road would be put through. It was not stated who gave the assurances but it was implied the developer was responsible. It was further stated that Mr Walsh had been in dispute with Wellington City Council about the width of a link road and that progress was halted when Mr Walsh appealed to the Environmental Court against conditions the council had imposed. An inquiry of the court revealed an agreement had been reached and this was recorded in the article. The tone of the article was to hold Mr Walsh as developer responsible for the roadway and the delay. There was no response contained within the article from the developer, but this will be dealt with hereafter.

Mr Walsh instructed his lawyers to lay a complaint with the Press Council on the grounds that the article lacked accuracy, fairness and balance and a failure to correct promptly the errors made. An important aspect of the complaint as it unfolded was the failure of the reporter to consult Mr Walsh before publication. There was a dispute of fact on this issue, which will be dealt with hereafter.

On investigation it turns out that the true position in regard to the link road is materially different from the contents of the article. One matter may be disposed of immediately and that is Kilkelly Developments Ltd has had nothing to do with the overall subdivisions, which have been carried out by Mr Walsh and his wife.

Over the past nine or so years the complainant has carried out subdivisions in stages in the area. As stated there were reasonably complex issues involved but for the purposes of this adjudication they need not be explored in detail. Mr Walsh's lawyers laid the complaint and the newspaper instructed its own lawyers and negotiations on behalf of their respective clients took place.

The Council deals first with the issue of attempts to communicate with Mr Walsh before publication. It is an accepted fact no communication was established and the article was published without the opportunity being given to Mr Walsh to answer the inaccuracies and fairly trenchant criticisms levelled at him. The newspaper says the reporter made several attempts over three days but was thwarted by an answer-phone message that said the mailbox was full and could not accept messages. Mr Walsh points out that his name, telephone number and fax number are in the book and over the period prior to publication he was available.

The Council is unable to resolve the factual dispute at this stage. However, it makes these observations.

The newspaper was preparing to publish an article that was critical of Mr Walsh and the principal source of the information apparently was the resident who could not have been expected to be able to supply reliable information about the history of the several stages of subdivisional developments. Obviously she was recounting local talk. Apparently no effort was made to verify the criticisms from an independent source. It was a story that called loudly for independent verification, and for the developer's input. Furthermore it was not such an article that carried any particular urgency to get the matter before the public. The newspaper does not claim it followed any other course than the said telephone calls to establish communication with the developer. On this issue the Council

criticises the newspaper for not making more determined efforts to get Mr Walsh's answers before publication.

To return to the substance of the complaint. There are three main issues about which the complainant argues he was wrongly treated by the article, which are:

1. The central point of the article that it had been the developer's responsibility to provide the link road in the first place and by not doing so he had put many residents at risk.
2. It had been Mr Walsh who had held up the opening of the road in order to settle his own problems over conditions he had been asked to meet and that he had caused further delay by appeals to the Environment Court.
3. The giving of assurances of such a link road to would-be purchasers at the time of sale of the sections.

Mr Walsh and his lawyer appeared and supported the vehement denials contained in the submitted papers. They also presented further oral submissions. The newspaper was invited to appear but declined.

The first point that emerged at the hearing was that the photograph (described above) had virtually nothing to do with the link road between Woodman Drive and Bing Lucas Drive. The strong inference of the photograph together with the article was that the wire netting prevented access to an already formed roadway. It was wrong to describe the roadway behind the woman in the photograph as a "Road to nowhere" as it is the main road servicing stages 2, 3 and 4 of the subdivision. The photograph was of a gate at a completely different location south on Bing Lucas Drive and Mr Walsh said it had been erected to prevent derelict vehicles from being dumped on the land.

At all times the papers supplied to the Press Council by the complainant showed that Mr Walsh never had any obligation to form the link road as the council had accepted it was their liability so to do. However, in the course of negotiations over a further subdivision (stage 4 that was not connected with the link road subdivisions) Mr Walsh reached a conditional agreement on August 1, 2002 that he would commence and complete the link road. It is important to note the conditional agreement was reached only nine days before the published article and it has yet to be finalised. Obviously the link road has not been constructed.

The newspaper's position, after being placed in possession of the material supplied by the complainant and his lawyer, is not to hold steadfastly to the allegations contained in the article and to concede that "some aspects of the details in the article … are inaccurate – albeit that they are not defamatory". However, the newspaper does claim that some of the inferences from the article claimed by the complainant do not exist.

The negotiations between the lawyers reached a deadlock, which centres around how best to meet the complaints of Mr Walsh by correcting publicly the aspersions he said the article cast on him. The complainant's lawyers advanced a fairly strict and detailed set of conditions for publication by the newspaper. The position of the complainant is that the newspaper is wrong and should not itself decide the way corrections would be dealt with.

The newspaper refuses to be dictated to in this way by the complainant and instead offered to have another senior reporter interview Mr Walsh when he could answer the allegations. Alternatively the newspaper would publish a longer letter than usual from the

complainant about the article. In short the newspaper wants to retain control of the contents of the corrections that it acknowledges are required.

The dispute comes before the Council without the parties, or their lawyers, really confronting the issues, which are in dispute because they have created for themselves a stand-off about how the remedy is to be achieved. At this point it is now going on for six months since publication of the disputed article and the public might be confused about a sudden reappearance of a dispute about the article on the link road.

The Council does uphold the complaint on the grounds that the article was inaccurate on many material points, but especially that Mr. Walsh had failed in his obligations.

It follows that the other grounds numbered 2 and 3 are also upheld.

Ms Suzanne Carty of *The Dominion Post* was not present when this complaint was considered by the Council.

Editor has the right to close correspondence – Case 917

A complaint was made against the *Wainuiomata News* by a reader over a front-page article on pay parity. The newspaper published an article on October 17 last year about the launch of a poster promoting pay parity.

Mr Peter Zohrab, the acting president of the New Zealand Equality Education Foundation, wrote to the newspaper criticising the article for being what he called "one-sided propaganda".

The newspaper published his letter then at least two letters from other readers objecting to the views expressed in his letter. A further letter from him was not published on the grounds that the editor declared correspondence on the issue closed.

Mr Zohrab complained to the Press Council that he had not received a reply to his original letter of complaint, that the newspaper was biased and that his second letter was not published. He wanted to be interviewed with his response published on the front page.

Unfortunately, the editor, Mr Peter Bartlett, declined to give the Press Council any response to the complaint before it.

Nonetheless on the information available, the Council concludes that the newspaper acted quite reasonably in publishing only one letter from Mr Zohrab and declaring the matter closed when it did.

The complaint is not upheld.

Discretion in content of cartoons – Case 918

A Tom Scott cartoon published in *The Dominion Post* was the subject of a complaint by N Brailsford.

The unsigned cartoon in *The Dominion Post* in December 2002 depicted Saddam Hussein about to be anally searched by a member of the UN Weapons Inspection team. Mrs Brailsford, a long time subscriber of the former *Dominion*, said that she had never seen such a disgusting cartoon and wanted to know why it ever had been published.

The editor of *The Dominion Post* apologised to Mrs Brailsford saying that it had not been the paper's intention, nor that of Tom Scott (the cartoonist), to offend. He explained that cartoons are very often a tough graphic commentary on matters of public interest. The possibility of war with Iraq and the willingness of the UN inspectors to go to great lengths to find weapons of mass destruction was portrayed vividly in the cartoon.

Cartoons are not always perceived by readers to be humorous; some in fact are very satirical or scathing, but ultimately the content is a matter for the editor's discretion. In this instance the topic is daily headline news. Tom Scott's portrayal of the escalating crisis follows a well-established newspaper tradition of dramatically illustrating the current news.

The Press Council does not uphold the complaint. Previous decisions of the Council have supported the view that newspapers have a wide discretion in the use of cartoons as vehicles for social and political comment.

Ms Suzanne Carty of *The Dominion Post* took no part in the consideration of this complaint.

Publication of names justified – Case 919

The Press Council has not upheld a complaint against T*he Dominion Post* in regard to a front-page news report on December 31, 2002 headed *Elderly couple in plastic bag death*. The wife, aged 78, had been found dead with a plastic bag over her head, and her husband, aged 89, unconscious beside her with medication close by. Both had been terminally ill.

The essence of the complaint, made on behalf of the family by a barrister, was that in naming the couple the newspaper frustrated a suppression order made later on that same day by a district court judge, and caused "enormous distress" to the couple's children and other family members. The newspaper was "out of line".

Counsel argued, both in written submissions and in person before the Press Council, that *The Dominion Post* must have known that criminal charges were likely, and should have realised that in these tragic circumstances a name suppression order would be sought if criminal proceedings were commenced. Police had refused to say whether or not the husband would be charged. The names had not been released to the media by the police, and on December 30 an officer had advised the barrister in writing that "name suppression is supported".

In his response to the complaint, the editor said that newspaper staff had spent much time on the night debating details for the article before publication. The article had been cleared by the newspaper's legal adviser. The couple were members of the Voluntary Euthanasia Society. "Euthanasia is a matter of intense debate around the world … Inevitably this incident will become part of that debate." The editor said the events described in the article, and the statements and views of neighbours, were treated with much sensitivity considering it was a shocking incident of itself. There was no hint of sensationalism. "The effects of their actions on the family [of the couple] are all too apparent and they had our sympathy from the outset."

The editor said that the newspaper had a right to print the story because undoubtedly it was a matter of intense public interest. He stressed that the names were part of the story, not the whole story. "*The Dominion Post* acted responsibly throughout. The couple's names were important." In the absence of a suppression order, and with the uncertainty about possible charges, the newspaper was entitled to print the names. Name suppression was accorded to very few accused.

In a further submission, counsel for the complainants argued that "the newsworthiness of the story would not have been significantly diminished had the names not been included. The "intense public interest" focuses on the issue of euthanasia and related

debate, it need not focus on the identities of the unfortunate people involved." He said that *The Dominion Post* caused enormous distress to the husband and his family and unwittingly thrust them into the public limelight.

As indicated in the above summary of the submissions, much attention has focused on the action of the newspaper in publishing the names when a police investigation that might lead to a prosecution was proceeding.

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.

The Press Council believes that strong reasons would have been required for setting aside the rights of the newspaper and its readers. Newspaper reports of striking events often result in embarrassment and discomfort for those involved. There has to be something more injurious than that to justify overriding the expectation that news events will be fully reported. The newspaper had clearly considered the situation of the family and was sympathetic to it. The identifying information it published was freely available. There was no assertive intrusion into the family's privacy, and nothing sensational about the report. The Press Council appreciates that the complainants were distressed by the publicity that followed this tragic incident, but thinks that *The Dominion Post* properly exercised its freedom to inform its readers of a significant event relating to a major current debate in New Zealand society.

The complaint is not upheld.

Ms Suzanne Carty of *The Dominion Post* took no part in the consideration of this complaint.

Lack of correction stitches up newspaper – Case 920

Southland District Health Board has complained to the New Zealand Press Council about an article in *Mountain Scene* published last December. The complaint is part-upheld.

The article, headed *The $50 Stitch*, told the experience of two young Queenstown people who had sought medical treatment at Lakes District Hospital for a lacerated toe to be told that the after-hours charge was $50.

The DHB disputed the accuracy of the article and complained directly to *Mountain Scene* editor Philip Chandler within a day or two but the paper's decision not to correct the report brought both parties to the Press Council.

Board public affairs manager Eirwen Tulett said that the community paper knew, or ought to have known, that, starting on December 1 – 11 days before the toe incident – new 24-hours emergency medical services had been introduced by way of what she referred to as an "expansion" of the hospital's services.

Local media outlets had been sent a statement on December 3 advising them that those expanded services meant the DHB had employed staff doctors to provide round-the-clock in-patient and emergency care five nights a week; on the other two nights when staff doctors were rostered off, local GPs would provide on-call cover after midnight.

Mrs Tulett said that as part of the agreement, the DHB had allowed local doctors to run their private after-hours urgent-doctor service between 6pm and midnight from the hospital's premises, rather than from their various practices sited around town, as had earlier been the case. Usual fees would be charged.

She complained that the report was unbalanced and inaccurate, and that *Mountain Scene* refused to correct it.

At the heart of this dispute between the DHB, based in Invercargill, and the feisty community newspaper run from Queenstown is a matter of considerable importance and interest to the Government, local communities and health professionals – the provision of public health services and how they will be paid for.

Some history: until last December, the DHB employed no doctors at Lakes District Hospital; medical expertise was provided by local GPs. When they threatened to discontinue their services unless they were paid more, the board opted to employ three doctors at the hospital. At the same time, it negotiated with local GPs for them to run their own private, after-hours urgent-doctor service between 6pm and midnight, from the hospital premises.

It was just days into this arrangement that *Mountain Scene* carried the report that angered the DHB.

The Press Council was provided with considerable written evidence from both parties, evidence that in the Council's view showed that in essence, a simple breakdown in communication on the day that the paper went to press had been largely responsible for the serious difference of opinion.

Further, it is the Council's position that the health board was economical with the facts when it announced the changes to after-hours services at Lakes District Hospital from December 1.

Mrs Tulett might be right that Mr Chandler should have known enough about the so-called "turf war" between the board and local GPs to have understood the import of the DHB's December 3 press release, given that he had reported the turf war last September.

But the Council cannot fault *Mountain Scene* for not penetrating to its core the message behind the December 3 press release – that a public-private partnership had been negotiated, which involved private health practitioners, GPs, charging for services provided in hospital premises and that this had come about after serious negotiations between the board and GPs in Queenstown.

Had the DHB been more forthcoming in its December announcement about the implications of the new after-hours arrangement – and the Council can understand from the information put before it why it chose a softly-softly approach – *Mountain Scene* might have published a very different article.

That part of the complaint is not upheld.

However, the Council believes that *Mountain Scene* should have acknowledged the DHB's point of view in a follow-up report, which would almost certainly have become another good news story.

To refuse to publish a correction – or a clarifying article – on the grounds that an editor disagrees with the tone of a complaint is not, in the Council's view, sound ethical practice.

This part of the complaint is upheld.

Identifying details published when name suppressed – Case 921

A complaint has been made to the Press Council about a November 12 article in *Hawke's Bay Today* identifying, by her profession and other family details, one of two sisters allegedly molested when children.

Written at the time that the accused molester had been charged (charges he denies) and bailed for a court appearance it did not name the woman, but breached legal rules automatically suppressing any material likely to identify witnesses to sex crimes.

There is newsworthiness in a child victim becoming an adult with the strength to fight back, but *Hawke's Bay Today* went too far in descriptions that clearly led to a great deal of community gossip, and the identification of the woman. It is equally clear that the identification caused the family a great deal of distress. Highlighting the woman's profession in the headline compounded the issue.

Since the complaint was made, editor Louis Pierard has given to the Press Council an unreserved concession of error. He added that the experience had proved salutary for his staff, who had been reminded that in all such cases it was essential they err on the side of extreme caution.

The facts – and the rights and wrongs of this complaint – are therefore not in dispute. And the paper has subsequently been penalised for its transgression after a police-instigated prosecution led to it being fined $750 (plus $130 costs) – a higher sum than that sought by the police. The newspaper had pleaded guilty.

In normal circumstances the court action would have precluded any further involvement by the Press Council. But the woman has pressed her case on the grounds the court action was not hers and that the court had not considered the moral or ethical issues of the publication. The publication of the details was a breach of journalistic ethics and nothing further needs to be said.

The complaint is upheld.

English nationals not the target – Case 922

Jay Berriman complained about the "Being Frank" column, an opinion column written by the ex-All Black Frank Bunce, published on November 2, 2002 in the *Sunday Star-Times*. Headlined *They're a terrible team to lose to, but the Poms might just be too good*, the column started "What is it about England? Everyone hates them. They're the worst team in test rugby you can lose to. And I'm speaking from experience". Later the columnist repeated a comment he had made in 1993 when he had been on TV before the match "… I'd hate losing to the English." They lost.

Mr Berriman said the opening comments regarding losing to the English were spiteful and it was unfair to generalise about the English in this way. He went on to highlight the folly of antagonising other nations.

The Press Council said that Mr Berriman's complaint relied on a few sentences taken in isolation. The target of the column was clearly the English rugby team not as Mr Berriman says "the English as a whole".

The complaint is not upheld.

Deadline no excuse for lack of balance – Case 923

This is a complaint by Philip Davidson against an article published in the *Wairarapa Times-Age* on February 10, 2003 and the subsequent publishing of a letter by Mr Davidson on February 28.

The article reported that a tree was to be felled the following day but local residents wanted to save it. It was reported that the property on which the tree stood had been purchased by out-of-towners who use the house infrequently. The locals interviewed wished to retain the tree because of its age and beauty.

The owner of the property, Mr Davidson, wrote to the newspaper to complain about the article. The letter was addressed to the editor and was published as a letter to the editor

Mr Davidson complains that the article was inaccurate, emotive, misleading, unbalanced and an invasion of his privacy. While the article states the house was moved on to the property in October, this in fact occurred in February 2002. While the article reports a neighbour as saying none of the other street residents knew the property owners, in fact Mr Davidson and his partner were in contact with three neighbours. Mr Davidson complains the term out-of-towner was emotive and irrelevant to the story.

Mr Davidson complains that the article misleads by reporting nearby resident Pip Stokes as saying no one knew why the tree was to be felled, when neighbours had asked for it to be felled. He also objects to Mrs Stokes' comment that the tree is a landmark with history because it does not appear as an historic tree in the local body District Plan.

Mr Davidson complains that the reporter did not contact him for comment before the story appeared and that his privacy was breached by publishing the address of the property and that it was often unoccupied.

Finally Mr Davidson complained that his letter to the editor was not intended for publication and publishing it compounded damage suffered because the information he did not want published was published again.

In response the editor of the *Wairarapa Times-Age* accepts that there were some factual errors but maintains they were not materially relevant. The information in the article was provided by the locals who approached the newspaper about the felling of the tree.

The editor states that the issue was one of public interest and in the limited time available the reporter could not ascertain the owner.

The editor accepts he made an error of judgment by publishing Mr Davidson's letter of complaint and as a result has revised the newspaper's procedure for handling letters. He notes that it was not marked "not for publication". He also notes that it was published essentially unchanged and without comment even though it was strongly critical of the paper. Nevertheless, publishing the letter gave Mr Davidson an opportunity to clear up the factual discrepancies in a timely fashion.

In most circumstances it is good journalistic practice to seek comment from both sides of an issue such as this. The time constraints, given the tree was to be felled the following day, may have been compelling. The Council notes that more information from the editor about steps taken by the reporter to ascertain the identity of the owner would have been useful. This part of the complaint is upheld because high journalistic standards require every effort to be made to gather comments from both sides of a story such as this.

The publishing of the information that the house was usually empty was pertinent to the story and accurately represented the facts. The owner acknowledged that this would be obvious to people in the immediate vicinity. The Council does not find that the owner's rights to privacy have been substantially breached.

It is of concern to the Council that a letter of complaint addressed to the editor was published when the writer did not want it published. In this case there was no warning not to publish the letter. The editor has taken steps to make sure this situation does not happen again. The Council does not uphold this part of the complaint.

The complaint is part-upheld.

Use of inverted commas queried – Case 924

The Press Council has not upheld a complaint by Professor Michael Neill of Auckland against *The New Zealand Herald*. The complaint concerns a headline used on a December 5, 2002 report of a speech by the Race Relations Commissioner, and later repeated as a "tearout" heading on a March 13, 2003 story relating to the public commotion that followed the Commissioner's speech. The headline said: *Pakeha settlers 'like Taleban vandals'*.

Professor Neill asserted that the newspaper's use of inverted commas could mean only that the Commissioner, Mr de Bres, had used the actual words thus enclosed. He did not accept the newspaper's claim that it is common practice for newspapers to use quotation marks to indicate paraphrase.

The complainant referred to a 2002 case (No.876) in which the Press Council observed that inverted commas "are clearly inappropriate if they do not indicate what was said, or as this is a translation, a reasonable interpretation of what was said". The Council recommended that quotation marks be used to indicate words that can be attributed to a person, book or passage.

The deputy editor has provided the Press Council with 11 examples of the use of inverted commas, other than for direct quotation, found in recent issues of major New Zealand, United Kingdom and Australian newspapers. The practice is illustrated in another example in the (London) *Independent* of April 25, 2003:

> Refugees are 'escaping persecution, not poverty'
>
> Most asylum-seekers arriving in Britain are fleeing nations gripped by civil war, persecution of minorities and brutal dictatorships, according to a report to be published next month.
>
> The Institute for Public Policy Research (IPPR), a Blairite think-tank, contradicts arguments made by ministers that most refugees are driven by economic factors, rather than the need to escape persecution at home.

The Press Council finds no problem with the practice here. The inverted commas are being used to highlight the main thrust of the report identified in the first two paragraphs

of the article. There is no possibility of the words within quotation marks being linked to a particular person or persons, nor would readers assume that this particular formulation of a key message would be found verbatim in the report.

Given the widespread use of this practice in highly reputable newspapers the Council does not propose to issue "a more absolute ruling on the inappropriateness of using quotation marks to indicate paraphrase" as Professor Neill has requested. The Council does, however, believe that the use of quotation marks for paraphrased statements should be avoided when there is any possibility of misunderstanding through readers linking the statement to a particular person or persons. In both the 2002 case and this present one the central focus of the accompanying story was a particular person, and the Council is strongly of the opinion that newspapers should specifically rule out the practice in these circumstances, and say so in their style manuals.

The Press Council believes that the central issue in this complaint is whether the headline: *Pakeha settlers 'like Taleban vandals'* misrepresents what the Commissioner said, and so transgresses the Council's Principles relating to accuracy and fairness.

Professor Neill said that he had read and re-read Mr de Bres's speech and could not find a single passage in which he appeared to state that Pakeha settlers were "*like* Taleban vandals".

The relevant section of the Commissioner's speech is this:

> "It is timely to recall why UNESCO and the United Nations decided to focus this year on cultural heritage. It was in response to the cultural vandalism that led to the destruction of the Bamiyan Buddhas by the Taliban regime in Afghanistan. This was an appalling example of people of one culture wielding their power to destroy a site that was special to people of another. The world was outraged.
>
> "But while we rightfully shake our heads in incomprehension and condemnation, the destruction of the Buddhas also challenges us to think of our own country and to examine our own record.
>
> "The colonisation of New Zealand was a sorry litany of cultural vandalism. Governments, egged on by land-hungry settlers, rode roughshod over Maori cultural relationships with their environment, threw some of their most visionary and peaceful cultural leaders and elders into gaol without trial, belittled their culture and actively discouraged the use of their language. This cultural vandalism was accompanied by environmental vandalism, and vast expanses of New Zealand's indigenous ecosystems were unnecessarily destroyed."

In his final submission supporting his allegation that the headline, by coupling unlike situations, had seriously misrepresented what Mr de Bres had said, Professor Neill repeated an analogy he had drawn earlier: "To say that jokes at the expense of Jews and the extermination of millions of Jewish people in the death camps are both expressions of anti-semitism is plainly **not** to say that retailers of such jokes are in any significant sense 'like Nazi mass-murderers' – though to remember the brutality of the latter might cause one to reflect on the social destructiveness of the former.

"I understood Mr de Bres to have been inviting precisely this kind of reflection on some of the more unattractive aspects of our own colonial past."

The deputy editor responded by saying that, "This analogy is transparently false because Mr de Bres was not referring to two such dissimilar acts as the commission of a monstrous crime on the one hand and the telling of jokes on the other. He did not say that the cultural vandalism of the Taleban makes us reflect on anti-Maori jokes told by the Pakeha settlers in New Zealand because they are both examples of intolerance. Rather, he was comparing two similar acts. He said the **cultural vandalism** of the Taleban … makes us reflect on the **cultural vandalism** of the Pakeha settlers…"

The Press Council did not come to a unanimous decision on the complaint. A majority of members did not accept Professor Neill's view that the two elements in the comparison Mr de Bres made had been assigned such different orders of magnitude and gravity as to make invalid the newspaper's linking of them in its headline. They considered that although the particular actions in the two cultures differ, the defining description is the same pungent and condemnatory phrase: "cultural vandalism". The majority considered that the headline *Pakeha settlers 'like Taleban vandals'* is justifiable as a compressed expression of the core idea in the paragraphs cited above from Mr de Bres's speech: Like the Taleban, Pakeha in New Zealand practised cultural vandalism.

Mr de Bres himself recently commented to the editor that his remarks had referred primarily to the actions of governments, not settlers, but the conjunction in his speech of the words "colonisation" and "egged on by land-hungry settlers" supports the headline's use of the word "settlers" as part of its compact signposting of what follows in the December 5 report.

A small minority of members considered that the headline was inaccurate, in that Mr de Bres had simply been using the particular occasion to refer to New Zealand experience and was not pointing to similarities in what happened in the two cultures.

By a majority decision, the complaint is not upheld.

Miss Audrey Young and Mr Jim Eagles of the *NZ Herald* took no part in the consideration of this complaint.

Newspaper's clarification saves the day – Case 925

The Press Council has not upheld a complaint against *The Oamaru Mail*, over its coverage of school reorganisation in the Waitaki Valley, concluding that while the paper did make a serious error it took adequate steps to rectify the situation.

The complaint revolves around the lead story in the *Mail* of February 7, which outlined options put forward by a Ministry of Education review for the future of schools in the valley. In its second paragraph the story stated that, "Principals at Kurow Area, Hakataramea Valley, Otematata and Cattle Creek schools have opposed suggestions from the ministry they merge into an Upper Waitaki Valley Community School to be based at Kurow".

The third paragraph quoted Cattle Creek principal Janet McGregor as saying "most" schools would probably reject the proposals.

The article then outlined the various options and quoted Mrs McGregor's views at some length. No one else was specifically quoted.

Mr Doug Stone, the principal of Kurow School, complained to the paper that since his views had not been sought it had no right to suggest that he opposed the proposals. Mr Stone sought an immediate correction and apology to be given identical prominence to

the original article. The reporter who wrote the original article contacted Mr Stone to give him an opportunity to explain what his views were. Mr Stone declined saying there was an agreement that all comment would come from a ministry facilitator.

The next day the paper ran on page 3 an article headed *Clarification*.

This acknowledged that the original story had implied that all the local school principals opposed the community school plan and said this was based on the subsequent quote from Mrs McGregor that she believed "most" principals would oppose the plan.

The clarification said the story did not seek to represent the views of anyone other than Mrs McGregor. It added that Mr Stone had specifically declined to give his views because of the agreement with the ministry.

The paper apologised for any confusion caused by the article.

Mr Stone subsequently complained to the Press Council about the clarification which he described as "totally unsatisfactory from the point of view of its positioning (buried in the body of the newspaper where few who read the original item could be expected to look)".

The editor said the paper had acknowledged that the second sentence in its report was incorrect. Given that Mr Stone had declined to say what his views were, she said, it was difficult to see what it could do other than recording the error and apologising.

Various other issues have been raised by the parties but these need not concern the Council.

The nub of the complaint is whether having made a significant error in a story the steps *The Oamaru Mail* took to rectify the matter were adequate.

The clarification it published was not altogether satisfactory, and in the Council's view would more properly have been headed *Correction*, but Mr Stone appears to accept its content. The matter he has raised with the Council is whether its positioning low on page 3 was an adequate response to a story at the top of page 1.

On balance the Council considers it was. Newspapers face practical difficulties in giving a small correction the same prominence as a large story. The Council's stance is that corrections ought to be given fair prominence.

The key question is whether the ordinary reader of the paper, having read the lead story on the schools, would be likely to see the correction the next day. The *Oamaru Mail* is a small, local newspaper and it seems unlikely that many readers would fail to turn to page 3 which is the second most important page.

The complaint is not upheld.

Second-hand smoke article draws fire – Case 926

The University of Otago complained about what it said were misleading statements in a story in the September 20, 2002 issue of *The National Business Review* (*NBR*) headed *Statisticians say ads' aims justify the lies*.

The Press Council has upheld the complaint.

The story referred to a report produced for the Ministry of Health by Professor Alistair Woodward of the Department of Public Health, Wellington School of Medicine, University of Otago and Dr Murray Laugesen of Health New Zealand, Auckland, "Deaths in New Zealand attributable to second hand cigarette smoke".

There are three major parts to the complaint.

1. The Otago University deputy vice-chancellor, Dr Ian O Smith, said claims in the story by reporter Nick Smith that the report had been thoroughly debunked by colleagues were incorrect. Dr Smith said the statisticians quoted were dissatisfied with the way the results had been used in publicity campaigns but did not question the scientific quality of the original report, whereas the story cast doubt on the value of the research.
2. The complaint also said the story implied incorrectly that Professor Woodward and research fellow Dr Simon Hales supported false advertising. But they did not say "ads' aims justify the lies" as stated in the headline, said Dr Smith.
3. The headline is derived from the story. But, Dr Smith complains, "Nick Smith inserted his own words in quoting Woodward and Hales's letter to *NBR* (September 20) and completely changed the meaning. The letter said: 'Sure, the exact number of deaths is uncertain, but that is not a good reason to do nothing.' In Nick Smith's story, this appeared as '[Criticising false advertising] is not a good reason to do nothing'."

It is essential to outline the sequence of events here. In the issue of *NBR* the week before (September 13) there had been a story, *Lobbies use flawed statistics to woo public* which set the scene. It claimed statistics from academic papers were being misused in public-good advertising, particularly relating to Ministry of Health and Ministry of Transport campaigns over deaths from smoking cigarettes and road accidents, respectively.

The September 13 story rather confusingly mixed up the health and transport issues, but various academics were quoted and in part had this to say (emphasis added):

> Christchurch medical school associate professor of biostatistics Chris Frampton …. said *the advertising campaigns* ignored the uncertainty inherent in statistical models based on observational studies. Smoking, passive smoking and pollution were bad for people but it was intellectual dishonesty to make claims about death rates of such magnitude with absolute certainty he said. Yet *the public advertisements* authoritatively state the death rates as fact.
>
> Auckland medical statistician Patricia Metcalf said while the passive smoking report acknowledged its flaws, *the advertising campaign* was "not telling the truth." She agreed *the advertising campaign* was an offence against intellectual honesty but said the health ministry report conceded it had made a number of assumptions when arriving at its annual death rate of 388.
>
> Factors difficult to quantify- stress, poverty, diet, housing – were ignored or resulted in assumptions that were conjecture, Dr Metcalf said. "I don't think you can tell that [second-hand smoke kills 388 per year] from this," she said.
>
> Massey University associate professor of statistics Steve Haslett said the passive smoking report "is useful but not definitive." … the report had not been peer-reviewed and its own authors highlighted the many uncertainties contained in the findings…
>
> … Dr Metcalf : "It's got to do with the people in Wellington and how much importance they attach to these things, how much these people are campaigning for…".

There is a bullet-point by-line reference at the end. With a touch of bravado that suggests the writer is not a neutral party, it states, * *Nick Smith is an unrepentant smoker.*

It is clear from this article itself that the authors of the report on deaths from second-hand smoke in New Zealand stated first that there were "many uncertainties associated with this calculation", as the abstract of their paper says, and fellow academics acknowledged this, while deploring the way the paper's conclusions were used in advertising.

It was in response to this article of September 13 that a letter from research fellow Simon Hales and Professor Alistair Woodward appeared in *NBR*, September 20, under the single-column banner *Right of Reply*. It is from this letter that the article complained about appears to have originated.

The letter defended the reports criticised in the September 13 story, and acknowledged that the figure of 400 deaths a year resulting from air pollution and slightly less than that number from second-hand smoke were "not precise estimates but they provide a reliable guide to the size of the problem." The concluding sentence was "Sure, the exact number of deaths is uncertain, but that is not a good reason to do nothing, which seems to be what Mr Smith suggests".

The editor was short, sharp and tardy in his defence of the article complained about (published eight months ago), disagreeing that there were factual errors or that an apology was required. Referring to both articles of September 13 and 20, and to subsequent letters, he said he felt the matter had been argued sufficiently and let (sic) it at that.

However, it is relevant that the further letters about the September 20 story published in the October 4 issue of *NBR* were corrective. One from the deputy-director general of the public health directorate, Dr Don Matheson, made it clear the Woodward-Laugesen report was peer-reviewed, contrary to the claim in the story.

He also wrote that the Ministry of Health, which commissioned the report, was satisfied that it did not have statistical errors and had not used an incorrect formula for population-attributable risk, both claimed by the September 20 story.

Ironically, it is from *NBR*'s own reporting that the September 20 story is shown to be flawed. It is clear in the September 13 story the statisticians quoted are principally discussing, and responding to questions about, advertising uses of the Woodward-Laugesen report. The follow-up story fudges this.

Where the Woodward-Laugesen report is criticised by Dr Metcalf, it is as one academic advancing another viewpoint about a paper's findings, a normal difference of opinion rather than a "debunking".

Where square brackets conventionally introduce an exact reference which is not indicated or clear (typically a proper name where a pronoun may be ambiguous) in the September 20 story the phrase introduced – "Criticising false advertising" – is certainly not the original wording that occurred in that sentence – "Sure, the exact number of deaths is uncertain". This is clearly inaccurate.

Equally the confusion in the September 20 story between the academic reports themselves and the advertising in which they are used contributes to the unhappy result. "Sure, the exact number of deaths is uncertain," the pair say of the intellectually dishonest advertising, according to the *NBR* story. It is clear the pair (Woodward and Hales, in their letter, September 20) were actually referring to academic reports and their own research, not the advertising.

The egregious opening paragraph of the September 20 story compounds the issue. "Anti-smoking and pollution advertisements that promulgate lies or half-truths are acceptable, say statisticians who produced the data." This is the opposite of what those quoted actually said. Nor were the statisticians who were quoted as criticising (not accepting) the advertisements the authors who produced the data.

Don't blame the messenger – Case 927

Kim Cohen complained about an article which appeared in *The Northern Advocate* on April 16 and was headed *Judge questions competence of North lawyer*. Ms Cohen, the lawyer in question, also lodged a complaint against the same article run in the *New Zealand Herald* the following day as a New Zealand Press Association story from *The Northern Advocate*. It had a similar heading: *Judge questions youth advocate's competence* and a subsidiary heading *Grounds for appeal 'lacked tenable merit'*.

Since the story in both papers about an appeal in the High Court was the same, and the *New Zealand Herald* has relied on the responses of *The Northern Advocate* editor, the two complaints are treated here as one.

The Press Council has not upheld the complaint against either newspaper.

The appeal before Justice Nicholson was about a Youth Court finding, but the High Court released the judgment for publication after a request by *The Northern Advocate*.

Before the story appeared, a *Northern Advocate* reporter contacted Ms Cohen, alerting the lawyer to the article reporting the decision of Justice Nicholson containing adverse comments about her. The paper was giving Ms Cohen a chance to respond, which she did, using very restrained language in order not to breach legal ethics.

Later the same day and before publication, Ms Cohen's solicitors faxed a letter to the paper defending Ms Cohen's handling of the appeal. They acknowledged "now that the High Court has pronounced on the issue, Ms Cohen accepts that there is a binding ruling on the point". But in a virtual plea of mitigation countering the judge's criticism of their client, they said the judge made his adverse comments and allowed the judgment to be published without giving Ms Cohen the chance to be heard on these points.

They argued that although Ms Cohen's legal research failed to turn up direct [case law] authority for her new point – that a particular breach by the police of the provisions of the Children, Young Persons and their Families Act should mean automatic dismissal of a charge – she had not acted irresponsibly in pursuing the appeal, and was not to be criticised for having done her duty as a lawyer.

In his judgment Justice Nicholson set out the facts of the case and his assessment of the grounds on which Ms Cohen appealed. He dismissed the appeal, and then added a surprisingly strongly worded criticism of the lawyer and the merits of her case. While saying "it may be that this was an isolated and uncharacteristic failure to exercise sound and responsible judgment" Justice Nicholson unusually made public his request that his concern be drawn to the attention of the Principal Youth Court judge.

After publication of the article, Ms Cohen's solicitors complained to the newspaper that it had failed to use the information in their faxed letter. The editor, Tony Verdon, responded that generally a newspaper would report only the facts contained within a judgment, but the reporter had offered Ms Cohen the chance to comment because of the adverse nature of the judge's comments. He invited extra comment from Ms Cohen in a

letter to the editor, and said she would be contacted for any follow-up story,

The complaint to the Press Council said that the article was unfair and showed a lack of balance. On behalf of the naturally aggrieved lawyer, the solicitors reiterated points that in their view would have provided balance, 1 and 2 that the judge did not offer counsel the chance to address either the criticism or the release of the judgment, 3 and 4 that Ms Cohen was arguing a new point, which explained why there was no previous authority but she had been reinforced in her view by legal research and consultation, and points 5 and 6 finally that she was careful and dutiful in preparing and carrying out the appeal.

The editor responded that after the newspaper gave the lawyer the chance to comment on the story to be published, she spoke with the reporter for about 10 minutes. He believed the newspaper had faithfully reported her comments – there was no issue of accuracy in the complaint – even though it was not usual practice to seek comment from people criticised in such a judgment. The principal youth court judge who was contacted for the story was reported citing the referral of Justice Nicholson's criticism of counsel to him, and said such a notification was "rare". It would be investigated, and he was sure the particular youth advocate would be able to give a full and detailed response.

The editor explained to the Press Council that points 1, 2 and 3 raised by the solicitors were not matters for the paper but issues between Ms Cohen and the court, and 4, 5 and 6 were no doubt true but again not matters for the newspaper.

The Press Council agrees that the newspaper has fulfilled its duty in publishing a written High Court judgment accurately and gone further by seeking extra comments. The newspaper had also offered a further forum for Ms Cohen's comments. Counsel who take exception to what they perceive as judicial extravagance have naturally sought to engage the newspaper in their advocacy, but in this case it is clearly not the newspaper's duty. Blaming the messenger for not advancing their case, where it is simply undertaking the normal considered reporting from court, is not a solid ground for complaint.

There is a matter that the faxed letter did not arrive at *The Northern Advocate*'s editorial floor in time for consideration before the newspaper went to press (*The Northern Advocate* is printed in Auckland). But as the newspaper's treatment of its article would not have been altered in substance by this, it is more a question of both the correspondents to the newspaper and the editor needing to be aware that the logistics of the newspaper's publication may present obstacles when speedy communication is needed.

Mr Jim Eagles of the *NZ Herald* took no part in the consideration of this complaint.

Is 'Christ!' offensive? – Case 928

Auckland woman Lyn Gautier has complained to the New Zealand Press Council about the use of a profanity in the *New Zealand Herald*'*s* new weekend magazine, *Canvas.* The complaint has not been upheld.

The word "Christ!" appeared as an expletive in a column written by Lyn Loates-de-Roles, that discussed the dangers of being distracted by using a cell phone when driving. Her column debates the rights and wrongs of the practice and current public discussion about whether New Zealand should join 49 other countries and ban it.

Mrs Gautier, who said she was a Christian, objected strongly to the use of the word in the column. She said there was any one of a hundred expletives that the columnist might have used, including some that would offend minority and/or ethnic groups.

She said she had never seen the word used in that way in the newspaper before and felt that in replying to her written letter of complaint, editor-in-chief Gavin Ellis had been inadequate.

Defending the newspaper and his columnist, Mr Ellis told the Council that the paper's stylebook stated that expletives were to be avoided but acknowledged that there would be exceptions. He believed the Loates-de-Roles column was one of those occasions.

The word "Christ!" he said, was used in the context of a reproduced conversation that the columnist had had with herself when she had recalled, with no small amount of alarm, the consequences of lost concentration when driving.

Further, he said, the *Concise Oxford Dictionary* recognised the use of the expletive as an expression of surprise, but did not record its use as offensive.

He apologised if the use of the term had offended Mrs Gautier, for that had not been the *Herald*'s intention.

The Press Council found that, while the use of profanities would always offend some readers, it could not uphold the complaint. It found that, while most newspapers rejected the use of expletives and swearing in their news columns, they also accepted it sometimes in direct quotes or in opinion columns, where writers were often conversational in tone and thus had more licence.

The Council said it noted the paper's policy on the use of questionable language, but accepted the editor-in-chief's argument that newspapers were reflections of the societies in which they operated.

As a result, they would mirror the changing views, mores and language that their readership used and accepted. The complaint is not upheld.

Mr Jim Eagles of the *NZ Herald* took no part in the consideration of this complaint.

Breach of privacy upheld – Case 929

The Press Council upholds the complaint of Mr Simon Hayes, of Queenstown, that the local newspaper *Mountain Scene* breached his privacy in putting together an article on April 10, a two-page feature on pages 6 and 7 under the headline, *Homes on show*. The Press Council did not uphold his complaint that the newspaper used subterfuge.

Mr Hayes objected in particular to the publication of two photographs of his house and its rateable value. Privacy issues arose, he believes because an arrangement he made out of a wish to contribute to a local charity led to publicity that he did not seek and clearly resents. There was subterfuge, he alleges, because the photographs were taken and the information for the story compiled without reference to him. His complaint accordingly centred on the Council's principles 3 and 9.

As a fund-raiser, Wakatipu Plunket has, for the past eight years, organised tours of homes in the district. *Mountain Scene's* report gave credit where credit was due,"eight generous local homeowners opened their doors for a good cause". Those who took part paid $15 each and were given a land agent's descriptions of the homes which they might visit, together with an information sheet setting out agreed conditions for conduct of the programme. No mention was made of prohibition of photography. The need to respect privacy was stressed only in an injunction to abide by the wishes of the owners as to which parts of their house were to be regarded as open.

Mountain Scene did not send a reporter or a photographer on this year's tour. The newspaper states, however, that it had regularly featured "property news and individual properties". As a result of the rapid increase in property values in the district local homes – "who owns which and what they're worth are of high interest among a substantial portion of our readership". The newspaper decided to run a feature this year when it became aware of photographs taken, quite openly, by a member of the public during the tour. The article in question was compiled, by making use of some of these photographs and public information about the properties, including their rateable values, plus information from the Plunket brochure, and observations "of striking features made by the person who took the photographs". No fees were paid to the photographer.

The newspaper took pains to "mask" the addresses of the homes which it featured. On the day of publication, to avoid any appearance of "exploiting" the local Plunket organisation, the newspaper mailed them a cheque, equivalent to their standard freelance fee for a feature of that size. Publication of the report led to what *Mountain Scene* has described as a temporary "rift" with Plunket; after a meeting, "our earlier payment was increased somewhat, and a mix of advertising and editorial support offered. There was also a letter of regret (but not apology) to Plunket".

In response to Mr Hayes, *Mountain Scene,* contended that the houses on the tour became public places by virtue of being opened to the public. The programme was not private; members of the public paid for the privilege; no restrictions were laid down as to who could join or about publicity or photography. The photographs were not taken surreptitiously; flash was sometimes used. The public character of the tour meant that there could be no question of subterfuge. The newspaper, in putting the story together, was merely doing its job of news gathering about a topic of self-evident local interest.

The Press Council does not accept *Mountain Scene'*s principal argument to the effect that because the houses were for a time opened to the public, they therefore became public places. A New Zealander's, like an Englishman's, home is his castle. The Council's Principle 3 makes the point: "Everyone is entitled to privacy of person, space and personal information." Privacy issues of course must be balanced against the public interest. There is, however, an important distinction to be made between what is interesting to the public and what is in the public interest. No doubt many members of the public in Queenstown, as elsewhere, are interested in other people's houses; but that is not to say that it is in the public interest to publish information that the owners would rather not be published. It was thoughtless to impinge in this way on the private realm of individuals, especially in a small community. There is good cause to feel aggrieved when an instinct to support a local charity generates unwanted publicity.

There was, however, nothing clandestine or deceitful about the information gathering involved. The Council accordingly does not find that its principle 9, in relation to subterfuge, was breached. Nevertheless, the newspaper would have done itself and the Wakitipu Plunket – and their "home tours" fund-raiser – a service by consulting the home-owners concerned before publication. There is now a risk that home-owners may be less willing to support the programme in future. These are issues of courtesy and respect, more than transgressions of the Press Council's principles to do with the role of a free press.

The Council upholds the complaint.

The Sheik's visit – Case 930

The New Zealand Press Council did not uphold a complaint lodged by Ian Little against a *Wanganui Chronicle* April 1 spoof article and associated advertisements. On the front page of the *Wanganui Chronicle* there was a picture of Osama bin Laden captioned "Osama bin Hidin'" with a teaser comment "By George, Wanganui's the perfect getaway destination". This was followed by a photo on page two with an article headlined, *Sheik and ye shall find*. At the end of this article, highlighting the wonderful riches that the Sheik could bring to the Rangitikei region on his April 1 visit, was a pointer to page 10 that featured numerous advertisements for the region. All of them, in some lighthearted way, were linked to the mythical Sheik's visit.

Mr Little took exception to the articles on the grounds of poor taste and also referred to a biblical curse that would eventuate.

The editor explained that the articles were well signposted as an April Fool's Day publication and obviously were not intended to be taken seriously. The advertisements that were linked to the Sheik's fictitious visit were an eye-catching and different way of presenting the region's goods and services. One advert featured camel pies.

The Press Council saw no grounds on which this complaint could be upheld.

Readers misinformed in STV example – Case 931

Alan McRobie, of Rangiora, complained about inaccuracies he found in a March 19, 2003 article on the STV (single transferable vote) system for elections in *The Press*, Christchurch. A poll on whether Christchurch City should change from FPP (first past the post) voting to STV was pending. The complaint has been upheld.

As a first point, the complainant, a well-known author and consultant on electoral matters, alleged that the words "determined by electoral officials" in the following passage were inaccurate: "Put simply, candidates win if they reach a quota determined by electoral officials who take the number of valid votes and divide this by one more than the number of vacancies contested." He said that the word "calculated" should have been used to make clear that the number of valid votes determined the quota. At a community group he had been addressing, some concern had been expressed that officials might manipulate the size of the quota for a particular purpose.

The editor of *The Press* rejected this interpretation of the four words, saying that the full sentence made plain that officials had to use a specific formula. The Press Council agrees with the editor. In the context, the verb "determine" clearly has the well-established connotation of "to ascertain definitely by observation, examination or calculation."

The main body of the complaint concerns the discussion in the article of the way in which votes are processed under STV, and the example it gives – the filling of four places by 50 voters. The complainant said the article was inaccurate in not indicating consistently that the quota in STV elections has to be higher than the figure arrived at by dividing the total of valid votes by one more than the number of vacancies. [In large-scale elections processed by computer the quota for filling four vacancies is commonly stated as "a fifth of the votes, plus a fraction of a vote". For such small-scale elections as that in the example it would be stated as "a fifth of the votes plus one".]

The complainant criticised the following passage, which follows on from the sentence ("Put simply … contested") quoted above: "This means that for any mayoralty the

magic figure is one half of the votes cast (technically a nudge above this to prevent a tie). Likewise if a ward returns three councillors, the successful candidates must get one-quarter of the vote." The complainant said that the phrase "technically a nudge above this" failed to indicate that this addition was a critical aspect of the STV quota. The Press Council considers, however, that this phrase does equate sufficiently with "plus a fraction of a vote". The second sentence about a ward election, on the other hand, made no reference at all to the margin above "one-quarter of the vote" essential to the quota, as it should have.

The central target of the complaint is the article's handling of the hypothetical example of 50 students choosing four prefects from seven candidates. It showed how votes could be transferred to produce four successful candidates. This information was also set out in a table accompanying the article.

The complainant saw this discussion and the table as fundamentally flawed because the article said "… 50 students have been asked to pick four prefects from seven candidates. So the quota is set at one-fifth of 50 or 10 votes". He pointed out that the quota should have been stated as 11 (one-fifth of 50, + 1). If the quota were only 10 then five candidates could potentially secure it – but there were only four vacancies to be filled.

The core of the complaint is that the newspaper failed to take any action to correct its inaccuracies "at a time when accurate public information was of the essence".

The editor defended the article against what he saw as criticism from an academic. "Essentially, he judges us as wrong because we did not give an exhaustive account of how STV works … the article must be judged as a piece of journalism, written to be understood by a reader with a layperson's interest in STV. Further, I think that any person reading *The Press* article would have been given a factually accurate account of the system and would not have been misled about it." He went on to say that Mr McRobie was technically correct in saying that the quota in the example should have been 11 votes. "But the point is minor. The average reader would not have been seriously misinformed by what we printed." The newspaper had decided there was no need to correct the story.

The Press Council thinks that the editor misrepresents the complainant's concern when he asserts that the complainant wanted an exhaustive account of STV. Mr McRobie simply wanted *The Press* to acknowledge there were errors in its presentation of how an STV election works and to publish a prompt correction. An internal newspaper memo by the author of the article, copied to the complainant, similarly exaggerates the issue: "Of course Alan [McRobie] is technically right – but at a level that the vast majority of readers would not understand." The Press Council believes that the complainant had identified a basic error in the simple example the newspaper presented, not some abstruse nuance of little significance.

The Council considers that the newspaper made an error of judgment in treating the inaccuracies in its presentation as trivial, and in its attitude to its readers. It was an excellent idea to use a simple example to illustrate how STV works, but that brought an obligation to get all the detail of the description and the table correct. The explanation given in the article and table about the hypothetical election was inaccurate and misleading. It takes no great mathematical subtlety to work out that if the quota is set at 10 then five candidates might be able to secure it from a total of 50 votes. Readers could have been left wondering how five are then reduced to four.

The Press Council thinks that *The Press*, having acknowledged the error in its presentation of how an STV election would work, should have acted promptly to run a correction and a revised table based on the correct quota of 11 votes. Nothing very complex was required to sort the matter out. The newspaper invited the complainant to write a letter to the editor for publication, or a piece of his own. This was to treat the matter as one primarily between the newspaper and the complainant. The newspaper should have seen that its primary obligation was to the large body of readers who had been misinformed on a highly topical issue.

The complaint is upheld.

Newspaper entitled to advocate – Case 932

The Press Council has not upheld a complaint by the New Zealand Timber Industry Federation (hereafter the NZTIF) against *The Dominion Post* about a series of articles on the possible adverse effects of timber treated by the method known as chromated copper arsenate – CCA – which is a pesticide used to preserve wood for use out of doors. The treatment contains arsenic that is a poison, and a recognised carcinogenic that can cause deleterious health effects and affect the environment.

The series of articles began with one in the Saturday edition of the newspaper on November 9, 2002 and continued into the New Year 2003. There were in all about 24 articles most of which were by-lined to a journalist, Chris Mirams. Obviously the newspaper had invested resources into the story and quite tenaciously held to its mission as it saw it, of responsible investigative journalism.

The main point made by the newspaper in the first article, and in several that followed, is that tanalised timber (ie, that treated with CCA) is a danger to the health to those who come into contact with it. The treatment necessarily involves arsenic that is a known carcinogenic. Tanalisation is for timber used out of doors because the treatment provides it with protection against deterioration from exposure to soil and the weather. The timber is used extensively in school playground equipment throughout New Zealand, and by the public in other building and recreational uses. *The Dominion Post* commissioned an independent study of playgrounds in the Wellington area and published its findings using language and headlines that the complainant characterised as sensational, unbalanced and deceptive. The study reported levels of arsenic leached into the soil in the playgrounds tested as between two and 10 times above government guidelines. The sample of three playgrounds investigated is too small for confident statistical extrapolation.

There can be little doubt that the newspaper has been conducting a campaign against the use of tanalised timber and as part of that campaign directly and indirectly criticising the Government for not being more proactive on this public health issue. It is also critical of the Government and local authorities for not acting to ban the sale of tanalised timber, or at least to ensure the public is made aware of the dangers of its use at the point of sale.

An important part of the argument advanced by the newspaper is that governments in the United States (technically a withdrawal not a ban, says the complainant), Canada, Sweden and Japan (the European Union is considering a report from scientists on the subject) have already taken steps to ban the sale of tanalised timber. In the US this followed an extensive public campaign to prohibit its sale which apparently was successful. It is fair to say that the newspaper did not ignore entirely the arguments of the industry

that there is still scientific controversy over the health risks attendant on the use of this treated timber, but these aspects were not given prominence.

A complaint was laid with the Press Council by NZTIF on the grounds that the material published in *The Dominion Post* had breached the council's principles of accuracy, fairness and balance (Principle 1 of the Statement of Principles). The complaint was very full and supplied to the Press Council was a quite extensive file of papers in support of the complaint, which was responded to in kind by the newspaper. The complainant's own summary of its case was that *The Dominion Post* had set out on a preconceived project to destroy the reputation of treated timber and in doing so had seriously breached the principles established by the Press Council. *The Dominion Post* had offered the NZTIF publication of a 1000-word reply but stipulated it had to be supplied within three working days. In an issue as complex as this NZTIF might have had some justification in not being able to meet the deadline.

At this point it is appropriate to make observations about the position of the Press Council in disposing of a complaint such as this, which the Council believes has applicability to this complaint. Reference has already been made to the amount of material that has been supplied by both sides in this complaint. Much of the material concerns disputes by well-qualified experts on the health issues. The Council faced a complaint against a magazine that was highly critical of immunisation and in the Council adjudication [Immunisation Advisory Centre against Investigate Magazine Case No. 847 2001] the following was 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 against which IMAC complains. The Council is not constituted or resourced to pursue enquiries 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."

One of the Council's Principles states:

> 7. Advocacy
>
> A publication is entitled to adopt a forthright stance and advocate a position on any issue.

There can be no question but that *The Dominion Post* on tanalised timber did adopt a forthright stance in taking up the advocacy for abolition of the sale of tanalised timber in New Zealand. In doing so the headlines were forceful and perhaps some would say sensational (that is the view of the complainant) and these are some examples: *Poisoned playgrounds*; *Public wakes to preservative's dangers; Timber, cancer link backed; Rotten leadership fuels timber debacle* (headline to the leader of November 28, 2002); and *Code of practice abused, say officers; The case for arsenic*. The majority of the Council (see below for dissent on the last headline) acknowledges these are forthright headlines but do not contravene Principle 10 on Headlines in that they "accurately convey the substance of the report they are designed to cover.' Nevertheless the Council observes that a newspaper

on a mission to investigate and remedy a perceived condition of possible danger must still maintain the highest standards of journalism.

Two members, Messrs Stuart Johnston and Denis McLean, would have gone further and upheld the specific complaint made about the headline *Case for arsenic*.

In their view, the headline both contravened Principle 10 and was unfair in conveying the derogatory implication that the following article was a general endorsement of arsenic. They therefore dissent from the Council's decision in respect of this particular item.

The complainant clearly felt aggrieved at the adversarial style of investigative journalism adopted by the newspaper. The complainant took up the position of a victim of an unfair and unbalanced attack on an industry that in this area of treated timber had operated for many years practically without challenge. Underlying the complaint is a quite large commercial interest that the NZTIF was defending and the Council appreciates that is part of its mission.

The Council is aware that the Environmental Risk Management Authority (ERMA) released a report on May 1, 2003 that seemed to suggest research to date was inconclusive on health risks to children. Nevertheless ERMA set out a plan for future use of CCA treated timber that supported further research together with strengthening of conditions of use. Each party has had the opportunity to comment on this latest development but the Council does not believe the position of the complaint is materially changed by it.

In the Council's view *The Dominion Post* had every right to present a hard hitting challenge to the industry and government agencies for not taking more positive steps in regard to tanalised timber on the grounds of health risks and effect on the environment. These views are amply supported by the actions on the same issues from overseas countries. The Council repeats that it takes no stand itself on the merits of the argument but does take a firm stand on the issue that a newspaper is perfectly entitled to air such a problem and open it up for debate in the public interest.

The complaint is not upheld.

Ms Suzanne Carty of *The Dominion Post* took no part in the consideration of this complaint.

The price of fame – Case 933

Fred Angell, notorious as a wild life smuggler, died in a car crash on April 10 this year. His family was advised at 6.10pm on the day of the accident. A report in *The Press* of Christchurch the next day described the accident and named the deceased.

John Angell complained on behalf of the family that the newspaper had published the name of the deceased too soon after the crash.

The paper in its defence said, "People who place themselves in the spotlight can not expect to have it switched off upon their demise. Their deaths are news and it is unrealistic to expect the media to delay prompt reporting of such events."

John Angell knew Fred Angell would attract a final headline. His complaint is a timely reminder that families of people in the public eye have no greater immunity to the hurt caused by a relation's death than the rest of us. Neither have they courted the publicity that adds to their grief. The fact that the deceased was well known does nothing to make the family feel better.

Editors understand this well; they battle every day to balance the public's thirst for

information and the rights of the surviving family. The evidence is that editors do take this responsibility seriously and consider each case.

There is no doubt the article did add to the family's grief, yet the deceased's lifestyle made him newsworthy and attracted the final headline.

The complaint is not upheld.

Paper failed to show consideration for young person – Cases 934 and 935

The New Zealand Press Council has upheld two complaints against *The Southland Times* for failing to display sufficient concern for the welfare of a 14-year-old boy who was the victim in a sex abuse case.

Both complaints revolve around an article published on the front page of the *Times* on March 3, 2003 carrying comments by former CYF worker Leigh Johnston following his conviction for indecent assault.

The essence of that article was repeated in an editorial the *Times* ran on March 13 defending the decision to publish Johnston's comments.

The Council received complaints from both Mr Nobby Clark, manager of Invercargill Family Start, and Child Youth and Family regarding publication of Johnston's comments.

In response the editor vigorously defended the paper's coverage, apart from acknowledging that the heading on the interview was incorrect in describing Johnston as "accused" when he had already been convicted.

The Council does not wish to give further publicity to the comments in question but it notes that the question of whether publication of them was acceptable involves a balance between several of its principles.

The Principles recognise that a publication is entitled to adopt a position of forthright advocacy and it recognises the crucial importance of maintaining freedom of speech.

However, the Council also takes the view that in exercising those rights newspapers have to consider other factors. In its privacy principle, for instance, it notes that "those suffering from trauma or grief call for special consideration". Further, in its principle on children and young people it states that, "Editors should have particular care and consideration for reporting on and about children and young people."

The 14-year-old boy in this case was both a child and a victim who was likely to be suffering from trauma and so doubly entitled to consideration.

The Council believes there was no particular public interest to be served by publication of Johnston's comments. On the other hand it was likely that publication would cause distress.

In the Council's opinion the paper failed in its responsibility to show special consideration for a young person who had been the victim of indecent assault, had undergone the stress of a court appearance and was likely to be severely traumatised by his experiences. The complaints are upheld.

Headline misleads – Case 936

Environment Canterbury (Ecan) complained about a series of articles run by the *Ashburton Guardian*, relating to resource consent applications for the Rangitata Diversion Race (RDR).

The Press Council has part upheld the complaint.

A 67-kilometre-long combined irrigation, stock water and hydro power canal, the Rangitata Diversion Race, has been in operation for 57 years. After the Resource Management Act 1991 (RMA) came into force, resource consents were needed. The *Ashburton Guardian* reported that the key activities of damming, diverting and taking water from the Rangitata and Ashburton rivers were authorised by notified use consents that expired on October 1, 2001.

The RDR had been able to continue exercising these consents under special conditions of the RMA. In February this year the RDR management committee was seeking renewal of these consents to enable the continued operation of the RDR.

In a Page 1 lead article on January 31, headed *Report sparks RDR concern* the *Ashburton Guardian*'s chief reporter, Annette Scott, wrote that a review report on applications for consents had sparked concern over the future of the RDR. While a commissioners' hearing of the applications was to be held in February, a review report by Warwick Pascoe, prepared under the provision of the RMA, stated "all of the water permit applications were considered to be non-complying activities and 'therefore cannot be granted unless they pass the threshold test'."

This story was complemented by an editorial opinion piece by Ms Scott inside the paper which was headed *Bureaucrats holding RDR to ransom*. Ms Scott wrote: "The forebears of the 1930s and 1940s project must surely be seething with anger to know the future of their innovative project that built the backbone of the district's rural economic status is being held hostage by office-sitting bureaucrats saying the water permit applications for the continued use of the RDR are 'considered to be non-complying activities'. Therefore, the review report states, the renewal of consents cannot be granted unless they pass the 'threshold test'. Failure to obtain these consents will result in the loss of millions and millions of dollars to the Ashburton district."

The headline of the editorial opinion and the passage quoted are at the heart of Environment Canterbury's complaint, which covers a series of articles that run prior to and through the course of the RDR consent applications hearing.

Environment Canterbury complained that the headline and statement were not accurate, fair or balanced and would have deliberately misled and misinformed readers. Commenting on the review report, Environment Canterbury's complaint said: "It is a matter of routine that a [RMA] Section 42A report will assess whether the activity applied for is a discretionary activity or a non-complying activity … if an activity is a discretionary activity, the RMA provides that certain criteria must be used … if an activity is a non-complying activity then the RMA provides that certain other criteria must be used to determine whether or not the application should be granted.

"The section 42A report in this case simply stated that the activities which were the subject of RDR's application were considered to be non-complying activities so that the Hearings Commissioners would know which set of criteria were appropriate to use …"

It seems clear what happened: taking the ordinary meaning that "non-complying" meant a well-established water scheme could be closed down, the newspaper embarked on a campaign with 23 articles in as many days and headlines such as *RDR starts fight for survival*, *Farmers fear livelihoods under threat,* and *Personal heartbreak has no measure.*

Ecan could have indicated early to the newspaper and the public what all this meant, particularly the definition of "non-complying". The newspaper for its part had a duty to inform itself and its readers what "non-complying" meant in this context. Ecan was in an awkward position and its reticence is understandable given that it appoints the independent commissioners for the hearings. It would not want to enter public debate that showed any partisanship. But it should have done something, given the likelihood of misunderstanding that, in the event, did occur.

While the resource consent hearing had still to take place, the paper ran a Saturday February 8 *Guardian Today* story headed *$1bn down the drain, Ecan refusal to award water consent threatens to choke RDR and district.* The article on page 12-13 inside gave the full story that the consent hearing was yet to take place, and the view that a refusal could threaten livelihoods. Readers would not necessarily reach that but could take the headline as read.

The paper ran a Correction panel on February 13 saying it had been brought to its attention that the word "refusal" was "open to misinterpretation". It explained: "The RDR is only classified as a non-complying activity pending the findings of the resource consent commissioners. The *Guardian* sincerely regrets any suggestion Ecan has made a final judgment on the RDR water consent."

However, the words "refusal to award … threatens" without any qualification or conditional tense such as "would threaten" is not open to interpretation but clearly wrong. The complaint against the newspaper is upheld on the ground of inaccuracy here.

Sensibly, the paper also ran an article from Angus McKay, Ashburton constituency councillor, Environment Canterbury, headed *Reporting of resource consent disappointing.* This expressed the concerns Environment Canterbury subsequently outlined in its complaint.

This article also said the allegation that Environment Canterbury sees rivers as public water and wells as private and therefore not subject to the same processes was clearly incorrect. This was originally a point of view from a farmer quoted by the *Ashburton Guardian.*

The rather anxious approach the newspaper took to this issue was reflected in its articles but it cannot be censured for its vigorous local campaign when it felt, and its readers obviously agreed, that so much was at stake.

A newspaper in these circumstances does not necessarily take the cool and neutral stance of an official authority. The clear editorial opinion was able to use the exaggerated figures of speech referring to ransom and being held hostage in general terms – they often come up in political debate – as they are not out of place in a robust comment column.

The newspaper continued to cover the RDR hearings prominently, even though the number of stories about witnesses' evidence seemed weighted towards the supporters rather than objectors to the consents. In the end, this energetic partisan reporting was not unexpected given the paper's reader base, although the exception was the clearly wrong headline against which the complaint is upheld.

Existence of "industry sources" questioned – Case 937

Ian Walker, president of Federated Farmers (Northland), has complained to the New Zealand Press Council about an article that appeared in March 2003 and part of a gossip

column four weeks later in the fortnightly newspaper *Rural News.*

His complaint about comments in the column, known as *The Hound*, is simply resolved. On this occasion, the Council believes *The Hound*'s comments pushed the boundaries of acceptability, but given that the column has been a long-standing feature of the paper and that its remit in dispensing often-pungent criticism is well understood, the Council does not uphold this part Mr Walker's complaint.

Mr Walker's other complaint relates to an article published a month earlier, on March 3, that relies on unnamed "industry sources". These sources express concern at the potential for a conflict of interest between NFF and its business relationship with a company partly owned by the president, Mr Walker, and another board member, Chris Mathews. In making what the *News* clearly understood was a somewhat inflammatory suggestion it made use of the auxiliary "may" to soften the impact

Mr Walker describes the reports as grossly inaccurate, unfair, unbalanced, vindictive and deliberately misleading. After the article's publication, Mr Walker, on behalf of his board, threatened legal action against the newspaper through its legal counsel. *Rural News'* editor, Adam Fricker, responded via his paper's lawyers, saying the newspaper would staunchly defend itself.

In the end, both parties opted instead for a Press Council adjudication.

Essentially, Mr Walker, Mr Mathews, and the board said they believed that the newspaper's "industry sources" did not exist and that the article was a complete fabrication. They also argued that neither Mr Walker nor Mr Mathews had been given the opportunity to comment on the article immediately before its publication, although they had been approached some time earlier. The *News* maintained it had tried to contact them.

Mr Fricker countered that the "industry sources" did exist and that it was standard journalistic practice to protect their anonymity where that had been sought. He also said that both men had been asked for comment, which had been refused, and referred to reporters' notes of February 13.

On the issue of whether or not comment from Messrs Walker and Mathews was sought, the Press Council cannot make a finding in this straight confrontation about facts. That means that neither side is disbelieved, but the point is not crucial. A periodical newspaper will always have a longer lead-time than newspapers published daily, meaning information and the writing of reports for the next edition might be completed some time before that edition is published.

However, the Council reminds editors of the importance of seeking comment from opposing parties – where possible, within the same article, and where that is not possible, as soon as practical thereafter.

As to the issue of the use of anonymous sources, the Council cannot find any lapse in ethics by the newspaper here.

However, it again takes the opportunity to remind editors of the risk they run with the public credibility of their publication when unnamed sources are relied upon too frequently.

Editors know that anonymous sources should ideally be used only when information of public interest cannot be gleaned any other way or, for example, when fronting up publicly will jeopardise the physical safety or continued employment of the source. Editors need to be satisfied as to the source's motivation and integrity when anonymity is sought.

Press Council principle 4 bears repeating in part: "[Editors] 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".

Clearly, the editor of *Rural News* believed that his reliance on unnamed critics of the business arrangement between a company that does work for Federated Farmers Northland and is partly owned by its president and a board colleague, met that stiff criteria. There are, therefore, no ethical grounds for upholding that part of the complaint.

Mr Walker also complained about inaccuracies in the March 3 report. These referred to the chairmanship of a broadband trust and that the website, www.federatedfarmers.com, had been established to launch a broadband Internet service in Northland. These Mr Fricker concedes in correspondence with the Press Council.

The Press Council upholds that part of Mr Walker's complaint. Good practice insists that inaccuracies are corrected as soon as practicable after they are drawn to the attention of the publication concerned. According to the material put before the Council, this was not done and, in the Council's view, should have been.

Vigorous political debate played out in public – Case 938

Waimakariri mayor Jim Gerard complains that in an article of December 12, 2002 headlined *Rocky road trips promise-packed council*, *Kaiapoi Leader* editor Sandra Stewart has breached standards of accuracy, fairness and balance.

The complaint is not upheld.

The article, written by Ms Stewart, includes the statement:

> *"Jim Gerard ... [is] chary about admitting to a split in ranks, particularly no doubt as one of his election platforms was to heal the rifts which beleaguered the previous council. Not to mention his own propensity to swing on the vote. He came under fire from deputy Jo Kane last month for putting his casting vote to setting up the new community and recreation committee with chair Robbie Brine when talks had always been for a cost neutral proposal chaired by Jo Kane."*

In a letter to the editor, Mr Gerard says he particularly objected to her assertion that he had a propensity to "swing on the vote" with an inference that he had blocked the deputy mayor from being appointed to chair the new community and recreation committee by the use of his casting vote.

Mr Gerard also takes issue with an earlier (October 31) article that stated "that the mayor had no faith in his deputy's ability to do the job, by using his casting vote against her appointment". He says that although the editor had been present at a subsequent Ccuncil meeting where he had rebutted this charge, the rebuttal had gone unreported.

The following order of events, he says, demonstrates clearly "that Ms Stewart's allegation that I have a 'propensity to swing on the vote' is without foundation". At a Coucoil meeting of September 3 the council had voted without dissent in favour of the new committee; an agreed requirement to review the membership of all existing committees had delayed its appointment until October 21; and he had then used his casting vote to "maintain the status quo" of the earlier meeting.

Rather than showing any propensity to swing, casting his vote in this way had been

consistent with accepted parliamentary and personal practice. An analysis of the outcome of all resolutions moved at council meetings between October 2001 and December 2002 showed that he had used his casting vote on only three occasions – each time to confirm the status quo.

These not only showed Ms Stewart's December conclusions that he had a "propensity to swing" to be "grossly incorrect and misleading", he says, but threw into question the accuracy of the October 31 article that quoted Cr Kane as saying the committee vote indicated the mayor lacked confidence in her ability.

Mr Gerard took his case to the Press Council after Ms Stewart declined to run a retraction for her December article or a correction for her alleged "misleading accusations" in the October article.

Responding, Ms Stewart argues that it is the later vote that is relevant to discussion – the earlier vote had been in the nature of a "proposal". Mr Gerard's casting vote had defeated Cr Kane's procedural motion that the agenda lie on the table until a Higher Salaries Commission determination on local government salary pools. The effect of this vote, she says, was to confirm the present committee structure and the appointment of Cr Robbie Brine – something seen by some councillors as a vote of no confidence in the deputy mayor. The editor cites the opinions of two councillors (Jo Kane and John Shivas), previously expressed in the newspaper (October 31), to support this. She says she does not accept that a retraction is necessary for either the October or December pieces because they were neither factually incorrect nor grossly misleading as contended.

Both Mr Gerard and Ms Stewart engaged in lengthy debate in support of their respective understandings of the vote proceedings and meanings. Despite evidence supplied to this Council that Mr Gerard has been consistent in his voting practices – he votes only where a show of hands or a division is called – it is clear from the detail of this debate that the differences over the effect of this practice also spill over into the council chamber.

The whole issue bears all the hallmarks of a vigorous political debate, one that is reasonably played out in a public arena. Ms Stewart might be advised to be more careful in her choice of words: suggesting that Mr Gerard had a "propensity to swing" was an overly strong and ambiguous way of making her point. This and other observations can be seen as editorialising – a practice more valid in a newspaper editorial or in a column clearly marked "opinion".

Nevertheless, in the context of a healthy, political arena and public commentary, her by-lined interpretations are as valid as those of the councillors she reports on the issue. Politicians must expect to be thoroughly scrutinised and criticised.Mr Gerard is mistaken in his expectation that the newspaper has an obligation to report his criticisms of it put at a public meeting – and that it fails standards of accuracy, fairness or balance by criticising him or choosing to highlight the views of his opponents. He has every right, however, to seek to continue the debate with opponents within the council where his real argument seems to belong. As that debate continues it is likely to receive plenty of coverage in a community newspaper that is clearly passionate about local affairs.

It is suggested by the evidence supplied by Ms Stewart that the mayor may not always have been adept at dealing with the news media, on one occasion not responding to requests for comment. If he had been more available, his side of events may have had a better airing.

The complaint is not upheld.

Article highlights lethal mix of fire and alcohol – Case 939

The Press Council has not upheld a complaint by Ms Robyn Mitchell, who is described as next-of-kin of a man named Noel Johnson, now deceased, but is also the mother of the three boys mentioned hereafter. The complaint concerns two articles published in the *Bay of Plenty Times*, first on July 20, 2002, followed by another on July 27, 2002. Both these articles were concerned with the manner in which the deceased met his death by fire in a housebus, which he occupied as his home.

Some of the particular circumstances surrounding the death cannot be established with certainty, but the central ones are not in dispute and are independently verified.

The deceased was aged 42 and separated with three boys aged from seven to 12. It seems at about 1am of the morning of July 20, 2002 he reached his bus. He was known in the small district of Whakamarama as a heavy drinker and it was reported that when delivered by friends to his bus, he was heavily intoxicated. The bus apparently caught fire at about 5.30am and burned fiercely with the deceased unable to escape. The bus had two exit doors, one of which was locked by a metal pin in a makeshift external lock. There was a rear safety hatch exit towards which the deceased was apparently moving in an attempt to escape when he was overcome by smoke fumes. His body was found in that vicinity.

The bus had no electricity supply connected to it and candles were used for lighting. Exactly how the fire was ignited is uncertain but the candles and effects of alcohol were prime suspect causes.

The first article published on the day of the fire, July 20, 2002 was weighted to the known facts and reasonable inferences. A photograph of the burned-out bus accompanied this article. The fire service assistant regional commander, Keith Fraser, was quoted as saying at the scene of the fire:

> "… the mix of alcohol and candles were to blame in this and in many fires, especially where men were involved. We've never said this before but it needs to come out in the open. We've got to highlight this problem".

The article then went on to mention other details of the deceased and the fire, and finished with an account of somewhat similar deaths in the region.

The second article, a week later by a different reporter, was more lurid in description of the surrounding circumstances. Photographs of the ravaged interior of the bus and one of the outside also accompanied this article. It was that article that the complaint centres on. The details of the complaint are about two issues, namely:

1. The language used was a highly emotive, fictional account of what may or may not have been Mr. Johnson's last moments without any foundation whatsoever;
2. The journalist gained access to the property without any authority from the owner.

These issues will be returned to later.

As is usual in an event such as has been described there are generated several official reports and they have been made available to the Press Council. The Council was supplied with the pathologist's report of the autopsy carried out on the body of the deceased

the same day as the fire; the ESR's forensic toxicology report on alcohol blood and urine levels, and carbon monoxide saturation all prepared from samples taken by the pathologist at the autopsy; and a Fire Investigation Report compiled by fire engineer Alistair Henderson. The second article contained quite extensive quotes from fire engineer Henderson and Dr Ian Beer, the pathologist, who had carried out the autopsy on the day of death. The accuracy of those facts reported is not disputed.

The pathologist's report was that in his opinion the cause of death was smoke inhalation and incineration. The ESR forensic toxicologist's report gave the analyses of blood alcohol at 230 milligrams per 100 millilitres and urine at 356 milligrams per 100 millilitres. Carbon monoxide in the blood was 75 per cent saturated. The Fire Service Report was thorough and covered most known events surrounding the death by fire, but need not be detailed here. Generally nothing in the Fire Service Report contradicts the article but rather supports it.

It is not unusual for the reading of the concentrations of alcohol in the urine to be significantly higher than that found in the blood. Having said that, the reading of 230 millilitres in the blood demonstrates a very high concentration of alcohol in the body of the deceased indicating that he, when alive, was heavily intoxicated as he was described by friends who drove him home, and by others.

When all this material is assembled the Coroner conducts the inquest, which in this case took place on April 4, 2003. Counsel states the Coroner found the cause of death to be the result of smoke inhalation. No other finding was recorded and nothing adverse with regards to Mr. Johnson. Counsel also advised there was no record available of the inquest. It is in the discretion of the Coroner whether he chooses to make any other remarks and apparently on this occasion he did not, and that really is a neutral fact.

The essence of the complaint is that the second article was emotive without an established fact basis at the time of publication. The secondary complaint was that the reporters did not have the permission of the owner to go on to the property to examine and obtain photographs of the burned-out bus.

The complainant here seems to rest her case not as the owner of the property, but on the simple allegation there was no formal permission given. The Council has not been supplied with any details about ownership but there has been no complaint from the landowner of breach of rights. The complainant simply has not made out this ground. Furthermore in an incident of such notoriety as this one the niceties of ownership of land at the time do not loom large, particularly where no points can be made as to any untoward conduct or damage.

Returning to the central complaint, which is most concerned with the article published a week after the event. Some of the statements made in the article that cooking oil had probably been the cause of the ignition, and the exact route of the deceased once he became alarmed and escape was vital are not capable of firm establishment. However, having said that said they are not advanced in the article other than as possible scenarios on the evidence available then.

The emotive language complained about is contained in these examples:

> "So it was with Noel Johnson, who spent his last few seconds in hazy, disoriented terror, dying just millimetres from safety. The 42 year-old's body was found lying with his feet toward the back door, where his alcohol-

soaked brain and scorched airways finally succumbed to the effects of toxic soot and smoke…

"As we leave behind the burned-out bus with the half-consumed bottle of beer sitting on a nearby railing and bourbon and coke cans lying in the grass, the birds lapse into eerie silence."

The complainant denies that the items were those of the deceased, but that minor matter must be left there. The article hypothesised that the deceased faced with fire may have panicked throwing the blazing pan into the sink and turning on the tap with disastrous consequences. There was no evidence of that, or that he had tried to escape through the front door of the bus.

Counsel on behalf of his client says: "There is absolutely no foundation for these inferences and comments [deceased was an extremely heavy drinker and through intoxication caused his own death and that the last moments of his life would have been acutely painful] and accordingly my client wishes that part of the article to be retracted." For reasons set out below the Council does not accept this submission.

In answer to the allegations made by the complainant the newspaper answers that it did not set out to upset Mr Johnson's family but to tell readers, with expert opinion, what happened in the bus that morning. The editor conceded that while at times the language may have been colourful in places the facts were accurate. Furthermore he said the tone of both articles was prompted to a large extent by the Fire Service, which was determined to highlight the damage caused by the lethal mix of alcohol and fire. In short the newspaper defended its articles as being in the public interest.

What is at issue for the Press Council to decide is whether the two separate articles constituted a breach of journalistic standards in the way the newspaper handled a significant event such as a death by fire in the district. That there would be high public interest in the event is beyond question.

The Council finds that the article of July 27, 2002 was responsibly written and where there was speculation (the Fire Service report also contained speculation) it was reasonable given the totality of the circumstances. The articles overall were in the public interest highlighting a now well-identified social problem of men living alone, drinking heavily and occupying inferior-to-dangerous premises. The editor admits that the language had some colour, but that is style and for the editor.

The Council is aware this was a tragedy for the deceased and his family and sympathises with them, but the newspaper was not at fault.

The complaint is not upheld.

Should a letter be turned into a story? – Case 940

The Press Council has not upheld a complaint by Mr James Scott, of Matarangi Beach, against an article about the development of Matarangi resort in the Coromandel published in *The New Zealand Herald* on April 23, 2003. He said that there were inaccuracies in the article, especially in statements attributed to him.

An earlier article on April 9 by the same reporter had drawn on an interview with the developer to give up-to-date news about the buoyant market for the sale of sections at Matarangi. There were said to be "80 golf-course sections" selling well in a new area away from the beach but lining the golf-course.

Mr Scott emailed a letter to the newspaper saying this article had been purely promotional. There were still concerns in the community about aspects of the development, including the water supply and flooding. His principal point was that the golf course no longer qualified as a championship course because the practice fairway was being eliminated for more housing. The modification of what had been originally promoted as a Bob Charles-designed championship course meant that "the Charles imprimatur" had been withdrawn.

The New Zealand Herald chose not to run Mr Scott's email as a letter to the editor, but instead used it as the starting-point for a second article on the Matarangi development. Mr Scott was told of this intention and suggested two other residents who could contribute points of view.

This second article appeared on April 23. Mr Scott complained to the editor, saying that he had not made some statements directly attributed to him, and that other statements in the article were distortions or inferences. He considered the use the newspaper had made of his emailed letter had been unreasonable and unfair. The editor rejected the complaint, saying that everything attributed to Mr Scott in the story was implicit in his email.

In his letter to the Press Council, Mr Scott objected to the newspaper's having turned his statement that "The practice fairway is being eliminated for more housing" into the headline *Sections stealing golf course land: resident*, with the follow-up comment: "But Scott said The Links sections were robbing land from the course." He objected to his being described as "upset" about what was happening, and to other details in the article.

The editor said that the article had not distorted or misrepresented Mr Scott's views. He agreed that in one sentence directly attributed to Mr Scott by quotation marks the word "imprimatur" had been replaced by "branding", but said that this had in no way altered the sense of the sentence.

The Press Council notes that in taking up Mr Scott's letter and making it the basis for a story the newspaper considerably sharpened his criticisms and broadened the matter by including comments from another resident as well as a vigorous response from the developer.

The Press Council agrees with the editor that in only one place was a statement quoted as Mr Scott's own words at variance with what he said in the email. Such altering of a quotation is an unwise practice, but the seriousness of the particular change has to be assessed. It could well be argued in this instance that in changing the phrase "the Charles imprimatur" to "the Bob Charles branding" the newspaper was clarifying Mr Scott's point by using a familiar commercial term in place of a learned latinate word with religious or official connotations. Not much weight can be attached to this item in the complaint.

The essence of the complainant's case is that, in the absence of any further approach to him by the reporter, only words in his email should have been used in the article in reference to his views. The newspaper clearly screwed the tension over the Matarangi development up several notches. In using more aggressive and colourful language did the newspaper distort Mr Scott's criticisms? The Press Council thinks that it did not do so to any serious degree.

There is always the risk of creating a grievance when a story is developed from an unpublished letter to the editor. The complainant's reaction to the heightened treatment given to his criticisms of the Matarangi development is understandable, but the Press Council

does not consider that the particular ways in which the article departs from the wording of the complainant's email amount to a significant breach of the Council's principles.

The complaint is not upheld.

Mr Jim Eagles of the *NZ Herald* took no part in the consideration of this complaint.

Brief Statement from the Press Council on Case No 941

The Press Council has upheld a complaint against *Wainuiomata News* regarding an article published on June 5, 2003. The Council found that the article breached three of its Principles. The paper had made no attempt to contact the complainant to provide balance to the article and check the claims made, though it did subsequently offer a right of reply; although it acknowledged an error, it did not publish a correction; and the headline should have made it clearer that the views expressed were someone's opinion.

The breaches were not at the top end of the scale but, cumulatively, warranted the complaint being upheld.

Columnist's right to free speech upheld – Case 942

The New Zealand Press Council did not uphold a complaint laid by Ken Orr against a *Sunday Star-Times'* opinion article written by Michael Laws. The column appeared in May this year and was titled *Mallard ducking his moral responsibilities*.

Laws introduced his column by criticising Sports Minister Trevor Mallard's announcement that Team New Zealand's next America's Cup attempt would be underwritten by $34 million. The column meandered from one topic to another with morality the theme linking each point Laws was making.

The column delivered an opinion on the morality of a gay couple who wished to adopt a child but who had to apply to the National Ethics Committee in their bid to adopt a child through surrogacy. This led on to the comments that Mr Orr complained of "Pretending to be concerned for the child's welfare, they (the Roman Catholic Church) say they will oppose the adoption". Laws later in the article stated that, "On current evidence, a child is more likely to be abused by a Catholic priest than a gay parent".

Mr Orr objected to both these statements on the grounds that they were outrageous and highly offensive. He stated that he was unaware of any evidence to support the latter allegation, claiming that Laws displayed religious bigotry and undermined religious tolerance and freedom.

The then editor of the *Sunday Star-Times* replied that, "Laws may well be displaying religious bigotry and be undermining religious tolerance but he is entitled to be that way". The assistant editor also argued that the paper could not find any reference to a case of abuse by a gay parent on a child although she conceded that the paper could not claim that one had never occurred.

The Press Council rigorously upholds the concept of the right to free speech. A writer to *The Times* of London stated: "It has to be said at regular intervals that press freedom is empty if it means the freedom to be caring, compassionate, thoughtful, sensitive and sensible. True freedom of the press can only mean the freedom to be vulgar, stupid, ignorant, offensive and just plain wrong, all of which a columnist sometimes is." In this instance Laws, as a columnist, was exercising his right to free speech.

The Press Council did not uphold the complaint.

'Death knell' OK – Case 943

Sue Rawson, of Auckland, complained about *The New Zealand Herald*'s coverage of comments from US government sources about the consequences of various remarks by the prime minister relating to the war in Iraq. It was contended among other things, that the newspaper had breached the council's Principle 3 – the maintenance of "the highest professional standards" in the New Zealand press.

(It should first be noted that maintenance of "the character of the New Zealand press in accordance with the highest professional standards" is one of the "principal objects" contained in the Press Council's Constitution; it is not one of the council's principles set out as a guide to good journalistic practice.)

The Press Council does not uphold the complaint.

On May 23, *The Herald* devoted its front page, beneath a banner headline, *PM's comments death knell to trade deal: US*, to examining the implications of responses by American officials to various remarks made by Prime Minister Helen Clark about the Iraq war and its progress. Particular prominence was given to the views expressed by a "US Government spokesman" (not named). The actual observations attributed to the prime minister were cited in a separate box. In an associated piece, also on the front page, under the headline *Loose Lips come back to bite PM*, *The Herald's* political correspondent suggested that a "few ill-considered remarks" had "turned into a diplomatic disaster for the prime minister – and New Zealand".

The focus of *The Herald's* reporting was the effect of what had been said on New Zealand's chances of getting into a free trade arrangement with the United States. In the background are widely expressed concerns in the community about the impact on the economy of not being allowed to proceed in tandem with Australia in negotiation of such a trade treaty.

Ms Rawson based her argument in part on the proposition that *The Herald* should have made it clear in its reporting that US farm lobbies will almost certainly block a free trade arrangement with New Zealand. She referred to a Mediawatch commentary dated June 1 noting remarks from Washington over recent months to the effect that New Zealand did not have high priority in negotiation of a trade deal. The un-named US spokesman was, she suggested, an Embassy officer putting his own interpretation on what had been said by the prime minister. Ms Rawson contended that there had been no change in the position of the US Government and that therefore there was no justification for *The Herald*'s focus on the impact of Miss Clark's remarks or for the claim that they had dealt the "death knell" to New Zealand's prospects. The prime minister's remarks had been "blown out of all proportion by the media". *The Herald* coverage and headline were accordingly "inflammatory, sensationalist and misleading".

The Herald argued that the prime minister's own satisfaction with a statement made by the US Trade Representative in November demonstrated that, contrary to Ms Rawson's assertions, the Government believed only a few months before that New Zealand's prospects were very much alive. When the same official said, following the prime minister's comments about the Iraq war, that "some things done recently" had made a deal with New Zealand "harder to carry" in Congress, the outlook for New Zealand had obviously changed. The story became even more important news when a US government spokesman (anonymous) said that the prime minister's comments about President Bush had been "beyond

the call" and that one remark in particular had constituted a "coup de grace" for New Zealand. *The Herald* maintained that it has been balanced in reporting the issues surrounding the free trade proposal. A major article on May 29 under the headline *We're probably better off without one* (a free trade deal) backs up this contention. In its letters to the editor columns the balance in relation to the prime minister's remarks was in her favour. The newspaper rejected Ms Rawson's claim of a pro-American bias by pointing to its editorial opposition to the Iraq war. The deputy editor also vigorously rebutted her proposition that it was the responsibility of New Zealand media to represent only a New Zealand point of view.

The Press Council notes that there could be little doubt that the whole affair constituted an important news story in the New Zealand setting; other media reacted in similar fashion. *The Herald* seems to have given particular prominence to the story because it had concluded that its own reporter had obtained something of a "scoop" with the comments of the unnamed official. Those comments, coupled with the "on the record" observations of the US Trade Representative himself, cast a new light on the issue of New Zealand's prospects of gaining a free trade deal. The headline, to which Ms Rawson objected, was consistent with the story and therefore not misleading. The term "death knell" fairly reflects "coup de grace" used by the unnamed US government spokesman. The newspaper had followed good practice in seeking comments from the prime minister's spokesman. *The Herald'*s coverage of the story was well in line with the role of a free press in a free society.

The complaint was not upheld.

Mr Jim Eagles of the *NZ Herald* took no part in the consideration of this complaint.

Not pom-bashing – Case 944

The Press Council has not upheld a complaint by Philip Stenning, of Wellington, against a column in *The Dominion Post* of June 19, 2003.

In her Broadside piece, headed *One Pom we didn't need,* Rosemary McLeod devoted her first 11 paragraphs to characterising the voice of John Burrett, recently convicted in Wellington in relation to a highly-publicised kidnapping plot. She adduced numerous examples from her experience to convey how grating and unpleasant that voice was to her. This part of the column ended by saying, "It was the voice of a fully fledged egotistical bore who believed he was astonishingly clever. And it was the voice of Poms I have known."

In the remaining eight paragraphs McLeod widened the discussion to question aspects of New Zealand's immigration policies, and declared that "if we need millions of immigrants to make this country move ahead … I would far rather have a country full of Asian faces, if I must absorb another culture, than Poms like this". In the light of Burrett's entry to New Zealand, she asked whether we check immigrants' "psychological profile". The column ended by asking "… do we really look back on a golden age of virtual whites-only immigration, and think we did astoundingly well? Well, here was yet another of those fair-skinned Poms and yet again our luck ran out."

The complainant said that the column contained discriminatory and racist content against immigrants of English origins and with English accents, and violated Principle 8 of the Press Council's principles.

He believed the column promoted prejudice and discrimination against English people.

Principle 8 states that 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."

The editor responded by saying that McLeod was a columnist with a robust and often provocative style. "On this occasion she used an exaggerated stereotype in making a point on immigration, the subject of a long and continuing national debate and a subject she has addressed pungently in several previous columns." He did not think the word "Pom" was necessarily pejorative, and said it had had mellowed into a "convivially descriptive" term.

In his final comments to the Press Council the complainant reiterated that the use of the word "Pom" in this context was derogatory and insulting, and said that people of English origins should be protected by Principle 8 from "such vitriolic attack."

The complainant asked the editor if the newspaper would have published any of three alternative versions of McLeod's column he provided, dealing respectively with a Samoan, a Vietnamese and a Frenchman. The editor did not reply to this challenge, and the Press Council does not intend to comment in detail on it. The Council's task is to examine published material not hypothetical alternatives, which have an inescapable artificiality.

The Council does not think that Principle 8's reference to race, which is intended to inhibit the highlighting of people's racial origins in a context that requires no such emphasis, can be turned into an embargo on uttering opinions, even highly bigoted or lopsided ones, on the ethnic composition of the New Zealand population. Immigration is a hot topic, and strong views are held about it.

The Council believes that this columnist is doing here what she frequently does – stirring things up, provoking, being outrageous. Some, perhaps many, readers won't have liked what she said in this particular column, but the Press Council does not think it goes beyond what is tolerable in such opinion pieces. In particular, there are clear indicators in the heading and in the text that she has one particular Englishman in her sights in the first part of the column, not all English people.

When she does broaden the discussion into immigration policy it is still Burrett who dominates her comments, which cannot reasonably be seen as so inflammatory or vindictive as to transgress Principle 8. The same is true of her use of the word "Pom". The most extreme remark in the column is the suggestion that immigrants should have their psychological profile checked, such over-the-top assertions being a familiar tactic of columnists wanting to ram home a point.

Many may have been offended by the column, but it cannot be described as a "vitriolic attack". Columnists have considerable liberty to express their views.

The complaint is not upheld.

Ms Suzanne Carty of *The Dominion Post* took no part in the consideration of this complaint.

Privy Council finding misreported – Case 945

Watercare Services Ltd complained about an article published in *The Independent* on April 23 this year. The article was about a claim brought against Watercare and Papakura District Council by commercial tomato growers Mr and Mrs John Hamilton regarding

damage to the Hamiltons' tomatoes. The Hamiltons' case went through hearings at the High Court, Court of Appeal and the Privy Council, and at each level the courts found against the Hamiltons. The Press Council has upheld the complaint on the headline and the wording about the split decision.

The article headlined, *Watercare threatens to bankrupt tomato grower* was about a difficult case dealt with at three levels of courts, and on the whole this report on the causes of action and complex findings of the court of first instance and the appellate courts was handled very well. The article also introduced the effect of the costs of $700,000 awarded against the Papakura tomato grower, and quoted comments from Penny Bright, a spokeswoman for the Water Pressure Group, which the newspaper described as Hamiltons' supporters.

In a letter to the editor, Watercare Services spokesman Owen Gill complained that the article was wrong on three grounds:

1. In contrast to the headline, Watercare had not threatened to bankrupt the Hamiltons.
2. While *The Independent* article said the Privy Council was split 3:2 on the whole of its decision dismissing the Hamilton appeal, in fact the Privy Council was unanimous in dismissing all of the Hamiltons' claims against Watercare. The split related only to the claim against Papakura District Council on an alleged breach of the Sale of Goods Act. The majority was against the appellants.
3. *The Independent* repeats what Watercare says was misleading information about the cause of damage to the tomatoes which was never established.

Watercare's letter was acknowledged as received by the article's author, Jenni McManus, who commented in a fax to Watercare that the letter was misleading. The letter was not published in the newspaper nor did the editor reply to the complaints. Subsequently, Watercare's lawyers wrote to *The Independent*, repeating the complaints about the article and seeking a published correction. A Chalkie column then appeared in *The Independent* on June 4 headed, *Publish my propaganda or I'll, I'll, I'll...* The column vigorously stated *The Independent'*s view of Watercare's complaints and demands, and canvassed aspects of the case again. Watercare complained to the Press Council.

In response to Watercare's complaint, the managing editor defended the article and the headline, saying he believed the headline was true at the time the article was published and he was not persuaded Watercare would not pursue its claims against the Hamiltons.

He did not accept Watercare's claim that *The Independent* suggested the Privy Council had divided 3:2 on the whole of its decision and not just on the Sales Of Goods Act claim against Papakura District Council. He wrote that, "the article complained of said: 'Unfortunately for the Hamiltons, factual causation was one of the key issues on which the High Court, Court of Appeal and the Privy Council found against them.' The following para clearly ties the Privy Council's split decision to the Sale of Goods Act issue – not causation".

The following paragraph said: "In a 3:2 split decision – unusual for a Privy Council ruling which is usually unanimous – the majority decision, given by NZ Court of Appeal judge Sir Kenneth Keith, also ruled against the Hamiltons' claims of negligence, nuisance and a breach of the Sale of Goods Act."

But this paragraph does not make clear the Privy Council 3:2 majority decision applied only to the alleged breach of the Sale of Goods Act. The dissenting Law Lords, Lord Hutton and Lord Rodger of Earlsferry wrote (Paragraph 52): "We agree with the advice of the majority set out in the opinion of Sir Kenneth Keith so far as it concerns the Hamiltons' claims based on negligence, nuisance and Rylands v Fletcher … We regret, however, that we are unable to agree with their opinion that the Hamiltons would not have a valid claim against Papakura under section 16(a) of the Sale of Goods Act 1908 …"

Paragraph 52 makes it clear that none of the Privy Council dissented over dismissing the claims against Watercare, making for a unanimous not majority decision on those claims. In the Chalkie column published subsequently by *The Independent*, this was set out clearly: "While the Law Lords unanimously upheld Watercare and the council's version of events with negligence and nuisance, on the Sale of Goods Act their 3:2 decision was nowhere near so clear-cut…"

While Watercare appears to have been sensitive about its own perspective in this story, the way the Privy Council held is a fact. Although understanding that this sets a high standard, the Press Council felt the paragraph reporting the split decision in the original article was misleading and upholds the complaint on this ground, given the more exacting nature of reporting court decisions. The Press Council notes that the publication of a letter to the editor or some form of correction of the slip might have forestalled a formal complaint.

The original April article was thorough in setting out the financial pressures facing the Hamiltons. It mentioned that the Hamiltons' piece of land, put up as security for costs by agreement, was being claimed by Watercare and Papakura District Council to help cover their costs. The Hamiltons' lawyer, Matt Casey, was quoted as saying the land was likely to realise only half the debt for costs, and that he would like a settlement where the council and Watercare took the property but agreed not to bankrupt his client.

The headline writer has taken a very condensed version of this in the limited space available for the heading. The article represents the situation clearly. The headline, *Watercare threatens to bankrupt tomato grower* does not so well. It reflects the anxiety felt by the Hamiltons, but not exactly the sequence of events. It is the bill for the appeals against the judgments on claims taken against both Watercare and Papakura District Council that is threatening to bankrupt the Hamiltons. This is not a direct threat by Watercare, as the word is generally used. For this reason the headline cannot be said to "accurately and fairly convey the substance" of the report it was designed to cover, particularly as it omits the costs due to Papakura District Council. This part of the complaint is upheld.

However, it is unexceptional that the article quoted Ms Bright and the well-known anti-Watercare pressure group and their claims on the damage to the tomatoes, as they were commenting on a case where Watercare's views were already canvassed. The claims do not invalidate the findings of the courts.

The Chalkie column is always a sharply written, opinionated discussion of business and legal matters. In this case, it refers to in-house matters, in the sense of the Watercare reaction to *The Independent'*s article.

It is almost with a sense of exasperation that Watercare complained about the "central point" of the case as reported in the Chalkie column, which said, "the central issue was whether Papakura and Watercare had breached the Sale of Goods Act" – "even though the

correct position had been explained to them twice already," Watercare commented.

As the Law Lords reported on the Sale of Goods Act claim in the Privy Council judgment (Paragraph 9, headed, *The claim in contract*): "The Hamiltons alleged that Papakura breached an implied term in its contract for the supply of water to them that the water supplied was suitable for horticultural use. The claim was based on s16(a) of the Sale of Goods Act 1908." No mention of Watercare. But it is clear from the Chalkie passage quoted earlier that *The Independent* understood the issues decided. In a complex case of this sort, perhaps confusion at one point is understandable.

The complaint is part upheld.

Dependence on single source carries risk – Case 946

Andrew Beck, a Wellington barrister, has complained to the New Zealand Press Council about an article in the *New Zealand Woman's Weekly* that focused on his former wife Jenny and their seven sons.

The Press Council does not uphold the complaint.

The *Woman's Weekly* is the oldest of the women's magazines for sale in the New Zealand market. Its chief competitors are *New Idea* and *Woman's Day.* Like those of its genre, the magazine places heavy emphasis on the personal stories of its readers as well as of celebrities – domestic and overseas.

Its journalism is therefore different from that seen in daily newspapers. Lifestyle magazines, which have substantial readerships, tend to use what might be known as "lifestyle journalism" but this different approach to what is newsworthy to such magazines does not absolve magazine journalists from acting ethically or in the best journalistic traditions of accuracy and, where possible, balance.

The article at the heart of the complaint is typical of the kind of features the *Weekly* publishes. It tells how Mrs Beck, whose marriage ended, nonetheless coped with raising her sons at the same time as embarking on a legal career. The feature makes several references to her former husband, Andrew.

It is these references about which Mr Beck has complained.

He told the magazine's editor and later the Press Council that he believed that the article gratuitously publicised what he said were "salacious details about my private life". Though he says the references are inaccurate in several respects, Mr Beck argues principally that correct or not, they should not have been published at all, or not in a way that made him identifiable.

The *Weekly* engaged counsel, Sheila McCabe, of Auckland to defend itself. In her correspondence with Mr Beck, Ms McCabe said that, in the editor's view, the article was a human-interest story about the life experiences of Jenny Beck. The article's focus, she said, was on how Mrs Beck had coped with the situation she found herself in; it was not about Mr Beck. She also told the Press Council that by highlighting Jenny Beck's story, a public interest would be served in showing that although an individual might suffer grief and trauma, a relatively normal life could be restored and maintained.This complaint mirrors two similar complaints about a breach of privacy received earlier this year by the Press Council, in that case against the women's magazine, *That's Life.*

The Privacy Act does not apply to the news-gathering activities of the news media. As such, it is not applicable here.

In both *That's Life* cases, the Council found that the privacy of the two complainants had been breached because the articles were intrusive but relied on an individual's account of a situation that involved others without taking the standard precautions of checking such information with the other people involved.

It is a somewhat similar situation in which Mr Beck found himself when the article about his family and former wife were published in the *NZ Woman's Weekly* last May. His sensitivity to being mentioned was understandable.

However, the Council does not regard the references to Mr Beck as unduly intrusive. It decided that, given the totality of the article and that the references to Mr Beck were brief and not egregious, it would not uphold the complaint.

The Council does, however, take this opportunity to re-emphasise to editors of those magazines that rely heavily on one-person accounts of life's challenges that their dependence on single sources of information carries risk.

It would encourage them to carefully consider who might be affected by the human-interest they feature – in other words, who might suffer collateral damage – and whether anyone else's views might therefore need to be sought. The Council believes this is particularly important where children are involved.

Conflict of interest reported – Case 947

Peter Bennett, a Westland District Councillor and real estate agent, complains that a *Press* article about himself, headed, *Council land deal 'no secret'* on May 16, 2003, is "inaccurate, unethical, misleading, sensationalist and defamatory", and has damaged his reputation. For the following reasons the complaint is not upheld.

The article, by reporter Paul Madgwick, is about the conflict of interest involved in a Franz Josef land deal that Mr Bennett brokered and which the council subsequently gave consent to. The conflict of interest itself is not in dispute; rather, the issue is how it was handled.

Mr Bennett writes that the property deal arose on two occasions before the Westland Council. In the first instance (April 1, 2003) he had not declared his interest but, "in the clear knowledge that every councillor was aware I was the agent acting for [the party]", and had taken no part in either discussion or voting. At a second meeting (April 24, 2003), he had declared the conflict before again taking no part in discussion or voting.

Also not in dispute are errors in the *Press* article. A correction of July 3, 2003 makes it clear that the newspaper had been wrong in asserting Mr Bennett had signed the sale and purchase agreement for the property; and in stating that he had approved the deal as a councillor.

Mr Bennett points also to a third error: an assertion that the council's rules require anyone with a conflict of interest to leave the room. The Westland Council, he says, has no such requirement. The only clear identification of rule breach comes from Auditor-General Office solicitor Edrick Child: he reports that councillors have a "clear duty" under the Local Authorities Members Interests Act to declare their interests. Though refraining from commenting on the Bennett case, Mr Child adds that breaches of this duty are "potentially a criminal offence".

Unhappy with the brevity and scope of the newspaper's correction – printed in a briefs' column headed "clarification" – Mr Bennett calls for an explicit apology.

In response, *Press* editor Paul Thompson says that the correction was of the "standard sort" used by the paper and likely to have been well read. He says that an outright apology at a time Mr Bennett was threatening legal action could have had legal consequences; and that, as a politician, Mr Bennett had to expect "rigorous scrutiny and the rough and tumble that goes with the job".

The core part of the reporting, he says, was valid: that Mr Bennett did not handle the conflict of interest with scrupulous care; that he had not consistently made the conflict known at the meetings; and that he did not absent himself when it was discussed.

"An apology would have wrongly suggested we were comprehensively wrong in reporting those facts," he says.

There can be little question that Mr Bennett acted unwisely in not explicitly declaring his interest (at the first meeting) and in not leaving the room (at both meetings) for the duration of the property discussions. As the Auditor-General's office points out, failure to declare represents a clear breach of duty.

It is unfortunate that *The Press* article contained factual errors, errors dealt with rather ineffectually under the somewhat reluctant heading, *Clarifications*. But in reporting a procedural breach it reasonably led its article with the side of the councillor in question. On balance, the Press Council finds that the breach was fairly highlighted.

The complaint is not upheld.

But was it news? – Case 948

A subscriber to *The Dominion Pos*t and former staff member James H Hartley complained about stories of winners in a *Dominion Post* competition being featured in the clearly labelled News Section of the newspaper on Monday September 8 and Saturday September 13.

The complaint has not been upheld.

Mr Hartley originally complained to the editor in dismay about what he called the increasing practice of *The Dominion Post* using space in the news columns to promote "house" competitions and other marketing ploys. "I have grown used to this practice in throw-away papers but feel there is no place for it in a metropolitan newspaper that regards itself as one of the best in New Zealand," he wrote to the editor.

He said he realised the pressures from the requests of advertising and marketing departments, but he felt it incumbent on the news executives and editorial staff to resist them. Would the editor place the results of a breakfast cereal manufacturer's competition in the news columns, he asked, and thought not.

Unsatisfied with the editor's view that the competition and the results were news, he complained to the Press Council about what he saw as in-house marketing promotions masquerading as news in the news columns. Such stories in his view were clearly advertorial, and the editor was guilty of allowing them to taint the news columns.

The editor wrote to Mr Hartley, saying that he took his point that marketing should not be confused with news, but the competition was news as it had attracted phenomenal interest – just under 500,000 entries – and all those who entered wanted to know if they had been successful. He also defended the stories of people having unexpected good fortune as being interesting and well-written. He advanced the same reasoning to the Press Council.

While the Press Council is charged in one of its responsibilities with maintaining the New Zealand press "in accordance with the highest professional standards" that dictum applies to the ethical practice of journalism. In the stories cited, there is no issue about the accuracy, balance or fairness of the stories for any of the people reported, or any party affected by the stories.

The matter of news judgment is not for the Press Council to decide. That is an issue for the editor, who in this case has defended what he describes as the justifiable news content of the stories, and for the readers who respond to what their newspaper is presenting to them. They can either support or turn away from the newspaper whose editorial integrity they perceive being preserved, or possibly given away.

Most journalists and newspapers will know of the need for the commercial promotion of their work – in Britain an outbreak of promotional fever among the fiercely competitive national newspapers has seen even the august broadsheets with lotteries, fantasy football games and other contest enticements on their front pages. Locally, newspapers regularly run stories about causes and promotional activity they support.

The Press Council can only warn of the clear need for purely promotional activity to be made separate and obvious to the reader, with no exception for a newspaper's own promotions, and for news stories to obey all the requirements of the ethical practice of news presentation.

In this case the council does not hold any standard has been breached.

Ms Suzanne Carty of *The Dominion Post* took no part in the consideration of this complaint.

Rebuke for delay in responding- Case 949

Mrs Margaret McGowan, of Christchurch, made a formal complaint to the editor of *The Press* on May 7, 2003 about the paper's coverage of a traffic accident in which her son, a pedestrian, had been tragically killed.

The Press Council does not uphold the complaint.

The report in question appeared on page two on April 23 under a photograph of the accident scene where Mrs McGowan's son was killed the previous day. One other fatal accident involving a pedestrian during or just after the Easter holiday weekend was cited. The emphasis of the report, however, was on police and road safety officers' concerns about accidents involving pedestrians and not on the circumstances of these two tragic deaths. It was disturbing, the experts were reported as saying, that both people killed in road accidents in the Christchurch area during the Easter period had been pedestrians. The report quoted several opinions about what needed to be done. The headline below the photograph was, *Pedestrian toll still high*. Mrs McGowan's son was not named. The specific reference to his accident said, "A 22-year-old man was killed when struck by two trucks at the intersection of Carmen Road and Waterloo Road in Hornby just after the official holiday period ended at 7.30am yesterday".

Mrs McGowan complained about the photograph, about aspects of the report itself, and about the manner in which the newspaper had responded to her complaint.

The Press Council's Statement of Principles emphasises the need for editors to exercise special care in the handling of photographs to do with situations of grief or shock. Mrs McGowan had registered her distress at seeing a photograph of her son lying under a

tarpaulin in the middle of the road. The editor of *The Press* responded that the photographer had arrived late on the scene and that by then the body had been removed. While he was there the tarpaulin was lifted and there was no body beneath. The Press Council examined the photograph in question with particular care and was even supplied by *The Press* with a colour version that brought out the detail with greater clarity than the black-and-white picture as published. There is a tarpaulin on the road but there is no sign that it covers a body. The editor assured the Council that had there been any such indication the photograph would not have been published. He expressed his regret that it had caused distress but defended it on grounds of relevance to the report. The Press Council agrees.

When Mrs McGowan's letter of May 7 was received the editor, recognising the depth and sad character of her concerns, concluded that personal contact was the more sensitive course. He accordingly asked his chief reporter, a woman, to speak to Mrs McGowan. The chief reporter had a proven record of sensitivity and tact in such situations. Mrs McGowan nevertheless was plainly upset by the chief reporter's call and suggested that the absence of previous complaints about her style suggested only that persons in situations similar to her own would not have the energy to complain.

The Press Council is obviously in no position to judge what transpired in a telephone conversation and thus the substance of that aspect of Mrs McGowan's complaint. It accepts, nevertheless, that the editor acted with the best of intentions and out of concern for Mrs McGowan's situation. The Council notes that he has expressed his regret that she was not happy with the approach he decided to adopt. The Press Council does not uphold this part of her complaint.

It is unfortunate that by responding to Mrs McGowan over the telephone *The Press* in effect sidestepped the Press Council's complaints process. When Mrs McGowan took her complaint to the Press Council on June 29 it was on the basis of not having had a reply to her letter to the editor of May 7. The focus of her concerns had moreover shifted to the attitudes of the chief reporter over the telephone. She was left feeling doubly aggrieved. There were further delays when the editor went on leave and papers were mislaid at *The Press*; in the upshot the editor did not reply to Mrs McGowan's letter of June 29 until August 28. Mrs McGowan responded on September 7 and the editor offered his final comments on September 19. Failure to provide a written response to Mrs McGowan's original letter set off a train of events that led to her concerns not being formally addressed in reasonable time.

The Press Council asks that editors take particular care to ensure that complaints, especially of a sensitive kind, are fully worked through and as promptly as practicable.

The report of April 23 aimed to cover broader issues to do with pedestrian safety rather than the circumstances of the two unfortunate accidents. In this sense it was well-balanced and a useful contribution to the debate about road safety.

The Press Council does not uphold the complaint.

Opinion piece defended – Case 950

Ken Orr complained about an article published in the *Sunday Star-Times*. The opinion piece, which appeared on August 10, 2003, was written by Michael Laws and was titled, *Why I'm proud to have been an altar boy*. The complaint relates to the statement in the article, "You see, I knew that the archdeacon had papist tendencies and that he be-

lieved in the doctrine of transubstantiation. In other words, that at Holy Communion the wafers and the wine are not symbolic but are miraculously transformed into the real body and blood of Jesus Christ. It was ghoulish nonsense of course but there's no accounting for faith".

Mr Orr agreed with the rights of free speech, freedom of the press and religious freedom. However, he thought it was a misuse of the freedom of the press for Laws to mock and ridicule the religious beliefs of others. He thought the media had a duty to uphold the right of religious freedom.

The acting editor responded to Mr Orr, " Mr Laws is entitled to his opinion, as you are to yours." He invited Mr Orr to submit a letter for publication.

The Press Council has long upheld the rights of columnists to use opinion columns to express their personal views. The views expressed in the article were clearly those of Laws. Laws is entitled to his views and to publish them under his name.

The Council has also noted on more than one occasion that the right to free speech means being able to espouse views that are politically incorrect, unpopular, even downright wrong. It is understood that on some occasions these views will be offensive to some people.

In this instance accepting the acting editor's invitation to write a contra view would have been the best course. The invitation was a sincere effort to publish the full range of views. Providing such a rebuttal met the publication's editorial criteria, it would have had a good chance of being published.

The complaint is not upheld.

Council not the forum for employment issues – Case 951

The Press Council received a complaint from Mr David Wakim who signed himself as Spokesperson Palestine Human Rights Campaign. The central factual issue concerns the decision by *The New Zealand Herald* to dispense with the services of Mr Malcolm Evans, the newspaper's cartoonist of many years standing. The cartoons of Evans apparently have been in the past supportive of the Palestinian position in the Palestine/Israel conflict and this has undoubtedly been an influence on this complaint. The response of the newspaper has been to steer away from any comment on that particular issue other than to deny it had any influence on its decision to dismiss.

Apparently there has been comment both here and overseas in other media on the dismissal.

The Council does not uphold the complaint.

The Council is not aware of the exact circumstances surrounding the ending of the employer/employee contract of services between *The Herald* and Mr Evans, and does not, for the purposes of adjudication consider it necessary to explore that situation.

The complaint comes within the description of a third-party complaint under the council's Complaints Procedure, set out in paragraph 13, in that the complainant could not be described as personally aggrieved. The former employee might fit that description but he has chosen not to be a complainant to the Press Council although he has voluntarily supplied to the Council an email letter on the issues that has been sent to the parties for comment and will be referred to hereafter.

The complainant wrote two separate letters to the editor dated the same day, namely August 18, 2003. In what seems to be the first letter written it opens as follows:

> "I am writing on behalf of the Palestine Human Rights Campaign (PHRC) concerning the dismissal of Malcolm Evans from *The NZ Herald*."

The letter probably written second opens as follows:

> "Under the Press Council's Statement of Principles No.12 (Letters) on behalf of the Palestine Human Rights Campaign (PHRC) I wish to formally complain about the non-publication of letters in response to the dismissal of *The Herald's* cartoonist Malcolm Evans."

The Council clears out one matter immediately and it concerns the first letter. As a third-party complainant Mr Wakim has no standing in regard to the "dismissal of Malcolm Evans" and he probably understands that. In Evans's email to the Council he makes no direct complaint about his dismissal although he seems unhappy with the cessation of his employment, which he attributes to the unacceptable political content of his cartoons supplied to *The Herald*. In that email Evans says he is not taking any legal action.

The facts and reasons surrounding the dismissal are therefore firmly put to one side.

The second letter of August 18 (the substance of which is repeated in further letters) is that *The Herald* has not published any letters sent to the newspaper presumably by members of the public complaining about the dismissal of Evans. The Council accepts that such letters were written but does not know the numbers. Furthermore the editor-in chief admits the receipt of critical letters but says he defends his decision not to print on the grounds that:

> "It is the prerogative of an editor to decide which letters he will or will not publish."

Evans's email supports the complainant's argument about non-publication of critical letters over his dismissal. He quotes in support a prior decision of the Council (NZEPMU and *The Herald*: Case No 741 Annual Report 1999). There are some similarities with that case but it was made clear in No 741 that the Council affirmed the prerogative of the editor but in that case found "truly exceptional circumstances" that are not present in this case. The correspondence from the parties over the complaint is not extensive but there is little common ground. The complainant does not persist directly on the dismissal issue but instead frames the complaint as a denial by the newspaper of "freedom of speech" in not publishing letters critical of *The Herald*'s decision to dispense with the services of Evans. The editor-in chief persists that the dismissal was an employment issue and the decision not to publish letters was that of the newspaper exercising its prerogative.

Stepping back and looking at this complaint and the implications surrounding it, the Council would be unwise to enter the confrontation. There is an indisputable and controlling fact and it is that the newspaper was primarily the employer of Evans and chose to end his services.

The Council is not the forum to decide employment issues. No matter how the complainant seeks, for its own purposes, to frame the complaint using the Council's procedures and Principles it is still an employer-employee relationship that is now over.

The Council has many times affirmed the prerogative of the editor to make decisions on publication of letters and does so again in this case.

Mr Jim Eagles of *The NZ Herald* took no part in the consideration of this complaint.

Columnist entitled to opinion – Case 952

Waimate resident Doug Pinnell complained to the New Zealand Press Council on August 20 about a number of contributed opinion columns titled Random Report that appeared in the *Waimate Advertiser*. The column, written by a local woman for no remuneration, has been a feature of the paper for some years.

Mr Pinnell's complaint centred on what he called factual inaccuracies in some columns about the haka and Maori, and what he regarded as a personally offensive comment about euthanasia and abortion in another. The paper's response was that the column was one person's opinion only and was factually correct based on the material on which the writer relied.

The Press Council does not uphold the complaint.

Mr Pinnell took issue with Random Report's translation of the All Blacks haka, which he said was incorrect. He included an alternative translation from a book by Wira Gardiner. Random Report apparently used a translation from a 1960s English magazine.

Although the Gardiner version may be more relevant now, there is nothing to prevent the use of the English version so the column is not factually incorrect. Mr Pinnell also said a comment in another Random Report, which stated there were no genuine Maori left in New Zealand, was also incorrect. He included a birth certificate as evidence that there were. *Waimate Advertiser* managing editor Don McCabe responded that Statistics NZ had no records of any full-blooded Maori. This point has been argued for many years and it is not the place of the Press Council to determine who is right in this case.

It is obvious that the column's writer subscribes to the belief there are no full-blooded Maori. Mr Pinnell's last complaint was about a comment in a Random Report column that "abortion and euthanasia really are acts of murder". Mr McCabe responded that comment was the columnist's own opinion.

The Press Council upholds the concept of the right to free speech and while some of the columnist's opinions may be distasteful to some people, she is entitled to that view. As far as the factual inaccuracies are concerned, it appears the statements could be correct or incorrect depending on which evidence is accepted.

Bias against NZ First claimed – Case 953

The New Zealand Press Council has not upheld a complaint by Mr B M Roswell that *The Press* had displayed unacceptable bias against the New Zealand First political party. This claim of bias was based on three separate incidents.

First, he objected to a *Press* editorial referring to "a spasm of rabble rousing from Winston Peters among his xenophobic backwoods followers." This, he said, could only be taken to mean that NZ First members such as himself were racist and thick. Such language was inappropriate and insulting.

Second, he complained about the publication of a court report from Ashburton that highlighted the fact that a woman convicted of driving while under the influence of alcohol had been a NZ First parliamentary candidate in 1993 and 1996. There was, in his view, no justification for emphasising that connection when it had no relationship to the offence and was several years old.

Third, he complained about the failure of *The Press* to include a notice advertising a NZ First meeting in its Community Calendar. Taken together with the other examples he

was suspicious that the non-publication was due to political bias against the party.

The editor of *The Press* rejected the claim of bias. The editorial, he said, was the paper's expression of opinion and as such was usually argued firmly and in strong language.

The court report had in fact been provided by the New Zealand Press Association, showing it thought the case to be of interest, and was used because the paper circulated strongly in the Ashburton area.

The paper got far more notices for its Community Calendar than it had space for and tended to give preference to voluntary and non-controversial organisations. "Events organised by political parties," he said, "do not easily fall within those criteria."

Regarding the editorial, the Council points out that its Principles specifically state that "a publication is entitled to adopt a forthright stance and advocate a position on any issue". The comments regarding NZ First clearly fall into that category.

As for the court case, it is not unusual for the media to add interest to a court story by drawing attention to a convicted person's past, be it in politics, sport or show business, and there was nothing unacceptable about it being done in this instance.

The Council does note that examples provided by Mr Roswell suggest that, contrary to the editor's comments, political notices often do appear in the Community Calendar. While it would be preferable for the paper to take a more consistent approach to publication of these notices, it is entitled to decide which to use and the omission of the NZ First item is far more likely to be due to pressures of available space than deliberate bias.

The complaint is not upheld.

Editor proves newspaper's coverage balanced – Case 954

On October 30, 2003, after a period of fierce local debate about the future of community boards in South Taranaki, Mr Siegfried Bauer, of Eltham, complained to the New Zealand Press Council about the coverage in *The Daily News*. His complaint covered an extended period of July to October 2003.

Mr Bauer, who favoured the retention of the boards, contrasted the coverage in *The Daily News* with other papers. These, he said, gave a far more comprehensive and accurate coverage. In the local free papers, he said, all published letters were in favour of retention. He complained that *The Daily News*, in treating the issue differently, had shown blatant lack of balance in reporting.

In support of his complaint he provided copies of his correspondence with the paper, plus letters and articles from other papers as a comparison. He further bolstered his claim of lack of balance by identifying a specific letter and news item he felt should have been published. Finally he complained that a *Daily News* reporter had not attended a council meeting on the October 29, the day prior to his complaint.

The Press Council has consistently stated that editors have complete discretion over the publication of letters and news items in their papers. Further, there is no obligation on papers to attend council meetings. Therefore these subsidiary matters will not be considered separately from the issue of lack of balance.

The editor said *The Daily News* had balanced its coverage of the debate. As evidence he enclosed more than 50 pages, examples of articles and letters, which had been pub-

lished on community boards and allied subjects. The editor believed that *The Daily News* had kept the debate in perspective giving both sides the opportunity to make their case.

The issue of community boards was an important local issue, which had been debated for some time. There were strong, honestly held views on both sides of the debate. The examples provided by the editor showed that *The Daily News* had published these different views. Far from the blatant lack of balance, if we accept Mr Bauer's claim that in the other papers " … ALL contributors were in favour of the retention of community boards – not one single letter supported their axing by the South Taranaki District Council", *The Daily News* fulfilled a vital role keeping both sides of the argument before the public.

The complaint is not upheld.

Editor entitled to rely on press statement – Case 955

Napier city councillor David Bosley has complained to the New Zealand Press Council about an article in *Hawke's Bay Today* under the headline, *Bosley dumped over job leak* and published last August 21.

The Press Council has not upheld the complaint.

Cr Bosley wrote to the Press Council last September, unhappy at the local paper for "publishing totally incorrect information about me" on its front page, and to its editor for refusing to publish a correction.

The report that upset Mr Bosley carried a secondary heading that reads: "A Napier councillor has been dropped from three committees for a deliberate breach of confidentiality".

The article itself said that Cr Bosley had been removed from three council committees after his colleagues found he had deliberately divulged to the editor of the newspaper that a reporter had applied for a senior job with the council.

A little background is required here.

On August 7, Cr Bosley wrote a strongly worded letter to the editor of *Hawke's Bay Today,* in which he suggested that because a newspaper staffer had applied for a council job the relationship between the council and the paper was too close.

The editor, Louis Pierard, was so annoyed at the intimation that, later the same day, he wrote a letter of his own to the council for its consideration in committee, a letter in which he stressed that the paper did not "soft-soap" the council and the fact that a staff member had applied for a council position should be in no way seen to compromise her professional independence.

He also took the opportunity to spell out the way he handled letters to the editor from councillors.

A week later, Cr Bosley submitted to the paper a letter for publication that was highly critical of council staff. The newspaper chose to publish it in the form of an article, rather than as a letter to the editor. The article was published on August 18.

Napier City Council met in committee on August 20 and it was at this meeting that Cr Bosley was removed from three committees.

The council resolution gave no reason for the action. The same day, however, committee chair Cr John Harrison issued a press statement saying that Cr Bosley had been dumped because he had deliberately divulged to Mr Pierard information about a reporter on his staff.

More than a fortnight later, Cr Bosley complained to the newspaper. He said that its report of his removal from three committees over a job leak was "totally wrong". He sought a "bold and conspicuous" front-page retraction, correction and apology.

Mr Pierard refused and Cr Bosley referred his complaint to the Press Council.

Despite the claim and counter-claim continuing in the background, the newspaper nonetheless – and commendably – maintained its full reporting of the council, Cr Bosley and council activities.

In the process of that coverage, it became apparent that, while the council's public resolution on Cr Bosley's dismissal was limited to the fact of it only, his strong criticism of council staff – conveyed in his letter to the editor of August 14 and published in the form of an article four days later – was at least as much a cause of that action as was his release of information about a reporter seeking a council position.

In his defence of the newspaper's August 21 front-page report, Mr Pierard wrote to the Press Council saying:

> "When Cr Bosley was dropped from three committees on August 20, we received a press statement from committee chairman John Harrison that was unequivocal about the reasons. Because the meeting was in committee, we had no way of knowing otherwise …"

Cr Bosley made a personal appearance before the Press Council at its meeting of December 15, 2003.

Having considered the written information from both parties as well as taking account of Mr Bosley's oral submissions, the Press Council observed that Mr Pierard clearly finds Cr Bosley and his frequent criticism of the newspaper a nuisance. As a result, he was more than reluctant to engage in correspondence or verbal argument with him over this matter.

The Council believes that editors should handle complaints, regardless of their provenance, with an open mind.

However, it found it could not uphold Cr Bosley's complaint. The newspaper was entitled to rely on the August 20 press statement from Cr Harrison, which attributed his colleague's removal from three council committees to his revelation to Mr Pierard of a newspaper reporter's intentions.

It also found that, in the subsequent news coverage of Cr Bosley's removal, more information was revealed that uncovered the council's motivation for dumping him from three committees. This issue was, therefore, thoroughly canvassed.

The complaint is therefore not upheld.

The Council suggests to editors that, if they choose to turn a letter to the editor into a news report, they advise the writer of the fact. In this particular case, Council members commented, it was unlikely that the quarantining of Cr Bosley's criticism of council staff to the letters to the editor column, instead of turning it into article, would have done any less damage.

In an aside, the Council also took the opportunity to commend Mr Pierard's decision to outline to his local council his policy for publishing letters to the editor from local body politicians. It was a practice, the Council said, it would commend to other editors, especially in the light of next year's local body elections.

Hall closure brings conflict – Case 956

Ann Court lodged a complaint against the *Bay Chronicle*, a community newspaper in Kerikeri.

Her complaint lay with the editor's choice of two letters that were published and one of their headlines.

Ann Court was appointed chairperson of Kerikeri Paihia Community Board in October 2002. In June 2003 a "Memo to Ratepayers" was printed in the *Bay Chronicle* in which Ann Court addressed the issue of the closure of the local Kerikeri Memorial Hall. She quoted part of the consulting engineer's commissioned report on the hall's safety requirements for life expectancies of two and 10-year periods as the "simple answer" for the community board urging the demolition of the hall.

It was this "Memo to Ratepayers" that prompted the first of the anti-demolition letters to the editor that were complained about. In it the writer questioned the comments made by Ann Court and suggested that there could be an ulterior motive in the community board's proposal to demolish the hall. Ann Court took this as referring to her personally and believed that the editor should not have published the comments.

The second letter, published some three months later in September was headed *Ann Court's suggestion 'ludicrous'*. A group of hall users had written to the editor in response to an August article quoting Ann Court, again concerning the loss of the community hall. In it she had suggested that "if event organisers fail to find suitable premises in the interim, they should plan smaller events".

Ann Court claimed that both letters were intended to hurt her personally and that the editor had shown a lack of consideration by naming her in the headline covering the September letter to the editor.

The editor, Keri Molloy, replied that she regretted that Ann Court had been so deeply affected by the content of the letters to the editor. The issue of the Memorial Hall closure was complex and many community groups had been seriously inconvenienced when the hall was closed suddenly.

Neither of the letters had questioned Ann Court's personal integrity. In her position as chairperson of the community board, public comment about her performance came with the job. Her views had been sought in the preparation of news items about the hall. The editor had offered space on the letters page for Ann Court to make her statement.

The unexpected closure of the local hall had created considerable criticism in the district and generated a number of letters to the editor. The letters complained of were in direct response to reported comments made by Ann Court.

A community newspaper's function is to reflect the differing views of its local community. The *Bay Chronicle* states in a boxed paragraph at the bottom of the letters' page that "Letters to the editor are considered the honest opinion of the author and do not necessarily reflect the opinion of the newspaper in either content or heading". The letters should be read in this context.

The Press Council does not uphold the complaint about either letter.

Complainant entitled to apology - Case 957

Steven Courteney, of Masterton, complained about two articles in the *Wairarapa Times-Age* on June 7 and 20, 2003. He contended that the original story was obtained by "subter-

fuge" and contained inaccuracies; the headline was incorrect; moreover the newspaper failed to publish an adequate retraction and apology; the second story too contained an inaccuracy.

The complaint is upheld.

Mr Courteney is a consultant geologist with wide experience around the world in petroleum exploration. Earlier this year he wrote to the mayor of Masterton and the editor of the *Times-Age* suggesting the need for caution about the prospects of discovery of a major find of oil or gas as a result of seismic survey work off the Wairarapa coast. In his view no promising indicators of large-scale deposits had so far been discerned.

A journalist approached Mr Courteney, at the suggestion of the editor, requesting an interview. Mr Courteney's understanding was that the focus was to be on the family's experiences in the petroleum industry working around the world. The editor stressed however that the purpose was to "traverse the prospects of an oil strike off the Wairarapa coast … A human interest story never figured in this at all". Mr Courteney noted nevertheless that the reporter had taken no interest in an overview of Wairarapa petroleum geology that he had prepared. The Press Council comments that some understanding of the geological evidence would seem to be indispensable to a report on prospects of an oil strike.

The *Times-Age* coverage of the interview, published on Saturday June 7, presented two largely opposing views about petroleum prospects along the east coast. Under a headline *Oil and gas in coastal rock debated*, Mr Courteney's contention that "there is no infrastructure in the Wairarapa area which would point to a field of economic size" was set against that of another geologist who suggested that the "geological situation" was quite promising. This approach raised a question of fairness. An interviewee needs to know the premises on which an opposing argument is based. This is especially the case where the argument is about scientific evidence, which will, by definition, always call for careful analysis and interpretation. Moreover, as the editor admitted, the headline was misleading in that a presentation of two opposing views, with neither party able to question the assertions of the other, can hardly be described as a debate.

The nub of Mr Courteney's complaint was, however, the attribution to him of a statement that: "He has a sneaking suspicion that the hoopla surrounding the offshore Castlepoint hunt is driven from the United States for a rather sinister reason. The companies involved in the search are relatively small fry on the international scene, he says. In the United States it helps companies to attract shareholders by having the razzmatazz of oil searches in other countries. New Zealand is a nice, safe place to have an overseas venture. It's not a danger spot and being able to say you are doing some work out here helps to bolster share prices."

Mr Courteney at once communicated his concerns to the editor. He denied that he had said such a thing, insisting "these are (the reporter's) words, his opinions and his thoughts". He had discussed "wheeling and dealing" by some companies in South East Asia and related that to an earlier **onshore** survey in the Wairarapa, which left a lot of local people "owed large amounts of money". There was a significant difference between those programmes and the activities of the company currently operating **offshore**. The Press Council accepts that Mr Courteney would have had no cause whatsoever to make the assertions attributed to him in the context of the current survey work. As he pointed out, the only company operating in the Castlepoint area "is one of my clients, is not publicly listed and

not planning to be publicly listed." There could accordingly be no question of activities designed to "attract shareholders or bolster share prices". He asked that the newspaper retract – and print an apology both to himself and to Westech, the company concerned.

Mr Courteney submitted a revised version of the June 7 article as what he termed a "correction". The newspaper published the key elements, essentially word-for-word, on June 10, in the form of a letter from Mr Courteney. This piece addressed an inaccuracy in the first article, and put Mr Courteney's position in relation to oil exploration in the Wairarapa region in a rather more positive light. It did not expressly disavow the "sneaking suspicion" statement, but rather used more generalised words Mr Courteney himself had supplied.

Mr Courteney pressed his claim for a retraction and apology, making it plain that the report of the "sneaking suspicion" remark had caused him problems with a client. The editor tried again on June 20, by reprinting, in its entirety and in italics, the remarks to which Mr Courteney had objected, with a brief explanation that the reference had been to "wheeling and dealing" in South East Asia and to "possible scenarios behind the ill-fated **onshore** exploration in Wairarapa" – not to the company now operating the offshore permit, Westech New Zealand. The headline was, *Oil story clarified* and the opening sentence read "Masterton Geologist Steven Courteney has asked the *Times-Age* to clarify part of a feature, published on June 7, on Wairarapa oil exploration".

A clarification, however, is not a retraction, let alone an apology. Mr Courteney, a professional scientist working in a field of more than passing economic importance to the Wairarapa, was entitled to more consideration. He had volunteered to help elucidate complex issues and found his credentials and professional standing jeopardised by a statement which he forthrightly disowned. The *Wairarapa Times-Age* owed him and Westech an apology.

Press Council upholds the complaint.

Report of inquest factually correct – Case 958

Sue Furey and Kathryn Atvars complained about an article in the *Bay of Plenty Times* on Saturday, August 9, 2003, which was headed, *160kmh driver was taking cocktail of pills for migraine*. The article was the report of an inquest into the death of Mrs Margaret McCausland in a car crash in the Bay of Plenty in April.

The Press Council has not upheld the complaint.

The article reported the pathologist's and witnesses' comments referring to the painkillers and sedatives Mrs McCausland had been prescribed and the effect of those on her life, with evidence of her driving at the time of the accident that caused her death. There was also reference to her Housing New Zealand work and the Coroner's ruling that death was the result of multiple injuries sustained in the crash.

An incorrect photograph was run with the story, which the paper quickly admitted in a paragraph headed *Wrong photo* and published prominently with apologies in the page where the original story had appeared.

The two complainants originally wrote to the general manager and copied to the editor. The procedural error of writing firstly to the general manager instead of the editor was satisfactorily corrected.

They expressed their upset at the story, enclosing letters and comment from "many

people from varying walks of life in this community who were deeply disturbed and outraged by this article".

They also asked for a meeting with the general manager and editor, and after this took place the editor wrote offering to publish a letter with the name of the author (not multiple signatories) regarding their concerns over the paper's coverage of the inquest. He accepted that many people were hurt by the story but defended the paper's right to publish a truthful account of an inquest.

The formula letter, copied by many who signed it individually, indicated an arranged campaign of comment to the newspaper. But the correspondents had a genuine concern that the paper had sensationalised a negative report.

The letter said that by highlighting only the personal and private health problems, the story had painted an inaccurate picture of a very exceptional woman whose achievement in establishing and improving rural Maori housing, and contributing to community organisations and programmes, was outstanding.

The complaint to the Press Council cited inaccuracy in the report of the inquest, invasion of the privacy of the McCausland family at a time of trauma and grief, confusion of comment and fact, the headline as an emotive interpretation and an incorrect photograph.

The editor acknowledged the error with the photograph but otherwise stood by the report.

After the meeting with the complainants, he wrote to Kathryn Atvars agreeing with her concern to rebuild bridges between the community and the newspaper.

This complaint is almost about two stories.

The report of the inquest is the focus of the complaint, but a constant theme is the plea for another story as a fitting eulogy for Margaret McCausland, one that would underline her selfless community service and counterbalance the tragic circumstances in which she died.

To deal with the individual parts of the complaint that cited Press Council principles, on the actual reporting of what was said by witnesses, the fact the hearing was not private and also a matter of public interest relating to causes of the road toll in the Bay of Plenty, the paper could not fudge its duty or soften the reality of what was stated in evidence.

The references to Mrs McCausland's drug prescriptions and their effect, and the witness estimates of the speed she was travelling at, were all stated in open court and so form a natural, if unhappy, part of a court story.

The headline used refers simply to the comments made at the inquest and reflects the horrific nature of the tragic accident and its surrounding circumstances. The place for a commendatory headline is on another story about Mrs McCausland's achievements. That the photograph was wrong was quickly acknowledged by the paper and corrected.

It is a pity that a letter from the concerned correspondents could not appear because of the paper's unduly restrictive single-signature policy – what happens if three doctors sign a compelling letter about strains within the local health service, for example?

Equally, there was a chance, which the newspaper seems to have missed, to satisfy obvious community interest in the personality and work of Mrs McCausland. It could have published a solid feature on the woman whose life ended so sadly and abruptly, but whose impact on the people she helped was enduring.

However, the article in question can stand alone as a report of a coroner's inquest, although its isolation as a story that fails to recognise an important and larger context gave rise to this complaint.

The complaint is not upheld

'Apocalypse' not offensive – Case 959

Mrs L J Hobden has laid a complaint against the *New Zealand Listener* on the grounds that an article on the booming housing market entitled *House of the Rising Sum* published in the November 15, 2003 issue of *The Listener* was highly offensive to her Christian religion.

The detail of the complaint was of a large drawing of a "Christ-like" figure sitting cross-legged in modern business attire possibly levitating a house towards himself and looking benignly down on a parade of people turning away from crumbling towers (?temples) and approaching the figure. The hands of the figure are held in a visual benediction. Part of the complaint relates to the opening paragraph that states:

> "There were no fewer than 10 property investment seminars advertised in Auckland one recent Saturday…wait, wasn't that one of the first signs of the Apocalypse?"

The article (lengthy) goes on to deal with various aspects of the current housing boom with a greed theme running through it. The article leaves the apocalyptic opening with no further explanation.

The complaint is not upheld.

The editor of *The Listener* in response to the complaint concedes the use of the term "Apocalypse" is satirical but denies it is deliberately offensive. On the figure he states the image is not intended to be specific to Jesus Christ but it represents a generalised "guru" character as befits the subject of the article.

The Council's view is that by layout and design of the artwork, to most people the figure would represent a Christ-like image, but that finding does little to support the complaint. The phrase "… wait, wasn't that one of the first signs of the Apocalypse?" is undoubtedly satirical. Apocalypticism has puzzled many biblical scholars but most would agree it is revelatory and usually signifies the end of the world. Whether 10 advertised property seminars are one of the first signs of the Apocalypse is for the readers to decide upon.

The Council does not believe that the use of apocalypticism in the context of the article could reasonably be regarded as offensive to the Christian religion. The concept of the Apocalypse has moved in modern times well beyond the idea of the Second Coming bringing with it the end of the world. It has become a metaphor for almost anything of a catastrophic change.

The complaint is not upheld.

Mr Terry Snow of W and H Magazines took no part in the consideration of this complaint.

Deadline favoured over accuracy – Case 960

Former Te Whatuiapiti Trust nurse Q Rewi complained to the New Zealand Press Council about the behaviour of *Hawke's Bay Today* editor Louis Pierard and one of his reporters in dealing with her over a story that appeared in the paper on July 26, 2003. The

essence of Mrs Rewi's complaint about the story, in which she was interviewed – seeking anonymity – about her concerns over the way the trust was run, was that it contained what she said were major inaccuracies and that the newspaper would not withdraw the story from its weekend edition.

The Press Council upholds the complaint.

Although Mrs Rewi outlined nine inaccuracies, there were four that concerned her most:

1. That the article incorrectly said she was illegally and unjustifiably dismissed when she was suspended;
2. That she had received three written warnings when she received just one;
3. That she said other nurses had resigned when she actually said other staff; and
4. An unpublished comment was attributed to her that an unregistered nurse had given injections.

Mrs Rewi rang the paper the evening before publication, spoke to the reporter and said the faxed copy of the story she was sent had too many inaccuracies in it and she wanted more time to go over it. She then said she did not want the article published.

In his response to the Press Council, Mr Pierard rejected the complaint, quoting a reporter as saying Mrs Rewi had a surprise change of heart over the story.

Mr Pierard said there had been no way of verifying at that time whether her dismissal was unjustified or illegal, and said two clarifications were written to address the first three of her concerns. The fourth point was not published in the final version of the story.

Mr Pierard also suggested Mrs Rewi's request to withdraw the story was based on an allegiance to *The Dominion Post,* which was also publishing the story on July 26.

A correction, which ran at the bottom of another story about the trust on July 28, clarified that Mrs Rewi had been suspended and not dismissed.

In a further letter to the Press Council, Mr Pierard said that on the evening before publication, Mrs Rewi would not tell the reporter what the inaccuracies in the story were, and said that to hold the story would have meant it would not have made the weekend edition. He also confirmed that the second correction, which would have clarified that Mrs Rewi received just one written warning and that she had not said other nurses had resigned, but other staff, was never run in the paper.

There is a dispute between the parties over the circumstances of the interview and subsequent conversations about it. Without reporter's notes or tapes of the conversations it is impossible to determine whose account is accurate.

However, it is clear Mrs Rewi's warning that the story contained inaccuracies was not acted on properly and that the newspaper put its need to get a good story on its front page before the principles of good journalism.

The reporter knew before the story ran that some of the facts were in dispute, and although Mrs Rewi may have been less than forthcoming about what they were, it was the duty of the newspaper to ensure its facts were correct.

The story was the front-page lead when it ran but the correction Mr Pierard promised to address the circumstances of Mrs Rewi's departure from the trust appeared as a foot-note to another, minor, story three days later. By Mr Pierard's own admissions, the second correction was never run.

The Press Council's Statement of Principles says newspapers should be guided at all times by accuracy, fairness and balance. It is clear that in this case, the newspaper made a decision to publish a story, which it knew could be inaccurate.

The Statement of Principles also says that where incorrect material has been published, a correction should be run and given fair prominence. This was not the case here.

The complaint is upheld.

Decisions 2003

Complaint name	*Newspaper*	*Adjudication*	*Publication*	*Case No*
Canterbury District Health Board	*Timaru Herald*	Upheld	14.2.03	909
Canterbury Suicide Project	*The Dominion Post*	Not Upheld	14.2.03	910
M	*That's Life*	Upheld	18.2 03	911
Maurice Hendry	*New Zealand Herald*	Not Upheld	14.2.03	912
Robin McCarthy	*The Press*	Upheld	14.2.03	913
N	*That's Life*	Upheld	18.2.03	914
Joseph Roehl	*The Dominion Post*	Not Upheld	14.2.03	915
John Walsh/Kilkelly Developments	*The Dominion Post*	Upheld	14.2.03	916
Peter Zohrab	*Wainuiomata News*	Not Upheld	14.2.03	917
N Brailsford	*The Dominion Post*	Not Upheld	27.3.03	918
B and Family	*The Dominion Post*	Not Upheld		919
Southland District Health Board	*Mountain Scene*	Part Upheld	28.3.03	920
F	*Hawke's Bay Today*	Upheld	11.4.03	921
Jay Berriman	*Sunday Star-Times*	Not Upheld	16.5.03	922
Philip Davidson	*Wairarapa Times-Age*	Part Upheld	16.5.03	923
Michael Neill	*New Zealand Herald*	Not Upheld with dissent	16.5.03	924
Doug Stone	*The Oamaru Mail*	Not Upheld	16.5.03	925
University of Otago	*N B R*	Upheld	19.5.03	926
Kim Cohen	*Northern Advocate & New Zealand Herald*	Not Upheld	25.6.03	927
Lyn Gautier	*New Zealand Herald*	Not Upheld	24.6.03	928
Simon Hayes	*Mountain Scene*	Upheld	26.6.03	929
Ian Little	*Wanganui Chronicle*	Not Upheld	26.6.03	930
Alan McRobie	*The Press*	Upheld	24.6.03	931
NZ Timber Industry Fed	*The Dominion Post*	Not Upheld with dissent	24.6.03	932
John Angell	*The Press*	Not Upheld	15.8.03	933
Nobby Clark and Invercargill Family Start	*The Southland Times*	Upheld	15.8.03	934
Child Youth and Family	*The Southland Times*	Upheld	15.8 03	935
Environment Canterbury	*Ashburton Guardian*	Part Upheld	14.8.03	936
Federated Farmers Northland	*Rural News*	Part Upheld	15.8.03	937
Jim Gerard	*The Kaiapoi Leader*	Not Upheld	15.8.03	938
Robyn Mitchell	*Bay of Plenty Times*	Not Upheld	18.8.03	939
James Scott	*New Zealand Herald*	Not Upheld	15.8.03	940
D	*Wainuiomata News*	Upheld	25.09.03	941
Ken Orr	*Sunday Star-Times*	Not Upheld	25.09.03	942
Sue Rawson	*New Zealand Herald*	Not Upheld	25.09.03	943
Philip Stenning	*The Dominion Post*	Not Upheld	25.09.03	944
Watercare Services	*The Independent*	Part Upheld	30.09.03	945
Andrew Beck	*N Z Woman's Weekly*	Not Upheld	14.11.03	946
Peter Bennett	*The Press*	Not Upheld	14.11.03	947
James Hartley	*The Dominion Post*	Not Upheld	14.11.03	948
Margaret McGowan	*The Press*	Not Upheld	14.11.03	949
Ken Orr	*Sunday Star-Times*	Not Upheld	14.11.03	950
Palestine Human Rights Campaign	*New Zealand Herald*	Not Upheld	14.11.03	951
Doug Pinnell	*Waimate Advertiser*	Not Upheld	14.11.03	952
B M Roswell	*The Press*	Not Upheld	14.11.03	953
Siegfried Bauer	*The Daily News*	Not Upheld	22. 12.03	954
David Bosley	*Hawke's Bay Today*	Not Upheld	22.12.03	955
Ann Court	*The Bay Chronicle*	Not Upheld	22.12.03	956
Steven Courteney	*Wairarapa Times Age*	Upheld	22.12.03	957
S Furey & K Atvars	*Bay of Plenty Times*	Not Upheld	22.12.03	958
L J Hobden	*New Zealand Listener*	Not Upheld	22.12.03	959
Q Rewi	*Hawke's Bay Today*	Upheld	22.12.03	960

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 con-

cerned 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

for the year ended 31 December 2003 (Audited)

2002		*2003*
	INCOME	
1,950	Union	2,700
155,000	NPA Contribution	140,000
5,000	NZ Community Newspapers	5,000
8,500	Magazine Contribution	8,500
666	Interest Received	958
(15)	Loss on Sale of Asset	-
171,101	**Total Income**	**157,158**
	EXPENDITURE	
516	ACC Levy	418
533	Accounting Fees	533
-	Advertising and Promotion	395
550	Auditor	550
24	Bank Charges	15
476	Cleaning	457
902	Computer Expenses	1,201
2,730	Depreciation	2,404
1,879	General Expenses	2,615
1,500	Insurance	2,375
1,030	Internet Expenses	1,129
1,584	Postage and Couriers	1,385
1,546	Power and Telephone	2,057
4,229	Printing and Stationery	10,264
6,229	Reception	6,224
15,565	Rent and Rates	16,212
90,675	Salaries – Board Fees	92,674
125	Subscriptions	22
16,023	Travel and Accommodation	12,022
437	Interest – Term Loan	47
146,553	**Total Expenses**	**152,999**
24,548	Income over Expenditure	4,159
13,008	Plus Equity at beginning of year	37,556
-	Prior Period Adjustment	(6,464)
37,556	**Equity as at end of year**	**35,251**

Statement of financial position

As at 31 December 2003 (Audited)

2002		*2003*
	Represented by:	
	ASSETS	
7,270	BNZ Current Account	15,139
22,170	BNZ Call Account	19,803
6,946	Accruals and Receivables	
885	Computer hardware (less depreciation)	1,096
14,172	Fit out (less depreciation)	12,434
51,443	**Total Assets**	**48,472**
	LESS LIABILITIES	
70	Creditors and Provisions	430
5,458	GST	6,855
2,422	Newspaper House Loan	0
5,937	PAYE Payable	5,936
13,887	**Total Liabilities**	**13,221**
	EQUITY	
13,008	Accumulated Funds	31,092
24548	Income over Expenditure	4159
37,556	**Total**	**35,251**

Auditor's report

CORNISH
& ASSOCIATES LTD

Accountants & Business Advisers

7 April 2004

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 2003 (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 organisation's 2003 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 2003 and financial performance and cashflows for the year ended on this date of the organisation.

Our review was completed on 7th April 2004 and our unqualified opinion is expressed at this date

CORNISH AND ASSOCIATES LTD.

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Index