NEW ZEALAND
PRESS
COUNCIL

2013

41st Report of the New Zealand Press Council

NEW ZEALAND PRESS COUNCIL

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OFFICERS FOR 2013

Barry Paterson (CNZM, OBE, QC)	Independent Chairman, Retired High Court Judge (Until June 30, 2013)
Sir John Hansen DCNZM	Independent Chairman, Retired High Court Judge (From July 1, 2013)
Mary Major	Executive Director

Representing the public:

Tim Beaglehole	Emeritus Professor, Wellington
Liz Brown	Independent Consultant, Horowhenua
Pip Bruce Ferguson	Independent Researcher, Hamilton
Chris Darlow	Lawyer, Auckland
Sandy Gill	Consultant and mother, Lower Hutt
Peter Fa'afiu	Alternate Member, Auckland

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

John Roughan	Assistant Editor *New Zealand Herald*, Auckland
Clive Lind	Editorial Development Manager FairfaxNZ, Wellington

Representing Magazine Publishers, nominated by the Magazine Publishers Association (NPA)

Kate Coughlan	Managing Editor, *NZ Life & Leisure* and *NZ House & Garden* (Until November)

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

Penny Harding	Journalist, Wellington
Stephen Stewart	Journalist, Wellington

NEW ZEALAND PRESS COUNCIL

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Chairman's Foreword

It was a singular privilege to be appointed Chairman of the Press Council as from 1 July 2013.

I wish to pay tribute to my predecessor The Hon Barry Paterson CNZM, OBE, QC for his outstanding contribution to the Council. Barry served as chairman for eight years. The key point of his tenure was the initiating of the first (and only) independent review of the Press Council carried out by Sir Ian Barker and Prof Lewis Evans. He then set about implementing the recommendations of the review.

The Council become an Incorporated Society; Barry's contribution to the Constitution was significant. Jurisdiction was extended to cover video and audio content of news websites, and the Complaints Procedure was streamlined to allow quicker resolution of complaints. An informal resolution process was also introduced.

More recently he liaised with the Law Commission on their review of media regulation.

I received a warm welcome from Council members and I am grateful for their generous assistance that made my transition into a new role so much easier. At the end of the year we regretfully said farewell to two long-term members of the Council. Kate Coughlan, representing magazines, and Clive Lind, representing editors as the Fairfax nominee, had provided dedicated service for six and eight years respectively. Both brought to the Council

New Zealand Press Council 2013:
Front row: Sandy Gill (Lower Hutt), Sir John Hansen (Canterbury), Mary Major (Porirua)
Standing left to right: Liz Brown (Horowhenua), John Roughan (Auckland), Peter Fa'afiu (Auckland, Clive Lind (Wellington), Pip Bruce Ferguson (Hamilton), Stephen Stewart (Wellington) Penny Harding (Wellington), Chris Darlow (Auckland) Mark Stevens (Wellington)

Absent: Kate Coughlan (Auckland) and Tim Beaglehole (Wellington).

Sir John Hansen, formerly a judge of the High Court, is the independent chairman. The members representing the public are Ms Brown, Dr Bruce Ferguson, Mr Darlow, Mrs Gill, and Prof Beaglehole.
Mr Fa'afiu is the alternate public member.
Mr Lind and Mr Roughan represent editors and were nominated by the Newspaper Publishers' Association. Mr Lind retired in December, and Mr Stevens took over the position.
Ms Coughlan represents magazines, nominated by the Magazine Publishers' Association.
Ms Harding and Mr Stewart represent journalists, nominated by the media division of the New Zealand Engineering, Printing and Manufacturing Union (EPMU).
Mary Major is the Executive Director.

table many years' experience as journalists and editors, and sound common sense. We are truly appreciative of their work. Mark Stevens, Digital Editor Fairfax, replaced Mr Lind and Jenny Farrell, editor KiaOra Inflight magazine, replaced Ms Coughlan.

Pip Bruce Ferguson and Sandy Gill, public members, were reappointed for a second term.

Mary Major, our Executive Director, is a font of all knowledge regarding the Council. She brings experience, wisdom and common sense to her role that smooths the work of the Council. Her unfailing courtesy and assistance to complainants makes the complaints process more user friendly than many. She is the unsung heroine of the organisation.

This is an industry funded regulatory body but with a majority of public members. It is a model of how complaints can be dealt with expeditiously, effectively and economically. I thank our major funders members of the NPA, their chair Michael Muir and all the members of their Board. Tim Pankhurst, CEO of the NPA and Chair of the Press Council Executive Committee, resigned in March. The Council was well-served by Tim and we wish him well in his role in a different industry – fishing. Rick Neville was appointed NPA Editorial Director, and Chair of the Executive Committee, appointed by the NPA to attend to Council matters. We thank the committee members for their assistance, forward thinking and cooperation, particularly Paul Thompson who left at the end of the year to lead RadioNZ.

At the end of the year we also took the opportunity to thank Dame Beverley Wakem who, in her role as Chief Ombudsman, has for many years been a member of the Appointments Panel appointing the public members. We are grateful to Dame Beverley both for her work, and for the mana she brings to the role.

Emeritus Professor John Burrows ONZM, QC, doyen of media law in New Zealand, retired from the Law Commission this year. John has given a great deal of assistance to the Council over many years and most recently communicated frequently with the Council over the review of media regulation. I trust retirement will give him more time to listen to his jazz collection.

The Law Commission report The News Media meets the 'New Media' was released in March. The key recommendation, as far as the Press Council was concerned, was that there should be one (self-regulated) media regulator across all media. The Press Council had some concerns about this, which I do not propose to detail here, and in any event the Government, reporting back in October, decided not to implement the suggested changes.

However the Council did heed some of the Law Commission suggestions and initiated jurisdictional, sanction and procedural changes that are now in the process of being implemented.

The Executive Committee and the Council have been concerned as to the best way to deal with online content and complaints concerning it. Much of this content is from the mainstream but a lot is also from individual bloggers.

Overseas online content can even manage scoops of New Zealand stories. A classic example was the story involving match fixing allegations against three New Zealand international cricketers. I was attending a test match in Dunedin when I was told the names that had been revealed, not in New Zealand, but online in the United Kingdom. Online content remains an evolving issue but one which the Council is cognizant of and, in conjunction with the Executive Committee, is researching ways to properly deal with complaints emanating from online content.

The Council enters its 43rd year in good heart and with continued support.

Sir John Hansen.
Chairman

Cartoons: a further note

The Council's 40th Report (2012) included a section on cartoons that considered whether cartoonists, as the 'court jesters' of the modern state, should, because of their use of graphic images and visual humour, be given more freedom when offering comment or opinion than that accorded to journalists who simply use words?

The Report suggested that "without explicitly arguing that this should be the case the Press Council's decisions in recent years suggest that it, possibly wisely, holds this view."

At its November meeting the Council considered four complaints against an article published by *The Press* (Weekend) on 12 October 2013 concerning the increase in chlamydia in the region since 2011. The headline of the article was "Luck of the Irish has downside in sex-disease stats." The introduction read "Irish workers helping with the rebuild are sharing the love but it seems they may also be helping to spread sexual disease." The article was illustrated by a cartoon depicting two men in green coats heading into a doorway signposted STD Clinic from which emanated the song "If yer Irish come into the parlour". The Council upheld the complaints against both the article and the cartoon.

Did the decision of the Council in respect of this cartoon mark a change from its attitude as suggested in its 40th Report? In upholding the complaints against the article the Council noted that the article itself stated "There are no concrete figures to analyse who is giving chlamydia to whom" and that a Canterbury District Health Board Member said New Zealand historically had high rates of STD's and he guessed it would be local women passing infections on to rebuild workers rather than the other way round. The Council found that the link between the Irish nationals and the chlamydia statistics was of the newspaper's making and not supported by any reported information and upheld the complaints, so far as they related to this issue, on the grounds of Principle 1 Inaccuracy and Principle 4 Comment and Fact.

All the complainants alleged a breach of Principle 6 Discrimination. Given the misrepresentation of statistics and the way the story was presented the Council found it difficult to see the whole as anything but gratuitously discriminatory against the Irish, and also upheld this complaint.

Cartoons generally appear on the paper's op-ed pages, confirming their role as opinion. In this case, however, it appeared alongside the news article which purported to be a serious public interest story to which it could be seen as an illustration and, indeed, an integral part of the article. As such the Council took the view that it should be subject to the same tests as the article itself and it was for this reason that the complaint was upheld. In making this decision the Council did not believe it was significantly changing the attitude to cartoons which it has taken in the past.

See Cases 2354 – 2357.

An Analysis - 2013

Of the 61 complaints that went to adjudication in 2013 nine were upheld in full; two were upheld by a majority; three were not upheld by a majority, one was not upheld on the casting vote of the Chairman and 46 were not upheld A further 16 complaints were resolved informally.

Thirty nine complaints were against daily newspapers; seven were against community newspapers; two against Saturday newspapers; four against Sunday newspapers; two against web-based publications; four were against magazines; two against news providers and one against a student magazine.

Most complaints going to adjudication are considered by the full Council. However, on occasions, there may be a complaint against a publication for which a member works or has some link. On these occasions the member leaves the meeting and takes no part in the consideration of the complaint. Likewise, occasionally a Council member declares a personal interest in a complaint and leaves the meeting while that complaint is under consideration. In 2013 there were 27 occasions where a member declared an interest and left the room while the complaint was considered.

Debate on some complaints can be quite vigorous and while the majority of Council decisions are unanimous, occasionally one or more members might ask that a dissent be simply recorded (Cases 2311, 2319 and 2339) or written up as a dissenting opinion (Cases 2317, 2333 and2358)

Press Council Complaints Statistics

Year ending 31 December		**2010**		**2011**		**2012**		**2013**
Complaints Determined		**75**		**68**		**92**		**67**
Decisions issued		**65**		**60**		**76**		**61**
Upheld	20		10		16		9	
Upheld by majority	3		4		2		2	
Part upheld	2		4		3			
Part Upheld by majority	1							
Not Upheld by majority	1		3		5		3	
Not upheld on casting vote of Chairman							1	
Complaint declined			1					
Not upheld	38		38		50		46	
Mediated/resolved		10		8		16		6
Complaints received and not determined				**74**		**63**		**65**	**75**
Withdrawn	9		12		5		9	
Withdrawn at late stage	2		1		1			
Not followed through	26		22		36		37	
Out of time	2		2				2	
Not accepted	14		5		4		14	
Outside jurisdiction	6		6				7	
In action at end of year	15		15		19		6	
Total complaints		**149**		**131**		**157**		**142**

Decisions 2013

Complaint name	Publication	Adjudication	Date	Case No
Michael Bahjejian	*Waikato Times*	Not Upheld	February	2305
Bevan Berg	*Stuff*	Not Upheld	February	2306
Sonja Lawson	*Taranaki Daily News*	Not Upheld	February	2307
Bryan Leyland	*NZ Herald*	Not Upheld	February	2308
Right to Life NZ Inc	*AucklandNOW*	Not Upheld	February	2309
Right to Life NZ Inc	*The Daily Post*	Not Upheld	February	2310
Porirua Whanau Centre Trust	*Porirua News*	Upheld by majority	March	2311
Michael Bahjejian	*Waikato Times*	Not Upheld	March	2312
Paul Cooper	*Manawatu Standard*	Not Upheld	March	2313
Allan Golden	*The Dominion Post*	Not Upheld	March	2314
Allan Golden	*The Dominion Post*	Not Upheld	March	2315
Fiona Graham	*Otago Daily Times*	Not Upheld	March	2316
Hubbard Supporters' Group	*Business Desk*	Not Upheld on Casting Vote of Chairman	March	2317
Michael Laws	*Wanganui Chronicle*	Not Upheld	March	2318
Right to Life NZ Inc	*Sunday Star-Times*	Not upheld with dissent	March	2319
Clive Stuart	*North & South*	Upheld	March	2320
Tony Ward-Holmes	*The Press*	Not Upheld	March	2321
Bougainville Library Trust	*Sunday Star-Times*	Upheld	May	2322
Peter Bolot	*The Press*	Not Upheld	May	2323
Angela Burns	*Critic TeArohi*	Not Upheld	May	2324
Federated Farmers NZ	*NZ Herald*	Not Upheld	May	2325
Lisa Walker	*NZ Herald*	Not Upheld	May	2326
Mark Hotchin	*NZ Herald*	Not Upheld	May	2327
Brian McDonald	*The Press*	Not Upheld	May	2328
Michael Bahjejian	*Waikato Times*	Not Upheld	June	2329
Laurie Carroll	*Model Flying World*	Not Upheld	June	2330
Kyle Chapman	*Waikato Times*	Not Upheld	June	2331
Joris de Bres	*Waikato Times*	Upheld	June	2332
Food & Grocery Council	*The Weekend Herald*	Not Upheld with dissent	June	2333
FSANZ	*The Weekend Herald*	Not Upheld	June	2334
John Nelson	*The Wellingtonian*	Not Upheld	June	2335
Westland Residents & Ratepayers	*Hokitika Guardian*	Not Upheld	June	2336
Ann Fullerton	*Manawatu Standard*	Not Upheld	June	2237
Kate Day	*The Dominion Post*	Not Upheld	August	2338
Christine Heatherbell-Brown	*Woman's Day*	Not Upheld with dissent	August	2339
Jacqueline Sperling	*Sunday Star-Times*	Not Upheld	August	2340
Elizabeth Hyland	*APNZ, NZ Herald*	Not Upheld	August	2341
Jeremy Connell	*NZ Herald*	Not Upheld	September	2342
Ted Dawe	*Herald on Sunday*	Not Upheld	September	2343
Bournlarn Khamwanthong	*NZ Herald*	Not Upheld	September	2344
Complainant	*The Southland Times*	Upheld	September	2345
John Nelson	*The Dominion Post*	Not Upheld	September	2346
Andrew van der Voort	*The Dominion Post*	Not Upheld	September	2347
Peter Waring	*The Dominion Post*	Not Upheld	September	2348
Kay Davidson	*Hokitika Guardian*	Not Upheld	November	2349
Helen Hindmarsh	*Rotorua Review*	Not Upheld	November	2350
Helen Hindmarsh	*Rotorua Daily Post*	Not Upheld	November	2351
Arthur Koroniadis	*The Dominion Post*	Not Upheld	November	2352
Taradale High School	*The Dominion Post*	Upheld	November	2353
Charlie Smyth	*The Press*	Upheld	November	2354
Skry Adamson	*The Press*	Upheld	November	2355
James MacAodhgain	*The Press*	Upheld	November	2356
Justin Devlin	*The Press*	Upheld	November	2357

Lenni and Nuu Mamea	*The Dominion Post*	Upheld by majority	December	2358
Wendy Allison	*NZ Herald*	Not Upheld	December	2359
Brendon Blue	*N Z Herald*	Not Upheld	December	2360
Stuart Millis	*The Mirror*	Not Upheld	December	2361
James Parlane	*Ruapehu Press*	Not Upheld	December	2362
Joseph Poff	*The Tribune*	Not Upheld	December	2363
Right to Life NZ Inc	*North & South*	Not upheld	December	2364

Adjudications 2013

CASE NO: 2305 – MICHAEL BAHJEJIAN AGAINST WAIKATO TIMES

Michael Bahjejian claims that the *Waikato Times* breached Principle 1 (Accuracy, Fairness and Balance) by removing an opinion piece from their website but leaving a right of reply responding to the opinion piece up.

He also believes the newspaper's actions breach Principal 6 (Discrimination and Diversity) as it "obviously discriminated against Christian and Jewish minorities who are the innocent victims of the rise of Islamism".

This complaint is not upheld.

Background

The opinion piece published 10 November 2012, was headed "We should listen to Malala about Muslim influence" and outlined the story of a young girl shot on a bus by "cowardly Taleban attackers" and the opposition to female education by the Taleban and Islamic fundamentalists.

The opinion piece then went on to quote a book by Dr Peter Hammond called "Slavery, Terrorism and Islam" which outlined a process Dr Hammond called "Islamisation" and the possibility, and impact, of Sharia law being implemented in non- Islamic countries. The opinion piece clearly notes that this is Dr Hammond's viewpoint.

On 17 November 2012, the newspaper published a right of reply to the opinion piece from Anjum Rahman headed "Muslim women want to be heard and respected". The response provided a life perspective of a Muslim woman.

Following the complaint to the paper from Ms Rahman and the subsequent publication of her response, the newspaper made the decision to remove the opinion piece from their website but not the response.

On 27 November, the writer of the opinion piece included an apology for "any clumsy words I may have used in my recent Opinion article about the Pakistani girl Malala".

The Complaint

Mr Bahjejian believes that when the newspaper removed the opinion piece, but not the response, a reader was left "in limbo" with "no room for freedom of choice and opinion" as they were unable to obtain the original opinion piece without great difficulty.

He believes that the apology included in a later opinion piece reinforces "the unbalance as the apology refers more to the use of clumsy words than to the core of his message".

He also believes the removal of the first piece "obviously discriminates against Christian and Jewish minorities who are the innocent victims of the rise of Islamism since no mention of their alarming situation can be found anymore in the subsequent opinion pieces".

The Newspaper's Response

The editor responded that the opinion piece was removed as the newspaper believed parts of it were inaccurate, offensive and unfair.

The newspaper believed that the decision to remove the opinion piece and allow a right of reply was a responsible one for which they made no apology.

He believed that while the opinion piece was strong robust opinion, it also contained some claims about Muslims in general which the newspaper felt were unfair.

The editor rejected the claim that removal of the opinion piece and publishing of the response were discrimination against Christians and Jews and argued that the removal of the opinion piece was an action to promote tolerance and understanding of respective cultures given the concerns regarding a small part of the opinion piece.

He stated that there had been no suppression of information as all letters on both sides of the argument were published.

The writer of the opinion piece himself, without prompting from the newspaper, apologised for some statements in the opinion piece.

The editor stated that removing the opinion piece from the website is not in itself a big deal as not everything published in the newspaper is put on the website.

The editor stated that to argue that removal of the column is a breach of accuracy, fairness and balance is "nonsense as parts of the article were inaccurate, unfair and offensive" and the newspaper "simply remedied that as any responsible publisher should do".

Discussion and Decision

The Council has previously defended the right of a writer of an opinion piece to express his/her views and the presentation of contrasting views is a critical aspect of democracy. But the expressed views should not deliberately mislead or misinform readers either by commission or omission.

While the opinion piece cited in this complaint commenced as, and in the main concerned, a story about a young Muslim girl, it progressed to some generalisations regarding Muslims.

The newspaper, upon reflection and recognising that the opinion piece contained some unfair and inaccurate comments, published a right of reply response from a female member of the Muslim community and then removed the opinion piece from the website.

There were various options available to the newspaper including leaving the article there alongside a reference to the apology. After reflection, the newspaper felt that the opinion piece was arguably in breach of Principle 6 (Discrimination and Diversity) and the responsible option was to remove it which they did. The option chosen by the newspaper was not an unreasonable one, and did not amount to discrimination.

The complaint is not upheld.

Press Council members considering this complaint were Barry Paterson, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, John Roughan and Stephen Stewart.

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

CASE NO:2306 – BEVAN BERG AGAINST STUFF

Bevan Berg claims *Stuff* (the Fairfax online news source) failed to comply with Principles 1 (Accuracy, Balance and Fairness) and 11 (Corrections) of the Press Council Statement of Principles in relation to a story released on November 4, 2012. The story was headed "Hit squad targets parents on run in Oz".

The Press Council does not uphold the complaint.

Background

The story related to steps the New Zealand Inland Revenue Department is taking to recover outstanding child support payments owed by people now living mainly in Australia. IRD has established a "Direct Debt Team" (described by *Stuff* as a "hit squad") charged with contacting people owing child support payments and collecting overdue amounts. The story referred to the "hit squad" having access to the Australian Government databases, having the right to apply for arrest warrants and to seize defaulters' Australian property.

Stuff quoted comments made in this context by an IRD spokesman.

The Complaint

Mr Berg says the *Stuff* story was misleading and misrepresented the manner in which the IRD debt team operates in Australia. Mr Berg says the *Stuff* piece unjustifiably "attacked" a specific group (presumably New Zealanders with child support obligations who had chosen to move to Australia for legitimate reasons) and misrepresented the relationship between arms of the Australian and New Zealand Governments. Specifically Mr Berg says the IRD debt team has no authority to act in Australia in the way *Stuff* described. Mr Berg has supplied a letter from the Acting Chief Executive of the Ministry of Women's Affairs and says this amounts to "official confirmation" that the article is misleading. Mr Berg claims the article caused "panic" on a blog site given the wrong suggestion the IRD team had the power to operate in Australia and "detain defaulters" in that country. The article serves to distribute "IRD propaganda". Mr Berg refers to the article as creating a "fictional beast that uses its powers in the New Zealand jurisdiction to collect outstanding child support debt in the Australia jurisdiction".

Mr Berg says *Stuff*'s article was released during the passage of the Child Support Amendment Bill in Parliament. This proposed legislation, according to the story, is aimed at introducing a new formula for calculating child support payments. Mr Berg claims an inappropriate "link" between the story and the proposed legislation.

Mr Berg also says that *Stuff* failed to correct the errors in the story when these errors were brought to its attention.

The Response

Stuff responds by saying the pieces are balanced and fair. *Stuff* says the report is based on information supplied to it by IRD's media advisor in response to questions *Stuff* asked about the Direct Debit Team IRD had established. These questions were put in response to IRD's 2012 annual report referring to the establishment of the Direct Debit Team.

Stuff points to verbatim answers provided by the IRD representative as to the recovery actions available to collect outstanding payments due from Australian residents. These actions were consistent or in accord with Australian legislation and extended to arrest warrants, charging orders obtained in relation to real estate and orders for the sale of property to reduce debt. *Stuff*'s summary of the responses was accurate. *Stuff* says Mr Berg has not been specific when he claims inaccuracies on its part.

The Decision

While *Stuff* used some unfortunate language in introducing the story (references to a "hit squad", to "known associates" and liable parents "skipping the country" hint at criminal or similar culpable behaviour by liable parties) the Council does not find *Stuff* presented a picture which was inaccurate, unbalanced or unfair.

There is no doubt some people who are required to make New Zealand child support payments now live in Australia. A number of these people are in arrears. The IRD is taking steps to recover these outstanding payments. Contrary to Mr Berg's claim the story does not suggest IRD was exceeding its powers or authorities in collecting child support payments from people living in Australia (or was wrong by suggesting the Direct Debit Team could act in Australia when it could not). *Stuff* was entitled to rely on answers provided by the IRD representative. *Stuff* was not required to assume that the IRD person was providing wrong information.

The Council does not agree that the advice from the Ministry of Women's Affairs amounts to an "official" confirmation the IRD advice was wrong or that *Stuff*'s story was misleading. All the Ministry executive said was that the article "was not in all respects an accurate reflection on the way in which the Direct Debit Debt Team, nor in fact Inland Revenue Child Support, operates within the Australian environment". It is unclear on what basis the Ministry of Women's Affairs is able to make this remark. Further the inaccuracies the Ministry mentions are not spelt out. They could have been quite minor. *Stuff* is justified in being concerned that Mr Berg's claims lack specifics.

The Council does not see any improper connection between the story and the Child Support Amendment Bill.

The Press Council does not uphold the complaint.

Press Council members considering this complaint were Barry Paterson, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Clive Lind, John Roughan and Stephen Stewart.

CASE NO: 2307 – SONJA LAWSON AGAINST TARANAKI DAILY NEWS

The Press Council has not upheld a complaint by Sonja Lawson against *Taranaki Daily News.*

Background

Taranaki Daily News reported on October 9, 2012 on the Court of Appeal's upholding of a conviction for fraud imposed on Sonja Lawson by the New Plymouth District Court. In the course of the article, which was headed "Woman did not declare bonds", note was made of Miss Lawson's failure to declare bonus bonds of up to $20,000 when she applied for additional benefits and a benefit review from Work and Income. She subsequently received more than $18,000 from this review and special benefits. In her appeal, Miss Lawson claimed that she had revealed the bonus bonds but this was rejected by both the District Court and Appeal Court judges.

In addition an 'in brief' column on the October 26 stated that Miss Lawson had been found guilty of sending offensive language or suggestions in faxes to a range of organisations.

The Complaint

Miss Lawson phoned a complaint to the editor of *Taranaki Daily News*, followed up by a letter, alleging factually incorrect and misleading information relating to the 'abusive faxes' column comment. She followed this up over a month later with a further letter complaining about both articles.

She complained that no response had been received to her multiple calls, faxes and now letters to her claims that the articles are inaccurate, unfair and unbalanced; that her privacy had been breached as she had name suppression; that the headlines were inaccurate and misleading; that the paper had used subterfuge and had refused to correct errors. She demanded retraction and apologies in a prominent place in the paper.

Dissatisfied with the paper's verbal replies to her complaint and refusal to retract and apologise, Miss Lawson laid the same complaints before the Press Council.

The Newspaper's Response

The editor of *Taranaki Daily News* responded to the Council that the published articles had been taken from a Court of Appeal decision and a hearing in the Hawera District Court, and he was unaware of any inaccuracy. Furthermore no suppression order was in place regarding Miss Lawson.

He appended a copy of the Court of Appeal judgement, which the paper's article had briefly summarised, and which dismissed Miss Lawson's appeal against conviction. In this, the judge stated that Miss Lawson's "assertion was inconsistent with the WINZ evidence" and with the special benefit application form Miss Lawson completed.

Miss Lawson sent a further substantial response to the Press Council on receipt of the editor's response. She disputed the paper's position, claiming that her convictions and sentence were 'squashed' in the High Court before Christmas; that she wanted the name of the reporter who wrote the article; and that she had never been charged with or convicted of sending abusive faxes.

Discussion

Miss Lawson obviously feels aggrieved that the paper reported on her failed approach to the Court of Appeal to have her conviction for fraud overturned. She is equally angry about the 'in brief' column that stated she had been convicted of sending abusive faxes, a point that she denies.

This latter is a matter of semantics. Unsurprisingly the newspaper did not use the exact words of the charge sheet. But the Council finds the brief did not mislead readers.

The Council is satisfied that both newspaper reports are fair and reasonable accounts of two court cases; one report was based on a Court judgment and one on the Statement of Facts presented in Court. Media have a right to attend and report Court proceedings. They do so, on behalf of the public and in the interests of open justice.

Miss Lawson does not have name suppression (the Court of Appeal judgment is available online) and the newspaper had a right to report each case.

The complaint is not upheld.

Press Council members considering this complaint were Barry Paterson, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Clive Lind, John Roughan and Stephen Stewart.

CASE NO:2308 – BRYAN LEYLAND AGAINST NEW ZEALAND HERALD

Bryan Leyland complains that the *New Zealand Herald* lacks balance in its treatment of dangerous man-made global warming (generally referred to as climate change) specifically for not publishing the information that global temperatures have not risen in the past 16 years.

The complaint is not upheld.

Background

In December 2012 the New Zealand Government announced that it would not sign a global treaty to take over from the Kyoto Protocol. The *New Zealand Herald* ran a significant number of articles on aspects of, and responses to, this decision. The underlying assumption of these articles was that man-made global warming is a known fact.

Also in December 2012, the UK Met Office's Hadley Centre (specifically studying and advising the UK government on climate change) readjusted its projections for global warming after temperatures were found not to have increased in the past 16 years.

Mr Leyland, a member of the New Zealand Climate Science Coalition and an electrical engineer with experience in computer modelling, offered an article in which he noted the revised projections and questioned the widespread acceptance of the theory that increased carbon dioxide concentrations have caused the world to warm steadily. He argued, on the basis of the new data, that the world is not warming. As climate modelling predicts warming

is the *only* outcome of increased levels of carbon dioxide in the atmosphere, there must be alternative explanations for the changing climate – apart from that of man-made causes. His article called for a scientific response from the proponents of the man-made global warming theory to the failure of climate modelling to predict the non-rising recent global temperatures.

This was the second article offered by Mr Leyland on this subject and the second rejected by the *Herald.* The earlier article was subsequently accepted for publication by another newspaper and Mr Leyland says it stimulated large debate.

Complaint

Mr Leyland contended that the newspaper has an obligation to provide balance and it is not doing so. He argued that the newspaper misinformed readers by omitting the new information about static global temperatures and the problems that causes for climate change models. The articles were all based on the assumption that climate change was man-made and therefore the coverage lacked balance.

He argued that this was a matter of very active public interest - as evidenced by the number of reader comments following the newspaper's publication of an opinion piece on the Kyoto decision. He noted that readers were almost equally divided between those who did and those who did not believe in dangerous man-made global warming.

He believed to meet the standard required for balance, the newspaper would need to inform readers of the latest information regarding global temperatures but this had not happened. He emphasised that none of the arguments favouring Kyoto mentioned the latest information that the world has stopped warming.

He did not complain about the non-publication of his article.

Newspaper's Response

The newspaper made a brief response saying it relied on the existing and overwhelming scientific consensus that global warming is occurring and that it was under no obligation to run contrary views to the consensus. The newspaper stated that this argument applied "especially to the views of those who cannot claim to have credentials or expertise in the field of climate science."

Further Arguments from the Complainant

Mr Leyland argued that none of the articles mentioned the fact that the world has stopped warming. "They seem to have completely forgotten that the object is not to promote renewable energy or carbon trading or transfers of wealth from the rich to the poor but it is to "fight" (currently non-existent) man-made global warming."

Addressing the newspaper's reliance on overwhelming scientific consensus, Mr Leyland argued that such a defence presents many problems.

"Consensus is all about politics and religion and not about science. Galileo was against the consensus of the time. Many scientific breakthroughs have been against the consensus. It has been said "It takes just one ugly fact to destroy a beautiful theory""

Mr Leyland argued the main "ugly fact" is that the world has not warmed in recent years contrary to all predictions by the Intergovernmental Panel on Climate Change (IPCC). By its failure to mention this absence of warming, the newspaper had been misleading its readers.

Mr Leyland pointed the newspaper in the direction of web-based articles which indicate that many climate scientists do not believe in dangerous man-made global warming in particular www.petitionproject.org in which over 30,000 signatories ("sceptical scientists qualified in climate and related disciplines") disagree that global warming is man-made.

Mr Leyland says this is proof that an "overwhelming consensus" does not exist though he concedes there is much debate on the subject and, given that the science is far from settled, the newspaper should report from multiple viewpoints including those who are sceptical.

Mr Leyland also provided endorsement of his credentials from an Australian-based academic Professor Robert Carter.

Newspaper's Reply

The newspaper recognised its need for balance in coverage but argued that balance needs to be in proportion.

"Just because someone holds an eccentric view, it does not mean they are entitled to run in the paper."

In rejecting Mr Leyland's argument that there is debate over man-made global warming, the newspaper reiterated its belief in "the state of the debate in peer-reviewed scientific literature, not the media".

"There may well be debate in cyber space and among letter writers but it is not occurring where it counts – peer reviewed scientific journals. "

It quoted The Scientific Consensus on Climate Change (sciencemag.org/content/306/5702/1686.full.) - an article carried in Science Magazine regarding the debate and referred to the website: skepticalscience.com/global warming-scientifc-consensus-intermediate htm

The newspaper also noted that the real debate has long since moved from whether climate change is occurring to the questions of what should be done about it. This has rightly been the focus of the discussion in the *Herald.*

Discussion

Climate change, and the degree of man's hand in it, will continue to be a contentious topic. There are strongly held views on both sides of the debate and one "expert" opinion can be traded endlessly against another.

The newspaper says it has placed its faith in "peer reviewed scientific literature" which confirms that the science is decided and on this there is no room for further debate. It regards Mr Leyland's views as "eccentric" and therefore the normal obligations regarding balance can be put to one side. And furthermore, the newspaper argues it has carried a variety of opinions.

However, the majority of articles published by the newspaper contain little if any scientific references and are not peer-reviewed scientific literature. They are opinion pieces in which the only science is the World Bank Project which is quoted to predict that temperatures "are on track to rise by up to 4C by the year 2100".

The other quoted science is merely opinion credited to U.N. climate chief Christiana Figueres: "We know that science tends to underestimate the impacts of climate, and so if anything, that gap continues to grow." This in relation to the goal of the U.N. to keep temperatures from rising more than 2C, compared to preindustrial times something which is already impossible as they've already risen by 0.8C above that level.

Mr Leyland argues that he is not an eccentric and possesses sound credentials for his perspective to command some regard. He is not complaining about the non-publication of his article but at what he sees as the refusal of the newspaper to bring balance into its reporting by not alerting readers to new information.

New information, such as that of non-warming global temperatures, should be put before the public and while the newspaper has kept readers informed of many aspects of the subject it appears that it has not specifically highlighted this.

The significance of this omission depends on the weight given to the information. The world has not warmed in the past 16 years therefore has global warming stopped? No, say the "climate changers" it merely means that due to the natural variability of the Earth's climate, global temperatures will rise but at a fractionally slower rate than expected. Yes, say the "climate change sceptics", such as Mr Leyland who point out that the "ugly fact" of recent non-warming has destroyed the credibility of the man-made warming theory.

Mr Leyland claims this is a crucial issue when it comes to providing balance on the subject. His thoughtful and reasoned arguments will have no doubt prompted a rereading of recent information regarding global temperatures, and if it has not, it should have. The newspaper's readers would be well-served by an explanation as to how this latest information fits into its accepted theory of dangerous man-made global warming.

Principle 1 requires, among other considerations, that publications be bound by the need for balance and should not deliberately mislead or misinform readers by commission or omission.

This principle also requires that with articles of controversy or disagreement, a fair voice must be given to the opposition view however the Press Council accepts that in certain circumstances out-lying views can fall outside that requirement.

Decision

While it does not appear to the Press Council that Mr Leyland's view is accurately described as an "eccentric" one, the newspaper has based its coverage on what it considers established science and therefore what it regards as the most useful material on the subject within that theory. It has not gone out of its way to overlook or suppress new information and in accepting that the science is settled, its coverage is based on the need to look to the future implications of man-made climate change. It can not be expected to cover every dissenting opinion on a subject as broad as global climate change.

The latest information from the UK Met Office's Hadley Centre regarding current global temperatures will almost certainly feature as part of the on-going coverage even if the perspective on its significance is not the same as Mr Leyland's.

Therefore the complaint is not upheld.

Press Council members considering this complaint were Barry Paterson, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill and Stephen Stewart.

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

CASE NO: 2309 – RIGHT TO LIFE NZ INC AGAINST AUCKLANDNOW

Ken Orr, representing the Right to Life anti-abortion campaign group, complains about an opinion blog by Richard Boock published on AucklandNOW, part of Fairfax Media's *Stuff* website. The complaint is not upheld.

Background

The weekly blog appeared on November 20, 2012 and commented on the death in Ireland of Savitra Halappanava. It had been widely reported that she died of septicaemia and had been denied an abortion. Mr Boock's opinion piece was headlined "Irish abortion scandal echoes here". Part of it said "everywhere you look, extremists and activists are trying to deny women access to abortion services. The tactics of anti-abortion protesters in Southland are case in point."

He went on to say "the group" had used intimidation and bullying and had vowed to publicise the names of those who participated in the termination service. Later he said the "threat to name" was another example of busybodies with personal ideological agendas. "Intimidating and threatening health professionals can only lead to more Savitra Halappanavas."

The blog attracted comment, and the complainant, Mr Orr, was the first to express his contrary opinions on the site. Later, he did so again.

He also complained to AucklandNOW, saying Mr Boock's "article" included false and unfair statements, which also lacked balance. He cited Press Council principles covering those points. While his group supported the right to free speech and the right to freely express an opinion, a clear distinction was needed between factual information and comment or opinion.

The report had included several statements "presented as fact which were incorrect and damaged the good name of respected members of the community, pro-life organisations and the Irish health system."

Referencing the blog, Mr Orr said Savitra Halappanava did not die because she was refused a legal abortion. Her death had nothing to do with abortion. He said the writer should await the outcome of the official investigation if he wanted the "facts".

The writer had also made "false and insulting remarks" about members of the Southland community who were prepared to speak up on behalf of unborn children and the

welfare of their mothers. The group, Southlanders for Life (S4L) had never threatened staff or property, was totally opposed to violence, and committed to weekly prayer vigils outside the hospital. It had sought the names of those performing abortions at Southland Hospital, but had not decided what would be done with the names if they got them. "They have no intention of naming and shaming staff."

AucklandNOW Response

Editor Steve Hopkins responded by email to Mr Orr's complaint on November 28. He said the blog was clearly identified as an opinion piece, and its content and opinions were Mr Boock's own.

He noted that it had been widely reported that Savitra Halappanava died of septicaemia and that she was denied an abortion.

"In respect to the comment Richard made concerning intimidation and bullying, he does not say they were made by your group – Southlanders for Life. He says 'anti abortion protesters in Southland'. It has been reported that police are investigating threats to the Invercargill abortion clinic and that staff there are concerned about being identified, so that is fair comment."

Complaint to Press Council

Dissatisfied with that response, Mr Orr complained to the Press Council and repeated the gist of the complaint he made to AucklandNOW.

AucklandNOW response

Mr Hopkins denied Mr Orr's assertion that the piece was an article and repeated that it was a blog and clearly displayed on AucklandNOW as an opinion piece. Fairfax Media's policy was to make such items easily identifiable to readers so that they knew they were reading the author's personal opinion on a topic, rather than an objective, factual account.

"Much of Mr Orr's points of complaint can be dealt with by this distinction being made because his issues concern Mr Boock's honestly held opinions."

Abortions were contentious, and Fairfax Media expected readership reaction. This was why it allowed readers to comment on the item, and why Mr Orr's comment was the first expressed on the site. More of his comments were published in the ensuing dialogue.

Mr Hopkins also disagreed with some of Mr Orr's claims about the Irish controversy.

Mr Boock's comments about the Southland situation were "fair comment" based on accounts of what was happening there and which the police had formally acknowledged. "Further, Mr Orr in his letter to the Press Council, acknowledged some of these comments were fair."

Mr Boock's comments on reports of "threats to name" those carrying out abortion work in Southland were his honestly held opinion, based on reports of the protests in Southland.

Final Comment from the Complainant

Mr Orr said he freely acknowledged that the Boock blog was an opinion piece that combined fact with opinion. However, the writer had a duty to clearly differentiate fact from opinion, and had failed to do so.

The Irish inquiry into the woman's death had not yet been completed and he agreed with the editor that he could not conclude what happened to her before her death. Neither was Mr Boock in a position to do so. However, the fact that it had been widely reported on the Internet that she died after being refused an abortion did not prove that had happened.

As far as the Southland situation was concerned, he challenged the editor's assertion that Mr Boock's views were fair comment. Right to Life had officially sought documents about accusations of threats to staff and property. Its request had been referred to the police, who had refused to supply the information.

"The situation then is that neither the editor nor we know the identity or whereabouts of the person or persons who have allegedly threatened staff nor do we know if the threats are genuine."

Press Council Decision

The piece complained about was clearly presented as an opinion piece. The NZPC's Statement of Principles notes that there is no more important principle in a democracy than freedom of expression, and that in dealing with complaints the Council will give "primary consideration" to freedom of expression and the public interest.

The Press Council has also said that a writer, even of an opinion piece, cannot deliberately mislead readers, perhaps by ignoring or omitting known facts, or by wilfully misrepresenting the facts.

However in this case the "facts" are still unclear: At the date of publication the outcome of the Irish inquiry was not known. In the case of the Southland protest, published claims of intimidation and bullying, and threats to "name" those involved in termination services, have been made. The names of those involved in terminations have been sought by opponents. The claims have not been officially substantiated and the Council cannot determine that the columnist was wrong.

The blogger has the right to express his opinions, which some may find provocative or offensive in this emotionally charged debate. However, people reacting to those comments - including Mr Orr - were given the opportunity to exercise their own freedom of expression and did so on the website.

Columnists and bloggers are frequently offensive in their comments as they seek to provoke discussion.

In this case, those with opposing views were given the right of reply and their views (including Mr Orr's) were published.

The complaint is not upheld.

Press Council members considering this complaint were Barry Paterson, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Clive Lind, John Roughan and Stephen Stewart.

CASE NO:2310 – RIGHT TO LIFE NEW ZEALAND AGANST THE DAILY POST

Right to Life, an incorporated society opposed to abortion, complains that a report in *The Daily Post* of Rotorua on November 8, 2012, contained a sentence that read, "Pro-life protesters recently sent threatening messages to staff at a Southland abortion clinic." It says there is no evidence such messages were sent by those opposing the Southland clinic or indeed any "pro-life" group. The complaint is not upheld.

The Complaint

Right to Life says there is only one such group protesting at the establishment of an abortion clinic at the Southland Hospital. It is called Southlanders for Life and it is supported by Right to Life NZ Inc. which knows the Southland group to be peaceful and law-abiding.

The society complains that the published statement "demonises" the pro-life movement and has caused its Southland affiliate pain and humiliation. It asked the newspaper for proof of the published statement.

The Response

The editor of *The Daily Post* replied that the report did not mention Southlanders for Life or any group. Its statement was a reference to an anonymous message received by the Abortion Law Reform Association of New Zealand, which was widely reported by other media at the time.

The editor believed the newspaper's report carried no implication that Southlanders for Life were responsible for the threat. He added, "Right to Life members are not the only anti-abortion advocates in the world."

He invited the complainant to submit a letter to the editor for publication.

The Decision

The Press Council does not accept the editor's contention that the offending sentence carried no implicit reference to those who have publicly opposed the Southland clinic. Readers would naturally draw that inference.

Since the reference was to an anonymous threat it is unfortunate the report did not say it was anonymous, but readers would probably have assumed it came from "pro-life protesters" in any case.

The complainant's concern could have been easily rectified by taking up the editor's offer to consider a letter for publication. No doubt it would not be the first time Right to Life or a similar organisation has dissociated itself from anonymous actions of this nature.

This was a passing and possibly gratuitous reference to the Southland case in a news item about free access to contraception which all those quoted, including the Abortion Law Reform Association, agreed was a better solution to unplanned pregnancy.

The story was illustrated with the case of a young Rotorua woman who had recently had an abortion and she talked of the ordeal it had been for her. The alleged threats and name-and-shame tactics of opponents of the Southland clinic were included to give her view that such tactics were unfair.

The story also quoted an organisation called Voice for Life New Zealand which clearly disapproved of abortion and did not believe free contraceptive measures would reduce termination rates. Thus the brief reference to the Southland case appears to have been included for the sake of balance.

It may be tiresome for groups such as Right to Life to dissociate themselves from discreditable action at every passing reference to it in a newspaper but a letter to the editor is the appropriate remedy. The inadequacy of the published statement in this case was not sufficiently serious for the complaint to be upheld.

Press Council members considering this complaint were Barry Paterson, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Clive Lind, John Roughan and Stephen Stewart.

CASE NO: 2311 – PORIRUA WHANAU CENTRE TRUST AGAINST PORIRUA NEWS

Porirua Whanau Centre Trust (PWCT) claims *Porirua News* failed to comply with Principle 1 (Accuracy, Balance and Fairness) of the Press Council Statement of Principles in relation to a story published on December 12, 2012. The story was headed "Centre Settles Dispute".

By a majority of 7:2 the Press Council upholds the complaint.

Background

The story related to issues two former PWCT employees, Ms To'omaga and Ms Teaurima, had with PWCT. The disputes had come before the Employment Relations Authority for determination. The story referred in some detail as to evidence Ms To'omaga and Ms Teaurima presented before the Authority. The story then described how the hearing was interrupted with the employees offering to settle with PWCT. The dispute was settled during the adjournment.

The story referred particularly to PWCT's chief executive Liz Kelly.

The Complaint

PWCT says the story was unfair and unbalanced. PWCT goes further and says the story was "biased, misleading and [contained] substantial errors of fact". PWCT says that the consequence of the story is that "PWCT and its CEO have been portrayed in an unjustifiably negative light".

PWCT mentions statements Ms To'omaga and Ms Teaurima made during the authority's hearing and which were reported as part of the story. PWCT says the reports portrayed Ms Kelly as a "bully" and failed to disclose the "crucial involvement" of one Litea Ah Hoi.

PWCT points particularly to the references in the story to the employees being unfairly dismissed, the reference to Ms Kelly making things "difficult" for Ms Teaurima and to other unjustifiable aggressive behavior on Ms Kelly's part. PWCT refers also to the emphasis the story gave to the

employees' "humiliation" after having been stood down by PWCT for a period along with the emphasis on the difficulties the employees faced financially. PWCT says in fact the employees remained on full pay when stood down while complaints about their own behaviour were being investigated. PWCT also says the employees resigned from their positions. PWCT did not dismiss them.

PWCT points to the brief mention in the story about the settlement terms and to the comment that "it was not made clear whether Ms To'omaga and Ms Teaurima would receive any financial retribution". It was obvious all the employees were being paid as a result of the settlement was their annual leave (holiday) pay and four weeks' notice pay less amounts each owed PWCT.

When distilled down PWCT claims the story gave undue weight or emphasis to the employees' complaints when those complaints were not finally pursued, the employees having settled with PWCT in the meantime. PWCT claims that since the matter was settled by agreement PWCT's account, which was diametrically opposed to that of the employees, was not aired.

The Newspaper's Response

Porirua News responds by saying that the story was balanced and fair. The editor refers to earlier stories published by the newspaper in relation to the dispute. The newspaper refers to the role Ms Ah Hoi played in assisting Ms To'omaga and Teaurima in pursuing their claims against PWCT, a role which was appropriate. The newspaper refers also to its right to publish an account of the Authority's hearing. The editor says the story mentioned the settlement between the parties. In short the newspaper says PWCT was fairly treated.

The Decision

There is little doubt the issues between PWCT on the one hand and the employees on the other were unfortunate. There were many allegations and counter allegations. There were previous stories published in *Porirua News* about the issues. Needless to say the background, the roles various people played and the earlier stories are not matters the Press Council comments on. The only issue is whether the December 12, 2012 story is accurate, balanced and fair.

The Council considers that it is not. The Council takes the view the story gave undue weight and attention to the employees' unsubstantiated claims particularly as those claims related to Ms Kelly. It was not sufficient for the newspaper to devote most of the story to the employees' claims and then to finish off the piece by referring somewhat brusquely to the settlement. The newspaper cannot avoid Principle 1 by simply reporting one sided testimony presented to a judicial or quasi-judicial body.

A statement by the editor could be taken to mean that if the Whanau Centre wanted its evidence to see the light of day it should have continued with the hearing and not settled. If this was his view it is rejected and was wrong.

The Council takes the view the newspaper could not fairly raise the question as to whether further "financial retribution" was being paid to the employees. There clearly was none.

Newspapers need to be careful when reporting proceedings of a civil nature where the proceedings finish part heard because the parties settle their differences. Often this situation will see one party having made out its case in open Court but the other side not doing so. By reporting just one side's case the paper runs the risk of reporting in an unbalanced or unfair way. Such is the situation here.

While the Press Council appreciates there could have been local interest in this story, local interest by itself does not justify a newspaper departing from Principle 1.

The complaint is upheld by a majority.

Ms Kelly and her lawyer appeared before the Council.

Press Council members considering the complaint were Barry Paterson, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Peter Fa'afiu, Sandy Gill, Penny Harding and John Roughan.

John Roughan and Penny Harding dissented from this decision.

CASE No: 2312 – MICHAEL BAHJEJIAN AGAINST WAIKATO TIMES

Michael Bahjejian claims that the *Waikato Times* breached Principle 1 (Accuracy, Fairness and Balance) by publishing photos in its World Digest pages on December 26 and 27, 2012 which were predominately Roman Catholic at the expense of other Christian denominations. In his words, "it presents to the wide public Christmas as being a Roman Catholic celebration, misinforming the reader as to what Christianity is."

He also believes the newspaper's actions breached Principle 6 (Discrimination and Diversity) as Christmas time "compels the editor to commit enough time and effort to select suitable photos that will put their news value before their aesthetic or cultural qualities. To omit them is discrimination."

This complaint is not upheld.

Background

On December 26, 2012, the *Waikato Times*' World Digest page featured six photos under the heading "Globetrotting" of groups and individuals celebrating Christmas.

On December 27, 2012, the same page featured a photo of the Swiss Guards awaiting the arrival of Pope Bendict XVI for his address from a balcony in St Peter's Square at the Vatican.

The Complaint

Mr Bahjejian's complaint is about the choice of photos featured in the Word Digest pages on both those days, which he believes misinforms the reader as to what Christianity is.

In particular, the four photos published on December 26 coupled with the photo of the Swiss Guard on December 27 relate to the Roman Catholic church or faith. He contends that the Roman Catholic church represents half of the Christian worldwide population. Therefore no mention or photos of other Christian demoninations (e.g. Protestant,

Anglican) and "persecuted Christians" worldwide is a breach of NZ Press Council principles 1 and 6.

In regards to Principle 1, the complaint sits with Mr Bahjejian's contention that Roman Catholic photos dominating the World Digest pages on those two days encourages the public to think Roman Catholicism has a "monopoly" of representing Christianity at Christmas time - therefore the photo selection goes against all elements of Principle 1.

The Newspaper's Response

Geoff Taylor, deputy editor, responded that whilst he could see Mr Bahjejian's point of view, he emphasised that photos are selected for "news value and news value alone." There was no thought given to excluding certain religious groups. In addition, there is no time or opportunity for editors of pages to go through photos so no denomination would miss out.

Mr Taylor notes that the World Pages at the time he sent the newspaper's response had also covered a number of Coptic Christian celebrations of Christmas.

The paper gives ample coverage to other religious events such as Diwali, but the usual considerations for covering something, that they are newsworthy and photogenic, applies (eg well-known names involved in the celebration, many people involved such as St Peter's Square in Rome). Visual impact is also a consideration.

A number of events are covered by international media more than others. This also impacts on the range of photos available to be selected by the photos editor on that day.

The newspaper refutes Mr Bahjejian's suggestions of breaching both principles.

Discussion and Decision

Waikato Times contends that no thought was given to excluding certain religious groups; the photos were selected on news value and visual impact to its readership. We have no reason to doubt that this was the case as it is for all newspapers throughout the country.

Mr Bahjejian draws a long bow when he suggests the selection of photos will encourage readers to regard Roman Catholicism as having a monopoly of representing Christianity during Christmas. *Waikato Times* readers are familiar with those pages and the reason for them - to showcase photos of significant events around the world. There was no misleading of readers by omission.

Mr Taylor had explained clearly what occurs in photo editorial rooms throughout the country on any given day. Not having photos of other Christian denominations does not discriminate against them and most readers of the *Times* will come to the same conclusion.

The complaint is not upheld.

Press Council members considering this complaint were Barry Paterson, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Peter Fa'afiu, Sandy Gill, Penny Harding and John Roughan.

CASE NO: 2313 – PAUL COOPER AGAINST MANAWATU STANDARD

The complainant's elderly father is in a Palmerston North rest home where he was robbed by a staff member who took his eftpos card and pin number from his room. Dr Paul Cooper complained that the *Manawatu Standard* interviewed his father who suffers from mild dementia and published his name and location in reports of court proceedings against the thief. The complaint was not upheld.

Dr Cooper said his father could not have given "informed consent" to the interview and the publication of his comments. He considered the newspaper had invaded his father's privacy, "revictimised" him, caused him additional stress and embarrassment and exposed him to further loss. He believed the Press Council's privacy principle should extend particular protection to the vulnerable elderly as well as the young.

After the *Manawatu Standard's* first report appeared on October 30, 2012, the complainant contacted the newspaper, conveyed his concerns and received an assurance from the deputy editor that his father's name would not be used in any future report of the case. However, when the offender was sentenced in January the newspaper's report again published his father's name.

In response, the editor said the name was a matter of public record and no suppression order had been made by the court. The *Standard* did not believe it had breached privacy, though when contacted by the complainant the newspaper had given an informal undertaking not to publish his father's name again. However, when the case came for sentencing in January the deputy editor who had given the undertaking and the court reporter were both on leave and, though the editor was aware of it, he had thought the undertaking applied only to contacting the elderly man. The editor subsequently apologised to Dr Cooper and his family.

The Press Council found the newspaper's failure to abide by its undertaking regrettable. Like the complainant, the Council was surprised that some sort of system did not alert the editor and all news staff to the undertaking not to use the name of the victim in the case when it came back to court. The editor's apology was appropriate but the underlying question remained: should newspapers give special privacy consideration to the elderly as a matter of course?

The reporter who contacted the victim of the crime had heard him described in court as "a vulnerable 84-year-old man". The complainant believed that description, along with his residence, should have alerted the newspaper to his condition. The Council disagreed; "vulnerable" could also describe a mentally competent elderly person in care. The editor said the reporter found the elderly man "lucid, friendly and happy to speak to him." At no time did the reporter have concerns that the man was unaware of what was happening. The Council noted that no mention of dementia appeared in the report published after that call.

The editor considered that a privacy rule of general application to the elderly, such as that for children, would be

problematic if not impossible. All children were vulnerable but that could not be said of the elderly. He asked how a newspaper would gauge whether an elderly individual was vulnerable or not. Dr Cooper felt special consideration should be given to any group, not just the elderly, whose distress might be increased by publication of their details. He suggested age could be a "red flag" that would require newspapers to obtain informed consent and give an elderly person time to consult family or other support people.

The Press Council was reluctant to form a general principle on the facts of this case. As noted, the newspaper had no reason to think the complainant's father suffered from mild dementia when he was interviewed and his comments were published. The Council also observed that when the complainant contacted the newspaper after the report appeared he was quickly given the assurance he sought.

The Council was confident that newspapers already exercised due care when dealing with any person they have reason to believe might not be mentally competent. In the Council's view it would be impractical and unreasonable to require editors to check the competence of every old (and who would determine at what age someone is old) person, let alone every person in a possibly vulnerable "group", as Dr Cooper suggested.

But once a newspaper realises a person in the news suffers from dementia, should they publish the person's name? The editor in this case did not instinctively find dementia to be an affliction that warranted particular privacy consideration. Nor did the question of name suppression appear to have arisen in the court proceedings. Clearly dementia is not considered by the courts to warrant the automatic privacy given to victims of sexual abuse, for example.

Doubtless when a family asks that a sufferer's name be withheld, editors will normally agree to the request as readily as those in this case did. But to adopt a blanket principle for dementia would be a big step. It may seem the a name adds very little to a news report but it is important for the authenticity and reliability of news that the people involved are identified and can be verified.

The adverse consequences of the newspaper's actions in this case were explained to the editor in strict confidence and the Council considered them. The consequences did not appear to be serious enough to warrant a general rule against identifying people suffering a condition that has become more common with increasing human longevity. The complaint was not upheld but the case raised a question that possibly deserves more discussion within the industry and the wider community.

Press Council members considering this complaint were Barry Paterson, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Peter Fa'afiu, Sandy Gill, Penny Harding and John Roughan.

CASE NO: 2314 – ALLAN GOLDEN AGAINST THE DOMINION POST

Allan Golden complains to the Press Council about a *Dominion Post* opinion piece about Mighty River Power director Trevor Janes. The complaint is not upheld.

Background

The column, published on February 6, 2013 in the newspaper and on the Stuff website under the name 'Chalkie', discussed the Financial Markets Authority's new disclosure guidelines. It speculated about the likely disclosures that would be made in the Mighty River Power prospectus about Mr Janes' career history as a director of the failed company Capital + Merchant Finance. Five directors of Capital + Merchant Finance had faced prosecution for fraud. Mr Janes did not.

Complaint

Mr Golden puts forward two grounds for his complaint. He says the *Dominion Post's* treatment of the subject matter – as a semi-humorous piece by 'Chalkie' – disguised the serious nature of the subject matter. It encouraged readers to write off the article as a bit of mischief.

He also complained that the column did not go far enough in detailing all the disclosures that would need to be made if Mighty River Power were to comply with Financial Markets Authority guidelines.

Neither did it discuss the role of Mighty River chairperson Joan Withers in Feltex, nor her role as CEO of Fairfax. He said Ms Withers' role should be discussed in all articles concerning her or the companies she was involved with.

Mr Golden said the column breached Press Council Principle 1, relating to fairness, accuracy and balance, and Principle 9, relating to conflicts of interest.

The Newspaper's Response

Fairfax *BusinessDay* managing editor Fiona Rotherham said it was hard to see how readers could take the column as a joke. "Chalkie's occasional and brief use of flippancy is merely to help wash down some fairly dry subject matter."

She said the focus on Mr Janes was topical. There was no intention of exploring "the cupboards of all Mighty River Power directors for skeletons".

As to Mr Golden's conflict of interest claim, Ms Rotherham said Ms Withers had no influence on anything written by the author of Chalkie directly or indirectly.

Discussion

Mr Golden disagrees with the light approach taken by the Chalkie column to the serious issue of disclosures by company directors. He also believes the column was too narrow in its scope and should have included other directors and other 'skeletons'.

Humour or a light touch has always been an effective and powerful tool for dealing with serious issues. In this case it was used to effect and did not breach Press Council Principle 1.

The Press Council finds no justification for assuming Ms Withers exercised any influence over the handling of this column and no evidence of any conflict of interest.

Decision

The Council does not uphold the complaint.

Press Council members considering this complaint were Barry Paterson, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Peter Fa'afiu, Sandy Gill, Penny Harding and John Roughan.

Chris Darlow took no part in the consideration of this complaint.

CASE NO: 2315 – ALLAN GOLDEN AGAINST THE DOMINION POST

Allan Golden complains to the Press Council about a *Dominion Post* column about an inquiry by the New Zealand Stock Exchange into trading in Blis Technologies shares. The complaint is not upheld.

Background

The 'Chalkie' column published on February 13, 2013 questioned the length of time it was taking for NZX Market Supervision to make any progress on the inquiry into "potentially anomalous trades" ahead of the conversion of preference shares to ordinary shares.

The column discussed what had happened to the Blis share price, and the trading by Edinburgh Equity Nominee, a holding company with a significant stake in Blis.

Complaint

In Mr Golden's view the column had taken too long to outline what amounted to some serious accusations and then paid only 'lip service' to the issue by not being prepared to hold those responsible to account.

He questioned the role of members of the Financial Markets Authority who had found no breach of securities legislation. "The newspaper should be prepared to say the decision does not stand up to scrutiny, probably because the FMA members are all Government-appointed and it will exonerate friends of the Government in order for the members to hold their appointments and receive others."

He said the column breached Press Council principles including accuracy, fairness and balance. He also claimed the column had breached principles concerning headlines and captions, and discrimination.

Mr Golden said "the newspaper seemed to be saying that corruption has got too much of a hold that it can no longer hold the Government to account".

The Newspaper's Response

The writer of the *Dominion Post's* Chalkie column, Tim Hunter, said he had taken a responsible rather than the sensational approach Mr Golden seemed to want. His column was drawing attention to questionable market behaviour that was not being met with an appropriate regulatory response. "Had I been able to prove wrongdoing I would have done so."

He said it was undesirable to call someone a crook unless there was proof of crookedness. "Similarly, an accusation of secret agenda tends to carry more weight if there is some evidence to support it."

Discussion

The Press Council does not find the column has breached any of its principles and rejects Mr Golden's view that the columnist should have labelled certain individuals as crooks.

Decision

The Council does not uphold the complaint.

Press Council members considering this complaint were Barry Paterson, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Peter Fa'afiu, Sandy Gill, Penny Harding and John Roughan.

CASE NO: 2316 – FIONA GRAHAM AGAINST OTAGO DAILY TIMES

A complaint by Dr Fiona Graham against the *Otago Daily Times* (*ODT*) newspaper is not upheld.

Background

Dr Graham and her company own a building in Wanaka named Wanaka Gym Ltd. It is home to a variety of different people who sign contracts to occupy from upwards of 3 months and share cooking and washing facilities. There have been up to 20 people staying at the Wanaka Gym; Dr Graham has lost a recent appeal to have convictions related to breaches of the Building Act and relating to fire safety overturned, and she has been fined $64,000 on a variety of charges. The *ODT*'s latest articles report on High Court findings, but their coverage of relevant court cases extends back several years.

Dr Graham claimed that this facility is a "single household unit" and as such does not need to comply with regulations affecting other types of residential facilities. The Queenstown Lakes District Council took a different perspective and, from the time that the building was redeveloped in 2000, sought to require conformity to the regulations for short term visitor accommodation. They had evicted Dr Graham's tenants because she had failed to implement fire safety regulations.

Dr Graham claimed that the Queenstown Lakes District Council had acted illegally in these evictions; that she had been spied on by Council staff; that the QLDC did not want the house finished and had been inconsistent in their attitude to the safety of the building's ceiling. Further, she claimed that the *Otago Daily Times*, in reporting on her situation, had missed a 'huge story' of 'the worst case of harassment ever by a local council against a house owner.'

She claimed that decisions by the Ombudsman (2002); the High Court (2006); and a civil court hearing (2009) which vindicated her had not been reported by the ODT.

Approached by an *ODT* reporter in October 2012 with questions for a further article, Dr Graham responded that he was asking the wrong questions and should be

interrogating the QLDC about aspects of their treatment of her. The reporter replied that he was interested in the costs incurred by the QLDC (reported as $740,000) and repeated his questions, which would have enabled Dr Graham to put her side of the story, and the costs that she had incurred.

Dr Graham replied that the reporter wrote 'biassed news reports' that exacerbated her situation. She requested to see the reporter's article before it was published 'and I'll co-operate'. There was a Judicial Review of her case coming; his article might affect the outcome; and she felt she had been 'persecuted by the press' already.

Dr Graham subsequently contacted the editor of the *ODT* requesting not to work with the reporter but 'with another journalist who is capable of getting the facts straight', or she would write an exclusive herself. She stated that the QLDC did not want to admit that it was in error, which is why it had pursued her through the courts. The editor replied that the paper sought to achieve accuracy, fairness and balance, and urged her to put her points across in an interview with their reporter. A series of further emails back and forth reiterated similar points on both sides.

The Complaint

Dr Graham laid a complaint with the Press Council early November citing principles of accuracy, fairness and balance; of comment and fact; and of corrections. She claimed that wins her firm had achieved through the courts had not been reported, neither had a report by the Ombudsman in 2002 (no evidence of which was provided). The paper, said Dr Graham, had reported throughout the period purely from the perspective of the QLDC and 'have not reported a single positive outcome on our side'. This reporting, which Dr Graham claimed is 'prejudiced and partial' had caused great financial and hostility problems for her and her firm.

The Newspaper's Response

The deputy editor replied that the *ODT* rejected claims of biased and unbalanced reporting. It had several times offered her the opportunity to put her point of view and participate in an interview but 'this offer was not taken up.'

The deputy editor said that the matter was now before the courts, which were the proper forum to hear the kinds of issues that Dr Graham was claiming had occurred. The paper had published numerous articles which covered court proceedings fairly and accurately.

The *ODT* forwarded several articles relevant to the case.

Discussion

The articles submitted by the *ODT* showed that the paper had followed the various court hearings over eight years. These articles (e.g. the paper's reporting on December 9, 2009; July 6, 2006; and March 16, 2010) refute Dr Graham's claim that the paper has 'not reported a single positive outcome on our side' as they cover aspects such as the lifting of an injunction against Dr Graham.

The most recent, pertaining to Justices Lang and French's decisions, clearly show that Dr Graham's claim that the accommodation was a 'single user household' was not accepted by the Court.

The *ODT* has followed standard court reporting procedure in its articles, repeating evidence from both sides of the argument. It further offered Dr Graham an opportunity to put her opinions in an interview prior to the latest article. She declined this invitation.

The Council finds no breach of the principles and the complaint is not upheld.

Press Council members considering this complaint were Barry Paterson, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Peter Fa'afiu, Sandy Gill, Penny Harding and John Roughan.

CASE NO: 2317 – HUBBARD SUPPORTERS GROUP AGAINST BUSINESS DESK

Kerry Grass, on behalf of the Hubbard Supporters group, complained about a *Business Desk* article of January 14, 2013 regarding a report on the statutory management of the well-known South Canterbury business man Allan Hubbard and his wife Jean.

The complaint was not upheld on the casting vote of the Chairman, the Council being evenly split four against and four for upholding the complaint. The protocol is that the Chairman does not exercise his casting vote to uphold a complaint.

Background

In June 2010 the business affairs of Mr Hubbard, his wife Jean, Aorangi Securities and seven associated charitable trusts were placed into statutory management by the government.

In September 2010, under the Government's Retail Deposit Guarantee Scheme, the government paid out $1.775 billion, taking control of South Canterbury Finance's assets – one of the Hubbards' business entities and, until earlier that year, a company chaired by Mr Hubbard.

In May 2011 the Registrar of Companies commissioned an independent assessment of the progress of statutory management of the Hubbards, and an assessment of the risks and considerations relevant to terminating it.

On 11 May 2011, Allan and Jean Hubbard filed judicial review proceedings in the Timaru High Court to challenge the decision to place them into statutory management.

In June 2011 the Serious Fraud Office laid fifty charges against Allan Hubbard under sections 220, 242 and 260 of the Crimes Act in relation to the affairs of Aorangi Securities Ltd and Hubbard Management Funds.

On 2 September 2011 Mr Hubbard died in a motor vehicle accident and a week later the Timaru District Court made an order permanently staying the prosecutions against Mr Hubbard.

On November 13 2011 Jean Hubbard was removed from statutory management after the Registrar of Companies reported that it was no longer necessary.

Anderson Pardington report

In July 2011 the report into the Hubbard's statutory management was tabled with the Registrar of Companies by its authors Sir John Anderson and Rod Pardington

however it was not released publicly. Following media appeals to the Ombudsman it was released in February 2012 with significant parts redacted.

BusinessDesk reporter Paul McBeth further inquired of paragraph 8.4.1 in which the word "misleading" was handwritten above a redacted sentence. Some months later a decision was made to release the specific section of the report to Mr McBeth: the redacted section read: "misleading representations to investors".

In January 2013 *BusinessDesk* reported on the disclosed section. The report was headlined "Hubbard misled investors, says suppressed report" and stated that the Anderson-Pardington report had *concluded* Allan Hubbard misled investors in his tangled affairs…" (Press Council italics).

Complaint

Kerry Grass, for the Hubbard Support Group, complained that the use of the words "concluded" and "conclusion" in the report were out of context with the original report, were materially inaccurate and would have led readers to form the view that Allan Hubbard had misled investors. The complainant argued that Allan Hubbard had vigorously denied the allegation, had defended his position publicly and was, at the time of his death, pursuing a judicial review to challenge the grounds of his statutory management.

The complainant relies heavily on Section 1.2 of the Anderson-Pardington report in which the authors stated that in relation to the two events which followed their appointment (i.e. the judicial review proceedings and the laying of charges by the Serious Fraud Office) their report was carried out independently of, and without reference to, either of those events.

"We have not taken either of these matters into account in the conclusions we have reached.

'We realise that we will have considered matters which will also be the subject of one or both of these proceedings. To avoid any misunderstandings, we emphasise that we have not reached any findings on such matters."

Response

Pattrick Smellie, responding for *BusinessDesk*, disagreed with the complainant's view that this meant the report had reached *no conclusions* regarding misleading information to investors. Anderson and Pardington had identified misleading statements to investors as being a fact influencing their recommendation in regard to the statutory management of Hubbard's affairs and that this was instanced several times in their report.

He said the complaint turned on the use of the world conclusion citing paragraph 1.2 to argue that Anderson and Pardington said they had not reached any finding on such matters. He rejected this view and argued that this refers to the judicial review proceedings and the Serious Fraud Office charges - meaning the authors did not wish to be seen to pass judgements on matters that were to be dealt with in other forums. He cites paragraph 8.4.1, titled *Matters influencing our consideration of risk…"* which contains the formerly redacted phrase "*misleading representations to investors".* It follows then, argued Mr Smellie, that the authors must have concluded this to be among the matters influencing their consideration.

Discussion

The complaint relied heavily on the context of the words concluded and conclusions arguing that the Anderson-Pardington report came to no conclusions that investors were misled, in their decision to recommend the continuation of statutory management for both Allan Hubbard and his wife Jean.

BusinessDesk argued that the authors must have concluded "misleading representation to investors" had occurred and that such matters influenced their consideration.

It is not accepted that the words concluded and conclusions can *only* relate to the judicial review proceedings and the Serious Fraud Office charges. The authors of the report were asked to come to a conclusion regarding the progress of, and risks of terminating, statutory management of the Hubbards. In order to make a recommendation, they were required to draw conclusions from the information provided. They recommended statutory management continue and their report contains many references to inadequate record keeping among the Hubbard's companies, confusion over true ownership of assets and of the risks posed by the lack of clear, accurate information regarding assets and liabilities. More specifically, Section 8.4.1, titled *Matters influencing our consideration of risk…"* contains the formerly redacted phrase "*misleading representations to investors".*

Four members of the Press Council believed the Anderson-Pardington report's reference to "misleading representations to investors" was not intended to be a conclusive finding but an allegation that the authors had listed among reasons to leave the Hubbards' affairs under statutory management. The members considered *Business Desk*'s report was inaccurate in its headline and introductory paragraph, and noted that further down its story the previously redacted statement was correctly called a "claim" not a conclusion.

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

Those members voting to not uphold the complaint were Barry Paterson, Kate Coughlan, Sandy Gill and Penny Harding.

Those members voting to uphold the complaint were John Roughan, Chris Darlow, Peter Fa'afiu and Pip Bruce Ferguson

Liz Brown took no part in the consideration of this complaint.

CASE NO: 2318 – MICHAEL LAWS AGAINST THE WANGANUI CHRONICLE

Mr Laws complains that the *Wanganui Chronicle* displayed inaccuracy, bias and misrepresentation in an article published in that newspaper on February 12, 2013. He notes that the article was reproduced the same day on the *New Zealand Herald* website, thereby increasing its potential readership

Mr Laws also complains that Ross Pringle, editor of the *Wanganui Chronicle*, failed to respond adequately to his original concern.

The Press Council does not uphold Mr Laws' complaint.

Background

On February 11, 2013 Mr Laws loaded on to his Twitter account an image of Stewart Murray Wilson, a sex offender on parole, with the comment "Posting Stewart Murray Wilson supposedly under Corrections control @ fishing comp over weekend. NB: Regis number". The last remark refers to the registration number of the car that appears in the image. It appears undisputed that the image shows Wilson at the North Mole, a place about I km from Castlecliff.

Later the same day a reporter from the *Wanganui Chronicle* emailed Mr Laws asking

- Whether he took the photograph of Wilson or whether it was supplied to him
- How Mr Laws knew the person in the photograph was Wilson

He added that the organiser of a fishing contest had said that no one by the name of Wilson was entered in the contest and that he knew of no other fishing contests in the area at that time.

Shortly after dispatching the email the reporter telephoned Mr Laws. The detail of the ensuing conversation is disputed, but it was clearly a short call, terminated by Mr Laws, during which Mr Laws confirmed he had posted the image and expressed extreme surprise that the reporter was questioning the identity of the person in the photograph.

Immediately after the call, Mr Laws sent three emails in response to the reporter's email. He questioned the reporter's competence, using quite aggressive language and did not answer the questions.

On February 12, 2013 the *Wanganui Chronicle* published an article headed "Laws posts Wilson pic". It included a partial copy of the image posted by Mr Laws. Parts of the background had been cropped so that the image excluded persons other than Wilson.

The article began by saying that Mr Laws was refusing to explain the posting of the photograph on Twitter. It quoted his Twitter message and commented "But inquiries by the *Chronicle* refute Mr Laws' claim".

It said that the *Chronicle* was aware of two fishing events that took place over the weekend, but that the organiser of one had said that Wilson was not among the entrants and that she had not seen anyone like him at the event. The other event was at Castlecliff Wharf, about 1km from the North Mole. A participant in the Castlecliff wharf event said there was no sign of Wilson there.

The article concluded by saying that Mr Laws would not say whether he took the picture or whether it had been supplied to him and refused to answer further questions.

The Complaint

Mr Laws complained in the first instance to the *Wanganui Chronicle* and then to the Press Council**:**

1. *He did not refuse to explain the posting.*

In his complaint to the *Wanganui Chronicle*, Mr Laws said there was a 40 second conversation with a reporter from the Wanganui Chronicle, during which Mr Laws confirmed that he had posted the image. He says the reporter then asked what proof he had that the person in the image was Wilson as the organiser of the fishing event said he [Wilson] wasn't entered. Mr Laws considered the photograph was self-evident and says he was so amazed at the question that he questioned whether the caller really was a reporter and rang off. He was not asked to explain the posting: the only question he was asked was about proof of Wilson's identity.

In complaining to the Press Council, Mr Laws emphasised that he was not asked to explain anything about a fishing competition but to verify Wilson's identity. The information about the fishing competition was peripheral. He understood the question to imply that because Wilson had not entered any fishing competition there was implicit doubt as to his identity. He notes also that there was no further attempt to contact him "after I told [the reporter] to use his eyes".

2. *It is a misrepresentation to say that "inquiries by the Chronicle refute Mr Laws' claim"*

In his initial complaint Mr Laws said the only question was whether Wilson was at a fishing competition. There was no dispute that the photo was of Wilson, that Wilson was supposedly under Corrections control, that he was fishing at the North Mole and that the registration number of the car in the image was "that attached to Stewart Murray Wilson". It is factually incorrect to say that the claim was refuted.

In complaining to the Press Council, Mr Laws added that while Wilson may not have been fishing at a competition, he was fishing "in the near vicinity" and in public company. None of these statements was refuted by the *Wanganui Chronicle.*

3. *The cropped photograph*

Mr Laws complained that the Wanganui Chronicle did not use the photograph posted by Mr Laws but cropped it to exclude persons (one a child) near Wilson and the car.

As noted below, it is not clear whether Mr Laws accepted Mr Pringle's explanation of the use of the cropped photograph. It is mentioned in his subsequent complaint to the Press Council only in the context of the absence of contact from the *Wanganui Chronicle* after the telephone conversation with its reporter.

4. Remedy claimed

Mr Laws sought "a full correction of the *Wanganui Chronicle's* misreporting and a factual statement as to the posting of the Twitter photograph AND correction of the misrepresentation of the brief conversation between Mr Laws and [the reporter]".

The Wanganui Chronicle response

The editor of the *Wanganui Chronicle*, Ross Pringle, responded to Mr Laws on the day of his complaint. He said that attempts to contact him for information about the posting had led to Mr Laws insulting a reporter and hanging up before additional questions could be asked, and that the subsequent email messages provided no further information. In addition, the tone of the messages and the termination of the phone call led the *Chronicle* to believe that he had no interest in clarifying his position.

He explained that enquiries to those associated with the two fishing events showed that Wilson had not entered either event, nor was he seen near the events. Wilson himself verified that he had fished at the North Mole, accompanied by his minders.

He considered the cropping of the image to be immaterial, and noted that the full frame proved that the photograph was taken at the North Mole.

No apology or retraction was warranted as the article was "a factual account of the process and information obtained."

In his further response to the complaint to the Press Council, Mr Pringle outlined the events leading to the telephone call to Mr Laws and gave an account of the call which is not dissimilar to that of Mr Laws, although he includes the detail that Mr Laws called the reporter "a stupid boy" before hanging up. He says that proof of identity was only the first point on which clarification was sought and there were other matters to be explored. The reporter was still asking questions when he realised the line was dead.

Mr Laws' subsequent emails did not answer any of the questions or clarify any of the points raised. The emails and the termination of the phone call made it clear that further attempts at contact would be pointless.

Mr Pringle described the further enquiries made to follow up Mr Laws' posting, including the contact with Wilson, and with persons associated with the two fishing events.

He added that the image had been cropped to better display the man claimed to be Wilson and that the full image makes it even more clear that the location was the North Mole.

The *Chronicle* stands by the story as published and its processes in investigating the matter.

Discussion

1. Mr Laws complains that the *Wanganui Chronicle* was inaccurate and misrepresented him when it said he had refused to explain the posting of the image and accompanying message. He says he was never asked to explain anything about a fishing competition, but to verify Wilson's identity. He also says there was no further attempt to contact him after the conversation with the *Chronicle* reporter.

The email and subsequent telephone call to Mr Laws about his posting appear to have been a reasonable attempt to verify the information in his Twitter message. There was clearly a public interest in the whereabouts and behaviour of a notorious criminal. The editor of the *Wanganui Chronicle* was acting responsibly in following up the story but it would have been irresponsible to publish the information made public by Mr Laws without verifying it.

Mr Laws confirmed he had made the posting but appears to have taken offence at the suggestion that as part of his posting could have been inaccurate – there was no fishing competition at the North Mole and inquiries suggested that Wilson was not at either of the two fishing events in the area – he should provide further verification of Wilson's identity. It is clear from the intemperate nature of his subsequent emails that he did not intend to provide more information about his Twitter post.

It is probably correct that Mr Laws was not directly questioned about the whereabouts of the fishing competition he mentioned, but the reporter was given no opportunity to ask that question (or any other questions).

Equally, it is true that the *Wanganui Chronicle* made no further attempt to contact Mr Laws. While accounts differ over what was said during the telephone conversation with the reporter it is plain that Mr Laws was at best uncomplimentary and was quite possibly abusive. It is hardly surprising that the reporter chose to find another way to verify the identity of the subject of Mr Laws' Twitter posting, and it seems that he contacted Wilson himself, who confirmed that he had been fishing at the North Mole.

In the circumstances it was neither inaccurate nor a misrepresentation to say that Mr Laws had not explained his Twitter post. He had not explained it, and it seemed unlikely that he would be disposed to explain it.

2. Mr Laws further complains that it is false and a misrepresentation to say that "inquiries by the *Chronicle* refute Mr Laws' claim".

It seems clear from the context of the article that the claim in question was that Wilson was at a fishing competition and indeed that is what Mr Laws' posting says.

There is a considerable difference between attending a public event such as a fishing competition and going fishing under supervision some distance away from a public event. Mr Laws has not queried Mr Pringle's assertion that Wilson was fishing at the North Mole accompanied by his minders.

It was therefore neither false nor a misrepresentation to sat that Mr Laws' claim was refuted.

3. It is not clear whether Mr Laws still wishes to complain about the cropped photograph. It is mentioned in his original complaint to the editor of the *Wanganui Chronicle*, which he said was a precursor to a complaint to the Press Council, but is not mentioned in his later complaint directly to the Press Council. It may be that Mr Laws has accepted Mr Pringle's explanation of the cropping. In any event, the explanation appears to be reasonable.

4. Finally, Mr Laws says he complains about the inadequacy of Mr Pringle's response to his original complaint. He does not say in what respects he finds the response inadequate, and only mentions this complaint in the introductory part of his letter of complaint, not in the part where he sets out the details of his complaints.

Mr Pringle's response to the complaint was short, but addressed each of the points made by Mr Laws. Clearly Mr Laws does not accept the response, but that does not mean that the response was inadequate, and there are no obvious grounds for a finding of inadequacy.

Conclusion

For the reasons set out above, the Press Council does not uphold any of Mr Laws' complaints.

Press Council members considering this complaint were Barry Paterson, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Peter Fa'afiu, Sandy Gill, Penny Harding and John Roughan.

CASE NO:2319 – RIGHT TO LIFE NZ INC AGAINST SUNDAY STAR-TIMES

Introduction

Ken Orr, as Secretary of Right to Life New Zealand Inc., alleged that an article in the *Sunday Star Times* on January 27, 2013 breached Principle 1 (Accuracy, Fairness and Balance) and Principle 4 (Comment and fact) of the New Zealand Press Council Statement of Principles.

The complaint was not upheld, with one member dissenting from this decision.

The Complaint

The article, headed "Family Planning Association's charity status comes under fire", outlined what the writer saw as an anti-abortionist group's ongoing campaign against Family Planning.

It commenced with the comment "Anti-abortionists are taking aim at the charity status of the Family Planning Association in their latest assault against women and pro-choice organisations". It is this comment that the complaint related to.

The complainant believed that the statement was false and defamatory and strongly objected to the use of the words "their latest assault against women".

They stated that "Our society is pro-women, pro-life and pro-family, it is dedicated to protecting women and their unborn from the violence of abortion. The majority of our members are women, we are not engaged in assaulting women".

The complainant stated that while it was accepted that there was no intention by the newspaper to suggest that women were being physically assaulted, the use of the word "assault" was misleading and inferred that there had been previous assaults on women.

The complainant also believed the article inferred that actions undertaken by the organisation were "assaulting women" and this inference had bought the aims and objectives of the organisation into disrepute.

The Newspaper's Response

Newspaper deputy editor Michael Donaldson replied that there had been no suggestion in the article that physical assaults had occurred and that "assault" was used in the context of an "attack" on Family Planning and this would have been easily understood by any reader.

The article covered the challenge by Right to Life on the charitable status of Family Planning.

Both sides of the debate were given the opportunity to comment, and their views were quoted in the article, including the complainant's.

The editor stated that no reader would take the story to mean that the Right to Life organisation somehow physically assaults women.

Discussion

The article concerned Right to Life's challenges to the charitable status and aspects of the work undertaken by Family Planning.

There was no inference, nor suggestion in the article that the complainant organisation was involved in physical assaults of women. It covered Right to Life's ongoing concerns regarding Family Planning.

The debate on abortion is a long-running and emotive one. This article covered one aspect of a long running story and included views from both sides of the debate, including the complainant's.

The complaint is not upheld.

John Roughan dissented from this decision.

Press Council members considering this complaint were Barry Paterson, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Peter Fa'afiu, Sandy Gill, Penny Harding and John Roughan.

CASE NO: 2320 – CLIVE STUART AGAINST NORTH & SOUTH

The New Zealand Press Council has upheld a complaint against *North & South*'s cover article on homeopathy in its July, 2012 edition.

A registered homeopath, Clive Stuart of Tauranga, complained that the cover, the article, its illustration and an accompanying editorial, were highly derogatory, inaccurate and misleading.

He said the article was wrong to say that, "homeopathic remedies have failed every randomised, evidence-based scientific study seeking to verify their claims of healing powers".

In support of that statement, the editor of *North & South* cited the conclusions of a meta-analysis published in the British medical journal The Lancet in 2005. It had found "weak evidence for a specific effect of homeopathic remedies" and it said this finding was "compatible with the notion that the clinical effects of homeopathy are placebo effects".

Mr Stuart supplied the Press Council with a letter from Dr David St George, Chief Advisor on Integrative Care for the Ministry of Health, who advises the ministry on the development of complementary medicine in New Zealand

and its potential integration into the public health system. He was not speaking for the ministry in this case but offering a personal view.

Dr St George believed the statement in *North & South*'s article arose from a misunderstanding of the Lancet study, which had compared 110 published placebo-controlled trials of homeopathy with the same number of published placebo-controlled trials of conventional medical drug treatments. He said most of the 110 homeopathy trials in that study were "randomised, evidence-based scientific studies" which demonstrated an effect beyond a placebo effect.

Dr St George said there was no debate about whether there were scientific studies demonstrating homeopathy's therapeutic benefit but rather, whether those studies were of an acceptable methodological quality.

In the Council's view this distinction was unduly subtle. If the studies are not of an acceptable methodological quality, it would seem fair to say, as *North & South* did, that "there is no scientific evidence of homeopathy's efficacy". But that would be a statement of opinion in medical research, not an accepted fact. The *North & South* article presented it as a matter of fact.

North & South declined to respond to the information from Dr St George since the complainant submitted it after the editor had answered his initial complaint to the Press Council and his right of reply. The Council was conscious that in considering a third submission from Mr Stuart it was departing from its declared procedure but having seen Dr St George's information the Council felt it could not close its eyes to it.

It found the article inaccurate in so far as the state of scientific research into homeopathy is not as conclusive as *North & South* had suggested.

Mr Stuart made a number of other complaints about the magazine's treatment of homeopathy. He said the article featured the views of two critics and only one defender, the editorial stated that homeopaths had advised patients against the MMR vaccine and promoted a homeopathic solution to Aids, the cover lines ("Do you believe in magic? - the truth about alternative medicine") were unfair, as was an illustration inside which appeared to him to be a witch.

He also complained at the treatment of a letter he sent to the magazine for publication. It appeared in the September issue where it was accompanied by a response from a critic of homeopathy, Dr Shaun Holt, who had been quoted at length in the July article.

The Council did not uphold these complaints. It said the requirements of balance are not strictly numerical. The article gave ample space to the chairwoman of the International Council of Homeopathy. The editorial's references to homeopathic advice on the MMR vaccine and Aids echoed criticism in other publications, while the July cover lines and inside illustration simply reflected the attitude the magazine had taken to the subject. Nor was the treatment of Mr Stuart's letter objectionable. It is an editor's prerogative to refer a letter to a third party for an answering view before publication.

The Council said newspapers and magazines are entitled to take a severely critical attitude to any product or practice that claims health benefits but they need to take care that the facts they present are accurate. They need to take particular care in references to medical research. The references in this case were not sufficiently accurate, balanced or fair to homeopathy and its practitioners. On those grounds the complaint was upheld.

Press Council members considering this complaint were Barry Paterson, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Peter Fa'afiu, Sandy Gill, Penny Harding and John Roughan.

CASE NO:2321 – TONY WARD-HOLMES AGAINST THE PRESS

Complaint

Tony Ward-Holmes complains that an editorial in *The Press* on January 26, 2012 contained incorrect assertions, and was unbalanced and unfair.

The complaint is not upheld.

The editorial was titled:

"Rock fall in Sumner a warning for residents and the City Council."

At the heart of the editorial was the determination of some Sumner residents in the red zone areas to remain in their houses. The editorial opined that "at the worst lives will be lost. At best, lives will be at risk for years while ratepayers and the Council fund rockfall mitigation work on uninsured and patchily serviced properties." The view was expressed that endangered householders would have been forced to move on had City Councillors required statutory notices under the Building Act to be enforced. While noting that the residents were not on a wholly irrational limb, the editor stated that "such cocking a snoot is admirable in principle but unsustainable in practice." The unmistakable opinion of the editor was that residents who were not prepared to move on should be moved on.

In summary, the basis of the complaint is:

(a) the editorial states numerous assertions of fact about red zones, S 124 notices and rock fall mitigation, virtually none of which are accurate;

(b) if the assertions are all correct, the argument is at best unbalanced and insupportable;

(c) there is an issue of fairness to at least many dozens and perhaps hundreds of Christchurch residents, which exists irrespective of whether the editorial is an article of fact or of opinion.

The Newspaper's Response

The Press's position is that the editorial contains very few hard assertions and only one which is demonstrably wrong. This was subsequently corrected albeit tardily. *The Press* holds the views set out in editorial and says it is entitled to express those opinions. It offered Mr Ward-Holmes the opportunity to address his concerns in a 1,000 word Perspective piece which would have been longer than the editorial. Mr Ward-Holmes declined this offer.

Discussion

Under the Council's principles, an editor is entitled to forcefully state the editor's views and make strong assertions as part of the argument. However, an editor

should not present as facts matters which are in dispute and material facts upon which opinions are based must be accurate. Thus, a strong opinion must have a reasonable basis in fact and properly distinguish between the reporting of facts and the passing of comment. If there are inaccuracies, it is necessary to determine whether they are material or serious enough to warrant the upholding of the complaint.

Generally, an editorial does not have to be fair. It would have to be so extreme in substance or tone as to go beyond what is acceptable as opinion for a complaint on the grounds of fairness to be upheld.

The issues are:

(a) are there facts in the editorial which are not accurate?
(b) if so, are those inaccuracies material or serious enough to warrant upholding the complaint?
(c) Was the editorial unfair?

When the editorial is viewed in context, it is clear that it is referring to the homes in Sumner which are still being occupied notwithstanding the danger to occupants from rockfalls. This view is reinforced by the heading. The error referred to in the next paragraph may have to some readers confused the position, but the purport of the editorial was to warn of dangers caused by rockfalls from the Sumner cliffs.

Mr Ward-Holmes alleges that the editorial contains many factual inaccuracies. *The Press* acknowledges one inaccuracy. It stated that lives would have been lost in a recent rockfall had not the house been red zoned and its residents had moved elsewhere. In fact, the residents had moved because of a s 124 notice. *The Press* acknowledged this error in a clarification printed on 27 February 2013, although it was aware of the error on 30 January 2013. The clarification was in *The Press*'s Putting it Right Column. It read:

An editorial on January 26 said that a Sumner house, struck by a dislodged, van-sized boulder the previous week had been red-zoned. The house had, in fact been red-stickered.

The CERA website confirms Mr Ward-Holmes' assertion that classifying a house as being in the red zone does not automatically require an occupant to vacate that house. The obligation to vacate only arises if the house has been red-stickered by Civil Defence or was subject to a s 124 notice issued by the City Council under the provisions of the Building Act.

Mr Ward-Holmes' assertion that the point that lives were not lost because of red-zoning is central to the overall argument in the editorial but is untrue. It is correct that on more than one occasion the editorial used "red-zoned" rather than "red-stickered or subject to a s 214 notice". While the error was unfortunate and some of the statements made were therefore incorrect, the Council does not accept "that lives are not lost because of red-zoning", was central to the overall argument. The purport of the editorial, as noted above, was to highlight the danger of occupants remaining in homes that could be damaged or destroyed by rockfalls.

Another statement which is said to be inaccurate is "some houses, red-zoned and designated unsafe for occupation, by way of a notice posted under s 124 of the Building Act, are illegally occupied and no moves are being made to evict their residents". The complaint is that this statement is not true as moves have been made to evict residents. It was stated that there were articles in *The Press* itself referring to the City Council hiring private investigators to find illegally occupied s124 properties. Only a few of more than 500 houses which have been subject to s124 notices are still occupied.

The Press's response is that employment of private investigators and "notices to fix" are not in themselves moves to evict. It says that the maximum penalty for not complying with an s124 notice is a $200,000 fine and that people are still occupying these properties. It is said that it is true that no "effective" moves have been made to evict. The editorial did not say no "effective" moves had been made to evict but said "no moves are being made to evict their residents". This Council cannot resolve factual difficulties but it does appear from *The Press*'s own acknowledgement that it meant "effective" moves, that there was an inaccuracy in this respect.

There are other statements which Mr Ward-Holmes claims contain opinions based on inaccuracies. The alleged inaccuracies include allegations that the parties are not co-operating to resolve the position; that some owners wish to stay put and that the City Council is willing to help them to do so; the statement above that "lives will be lost or placed at risk"; that the impasse would be avoided if the Council had required s124 notices to be enforced and that services be withdrawn from red-zoned houses; houses condemned have been subject to detailed and lengthy investigation by experts and peer reviewed; that ground and houses have been mapped; that mitigation measures have been considered and ruled out; that some owners simply say they are prepared to take the risk of staying on; are all matters on which this Council can not form a view as to their correctness.

On balance, one and possibly two factual inaccuracies have been established. The first was corrected in the clarification, Putting it Right column, albeit tardily. The correction in a clarification column such as this may in some circumstances not be sufficient to correct the inaccuracy. The property was both red stickered and in the red zone, which the newspaper did not acknowledge. However, in view of the thrust of the editorial, this Council is of the view that the inaccuracies are not such to require an upholding, particularly in view of the correction. In the Council's view the editorial was entitled to take the view that it did and express it robustly. The errors were unfortunate, and the correction minimal, but did not have a material effect on the purport of the editorial.

The complaint alleges that the editorial was unfair. One reason for this is that red-zoning is not necessarily correct and there have been examples where red-zoning has proved to be incorrect. In the words of the complaint, "for *The Press* to write an editorial targeting a tiny number of stressed and vulnerable residents on the basis that their zoning must be accurate is very unfair, and … callous". There is a sense of unfairness, because of the inaccurate statements made in the editorial. However, if the editorial is read, as the heading suggests, as a warning against rockfalls in Sumner, there is no such unfairness to the extent that it

was extreme as to go beyond what is acceptable opinion. As noted, it is the Council's view that this was the purpose of the editorial. The complaint is therefore not upheld on the grounds of being unfair.

Press Council members considering this complaint were Barry Paterson, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Peter Fa'afiu, Sandy Gill, Penny Harding and John Roughan.

CASE NO: 2322 – BOUGAINVILLE LIBRARY TRUST AGAINST SUNDAY STAR-TIMES

Lloyd Jones, as chair of the Bougainville Library Trust, a voluntary body which is building and stocking a library in Bougainville, complained that an article published in the *Sunday Star-Times* on March 24, 2013 was inaccurate, that the retraction or correction the paper agreed to publish was in an inconspicuous position (and contained a further inaccuracy), and that the article continued to appear on the website *stuff*.

The complaint against *Sunday Star-Times* is upheld.

The story in *Sunday Star-Times*, 'What the Dickens has happened to all our books?' stated that a container containing more than 5,000 books was being 'held to ransom by warlords in a remote part of Bougainville' and attributed a statement to Jones as saying 'I don't just know [what happened to the books]'. Jones did know: the container was in Lae, was being cleared through the customs, and was expected to shortly be sent on to Bougainville.

Following publication Jones was in touch with Michael Field who wrote the article (and to whom in an email on March 21 he had explained the situation with the container of books), and with Michael Donaldson, the deputy editor of the paper. They accepted that there had been inaccuracies, which they attributed to the work of sub-editors. Jones and Donaldson agreed on the wording of a correction, with Jones adding 'All I would ask [is] that it be placed in a reasonably high profile place in the newspaper'.

The correction, headed Clarification, was printed on March 31 on p.6 in a column headed Briefs. Jones suggested it had been 'buried'; Donaldson responded that 'research shows the briefs column is the most widely-read part of the paper barring the front page'.

The article also appeared online on *stuff*. The error about the warlords was picked up at once and before midday on the day of publication was replaced by a phrase about 5000 books falling 'into a corruption quagmire', and on 3 April, in response to another email from Jones a further correction was made.

Jones remained unhappy at the length of time the inaccurate story (in its various iterations) had remained on line. It was taken down completely on April 4.

On April 10 Jones wrote his letter of complaint to the Press Council. This was sent to Garry Ferris, the Editor-in-Chief of the *Sunday Star-Times*, for his comment and he replied, 19 April, with a full and clear account of the publication of the paper's exchanges with Jones, an expression of regret for 'the original error in editing', and the statement that the paper believed it 'had handled the original complaint in accordance with the Press Council principles of Corrections, as part of the national newspaper's commitment to the key plank of Accuracy, Fairness and Balance'.

Discussion

In considering the complaint one must put it in its context. The Bougainville Library project was begun by Lloyd Jones after the worldwide success of his novel Mister Pip, and has successfully sought public support on which it is totally dependent for achieving its aims. The *Sunday Star-Times* story, as first published, led Jones to think that in misinforming the public it could undermine the whole library project by calling in question the capacity of the Trust to see it through.

The possible repercussions were, thus, serious and not helped by the fact that the story could not be corrected until the next edition of the paper a week later.

It is also a matter for disquiet that 'in editing' an error of this magnitude, giving the story a more sensationalist angle, could be introduced. What was intended as factual news became fiction.

These circumstances call in question whether the so-called 'Clarification' (and clarification seems an odd heading for the correction of an error of this kind) was given adequate prominence and whether a simple expression of regret for the error conveyed any real appreciation on the paper's part of how their sub-editors' change of wording could impact on the Trust project. This was a serious misrepresentation of fact and thus an appropriate correction rather than a clarification was called for.

In respect to the online publication it is clear that some corrections were made as soon as the errors were recognized, though in part this was fortuitous in that Michael Field was rostered on that Sunday in the *Sunday Star-Times* office and spotted the error straight away. The initial correction, however, introduced a further error and after further correspondence the story was taken down. The sequence and timing of events does suggest that there is room for clarification of the relationship between a source newspaper and *stuff* when a question of inaccuracy arises.

The complaint is upheld in respect of the errors in the original article and the inadequacy of the correction. It is not upheld in respect of the online publication.

Press Council members considering this complaint were Barry Paterson, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Penny Harding, John Roughan and Stephen Stewart.

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

CASE NO: 2323 – PETER BOLOT AGAINST THE PRESS

Peter Bolot took issue with a Malcolm Evans cartoon published in *The Press* on February 22 2013. The complaint is not upheld.

Background

The cartoon, entitled "Plain Packaging" featured eight panels resembling newspaper billboards. Seven referred to current New Zealand issues, with a comment diagonally across each. The eighth had the words "Israel and the Palestinians" with the word "Apartheid" diagonally across it.

The Complaint

Mr Bolot said while he accepted that cartoons are allowed greater leeway, this one was offensive and racist, and exhibited obsessional hatred towards Israel. He cited New Zealand Press Council Principles 1 (Accuracy, Fairness and Balance), Principle 4 (Comment and Fact) and Principle 9 (Conflicts of interest). Referring to NZPC Principle 9, he said Evans› history of work with the *New Zealand Herald* and *The Press* showed he had an established hatred of Israel.

The Editor's Response

Israel was not particularly singled out in the cartoon but was part of a scattergun set of comments on issues on which Evans wished to express a view that day. Cartoonists had a certain licence to comment on issues. Cartoons were understood to be opinion, as NZPC Principle 4 acknowledged. They were not required to be fair and balanced and often took a striking view one way or another on a controversial topic.

The suggestion that Israel was an apartheid state was not particularly novel, and Wikipedia even had a long, detailed entry about this. While it was a controversial or even extreme proposition, and it was not one that *The Press* endorsed, expressing that opinion was not displaying blind prejudice, or bigotry. She could not see how Principle 9 (conflicts of interest) applied. She did not know of any interest held by the cartoonist that compromised his opinions on Israel or anything else. «He has strong opinions on Israel, as he has on many other subjects. That does not constitute a conflict of interest. Strong views are, in general, almost a qualification for a good cartoonist.

Press Council Decision

The Press Council Principle 4 (comment and fact) makes it clear that cartoons are opinion. The Evans cartoon was opinion and published on a page clearly identified as such. It did not cross the boundary of racist or hate speech. Cartoonists have the right to express their views, which can provoke or upset. In this case, while the inclusion of the Israel reference in a cartoon largely about New Zealand issues might seem unusual, the cartoonist was free to do so.

Mr Bolot's claim that Principle 9 (conflicts of interest) has been contravened is also not accepted. There is no conflict of interests when a cartoonist expresses a strong view which he holds. Similarly, his claim about Principle 1 (accuracy, fairness and balance) is not accepted.

Fairness and balance are not requirements in a cartoon.

Press Council members considering this complaint were Barry Paterson, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Sandy Gill, Penny Harding, Clive Lind, John Roughan and Stephen Stewart.

Chris Darlow took no part in the consideration of this complaint.

CASE NO: 2324 – ANGELA BURNS AGAINST CRITIC TE AROHI

The Press Council has not upheld a complaint by Angela Burns against a student magazine, *Critic Te Arohi.*

Background

In a column labelled "Daily Grind" a couple of contributors reviewed their experience while dining at the Green Acorn cafe in Dunedin.

While some of the article was favourable to the cafe, the contributors made negative remarks about aspects of the experience, including some disparaging comments about the age of the barista and his waiting skills.

Angela Burns, co-owner of the Green Acorn, complained to the magazine. She disputed the alleged age of the barista and found the contributors' attack on him "degrades him personally and is an outright attack on our business as well". She requested to meet with the contributors, a request that they refused.

Believing that she had had no satisfactory response from *Critic*, Mrs Burns took her complaint to the Press Council. It was a general complaint, did not cite specific principles that she felt the paper had breached, but reiterated her concern about the rudeness of the contributors and their inaccurate comments about the barista.

The Magazine's Response

The editor of *Critic* replied that he had fielded a phone call from the angry co-owner. He had directed her request to meet with the contributors to them, but said that they had the right to respond as they saw fit.

Subsequently, he forwarded a written response from the contributors to the owners of the Green Acorn offering a sincere apology "for the offense we caused with our cafe review". The contributors stated that they were playing to their audience "who appreciates a bit of tongue-in-cheek humour" and that they had not meant to be ageist. They had learned from the complaint and "are aiming to steer our column in a more fair and less offensive direction. Apologies and Regrets".

Mrs Burns disputed receipt of the contributors' apology and the email from the editor of *Critic*. However, he was able to forward this to the Press Council, showing clearly that he had sent the email. Mrs Burns decided to continue with the complaint as she had not received the apology from the paper directly.

Discussion

The Press Council does not always accept complaints against student magazines, however *Critic Te Arohi* some years ago determined it did wish to come under Press Council jurisdiction.

Student magazines are a particular genre, with a long history of provocation and even offensiveness. They are also usually noted for their edgy and ironic tone.

The Press Council has previously noted that a reviewer is entitled to express an honestly held opinion of a particular dining experience.

The magazine had forwarded a reply from the contributors which included an apology and their recognition that they would strive to avoid such writing in future.

The comments about the barista are not exceptional in a review of this kind, especially given the review was published in a youth-focussed student magazine. In admitting the article had been unfair, and apologising, the contributors acknowledged a different perspective which would be taken into account in future writing.

The complaint is not upheld.

Press Council members considering this complaint were Barry Paterson, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Penny Harding, Clive Lind, John Roughan and Stephen Stewart.

CASE NO: 2325 – FEDERATED FARMERS OF NEW ZEALAND AGAINST THE NEW ZEALAND HERALD

Federated Farmers of New Zealand claims *The New Zealand Herald* failed to comply with Principles 5 (Headlines and Captions) and 10 (Photographs and Graphics) in relation to a story published on March 13, 2013. The paper's front page included a photograph of a slaughterman about to destroy a sitting cow with the headline *Tough Times on Drought Farms*. The story itself, on page 5, was headed *Drought Takes Deadly Toll on Farms*, with a sub-heading *Boom for North Island pet food processors as numbers of ailing cattle being destroyed doubles*. The page 5 piece included a larger version of the photo published on the front page.

The image portrayed the slaughterman training a rifle at the head of an animal obviously at the point of shooting it. The page 5 photograph carried the caption *Slaughterman Kent Sambells has had to destroy 50 cows affected by drought in the Waikato. More pictures at listener.co.nz.*

The Press Council does not uphold the complaint.

Background

The story covered an apparent upsurge in the number of cattle being destroyed on North Island farms, the upsurge being attributed to the recent drought. The story claimed pet food processors were busy with more destroyed animals than usual being delivered up to them. The story referred to the slaughterman Mr Sambells' increased workload in the previous week, he having destroyed 50 "ailing" cattle when normally his workload was half that. The story referred to a West Huntly farmer who had asked Mr Sambells to destroy two of his cattle. One, "Cocopops", had fallen in the yard and injured its hip and a second was suffering from eczema. The farmer indicated that one of the reasons that these animals had been put down was the lack of feed caused by the drought. The story reported a Primary Industries Ministry spokesman as saying there had been no change in the condition of stock generally as a result of the summer drought.

The Complaint

Federated Farmers says the story breached Principles 5 and 10 on, basically, two grounds. First, the use of the "shocking" photograph implied there was a major stock issue on all drought affected farms. The use of the photograph was inappropriate since the animal in question had been injured by an accident unconnected with the drought. It was wrong for the *Herald* to use the photograph without explaining the true circumstances. Secondly, Federated Farmers claims that any person of "average intelligence" seeing the photograph, headlines and caption would conclude that "the drought was so severe that farmers were shooting their stock en-masse". Federated Farmers claims that the *Herald's* approach with the story and photograph amounted to a "false, misleading and a damaging slur not supported by the truth".

Federated Farmers refers also to communications between the Ministry for Primary Industries and the *Herald* immediately before the story was published. Federated Farmers says while these communications put the issue in a proper context the *Herald* failed to present the true story. Federated Farmers also points to the photograph having been published on the *New Zealand Listener* website but with a far more balanced caption. The *Listener* referred to the injured animal not being able to fend for itself following its fall. The Listener caption said *Usually the cow would be left to sit and eat grass around it but with herds having to walk miles in search of grass [the slaughterman] felt it was more humane to put it out of its misery.*

The Response

The New Zealand Herald responds by saying that the story did not breach Principles 5 and 10. While the *Herald* acknowledges the image was "powerful" and likely "shocking" to some, it is in fact a "strong news photograph". The *Herald* says that despite Federated Farmers' views the cow's destruction was linked to the drought. The story made it clear the animal may have survived had it been able to easily access normal feed. Further, the *Herald* says there is no doubt pet food processors were experiencing "busier times" as a result of the weather. The reality is that the drought was having all sorts of unsatisfactory effects for farmers. Stock were suffering. The *Herald* acknowledges that while the image was likely distressing to some readers its use demonstrated the difficulties farmers were facing as a result of the weather in a way no other photo or story could have done. The *Herald* says its headlines and captions were accurate.

The *Herald* says there was nothing in the story suggesting the animal was inhumanely treated.

The Decision

As far as Federated Farmers' complaint about the headlines and caption is concerned Principle 5 provides that:

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

The issue is whether the headlines and caption in this case fairly imparted the story's thrust.

While those associated with the farming industry appear to have viewed the effect of the drought differently (as demonstrated by the published statements by the Primary Industries Ministry spokesman on the one hand and pet food industry sources on the other) there is little doubt the drought had had an adverse effect on farms. Pet food processors had reported a recent significant increase in business as a result of higher numbers of animals being destroyed on farms. The Ministry of Primary Industries did not deny this aspect but did say that the condition of uninjured animals was not deteriorating as a result of the drought.

The Council has been presented with various versions of the reasoning behind the slaughter of the animal in the photograph and is unable to weight the factors of injury versus drought. Probably only the farmer could say to what extent the drought had impacted on his decision to kill the cow, however it certainly it seems likely that both factors were in play in the decision-making. While the injury was not noted in the caption the circumstances were included in the article. The *Herald* could have made it clear the cow in the photo was the injured cow of the story, but not doing so did not make the article or the caption inaccurate in this regard. Readers looking at the photo, and reading the article would generally make the connection for themselves.

Of more concern is the fact the caption attributed the slaughter-rate of 50 cows to the drought, whereas the article makes it clear that only half this number is actually drought-related. The Federated Farmers' complaint did not develop this point, and the *Herald* did not respond on it, so the Press Council puts this matter aside.

With regard to the image, Principle 10 requires newspapers to handle photographs showing distressing and shocking situations with care and with special consideration for those affected. There is no doubt the image in question is a graphic one. It is certainly powerful. Nor is there any doubt some members of the community would have been disturbed it. Nonetheless the image reflects a reality. Farm animals are routinely put down usually at the abattoir but also on the farm when it is humane to do so.

The Press Council does not believe the image should have been suppressed simply because some might be upset by it. The image does not overtly show the effects of unacceptable violence. The image does not suggest any gratuitous brutality or cruelty. There is nothing in the image or the article itself suggesting that the animal was being treated otherwise than humanely.

The Press Council does not take account of communications which may have taken place between the Primary Industries Ministry and the *Herald.* The Council has not seen all these exchanges. Nor are the Council's views affected by the way the *Listener* presented the photograph. The Council notes that the *Herald* article referred to the animal having been injured as the *Listener* indicated. The Council is not aware of any complaint Federated Farmers has made to the *Listener.*

The Press Council does not uphold the complaint

Press Council members considering this complaint were Barry Paterson, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Penny Harding, Clive Lind and Stephen Stewart.

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

CASE NO: 2326 – LISA WALKER AGAINST NEW ZEALAND HERALD

Introduction

Lisa Walker alleged that a photograph published in the *New Zealand Herald* on March 13, 2013 breached Principle 1 (Accuracy, Fairness and Balance), Principle 4 (Comment and Fact), Principle 5 (Headlines and Captions) and Principle 10 (Photographs and Graphics) of the New Zealand Press Council Statement of Principles.

The photograph appeared twice; as a teaser on the front page, and on page 5 in association with three articles about the drought. The photograph depicts a slaughterman facing a cow and pointing a rifle at the cow.

The complaint was not upheld.

The Complaint

Ms Walker believed that the photograph was "a gratuitous violent photo designed to get a reaction" and would be hard to explain to a child.

She believed that while the newspaper stated they used the photograph to illustrate the impact of the drought on the farming community, it did not in fact relate to the drought as she believed that the cow was destroyed due to a broken hip and it had nothing to do with the drought.

She believed that the "average townee" would have been horrified by the photograph and that it did nothing to help the farming community.

The complainant also believed that the photograph did not fit with the headline "*Drought takes its deadly toll"*.

The Newspaper's Response

Newspaper editor Shayne Currie acknowledged that the photograph was without doubt "powerful and shocking to some".

He said the newspaper had recognised that the photograph could be distressing for some and careful debate took place before the decision was made to use it. The main thrust of the article was to show the impact of the drought on the farming community and the photograph was used for this purpose.

The editor believes that Ms Walker based her complaint on an "erroneous press release distributed by Federated Farmers" regarding the reason for the cow being shot.

The photographer for the newspaper had been told by the farm owner at the scene of the photograph that the cow had injured its hip, and under normal circumstances would be able to be in a confined space and hopefully recover.

The farmer had gone on to state that due to the drought, this was not possible as the herds were having to move longer distances for feed and it was more humane in this instance to put the cow down.

The slaughterman and farmhand also both confirmed that the cow was being put down because of drought-related issues.

The facts were that the destruction of the cow was a direct result of the impact of the drought and there had been no technical manipulation of the photograph.

The newspaper stated that all facts in the article had been checked and verified and that "we rode a careful line – in this case balancing taste with the news value of the image".

Discussion

Principle 1 (Accuracy, Fairness and Balance), Principle 4 (Comment and Fact) and Principle 5 (Headlines and Captions), have not been breached as the article contained accurate information and the photograph was used to illustrate the severe impact of the drought on the farming community.

The farmer, farmhand and slaughterman made it clear to the photographer that the cow was shot as a result of the impact of the drought.

Principle 10 (Photographs and Graphics) has not been breached. There was no technical manipulation of the photograph, it was shown as taken.

While the photograph was not a pleasant one, it was a powerful illustration of the reality and impact of the drought on the farming community and was used by the newspaper only after careful consideration.

The complaint is not upheld.

Press Council members considering this complaint were Barry Paterson, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Penny Harding, Clive Lind and Stephen Stewart.

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

People with a complaint against a newspaper or magazine should first complain in writing to the editor of the publication and then, if not satisfied with the response, complain to the Press Council. Complaints can be lodged using the online complaint form or addressed to the Executive Director, P O Box 10 879, The Terrace, Wellington. Phone 473 5220 or 0800 969 357 Information on the Press Council is available at www.presscouncil.org.nz

CASE NO: 2327 – MARK HOTCHIN AGAIINST NEW ZEALAND HERALD

Mark Hotchin complains that the *New Zealand Herald* breached two of the Press Council principles in an article published on March 20, 2013. He says the article is inaccurate (Principle 1) and its headline does not accurately and fairly convey the substance of the report (Principle 5).

The Press Council does not uphold Mr Hotchin's complaint

Background

On March 20, 2013 the *New Zealand Herald* published an article under the heading *Hotchin's island house for sale*. It was accompanied by a photograph of the property and a photograph of Mr Hotchin. While the article mentioned that Mr Hotchin is the beneficiary of a trust that owns the property in question, and that the director of the trustee company had been involved in discussions about the sale, it clearly said that Mr Hotchin intended to sell the property. He was reported as having had discussions with the real estate agent about the sale, and also that "he'll look at any serious offers." There was no mention of any beneficiaries of the trust other than Mr Hotchin.

In fact Mr Hotchin is not the only beneficiary of the trust and was not actively involved in the sale of the property.

The article was published in print and online.

Tompkins Wake Lawyers, on behalf of Mr Hotchin, immediately complained to the *Herald* about the article. The complaint was accepted, and a correction to the print article was published the following day. A revised article was published online.

The correction to the print article says that the *Herald* had published a story headed *Hotchin island house for sale* which reported the fact that a property on Waiheke Island owned by a trustee company of which Mr Hotchin is a beneficiary was for sale. It continued "Mr Hotchin has asked that we make it clear that the property is owned by a trust, not by Hotchin; that he is not the only beneficiary of the trust; and that all decisions concerning the sale and marketing of the property are being made exclusively by the trustee and not by Mr Hotchin."

The revised online article made it clear that comments that had been attributed to Mr Hotchin were in fact made by the director of the trustee company. At the end of the article was a paragraph headed "Correction" in similar terms to the correction published in print, but without any mention of a headline. The headline to the revised online article was *Trust selling home linked to Hotchin*.

On April 12, 2013 Tompkins Wake lodged a complaint with the Press Council.

The Complaint

Mr Hotchin complains about the inaccuracy of four specific sentences or phrases in the original article, all of which indicate either that he is the owner of the property in question or that he is the sole beneficiary of the trust. He also complains that the article includes references to himself when they should have been references to Tony Thomas, the director of the trustee company. In commenting on the

Herald's response to the complaint, he says he does not accept the reporter made a genuine mistake in this respect.

He is of the view that the article was deliberately written to convey the inaccurate impression that he was selling his own asset for his own benefit at a time when his property was frozen by a court order and that there is therefore an implication of wrongdoing.

He also says the headline *Hotchin's island house for sale* did not accurately and fairly convey the substance of the report as he does not own the property.

The complaint letter concludes by saying that the amendments made by the *Herald* were appropriate and adequate to correct the inaccuracies. The complaint is that the original reporting was inaccurate and unfair.

In commenting on the *Herald*'s response to the complaint, Mr Hotchin generally does not accept the explanations offered.

The New Zealand Herald Response

The *Herald* is of the view that its correction was an adequate remedy for Mr Hotchin's complaint.

It explains that its reporter misunderstood remarks made by the real estate agent during an interview. The reporter understood that the "he" selling the property was Mr Hotchin when the agent was referring to Mr Thomas. It was a genuine and unfortunate error, but was very quickly remedied.

With regard to other elements of the complaint, the *Herald* submits

- The article was not written to convey the inaccurate impression that Mr Hotchin was selling his own asset for his own benefit. It publishes regular stories about the sale of prominent or expensive homes, and there is particular interest in the relevant property as it has been on and off the market for many years and is considered one of the country's most expensive properties.
- There was no intention to imply that Mr Hotchin was breaching the court-imposed restrictions. The story clearly noted there was no freeze on the property.
- The headline on the first story was *Hotchin's island house for sale*, corrected in the second edition to *Hotchin island house for sale*. The link to Mr Hotchin is justifiable as he used the house as a holiday home and the neighbours know it by that name.
- It was accurately reported that the house was owned by a trustee company. The original report said that Mr Hotchin was the beneficiary of the trust, corrected later to "a beneficiary".

Discussion

1. Principle 1 - Accuracy

There is no doubt that the original article was inaccurate and that the real estate agent was incorrectly reported as referring to Mr Hotchin when he was actually referring to the director of the trustee company. The inaccuracy gave the impression that Mr Hotchin was closely involved in the sale process when it seems that he had merely been consulted over it. Coupled with the description of Mr Hotchin as "the" rather than "a" beneficiary of the trust, the implication was that Mr Hotchin was selling the property for his own benefit.

It was, however, clearly stated that the property was not subject to any "freeze" and there was nothing to suggest that it was being sold in contravention of any legally imposed restriction.

The *Herald* submits that the inaccuracy was the result of a mistake while Mr Hotchin is convinced that there was a deliberate misrepresentation. It is not the function of the Press Council to determine the reasons for an established inaccuracy.

The article was corrected online as soon as the inaccuracy was drawn to the attention of the *Herald*, and a print correction was published in the newspaper on the following day. In both cases it was made clear that the director of the trustee company was the main actor in the sale. Mr Hotchin is mentioned only as a beneficiary of the trust and as having been consulted about the sale.

The correction adequately addresses the complaint of inaccuracy and indeed Mr Hotchin accepts that this is the case.

2. Principle 5 - Headline

Principle 5 requires that headlines should accurately and fairly convey the substance or a key element of the report they are designed to cover. Given that the report stated that Mr Hotchin was "the beneficiary of the trustee company that owns the property", the headline in question accurately conveyed a key element of the report, but that key element was itself inaccurate. Mr Hotchin was not "the" beneficiary but a beneficiary. It therefore appears that the complaint of a breach of principle 5 is actually a complaint that the headline, as well as the substance of the article, was inaccurate and a breach of principle 1.

The original headline reinforced the implication that Mr Hotchin was selling the property for his own benefit, while the substituted headline on the online article *Trust selling home linked to Hotchin* is accurate and appears to have been acceptable to Mr Hotchin.

It is noted that the correction that appeared in the March 21 print edition is inaccurate in that it reads "In yesterday's *Herald* we published a story headed *Hotchin island house for sale* which reported . . . ." The original story was in fact headed *Hotchin's island house for sale*. The difference is minor, but the original headline implied more clearly that Mr Hotchin owned the house.

Conclusion

All parties accept that the original article and its headline were inaccurate and thus in breach of principle 1. However the *Herald* made an immediate correction which Mr Hotchin accepts as appropriate and adequate to correct the inaccuracies.

In the circumstances the complaint is not upheld.

Press Council members considering this complaint were Barry Paterson, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Sandy Gill, Penny Harding, Clive Lind and Stephen Stewart.

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

CASE NO: 2328 – BRIAN MCDONALD AGAINST THE PRESS

Brian McDonald complains against a column in *The Press* on December 13, 2013 written by Martin van Beynen. The column was headed *Compensation for Bain would be 'a travesty'*. The grounds for the complaint are that it infringes the Council's Statement of Principles relating to Accuracy, Fairness and Balance (Principle 1) and Comment and Fact (Principle 4).

The complaint is not upheld.

The Column

The first three paragraphs of the column read:

OPINION: I can understand how it might be thought David Bain's lawyers raised the necessary reasonable doubt at his Christchurch retrial in May-June 2009 to get him off the five charges of murder.

Reasonable doubt is the test and although, having sat through the 58-day trial, I reached the view he was guilty, the jury, for all its faults, and there were many, had the unenviable prerogative.

What I have greater difficulty with, however, is how any independent and astute person could read all the material on the trial and interview witnesses and come out thinking Bain is probably innocent, and therefore entitled to compensation.

By way of background, the column appeared just before the Binnie report was released by the Minister of Justice. It had been widely stated that Justice Binnie had found David Bain innocent of the murders of his family members. Mr van Beynen referred to police botch-ups and referred to an earlier column where he had itemised 24 pieces of evidence that formed the basis of the evidence against David Bain and which had been challenged on the grounds every one had an innocent explanation. He opined that on reading the 24 points, the most that could be said, in his view, was that it put the prosecution and defence on an even keel.

Mr van Beynen then set out five points which were to him powerful indicators of David Bain's guilt. He stated his opinion when he said that how anybody could look at all the factors and say David Bain was probably innocent was beyond him.

He then set out what he saw as nine inconvenient questions surrounding the defence's theory that Robin Bain was the killer. He concluded by saying:

On the basis of these points, compensation for David Bain would be a travesty.

The Complaint

In his complaint to the editor, Mr McDonald claimed that Mr van Beynen had an obsessive type interest in the case which had resulted in not presenting both sides of the evidence. He alleged that the column was unbalanced. He commented on each of the five points which Mr van Beynen gave as powerful indicators of David Bain's guilt and gave possible answers to these indicators. In respect of the nine reasons which Mr van Beynen gave for his opinion that Robin Bain was not the killer, he alleged that they were flawed compared to the evidence at the time and certainly not balanced.

In his complaint to the Council he cited from a High Court case which stated well-known law that an honest opinion must be based on true facts stated or referred to in the material complained of. His submission was that many of the facts upon which Mr van Beynen relied were not true facts because they did not give a balanced view of those facts because other material at the trial was not referred to. His position is that "balance" and "impartiality" are essential. He referred to the grave responsibility of balance in a column such as this, alleged that Mr van Beynen had avoided "true facts" and that the "opinion" was personalized and subject to bias.

Mr McDonald referred to previous articles by Mr van Beynen and some previous conduct which, in the Council's view are not relevant to this complaint.

The Press' Response

The Press noted that the column was published before the publication of the Binnie report advising on whether David Bain could qualify for compensation. To so qualify the judge essentially had to find that David Bain was, on the balance of probabilities, innocent of the murders for which he was imprisoned. There had been reports that the Binnie report would indeed find David Bain innocent and it was in response to this probable finding that the article was written. *The Press* acknowledged that it was Mr van Beynen's view after sitting through practically the entire trial, that contrary to the finding of the jury, the Crown had proved its case. In the column he restated his reasons for reaching that view but also acknowledged that it was perfectly possible to believe, as the jury did, that the Crown had not in fact proved its case beyond reasonable doubt, the standard required for a finding of guilt in criminal cases.

In the column Mr van Beynen was expressing his opinion that after a review of all the evidence it was difficult to see how a judge could have arrived at the conclusion that David Bain was innocent on the balance of probabilities. It was impossible in an article of 800 or so words to state all the evidence before the trial which lasted three months and all the arguments for and against.

It is *The Press*' position that the column was based on facts fairly and accurately stated.

Discussion

Mr McDonald is incorrect when he states that an opinion piece must be balanced and impartial. That balance and impartiality are unnecessary in an opinion has been consistently stated by the Council (see Cases 901, 964 and 1023). A column writer is not presenting an impartial news item. An opinion can be extreme or emotive provided that the opinion is recognisable as a comment rather than a statement of fact.

The only requirement on Mr van Beynen in this case was that his opinion was based on material facts which were accurate. It is possible for a columnist to present views that have a reasonable basis in fact provided there is a proper distinction between the reporting of facts and the passing of comment on those facts (see Case 1082). Opinions are matters of evaluation and not necessarily the

truth. A reader can decide whether or not the reader agrees with the opinion given.

It has been stated that an opinion must be:

(a) clearly a comment;
(b) based on provable facts set out or referred to in the opinion; and
(c) honestly believed by the columnist.

The column in question clearly challenged David Bain's entitlement to compensation. If the Binnie report was to recommend compensation, the test was that on the balance of probabilities Binnie J had to find David Bain innocent. David Bain always had a presumption of innocence until proven guilty and the jury verdict determined that the jury was not satisfied beyond reasonable doubt that he was guilty. In the compensation matter the onus moves to the claimant to establish on the balance of probabilities that he was innocent.

Mr van Beynen clearly states that in his opinion it would be a travesty to grant compensation. This clearly carries the inference that it was his opinion that David Bain could not discharge the onus on him to succeed in the compensation claim.

In coming to his opinion Mr van Beynen gave what to him were five powerful indicators of David Bain's guilt and nine inconvenient questions which would have to be answered if Robin Bain was found to be the killer.

Mr McDonald in his complaint sought to answer the five powerful indicators as well as the nine inconvenient questions. He does not state that any of the powerful indicators were wrong except he noted that no particulars were given of the statement that there were inconsistencies in David Bain's various accounts.

The nub of Mr McDonald's complaint is that Mr van Beynen had an obligation to give the other side of the story in respect of the powerful indicators and the inconvenient questions.

To impose such an obligation on a columnist would in the Council's view require a columnist to be balanced. Provided the facts upon which the opinion is based are accurately stated, it is not in the Council's view necessary to raise the contrary arguments. Mr van Beynen, as is well-known from earlier articles, believes David Bain is guilty. He refers to the evidence on which he formed this view. In doing so he refers to evidence which he claims implicated David Bain and evidence which he claims exonerates Robin Bain. That is his opinion.

It is for the reader to determine whether or not it agrees with Mr van Beynen's opinions. He is entitled to express them provided they are based on provable facts. The Council has no evidence that they were not.

For the above reasons, the complaint is not upheld.

Press Council members considering this complaint were Barry Paterson, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Penny Harding, John Roughan and Stephen Stewart.

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

CASE NO: 2329 – MICHAEL BAHJEJIAN AGAINST WAIKATO TIMES

Michael Bahjejian objected to an opinion piece "Truth be told bigots can be terrible liars", published in the *Waikato Times* on April 1, 2013. The complaint is not upheld**.**

Mr Bahjejian claimed that the newspaper breached Press Council Principle 1 (Accuracy, fairness and balance) and Principle 6 (Discrimination and diversity).

Background

The opinion piece by Joshua Drummond was spurred by the debate surrounding proposals to legalise gay marriage in New Zealand, and opposition to it - particularly from people with a religious background. Drummond, who said he did not believe in God, made a number of inflammatory statements about the Bible, Family First and the Christian Right lobby. Amongst other things, he claimed the Christian Right was lying, by trying to use science to back its arguments "that gay couples are inferior parents."

Opposing the adoption of children by gay parents showed that "Family First and their ilk seem to want the worst for these families."

It was important for a functioning society that much of the Old Testament be ignored as it was no longer considered infallible or relevant. He noted that the "dwindling adherents of ancient brute philosophy are turning desperately to a key instrument of their undoing – science – and perverting it utterly."

Opponents of gay marriage had claimed science was on their side, that gay marriage would hurt children, and that statistics backed these claims. "To deal with the claims in order: a lie, a damned lie, and statistics... don't back them up" the columnist said.

The Complaint

Mr Bahjejian complained that the opinion piece failed to demonstrate accuracy, fairness and balance in vilifying the Bible, and that it falsely accused Family First and its supporters of being ignorant, unscientific and of lying. The opinion piece's comments that Bible believers were "adherents of ancient brute philosophy" was no less than hate speech and his description of Christianity grossly inaccurate and unfair.

The columnist had made wrong and highly derogatory statements about the Bible and those who believed in "an infallible Bronze age book". He had discriminated against people who put their trust in such an ancient book.

His statements about Family First with regard to social science were enough to accuse Family First and its supporters "of being liars and unscientific". The claim lacked fairness and accuracy.

As far as Principle 6 was concerned, the columnist's comments were vulgar and discriminatory. It was also discriminatory to associate Family First with some sort of cult that overused lobbying to push an idea that "a particular version of God tells you it's bad". Family First wanted to protect and promote family values, for the benefit of society generally. "Accusing them of being liars is ... an attack on diversity of thoughts and opinion."

Newspaper's Response

Deputy editor Geoff Taylor rejected the complaint on the grounds that the Drummond piece was an opinion column "and he has a every right to express his views on an issue".

Complaints about balance were irrelevant as this was an opinion piece, not a news story. Drummond did not have an obligation to provide balance.

Some of the language was "robust" and Drummond had strong views. But his comments fell a long way short of "hate speech".

Drummond had essentially stated that the Bible had plenty of good content for religious people but it should not all be taken literally and unquestioningly. He also believed that fundamentalists were trying to make scientific claims to back their arguments against gay marriage, and he had tried to address those arguments.

He also tried to address arguments that gay parents were inferior to others.

Mr Bahjejian had different views "but I don't believe he [Drummond] has breached any principles of accuracy, fairness and balance".

Press Council View

The Drummond column was clearly identifiable as an opinion piece, and columnists are entitled to strong and frequently controversial views. Principle 4 says "a clear distinction should be drawn between factual information and comment or opinion. An article that is essentially comment or opinion should be clearly presented as such." This was.

Mr Bahjejian's complaint cited Principle 1 (accuracy, fairness and balance) yet this relates principally to news stories.

The Press Council does not believe Principle 1 applies in this case, nor have the standards of Principle 6 been breached, since this was clearly an opinion column. The column also falls short of being "hate speech", despite Mr Bahjejian's assertion. The overriding fact is that this was an opinion piece, on a page clearly labelled as such. The columnist was entitled to express his views in the controversial manner he chose. The complaint is not upheld.

Press Council members considering this complaint were Barry Paterson, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Penny Harding, Clive Lind, John Roughan and Stephen Stewart.

CASE NO: 2330 – LAURIE CARROLL AGAINST MODEL FLYING WORLD

Laurie Carroll complains against an article in *Model Flying World*, the official magazine of the Model Flying New Zealand Club published five times a year.

His complaint is not upheld.

Background

Model Flying New Zealand president Barry Lennox wrote an article about drones and the recent mainstream media attention paid to their use. It was published in the April issue of *Model Flying World*. His article gave the history of drones, an explanation of drones' use in subterfuge and warfare, examined the privacy implications of widespread amateur use, outlined relevant legislation including the (lack of) privacy rights to airspace above people, and concluded that drones might well pose a privacy threat in the future.

The Complaint

The article offended Mr Carroll who found it inappropriate for what he regards as a family magazine intended to promote safe and enjoyable model aircraft flying. He was particularly offended by the speculation that amateur-operated drones could be used in public areas, such as a shopping mall, for purposes of spying. He took exception to the mention of the novel *Lady Chatterley's Lover*.

He argued the article's reference to the court-martial of a naval rating for taking images in a public toilet was misleading as the images were taken with a mobile telephone not a drone. He believed some content was sexual in nature and felt it was designed to encourage readers to think spying on women in public toilets was funny and to conclude that women had no rights to privacy. He argued that the magazine should not be "a forum for consenting adults to pursue sexual fantasies".

He felt that he'd been invited to "take part in this sexual fantasy by the writer, from the perpetrator's point of view" and this was extremely repulsive.

Mr Carroll also argued that as the article's author is also the president of Model Flying New Zealand the article ought to have been clearly identified as opinion to differentiate it from Mr Lennox's official report as president.

The Response

The magazine's editor referred to a disclaimer absolving the magazine from responsibility for opinions contained therein and referred the complaint to Mr Lennox for response.

Mr Lennox stated that he is a "professional avionics/RF/electromagnetics engineer" and writes many articles for hobby magazines de-complicating science and technology. He described his style as informational, opinionated and tutorial in manner with an often light style.

In his opinion, his article was balanced. It canvassed "the history, development and uses of drones and the good and bad possible uses they are being, and could possibly be, put to." His intention was to inform, to be interesting,

topical and relevant to aero-modelling enthusiasts.

He had no intention of discriminating against women, did not intend to invite sexual fantasy on the part of the reader, disagreed with the perspective taken by the complainant over the relevance of the naval rating's court-martial and found offence taken at the *Lady Chatterley's Lover* reference to be laughable. He claimed his perspective on the legal issues surrounding drone use was correct and quoted specific legislation.

He said Mr Carroll had previously, and in public, expressed dislike for him. He suggested the complainant was motivated by malice and the complaint was a vexatious means of pay-back.

Mr Lennox believed his intention in the article, to canvass the subject and implication of widespread use of drones, was crystal clear to a reasonable person.

The Decision

Mr Carroll cites Press Council Principles 1, 2, 6, and 8 in his complaint claiming the article was unbalanced, factually incorrect, discriminating against women and deceitful. In examining the article against these principles, the Press Council does not agree that it breaches these, or any other, principles. Mr Carroll argues that the article contains inappropriate sexual content. The Press Council does not agree and finds the suggestion that the article sought reader participation in a sexual fantasy to be unfounded.

Mr Carroll argues that the article should have been labelled as 'Opinion". In mainstream newspapers, this would be a reasonable assumption. However, in a hobbyist magazine in which the writer had previously contributed articles based on his expertise, it would have been clear to readers that Mr Lennox was expressing an informed view.

The complaint is not upheld.

Press Council members considering this complaint were Barry Paterson, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Penny Harding, Clive Lind, John Roughan and Stephen Stewart.

CASE NO: 2331 – KYLE CHAPMAN AGAINST WAIKATO TIMES

The Press Council has not upheld a complaint by Kyle Chapman against the *Waikato Times* newspaper.

Background

On April 30 the *Waikato Times* published an article on page 4 describing fliers sent out by The Resistance Party that targeted Chinese immigrants. Such immigrants in Hamilton were feeling threatened by these fliers, according to a Chinese woman who arrived 12 years ago and now has two Kiwi-born children.

Kyle Chapman, former National Front director and Right Wing Resistance leader, is mentioned in the article as one who has decided to participate in the Christchurch mayoralty race and who believes it is "only a matter of time" before China invades New Zealand, a possibility raised in the flier.

One sentence towards the end of the article mentioned that the leaflets, "along with offensive material about Jewish New Zealanders", had been reported to the Human Rights Commission although they do not meet HRC's threshold for discrimination under the Act.

The Complaint

Mr Chapman complained to the *Waikato Times*' editor that lumping his group's fliers in with offensive material against Jewish people was 'deceptive' as it implied that the anti-Jewish material originated from his group.

In the subsequent complaint to the Press Council he requested that the Council determine whether the *Waikato Times* sought to mislead readers, and had implied that The Resistance Party had distributed anti-Jewish pamphlets.

The Editor's Response

Replying initially to Mr Chapman the editor quoted directly from the Human Rights Commission's website which had been paraphrased by his journalist. He did not believe that the story implied The Resistance Party had produced anti-Jewish information, but in good faith he was prepared to place a clarification to that effect in the page 3 briefs, 'probably the most well-read section of the newspaper'.

In response to the Council the editor said that while the paraphrase of the HRC statement may have been faulty in its sentence structure, reading the paragraph in the context of the whole article did not convey the impression that The Resistance Party was connected to the anti-Jewish material. He had responded seriously to Mr Chapman and on May 2 had run the clarification in the page 3 briefs, as offered. He rejected claims of misrepresentation and deliberate misleading by the paper.

Discussion

The sentence that is the subject of this complaint was clumsy, possibly ambiguous and was capable of misleading, but any confusion was speedily corrected by the subsequent clarification.

The Council does not believe that the wording was a deliberate attempt to link the two issues. The comment occurs in the context of a response by Dame Susan Devoy, Race Relations Commissioner, on the production of material that is 'unfair and based on ignorance, intolerance and prejudice' from whomever that material comes.

If any reader was of the mistaken view that the two issues were connected, any misapprehension would have been removed by the prompt clarification.

The complaint is not upheld.

Press Council members considering this complaint were Barry Paterson, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Penny Harding, Clive Lind, John Roughan and Stephen Stewart.

CASE NO:2332 – JORIS de BRES AGAINST WAIKATO TIMES

Joris de Bres complains that an article published on May 10 2013 by the *Waikato Times* breached Principle 6 of the Press Council principles. Principle 6 concerns discrimination and diversity. It recognises that a number of issues, including race, are legitimate subjects for discussion when they are relevant and in the public interest but states that publications should not place gratuitous emphasis on any such category in their reporting.

The Press Council upholds Mr de Bres' complaint.

Background

On May 10, 2013 the *Waikato Times* reported, on its front page under the headline *Rapists without remorse*, the sentencing of two men for the violent rape of a young girl. The names of the men indicated some Indian ancestry, as did the photograph that accompanied the report. The headline of the report was *Rapist pair show no remorse.*

The report noted that a jury had previously "found the pair, of Fijian-Indian descent, guilty on multiple charges." The judge was reported as saying that there were no mitigating features, that neither of the men was remorseful, and that they did not think they had done anything wrong and the sex was consensual.

The Complaint

Mr de Bres complains about the description of the men as of Fijian-Indian descent. He says their ethnicity is of no relevance to their crime and reference to it may feed prejudice against Fijian Indians in general. He believes the report placed gratuitous emphasis on the race of the men.

The Waikato Times response

The original response of the *Waikato Times* was to say briefly that the offenders' race was a fact and that the defence lawyer had brought up his clients' ethnicity as part of the defence.

The editor later expanded on the first response to explain that the men's ethnicity had been mentioned by their counsel in a plea in mitigation, submitting that they had experienced difficulties in fitting in to New Zealand society. He also said that as the names and appearance of the men suggest they are of Indian descent, failing to specify their ethnicity could feed prejudice against the entire Indian community.

In addition, the report was clearly a news story and was a factual account of a sentencing hearing. In the view of the editor, it would not cause any reasonable person to be prejudiced against the wider Fijian-Indian community. It did not suggest that all Fijian Indian men were predisposed to commit rape or that they had other undesirable traits.

Discussion and Decision

The report in question is undoubtedly factually accurate, but the complaint is not one of inaccuracy. It is a complaint that gratuitous emphasis was placed on the offenders' race.

There is no context in the report for the mention of the offenders' race. It may well be that their background, cultural practices, immigration status and other matters of that nature were mentioned in the course of the sentencing hearing and were relevant to the sentence imposed, but there is no such mention in the report in the *Waikato Times*. Without any such context, the description of them as Fijian Indian is quite gratuitous and places an unnecessary emphasis on their race.

The complaint is upheld.

Press Council members considering this complaint were Barry Paterson, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Penny Harding, John Roughan and Stephen Stewart.

CASE NO: 2333 – NEW ZEALAND FOOD AND GROCERY COUNCIL AGAINST THE WEEKEND HERALD

The New Zealand Food and Grocery Council complains that a column in the *Weekend Herald* on April 13, 2013 misrepresents the safety of food additives in a fruit drink. The complaint is not upheld by a majority of 5:4, with one member abstaining. A minority opinion is attached.

Background

A column in the *Weekend Herald* each week discusses a packaged food item and decodes what the label tells consumers about its contents. On April 13 the column featured Thriftee, a low-calorie raspberry-flavoured drink concentrate. It discussed, among other things, the presence of the red food colour additive amaranth (E123) and sweetener cyclamic acid (952).

The column attracted two complaints – this one from New Zealand Food and Grocery Council and one from the Food Standards Australia and New Zealand, which is dealt with in a separate adjudication.

Complaint

New Zealand Food and Grocery Council claimed the column breached three Press Council principles – principle 1 (accuracy, fairness and balance), principle 4 (comment and fact) and principle 5 (headlines and captions).

In its view the column was not an opinion piece and did not draw a distinction between factual information and comment and opinion.

The headline – 'Sweet drink has two additives banned in US' – and the story misinformed the reader by giving undue emphasis to the banning of two additives by the US Food and Drug Administration (FDA) more than 40 years ago without telling the full story about what has happened since. This was not accurate, fair or balanced reporting.

It claimed the column misrepresented the present-day position, going against the expertise of the Food Standards Australia and New Zealand, the Ministry for Primary Industries, the European Food Safety Authority and the current scientific consensus.

The FDA had removed its provisional approval of amaranth in 1976 not because of any safety concern, but because there was no data available at the time to prove safety. The single study on which the cyclamate decision was based had been superseded and dismissed, including by the FDA itself.

It says the column deliberately misled readers by a deliberate decision not to tell the full story. A reporter assigned by the newspaper to write an accompanying story about the use of the additives in New Zealand had been supplied evidence that demonstrated the safe use of the additives in more than 100 countries. But the newspaper had decided not to use that story.

The Newspaper's Response

The *Weekend Herald* editor said the column was clearly an opinion piece, following the same style and format and in the same section of the newspaper as its other regular columnists. The column was loaded under the 'opinion' section of the newspaper's website and people were able to comment on it.

In such a column, readers would expect to find fact and opinion. In this case the columnist had accurately presented the facts about the contents of the fruit drink – even if they were not all the facts wanted by the New Zealand Food and Grocery Council – and then given her opinion.

The column stated that other food regulators did not consider the additive cyclamic acid to be carcinogenic. It had not mentioned more recent information about amaranth, so an addition had been made to the online story saying that subsequent studies had no found no carcinogenic link.

Both additives remained off the list of allowable substances in the US.

The newspaper published a correction relating to the name of one of the preservatives mentioned, from potassium benzoate to sodium benzoate.

The editor said the newspaper had not set out to mislead readers as claimed. The decision to drop an accompanying story on the use of the additives in New Zealand had been made because of competing news priorities.

Discussion

The Press Council agrees that while the column does not have 'opinion' written on it, it satisfies Press Council principle 4 by being clearly presented as opinion. It follows the format of the newspaper's opinion pieces and it is evident from its content and recommendations that the writer is offering a view. Regular readers of the newspaper are unlikely to be confused.

The writer has formed an opinion about whether people should be consuming the fruit drink based on certain facts about the food additives it contains. There is no confusion between fact and opinion.

As an opinion piece, the writer has licence to express a view on the safety of the food additives – and in strong, even emotive language – as long as the argument is not based on inaccurate facts. The facts are that the additives cyclamic acid and amaranth have not been allowed in food in the United States since 1969 and 1976 respectively. From this the columnist has drawn her own conclusions about their safety. She does, however, acknowledge that some scientific and regulatory bodies do not believe these pose a risk.

Evidence supplied by the New Zealand Food and Grocery Council shows that public perception plays a role in the argument about food safety – occasionally overwhelming scientific evidence. The answer is not to attempt to shut down discussion or opinion – freedom of expression must be preserved – but to offer another view and to persuade public opinion if that is what is necessary.

Majority Decision

The heading accurately reflects the substance of the column – US regulators do not allow either additive in food.

The writer is entitled to express a view about the safety of the food additives.

The opinion of the writer is based on accurate facts.

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

Minority View

Where an article is clearly an opinion piece the Council places high value on freedom of expression and is reluctant to uphold a complaint against it. In this case however, although in format the article matches a number of other articles which clearly are opinion pieces, it purports to be a factual 'decoding' of what exactly the additives are in various processed foods and drinks, and their consequent food value and safety. While there is no clear evidence as to how the column is viewed by its readers there is at least anecdotal evidence that for some it is taken as sound advice on the value and safety of the foods commented on.

In this case there is a clear disjunction between the facts cited by Wendyl Nissen and her opinion on the safety of the additives in question. In addition in some places it is not at all clear whether she is stating facts or expressing an opinion. In the 'Highlights' panel and twice in the text Nissen states that cyclamic acid (the additive most at issue in the complaint), a sweetener, is banned in the United States – 'a sweetener so horrible they haven't been able to use it in the United States for 44 years'. This certainly gives the impression that she is stating as a fact that the substance remains banned in the United States for safety reasons, when it is clear that there are other reasons for its status.

She then adds the factual information that further research failed to replicate the research underlying the ban and that various reputable authorities have stated it is not a carcinogen. However, her opinion on cyclamic acid, expressed in intemperate and certainly unscientific language, ignores these facts. At the least in a column such as this, if the writer is going to express a view totally at variance with the facts one would hope for argument rather than emotive assertion to support her view, and a clear distinction between fact and opinion. In this case to justify her approach by labelling it 'an opinion piece' is a quite inadequate answer to the complaint.

For these reasons four members of the Press Council would have upheld the complaint.

Press Council members not upholding the complaint were Penny Harding, Pip Bruce Ferguson, Kate Coughlan, Clive Lind and Sandy Gill.

Press Council members who would have upheld the complaint were Chris Darlow, Stephen Stewart, Liz Brown and Tim Beaglehole.

Barry Paterson abstained from voting.

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

CASE NO: 2334 – FOOD STANDARDS AUSTRALIA & NEW ZEALAND AGAINST THE WEEKEND HERALD

Food Standards Australia and New Zealand (FSANZ) complains about non-publication of a letter to the editor offered in response to a column in the *Weekend Herald* on April 13, 2013 which FSANZ says misrepresents the safety of food additives in a fruit drink and is likely to scare consumers. The complaint is not upheld.

Background

A column in the *Weekend Herald* each week discusses a packaged food item and decodes what the label tells consumers about its contents. On April 13 the column featured Thriftee, a low-calorie raspberry-flavoured drink concentrate. It discussed, among other things, the presence of two sweeteners, cyclamic acid and saccharin, and early studies that had linked both to cancer in rats.

The column attracted two complaints – this one from FSANZ and one from the New Zealand Food and Grocery Council, which is dealt with in a separate adjudication.

Complaint

FSANZ complained to the Press Council when the *Weekend Herald* decided not to publish its letter to set the record straight and reassure readers. Its letter explained that the World Health Organisation had found both the sweeteners were safe. FSANZ considered the opinion of the world's leading health organisation would be reassuring to consumers.

While the column mentioned later studies and the opinions of regulators that the additives were safe, FSANZ said the tone of the article was dismissive and would lead readers to form a different opinion.

It said it was not clear to readers that the column was an opinion piece. The newspaper and the column were selective with facts, deliberately choosing to ignore information that would provide balance and reassure consumers.

The Newspaper's Response

The *Weekend Herald* editor said the letter was not accepted for publication because the information it contained had already been covered in the column. The columnist had taken information from the FSANZ website.

The column was clearly an opinion piece, following the same style and format and in the same section of the newspaper as its other regular columnists. The column was loaded under the 'opinion' section of the newspaper's website and people were able to comment on it.

In such a column, readers would expect to find fact and opinion. In this case the columnist had accurately presented the facts about the contents of the fruit drink and then given her opinion.

The newspaper said the columnist had given enough facts for a reader to understand the issues before proceeding to her opinion.

The Press Council had in the past upheld the rights of editors to choose whether or not to publish a letter.

Discussion

The Press Council rarely gets involved in decisions by newspapers about publishing letters to the editor. In this case, publishing the view of New Zealand's food regulator in response to a strongly argued case about food additives in our food would have added to the discussion. The letter offered for publication, however, added little new to the argument that hadn't been canvassed in the column.

Public perception plays a role in the argument about food safety – occasionally overwhelming scientific evidence. The answer is not to attempt to shut down discussion or opinion – freedom of expression must be preserved – but to offer another view and to persuade public opinion if that is what is necessary.

The Press Council is satisfied the column is clearly presented as opinion. It follows the format of the newspaper's opinion pieces and it is evident from its content and recommendations that the writer is offering a view. Regular readers of the newspaper are unlikely to be confused.

The writer has formed an opinion about whether people should be consuming the fruit drink based on certain facts about the food additives it contains. There is no confusion between fact and opinion.

As an opinion piece, the writer has licence to express a view on the safety of food additives – and in strong, even emotive language – as long as the argument is not based on inaccurate facts. From these facts the columnist has drawn her own conclusions about their safety. She does, however, acknowledge that some scientific and regulatory bodies do not believe these pose a risk.

Decision

The newspaper was within its prerogatives to reject the letter for publication.

The writer is entitled to express a view about the safety of the food additives.

The opinion of the writer is based on accurate facts.

The Press Council does not uphold the complaint.

The holders of the minority view in the NZ Food & Grocery Council complaint (Case 2333) acknowledge that this was a complaint about non-publication of a letter to the editor and that the decision not to publish was made in the exercise of editorial prerogative. It is on this basis alone that they do not uphold this complaint.

Press Council members considering this complaint were Barry Paterson, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Penny Harding, Clive Lind and Stephen Stewart.

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

CASE NO: 2335 – JOHN NELSON AGAINST THE WELLINGTONIAN

John Nelson complained that *The Wellingtonian* failed to produce a story exposing what he considered to be the Wellington City Council's poor record of prosecuting the owners of dangerous dogs. The editor said that upon investigation *The Wellingtonian* did not believe his criticism of the council was fair. The complaint was not upheld.

Background

Mr Nelson's daughter had seen two dogs attacking her cat outside her home. When she retrieved the cat it was dying. The dogs had been on the loose and were captured by council officers. The owner was issued with infringement notices for failing to keep the dogs under control and he paid $400 in fines.

Mr Nelson did not believe the charge or the punishment adequate and he attempted to bring a private prosecution in the District Court under a different section of the Dog Control Act 1996 that carries a fine of up to $3000. A stay of proceedings was issued in the District Court and upheld on his appeal to the High Court, though the High Court judge observed in passing that the council perhaps should "review how it exercises its prosecutorial discretion".

Mr Nelson then went to the newspaper. A reporter took an interest in his story and sought further information from the council. She learned there had been about 90 reported attacks in Wellington in 2011-12 and 88 dogs had been euthanised over that period. Mr Nelson discounted the euthanasia figure because dogs left with the council could be put down for reasons other than being dangerous. He offered to seek more information from the council himself and says the reporter expressed an interest in seeing any material he could get. But when he contacted her some time later he discovered *The Wellingtonian* wanted to do a story on the death of his daughter's cat. It wanted to photograph her holding a box of the cat's ashes, which Mr Nelson and his wife would not allow for fear that it would re-traumatise their daughter. *The Wellingtonian* then had no further interest in the story.

The Complaint

Mr Nelson said he went to considerable trouble gathering information for the newspaper, copying and delivering material to the reporter. He said he had been given a "virtual guarantee" *The Wellingtonian* would run the story and the reporter had agreed it would not be about his family's loss. He says that when he learned of the paper's change of heart he phoned the editor to ask the reason and was accused of wasting the staff's time. Mr Nelson says it was his own time and efforts that were wasted.

The Editor's Reply

The editor gave the Press Council five reasons for his decision not to publish a story: the lapse of time since the attack on the cat, the failure of Mr Nelson's private prosecution, his refusal to allow the paper to talk to his daughter, inquiries that suggested the council's handling of the matter was entirely orthodox and consistent, and the euthanasia rate that suggested to the editor criticism of the council would be unfair.

The editor believed the Press Council ought not to have accepted this complaint since nothing had been published. He cited a similar case (#979, *Anna Wilding against The Press*) involving a decision not to publish, in which the Council had agreed there were no grounds for upholding the complaint. He endorsed the view of the editor in that case, that editors had the sole discretion on what to publish and he was not obliged to run this story merely because Mr Nelson wanted him to do so.

The Decision

The Press Council is reluctant to accept complaints over non-publication. It will do so in cases where facts that appear vital to a published story have not been published, or where there has been a failure to cover subsequent developments that cast doubt on the original story. Neither of those conditions exists in this case.

The Council acknowledges the efforts Mr Nelson has taken but no matter how much investigative effort a newspaper makes, or others make, or what sort of encouragement the newspaper has given them, in the end it is the editor's right to decide what is published. If the Press Council was to adjudicate on issues not published it would take on a forbidding task.

The Council was divided over whether to issue this decision. Some members were strongly of the view that the Council should not have considered this case and should not issue a decision on it. The decision was issued in the hope that it might illustrate why complaints about non-publication generally cannot be accepted.

The complaint is not upheld.

Press Council members considering this complaint were Barry Paterson, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Penny Harding, John Roughan and Stephen Stewart.

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

CASE NO: 2336 – WESTLAND RESIDENTS AND RATEPAYERS GROUP AGAINST HOKITIKA GUARDIAN

Introduction

Hugh Cameron, Secretary of the Westland Residents and Ratepayers Group, alleged that an article in the *Hokitika Guardian* on May 2, 2013 breached Principle 1 (Accuracy, Fairness and Balance) of the New Zealand Press Council Statement of Principles.

The complaint was not upheld.

The Complaint

The article covered a dispute regarding a Westland District Property licence fee for occupation of a council owned bach, a court action by various directors and employees of Westland District Property (WDP) and information provided by the Westland Residents and Ratepayers Group (WRRG) denying any involvement in the letters to WDP that had led to the court action.

The article, headlined *Residents' group distances itself from writs*, contained information from WRRG that they were in no way involved in the behaviour (harassment) by one individual (WRRG member) who was then the subject of court action along with the Chair and Secretary of WRRG. The Chair and Secretary were adamant that they were in no way involved, had no idea about any letters sent to WDP, and believed that WDP were using their names to unfairly target WRRG.

WRRG requested that the newspaper publish a retraction of the article.

The Secretary did eventually acknowledge that he had witnessed the signature on a letter for the WRRG Chairman but stated he had forgotten about this as it did not seem to have anything to do with the whitebait bach or the Paringa River and he did not have any recollection of doing so until he saw the documents presented to the court.

Following publication of the article, the WRRG wrote a letter to the newspaper requesting a retraction and that letter was published in the Letters section of the newspaper the next day minus only the sentence concerning the request for a retraction.

The complainant acknowledged that "equal column inches" have been given to the WRRP and WDP, but stated that this did not make up for allowing "liars and fraudsters" to have equal column inches with the WRRG. This related to the information in the column provided by WDP.

In regard to the court proceedings, a restraining order was placed on the WRRG member, but the proceedings against the Chair and Secretary were adjourned, as they had filed statements of defence which were to be considered by the appellant's solicitors.

The Newspaper's Response

Newspaper editor Paul Madgwick replied that all parties in the differing sides of the dispute had been given equal opportunity to present their views and this will continue.

He stated that the role of a ratepayers group is to enquire, probe and challenge, and to hold their local council to account. In this role, the WRRG had always enjoyed generous coverage in the newspaper with the Chair a very frequent correspondent, and this coverage will continue.

He went on to state that unfortunately, the more recent issues have "assumed an ugly tone that has unsettled this small community, with the Holikita Guardian left to sieve the issues that matter from the vitriol that doesn't".

The editor believes that the complaint relates to the fact that WRRG's demand for a retraction relating to the May 2, 2013 article was instead published as a letter to the editor in the next morning's edition, and that a further demand on May 3, 2013 was declined.

The editor stood by the article and believed that it was balanced and provided both sets of views. He believed that the newspaper provided both parties the ability to put their views forward and will continue to do so in the future.

Discussion and Decision

The information in the article covered the pending legal action against WRRG members and the fact that the Chair and the Secretary clearly stated that the WRRG, and the two of them, had nothing to do with the letters had led to the court action.

The article also gave the parties with the opposing view the opportunity to put their side,

It also gave an overview of the events had led up to the court action and background information regarding the annual fee of $2000 charged by the council to occupy one of the council owned baches.

Principle 1 (Accuracy, Fairness and Balance) had clearly not been breached as the article contained information from both sides of the fence with the differing viewpoints covered.

The complainant acknowledges that "equal column inches' were given but appears to believe that the newspaper should not have printed information they believe is wrong from the WDP. In fact, the headline itself put the view of WRRG forward.

The newspaper has a responsibility to maintain balance and fairness and this is not done by only printing what one side feels is appropriate.

The newspaper presented both sides of the story and it was up to the reader to draw their own conclusions.

The complaint is not upheld.

Press Council members considering this complaint were Barry Paterson, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Penny Harding, Clive Lind, John Roughan and Stephen Stewart.

CASE NO: 2337 – ANN FULLERTON AGAINST MANAWATU STANDARD

The *Manawatu Standard*, April 4, 2013, carried an article on the resignation of Delphine Parker from her position as secretary of the Sanson community committee. The same article appeared in the *Feilding Herald* a week later. In the article Mrs Parker gave a number of reasons for her resignation, one being a local newsletter, *The Occasional Newsletter*, which she claimed targeted her. 'You get agitated when people slander you,' she was quoted as saying, 'and it was just time to get out of it all.'

Ann Fullerton, who produces *The Occasional Newsletter*, was told by the reporter who wrote the article of Mrs Parker's claim that Mrs Fullerton targeted her (and Fullerton's comment on this was in the article) but says she was not told of the accusation of slander and thus not given the chance of commenting on that and denying what she believes was a defamatory statement, a statement which in her judgment has damaged her reputation. She wrote letters to the editors of both papers denying that she had slandered Mrs Parker. The letter appeared in the *Feilding Herald* but not the *Manawatu Standard.* Mrs Fullerton's complaint cites a number of Press Council Principles; the most relevant appearing to be Fairness.

The complaint is not upheld.

In responding to the complaint the editor of the *Manawatu Standard* wrote, 'The key point of the dispute between Mrs Fullerton and the *Manawatu Standard* in relation to the April 4 article appears to be whether or not the newspaper put to her Mrs Parker's claim that Mrs Fullerton's newsletter contributed to her decision to resign.' This misses the point. There is general agreement that she was given the opportunity to comment on that claim. Some members of the Council are of the view that the editor says nothing to call in question Mrs Fullerton's statement that she was not told of the slander allegation and given the chance to comment on that. The editor's statement that 'The article was accurate, fair and, given Ms Fullerton had the opportunity to respond to criticism of her, balanced.' thus fails to address her claim that she was not clearly told what that criticism was. This does give some weight to the complaint of lack of fairness.

However, other members of the Council thought the editor, expressly in his early response to Mrs Fullerton (and by implication in his response to the Press Council), did raise the slander suggestion, and that he rejected the claim it had not been put to Mrs Fullerton.

The Press Council is unable to resolve this matter and it becomes immaterial in the light of what followed.

The *Feilding Herald* published Mrs Fullerton's letter in the issue following the article in question. The editor of the *Standard*, who was on leave at the time the letter was written, advised that they could find no trace of it in their letter files, but that he could not 'preclude the possibility that [it] went astray in the system'. However, when the editor received Mrs Fullerton's complaint he offered at that stage to publish the letter if she wished but she did not respond to that specific offer, nor does she mention the offer in her final comment on the editor's response. The offer to publish still stands.

The papers relating to the complaint make it clear that there were circumstances relating to it which, for the complainant especially, complicated the issues and made the situation one that was emotionally stressful. There is also some evidence of ill feelings between the two protagonists. The Council, however, is limited in its role and much of this material is beyond its brief.

It was unfortunate that Mrs Fullerton's letter to the editor of the *Standard* went astray and could not be published promptly but his offer, once it was drawn to his attention, to publish it was, from the Council's viewpoint, a satisfactory response to the initial complaint. It is for this reason that the complaint is not upheld.

Press Council members considering this complaint were Barry Paterson, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Penny Harding, John Roughan and Stephen Stewart.

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

CASE NO: 2338 – KATE DAY AGAINST THE DOMINION POST

A complaint about the "Beast of Blenheim" has not been upheld by the New Zealand Press Council.

Background

Complainant Kate Day called a billboard drawing attention to a news report in *The Dominion Post* of February 22, 2013 and headed "Beast' back behind bars' inaccurate, unbalanced and unfair. She was also upset at some words in the report, which said Stewart Murray Wilson had been" dubbed the Beast of Blenheim".

The Complaint

Ms Day said the fact that Wilson had previously been "dubbed" with the term by the news media was an unacceptable reason to continue its usage. The injury of this name-calling was not only to Wilson himself. "As a reader I am personally offended by public material defaming another individual."

Editors could use derogatory phrases about people in perpetuity unless the Press Council intervened. It was vital to protect individuals from such vilification. "Editors should not be permitted to coin a dehumanising name, then quote each other to perpetuate it."

Her complaint was not motivated by any sympathy for Wilson, "if anyone is worthy of a derogatory label it is Wilson". However, even in such an extreme case, it was inappropriate, unnecessary and harmful to perpetuate a dehumanising label. Dehumanising someone was a way to incite hatred, and vilification in the news media was a dangerous thing to allow.

She noted that of all the newspapers reporting on Wilson at this time, only one (the *New Zealand Herald*) did not use the term "beast". Vilification by newspapers was not only inhumane, it misinformed members of the public, disrespected an audience capable of reading facts and making judgements for itself and created a public

perception that it was all right to turn en masse against an individual.

Labelling someone was particularly offensive when the term became equivalent to a name, and *Dominion Post* editor Bernadette Courtney had said the "Beast" term was now shorthand for Wilson and his crimes. However, Ms Day suspected selling newspapers was the prime reason for using the phrase.

Newspaper's Response

The editor said the newspaper was perfectly entitled to rely on the phrase as it was an accurate reference to the nature and location of Wilson's convictions "and its use was coined by a victim who speaks with direct knowledge of Wilson's criminal actions."

The newspaper was entitled to use the phrase in a street poster to promote content in that day's paper. This would only be misleading if the poster promoted an article that did not appear in the paper. The Press Council had regularly ruled that headlines had to be read in context with the report they promoted. The same expectation should apply to billboards and the poster text was entirely accurate in relation to the article. She did not accept Ms Day's claim that the report was inaccurate.

Referring to Ms Day's claim that the phrase dehumanised Wilson, Ms Courtney said his own offending had created this situation. She said it was not the media's role to "rehumanise" a man convicted in one of the most appalling cases in New Zealand's history. Ms Courtney said she should know, as she reported on his trial.

Citing examples, she said it was very common for the media to use nicknames, especially in headlines, to convey a large amount of information, context or background with an economy of words. The Beast of Blenheim was a short phrase which provided context to readers about Wilson and his criminal record. It also meant the media did not have to regularly re-report specifics of his offending over 22 years, especially in relation to bestiality.

Wilson's case was indeed unique, partly due to the nature of his crimes and also because he was released at the end of his sentence and the justice system could not prevent this. The Parole Board considered he was at high risk of reoffending.

In reference to the unbalanced claim, the media was not obliged to consult criminal offenders on how they wished to be portrayed publicly. The information was sourced from evidence produced in court. However, "given that Wilson joked to our reporter that he was considering trademarking the phrase, if its use does not particularly bother him then I do not see an issue."

Ms Day had acknowledged that the phrase had been used so often that the average reader had come to equate it with Wilson. She agreed. "It is therefore more accurate for the poster to refer to "Beast", because the surname Wilson is extremely common in this country."

Discussion and Decision

Press Council members acknowledged that the complainant presented a well-argued case and that some sections of society would agree with her concerns. However, the phrase had gained such currency and general acceptance that it was now difficult to "put the genie back in its bottle".

In relation to the Principles the headline accurately reflected the article and substance of the article accurately reported the facts and therefore the claim of inaccuracy does not apply. Equally, there can be no issue with the accuracy of the term "Beast of Blenheim" itself.

The Principle of Discrimination does not apply.

The complaint was essentially about unfairness and lack of good taste. Opposition to the media description notwithstanding, even Ms Day admits that "if anyone is worthy of a derogatory label it is Wilson".

It is very common for the media to use nicknames, especially in headlines, and a number of previous examples can be quoted such as the "Parnell Panther", "Mr Asia", "Bassett Rd Machinegun Murderer", "Jack the Ripper", and the "Angel of Death".

It may be that in some instances the use of such a label would be unfair, for instance years after conviction, sentence served and a blameless life having subsequently been achieved. This is not such a case. Wilson continues to deny his crimes, is still on parole and currently back in jail for having breached the terms of his parole.

In general terms, the Council would caution against the use of dehumanising labels. However in this particular case the Council found that although the term could be considered dehumanising its use did not reach the high standards required for an uphold.

The complaint is not upheld.

Press Council members considering this complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Peter Fa'afiu, Sandy Gill, Penny Harding, Clive Lind, John Roughan and Stephen Stewart.

CASE NO: 2339 – CHRISTINE HEATHERBELL-BROWN AGAINST WOMAN'S DAY

Christine Heatherbell-Brown complained that the headline *"R-Patz & Katy's Wedding Shock"* on the cover of the *Woman's Day* magazine of June 10 2013 was misleading. The majority of the Press Council did not uphold the complaint, with one member dissenting.

The page 14 article canvassed relationship issues, past and present, of celebrity couple Katy Perry and Robert Pattison. The paragraph to which the coverline referred said "Casually dressed in hoodies and big sunglasses, the pair were seen in the main courtyard of the exclusive San Ysidro Ranch in Montecito, Santa Barbara, watching the wedding rehearsal of a fellow guest. "They were just sitting quietly and talking" a relative of the bride and groom reports."

The Complaint

Ms Heatherbell-Brown said that the cover of the magazine deliberately misled readers about the content of the article to which it referred.

The article made clear that Robert Pattison ("R-Patz") and Katy Perry had been observing the wedding rehearsal of a fellow guest at a resort. There was no suggestion that they were contemplating their own wedding.

There was no shock wedding relating to them and the word "shock" was not even mentioned in the article. The

normal reader would take it to mean R-Patz and Katy were getting married or had got married. She saw this as a dishonest ploy to sell more magazines.

She noted that the possible headline *R-Patz and Katy watch wedding rehearsal* contained only one more word but reflected the true nature of the article.

She cited Principles of Accuracy, Fairness and Balance; Comment and Fact; Headlines and Captions; Subterfuge.

Magazine's Response

Legal counsel for Bauer Media, publishers of *Woman's Day*, replied on behalf of the editor. She denied that any Press Council principles had been breached by the cover line.

She asserted that Principles 4 (Comment and fact) and 8 (Subterfuge) were not relevant to this complaint. No subterfuge had been used in accessing the information, nor had the article confused comment and fact.

She maintained that Principles 1 (Accuracy, fairness and balance) and 5 (Headlines and captions) had not been breached, as the article referred to a rumoured romance between the two parties, who had arrived at a wedding rehearsal to which they were not invited. This surprised other invited guests, hence the headline "wedding shock', which was 'wholly appropriate'. She suggested that a lengthier teaser on the front cover was 'not a realistic proposition'.

The magazine also cited Press Council complaints 1060 and 2123 against *Woman's Day* in defending the cover line. She stated that the current complaint differs from Case 1060 as it is a reasonable summary of the surprise of people involved, at the presence of Rob Pattison and Katy Perry. Case 2123 mentioned the reputation that the magazine has for dealing in celebrity gossip, and that readers would be aware of this.

Discussion

The Council does not believe that Principles 1, 4 or 8 have been breached. The main nub of the complaint is Principle 5, Headlines and Captions.

The complainant was obviously expecting a story about the possible impending nuptials of 'R-Patz' and Katy, and continued to maintain, in her final response, that the headline was misleading. She stated that "*Woman's Day* knew this cover line would sell more magazines for them than if the cover line read R-Patz and Katy watch Wedding Rehearsal. I have only put in one more word and the cover line now reflects the true nature of the article."

The Preamble to the Council's Statement of Principles acknowledges that 'the genre or purpose of a publication or article, for example, satire or gossip, calls for special consideration in any complaint'.

The article is clearly a gossip article and needs to be regarded as such. Gossip by its very nature may be inaccurate and/or exaggerated, and the headline must be considered in this context. It is difficult to believe that readers of this type of publication are unfamiliar with the practice of writing 'teaser' headlines that draw shocking or surprising inferences from fairly mundane facts, or that readers are likely to be misled by them.

While recognising that the teaser on the cover, as Ms Heatherbell-Brown read it, might have been construed as misleading, the Council accepts that there *could* be ambiguity in the situation described in the article. However, this clearly indicated that a casually-dressed Pattison and Perry were 'watching the rehearsal of a fellow guest' in the main courtyard of a resort in Santa Barbara where they appeared to be staying. They were described as 'sitting quietly and talking'. The article made no reference to shock or even surprise by the others present. It is drawing a long bow to describe the situation as 'shocking' to anybody, but it is the type of terminology used by magazines of this genre.

As a minority opinion in the 1060 case put it, "If *Woman's Day* is misleading its readers, they are accepting of the risk of being misled." In this case a majority of the Press Council shared that view. The complaint is not upheld with Professor Tim Beaglehole dissenting.

Press Council members considering this complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Peter Fa'afiu, Sandy Gill, Penny Harding, Clive Lind, John Roughan and Stephen Stewart.

CASE NO: 2340 – JACQUELINE SPERLING AGAINST THE SUNDAY STAR-TIMES

Ms Sperling complains that the *Sunday Star-Times* displayed inaccuracy, bias and misrepresentation in an article published in that newspaper on June 16, 2013 and also online. She believes that she was deliberately and maliciously targeted.

She also complains that the reporter in question made insufficient attempt to contact her for her side of the story.

The Press Council finds minor inaccuracy in the article but overall does not uphold the complaint.

Background

Ms Sperling writes a blog at www.wonderfulnow.blogspot.com. As a result of material posted in the blog, legal action was taken against Ms Sperling in 2012 by Deborah Brown and Madeleine Flannagan and in 2013 by Ms Flannagan alone. In both instances they sought restraining orders under the Harassment Act 1997.

Both cases were heard by Judge David Harvey and are of considerable legal interest for his ruling that the Harassment Act is capable of applying to online behaviour. In the 2012 case he declined to grant the application for a restraining order, but in the 2013 case he granted an order which among other things prohibited Ms Sperling from publishing further material about Ms Flannagan and required her to remove specified posts and comments from her blog.

On June 16, 2013, the *Sunday Star-Times* published a report of the case under the headline "Biting blog given last post using stalker law". The report included a statement that Ms Sperling, who had "created colourful headlines when she outed herself as an ex-methamphetamine addict, ex-prostitute and ex-girlfriend of Michael Laws" was ordered to take down nearly 100 posts and comments.

There was also reference to the unsuccessful action in 2012. The article reported that no restraining order was granted but that "Judge Harvey ordered some posts to be taken offline".

Before the article was published, the reporter made some attempt to contact Ms Sperling for comment. The *Sunday Star-Times* advises that the reporter telephoned her home and spoke to a person who said that Ms Sperling was in hospital. Ms Sperling says that no such phone call was made. However it is undisputed that he then contacted her via Twitter. She told him she was in hospital and asked him to email her. He did not email and there was no further attempt to contact her before publication.

The complaint

Ms Sperling complains about three specific instances of inaccuracy

1. She did not out herself as an ex-methamphetamine addict and ex-prostitute. She was outed by Michael Laws when he publicised their relationship. In relation to the *Sunday Star-Times* claim that she outed herself as a former methamphetamine addict during an interview immediately after Mr Laws' statement, she said she was blackmailed by the *Sunday Star-Times* into speaking to them.
2. The 2012 case did not result in a requirement for her to remove any material from her blog.
3. Judge Harvey did not, in the 2013 restraining order, require her to remove 100 posts from her blog

She also complains that the headline is misleading in that it would lead readers to believe that she had stalked someone.

In addition, Ms Sperling complains that insufficient effort was made to contact her for comment before the story was published. She says that her email address and contact details are clearly stated on her blog, and that they are also known to Ms Flannagan (who obviously was contacted for comment before publication).

Finally, Ms Sperling says the errors were not accidental and were part of a malicious attempt to discredit her after she had approached the *Herald on Sunday* "in regards to [Michael] Laws attempting to talk me I to returning to prostitution". She says "Laws is an employee of the *SST* and this is just a continuation of the harassment that he has subjected me to since ending the relationship."

In general, Ms Sperling also comments that the article focuses on her past and fails to mention that she is now a university student half way through her degree with straight A grades.

The Sunday Star-Times response

The *Sunday Star-Times* did not accept that there were inaccuracies in its article. The deputy editor, Michael Donaldson, stated that

1. Michael Laws made a public announcement about his relationship with Ms Sperling, but referred to her only as "a woman". Ms Sperling was first named in this context by Fairfax Media after an interview in which she acknowledged she was a former methamphetamine addict. Once her name was made public, people could find her blogs where she admitted to having worked as a prostitute.
2. There was a court order for the removal of Ms Sperling's posts. In 2012 Judge Harvey stated that there was no need for an order because the offending posts had already been taken down, but in 2013 he ordered the removal of specified posts and comments.
3. The article did not say Ms Sperling had been ordered to remove 100 posts: it said she had been ordered to take down nearly 100 posts and comments. The restraining order specified 26 posts and 72 comments to be removed.

He also submitted that the headline was simply "a witty headline that conveys that various posts made to the blog have been ordered to be removed under stalking laws." He considered that "stalking" is a term which can fairly be used as an equivalent to harassment and that in any event it was quite clear from the article that there was no allegation that Ms Sperling was physically stalking people.

He considered the reporter had made reasonable attempts to contact Ms Sperling. He called her home phone number and was told she was in hospital. He then tracked her on Twitter and asked her for a phone number. She responded that she did not know "how to send messages via Twitter on my ph" and asked him to email her. He then asked for her email address but received no response.

Mr Donaldson strenuously denies the allegation of malice or retaliation for Ms Sperling's approach to the *Herald on Sunday*. The story came out of the court case. In any event Mr Laws is not an employee of the *Sunday Star-Times*: he is contracted to write a column and has no interaction with the editorial team over the content of the rest of the newspaper.

Discussion

1. The complaint of three specific inaccuracies

a. The details of Ms Sperling's "outing" are not entirely clear. It is undisputed that Mr Laws' initial statement did not refer to her by name, or that in the *Sunday Star-Times* interview she disclosed that she had formerly been a methamphetamine addict.

It seems that Ms Sperling's name may have become public before the interview – she refers to seeing her face on the six o'clock news as the first she was aware of media scrutiny. However she does not say that the television report described her as a former methamphetamine addict, and it seems more likely that particular information emerged at the interview. Ms Sperling now says that she was blackmailed into giving the interview, but it does not appear that she made any such complaint at the time. Moreover, even if she felt under some compulsion to give the interview, it is difficult to see how she could have been compelled to disclose her former addiction if she did not wish to do so.

Members of the Press Council expressed differing views on whether "outing" requires some positive action on the part of the subject, since it does not appear that Ms Sperling deliberately directed public attention to the information on her blog. The general view was that by disclosing her identity as the writer of the blog, she was effectively putting her connection with its contents into the public domain.

b. Mr Donaldson is correct in saying that the article referred to nearly 100 posts and comments, not to

100 posts. The restraining order lists all the relevant posts (26) and comments (72). Ms Sperling says that the comments include some not made by her. This is correct, but even so she was directed to remove them. There is no inaccuracy in this part of the article.

c. It is clear from the context that the report that "Judge Harvey ordered some posts be taken offline . . ." refers to the 2012 and not the 2013 decision. There was no order at the conclusion of the 2012 proceedings. To that extent, the report was inaccurate.

2. *The headline*

The phrase "anti-stalking law" is commonly used to describe the Harassment Act 1997, and the Act covers most behaviours that could be described as stalking. However the definition of "harassment" in the Act is quite wide and includes several types of behaviour that would not normally be seen as stalking. Indeed Judge Harvey found it wide enough to cover behaviour such as cyber-bullying that is unlikely to have been foreseen by the drafters of the Act in 1997.

In the circumstances, it seems unlikely that a reader of the headline in question would be led to believe that Ms Sperling had been stalking Ms Flannagan, and in any event, the content of the article makes it quite clear that the harassment was online.

3. *Attempts to contact Ms Sperling*

There is some dispute whether the reporter called Ms Sperling's home phone in an attempt to contact her, but this is largely irrelevant as he did contact her by Twitter shortly afterwards. The question is whether he should have made a further attempt to contact her by email as she had requested.

It is difficult to understand why the reporter did not email Ms Sperling. Having already searched out her Twitter contact details, it would have taken very little more effort to find her email address. It is noted that she did not respond to the reporter's request for her email address, but it is also noted that she was in hospital and there could have been any number of legitimate reasons why she did not respond.

There is, however, nothing to suggest that the failure to contact Ms Sperling led to an unfair, unbalanced or significantly inaccurate article.

4. *Malice and conflict of interest*

There is no evidence to support Ms Sperling's allegation that the *Sunday Star-Times* article was motivated by malice or that it was influenced by Mr Laws. It is clear from the timing of the article that it was prompted by the publication of Judge Harvey's decision, which was a matter of obvious public interest. It is also clear that the relationship between the *Sunday Star-Times* and Mr Laws is not one where Mr Laws has any influence over the content of anything other than his own column.

Conclusion

The Press Council does not uphold Ms Sperling's complaint.

There was some inaccuracy in the *Sunday Star-Times* article, but it was comparatively minor in the context both of the article and of other aspects of Ms Sperling's complaint. It is insufficient to warrant upholding the complaint.

Press Council members considering this complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Peter Fa'afiu, Sandy Gill, Penny Harding, John Roughan and Stephen Stewart.

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

CASE NO: 2341 – ELIZABETH HYLAND AGAINST APNZ, NZHERALD ONLINE AND NZ HERALD

Background

Elizabeth Hyland was involved in an employment matter with her employer, Air New Zealand, about an incident with a fellow flight attendant on a long distance flight between Auckland and San Francisco. Following an internal investigation, Ms Hyland took her case to the ERA (Employment Relations Authority) seeking redress.

The ERA had made a determination into Ms Hyland's claims against her employer. *APNZ* covered the determination and the story was uploaded onto *nzherald online* on April 23, 2013. The print version of the story appeared in the *NZ Herald* on April 24, 2013. The heading of the print version differed from the *APNZ* online version.

Ms Hyland laid a complaint with *NZ Herald* Print Editor, Shayne Currie on April 30. The story originated from *APNZ* and was therefore passed on by Mr Currie to Chris Reed, Editor, *APNZ* News Service. She regarded the story as not an accurate reflection of the ERA determination and the incident itself and requested the removal of the story from the online platform. Through a number of exchanges, Mr Reed disputed the complaints and offered to run a story if Ms Hyland were to appeal the ERA decision. Ms Hyland was not happy with the responses from Mr Reed and therefore has laid a complaint with the Press Council.

The Complaint

Ms Hyland's complaint is that both versions of the story covering the ERA decision were, inter alia, "grossly unfair", "imbalanced", "selective", and "wrongly portrayed", particularly as she argued the ERA had "vindicated" her. There were three approaches from Ms Hyland to Mr Reed. In the second approach, in addition to earlier comments, Ms Hyland argues that the coverage was not reported in the right context and the words "angry" and "grabbed" were used in the coverage although they were not used in the determination.

She argues that the coverage breached Principle 1 (accuracy, fairness and balance) and Principle 2 (Privacy).

In later correspondence Ms Hyland offered the editor a letter, publication of which she saw as providing redress for the alleged misreporting.

The News Service's Response

Chris Reed, Editor, *APNZ*, responded that the coverage was not grossly unfair. That is, the coverage provided a fair, balanced and accurate report of the ERA determination, which is a public document. The responses from Mr Reed to Ms Hyland are detailed, but key points are that the coverage:

- did not criticise Ms Hyland. It reported the findings of the ERA;
- did not have an exaggerated use of adjectives or that the end result was dramatic. The coverage was "played very straight";
- did not breach privacy as ERA hearings are public with findings available online.

In addition, Mr Reed notes that the *APNZ* journalist made "strenuous attempts" to speak with Ms Hyland. Her lawyer responded Ms Hyland was not prepared to comment nor would the lawyer make a comment on her behalf. The offer of a follow up story was made with no response received.

Mr Reed notes that the coverage does cover Ms Hyland's "vindication" with criticism aimed at Air New Zealand, particularly with the heading of the print version. However, it is acknowledged that these points are clearer in the printed version of the coverage.

APNZ News Service rebuts Ms Hyland's suggestions of breaching both principles, and saw no reason to publish the offered letter.

Decision

The Council has determined the report to be a fair and balanced coverage of the ERA determination.

ERA decisions are made publicly available online for all. They are a matter of public record. Principle 2 (Privacy) therefore was not breached.

Principle 1 on the other hand is on most occasions somewhat more challenging. The question is whether the publication (or online version of it) deliberately misled or misinformed readers by commission or omission. The provision of a "fair voice" to an opposing view is equally important, particularly on emotionally charged subject-matters such as employment disputes.

APNZ contends that they made strenuous attempts to contact Ms Hyland including through her lawyer. We have no reason to doubt that this was the case. The offer was also made by the Service to do a follow up story to reaffirm 'fair voice'.

Mr Reed had responded in detail to Ms Hyland on all points raised. From reading of the coverage and extensive exchanges between the parties, the Council finds that there was no misleading of readers and therefore no breach of Principle 1.

We note that the *NZ Herald* had declined to publish a letter to the editor from Ms Hyland. The right to publish sits with the publication and it cannot be directed to do so by the Council. In any event the Council finds no issue that would have required remedying through publication of the letter.

The complaint is not upheld.

Press Council members considering this complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Peter Fa'afiu, Sandy Gill, Penny Harding, Clive Lind, and Stephen Stewart.

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

CASE NO: 2342 – JEREMY CONNELL AGAINST NEW ZEALAND HERALD

Jeremy Connell, of Hastings, complained to the New Zealand Press Council that articles in the *Herald on Sunday* and the *New Zealand Herald* about a passenger who had racially abused a Pakistani-born taxi driver in Invercargill were unbalanced.

The complaint is not upheld.

Background

The articles published on July 28 and 29, 2013, recorded how the taxi driver captured on camera personal abuse from a passenger, Greg Shuttleworth, who also refused to pay his fare.

Shuttleworth, using foul language, told the driver, Tariq Humayun, to go back to where he came from and was derogatory of Islam as a religion. Mr Humayun was reporting as saying he was deeply upset by the attack.

The recording of the incident was available on-line.

The *Herald on Sunday* reported the incident on July 28 and the following day, the *New Zealand Herald* identified the passenger, who was quoted as saying he regretted the incident which involved alcohol and that he wanted to apologise.

However, he also said he remained concerned about Muslims in New Zealand and why they had come to New Zealand.

Other people were also interviewed for the second article, including Invercargill Mayor Tim Shadbolt and Race Relations Commissioner Dame Susan Devoy.

The Complaint

Mr Connell complained the articles "totally lacked any shred of balance, and instead served to vilify (crucify) an ordinary member of the public who held a widely-held and quite rational view, using a privacy-breaching video recording."

The papers had tried to paint it as a racial issue when it was about Islam and the violent, fascist beliefs it had become associated with. Western populations needed to be educated about the growing military threat and the media had been most unhelpful on that important task, "almost to the point of subversion."

A balanced article would have discussed some of the reasons behind anti-Islamic sentiment.

The Newspapers' Response

Shayne Currie, editor of the *Herald*, replied that the articles were fair, balanced and accurate. The passenger had apologised for his comments.

The complainant was trying to use the Press Council process to present extremist and offensive views. No Press Council principles were breached.

Decision

The stories were straightforward reports of an incident that attracted considerable public attention thanks to the availability of the recording online.

The essence of Mr Connell's complaint was that the newspapers should have sought to explain the reasons for anti-Islam sentiment. The *New Zealand Herald* did cover that aspect in its report with Mr Shuttleworth and there was no need to seek further comment.

Seeking balance does not mean searching for any other party who may disagree with a particular viewpoint. Such a pursuit in this case would have led only to distortion of an incident that the perpetrator regretted.

The complaint is not upheld.

Press Council members considering this complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Penny Harding, Clive Lind and Stephen Stewart.

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

CASE NO: 2343 – TED DAWE AGAINST HERALD ON SUNDAY

Background

The complainant, Ted Dawe, is the author of a novel "Into The River". The novel is aimed at young teens, and subsequent to the article complained of has been classified as "Unrestricted" by the Office of Film and Literature Classification. That body recommends it as suitable for mature audiences of 16 years and older. The novel claimed the top prize in the New Zealand Post Children's Book awards.

The novel contains obscene language and graphic descriptions of sexual activity and drug taking. As a result concerns were expressed by at least one book seller and other citizens. Given the content a degree of controversy was not surprising. As a result of the concerns expressed the *Herald on Sunday* published an article about the novel in its edition of June 30, 2013. The article did not purport to review the book but was focussed on concerns some people had expressed about the content of the novel, the graphic sex scenes in particular. It is acknowledged by the complainant that while he took issue with the headline the article was fair and balanced and presented both sides of the issue.

The Complaint

In his complaint Mr Dawe first complained of a breach of copyright. We have no jurisdiction to consider this complaint.

His other complaints reveal a shifting of grounds. Initially he complained that the principles of accuracy, fairness and balance; children and young persons; and headlines and captions had all been breached. However, in his final communication with the Press Council it had reduced to alleged breaches of the first two principles just mentioned.

The article in the *Herald on Sunday* included a QR code. This allowed readers with smart phone technology to access three particular passages, all with sexually explicit content. (The article earlier noted that the newspaper would not publish such extracts as they could offend some readers). There is a warning of the sexually explicit content next to the QR code.

The complaint maintains that by the code accessing the sexually explicit passages readers would have the whole of the novel misrepresented. Worse, stated the complainant, initially the passages were run together so it appears it was one long sexually explicit passage. This was subsequently changed in the on line edition so it was clear they were 3 separate passages.

The Newspaper's Response

The *Herald on Sunday* accepted the QR link should have made it clear there were three separate excerpts. This had not been initially raised with the newspaper by the complainant but when it was the online edition was changed.

The editor also said that the excerpts were major examples of the issues many people had with the book and the QR link allowed readers to make up their own minds. I.e. would the reader be comfortable allowing their children to read the novel.

In relation to principle 3 the editor pointed out the book was available for purchase by anyone, regardless of age. Further the publishers had placed an arbitrary 13+ on the book and some booksellers had changed that to 15 because of the content. The editor also stated the excerpts were only available to those with the requisite technology and the link stimulated the debate.

Finally the editor stated the headline was accurate.

Decision

We do not consider that the *Herald on Sunday* breached the principle of accuracy, fairness and balance. This was not a review of the book as we have already noted. Rather it was an article that highlighted concerns expressed by some people about certain passages and themes in the novel. Fairly, the article reports opposing views. All the QR code does is to enable readers to access passages that are the subject of the widely differing views expressed in the article and allows them to form their own views. That opinion varied is clearly evidenced in material subsequent to the article made available to the Council.

When Principle 3 dealing with children and young people is read it is clearly dealing with a situation far removed from the present complaint. It states there needs to be exceptional public interest to override the child or young person's interests. It is aimed at protecting an individual or small group in much the same way as reporting restrictions for complainants in sexual cases before the courts. Here it appears the complainant seems to be alleging that the QR code makes the "dirty bits" (his words) more accessible to young people. There is a certain irony in that. In any event the book was, and is, available for sale on an unrestricted basis. There is no breach of this principle by the *Herald on Sunday*.

Finally, even if the complainant had maintained his claim of breach of principle 5 we would not have upheld it. The simple fact is that the headline is accurate and fairly conveys key elements of the article.

It was unfortunate that the newspaper did not initially indicate the excerpts were three separate passages, however

the Council doubts that such clarification would have altered the thinking of either the pro or anti lobbies. As soon as the issue was raised with the editor the online copy was amended, and the Council finds this to be a reasonable response.

The complaint alleging breaches of principles 1, 3 and 5 is not upheld.

Press Council members considering this complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Penny Harding, Clive Lind and Stephen Stewart.

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

CASE NO: 2344 – BOUNLARN KHAMWANTHONG AGAINST THE NEW ZEALAND HERALD

Bounlarn Khamwanthong complained to the Press Council about a *New Zealand Herald* column which he said damaged his business and his reputation. The complaint is not upheld.

Background

The 'Sideswipe' column published in the newspaper and online on July 24 quoted a café customer who said some of her leftover pizza, which she was hoping to take home, had been eaten by a staff member.

Complaint

Mr Khamwanthong disputed the customer's account of what happened, saying his staff were not in the habit of eating leftover pizza. In this case the customer's pizza had been mistaken for a staff pizza.

He said that the column had identified his café and damage had been done to his business and reputation.

He complained that he was unable to post comments to the online version disputing the customer's account of what happened and about the delay in getting *Herald* staff to respond to his concerns.

Nor was Mr Khamwanthong happy with the *Herald* publishing his version of events in the Sideswipe column the following day. He had wanted his posts published instead.

The Newspaper's Response

New Zealand Herald editor Shayne Currie said the original item in the column was accurate and materially true in the eyes of the customer. A staff member ate at least one piece of pizza that was meant to have been packaged up for the customer to take away.

But, regardless, he said the newspaper had dealt with Mr Khamwanthong's complaint swiftly, fairly and appropriately.

Neither Mr Khamwanthong nor his café had been named and Mr Currie did not accept the café was readily identifiable.

He said Mr Khamwanthong's posts had not been published because the newspaper's online comments section was not the appropriate forum for a 'tit-for-tat' with *Herald* readers.

Instead, the online article was amended and the newspaper followed up with a further item in which Mr Khamwanthong's version of events was published.

Decision

The Press Council accepts that the newspaper responded appropriately to Mr Khamwanthong's complaint with an item in the next day's Sideswipe column giving his account of what happened, and by amending the online version of the original item. An earlier amendment to the online version might have avoided a complaint to the Press Council.

The complaint is not upheld.

Press Council members considering this complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Penny Harding, Clive Lind and Stephen Stewart.

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

CASE NO: 2345 – A COMPLAINT AGAINST THE SOUTHLAND TIMES

The complaint alleges *The Southland Times* failed to comply with Principles 3 (children and young people) and 10 (photographs and graphics) of the Press Council Statement of Principles in relation to a story published on 2 July 2013. The story was headed "Leotards on kids going too far – Esler".

The Press Council upholds the complaint.

Background

The story related to comments by an Invercargill City Councillor Lloyd Esler to the effect that young girls were being "sexualised" by wearing tight leotard costumes in aerobics and similar competitions. The story reported Mr Esler is saying that "about" four parents had told him they felt that the leotard costumes their children wore during the Sport Southland Aerobics and Hip Hop festival in June were inappropriate. The story also claimed that one of the parents refused to allow her daughter to compete, presumably for this reason. Mr Esler was reported as also saying he had seen a photo in a newspaper showing children in shorts and tops instead of leotards and thought they were a more appropriate costume.

Mr Esler was reported as saying that he wanted *The Southland Times* to adopt a "policy" not to publish pictures of children wearing such costumes. Others disagreed. Comments from the Sports Southland chief executive and the principal of a local school were published to the effect that children had been wearing leotards for years and there was nothing untoward about it.

The story carried a photograph with the caption "Too far…". The photograph showed three young girls dressed in leotards competing in the Sport Southland event.

The Complaint

The complaint contends that *The Southland Times* "acted unethically" by attaching the photograph to the article. While not complaining about the story itself the

complainant claims *The Southland Times* was wrong in publishing the image essentially because it drew an unwarranted and inappropriate connection between the sexualisation claims and the three children pictured. The image "caused pandemonium and hysteria to the detriment of [those photographed]." The photograph was taken while the three children were performing at a regional aerobics competition. If the image was to be published it should have appeared just in association with the sporting event and not in relation to Mr Esler's claims.

The complainant says that "rather than looking back on achievement and success, [one participant] now associates the whole experience [of performing] with feelings of shame and embarrassment".

The Response

The Southland Times responds by saying that this story was "an important news issue raised by a city councillor". The photo in question, which was reproduced at the bottom of the story, is one the newspaper had in fact previously published when reporting on the aerobics competition. The newspaper said the image had been "scaled down" to remind readers of the costuming but without inviting particular attention to the faces of the dancers. The dancers were not named.

The newspaper claims that if the faces of the dancers were obscured it would only have heightened interest and suggested the girls' dress and movements were salacious or immodest when they were not. Essentially the newspaper claimed it was necessary to publish the photograph to enable readers to judge the concerns of Mr Esler and his fellow complainants.

The Decision

Principle 3 provides that *in cases involving children and young people editors must demonstrate an exceptional public interest to override the interest of the child or young person.*

Principle 10 provides that *editors should take care in photographic and image selection and treatment….*

There is no issue as to the story's content. The councillor had made statements which were contentious. His comments were balanced with remarks from those who held opposing views. The issue is simply whether the particular photograph of the three young girls should have been published in conjunction with the story.

The Press Council does not think it should have been. The Council accepts the claim that at least one of the children was readily identifiable although not named. There was no need, in the Council's view, for this particular image to have been used so as to allow readers to make the comparison the newspaper refers to. Another, less "personalised", image would likely have been available for the purpose. Principle 3 requires newspapers to demonstrate "exceptional public interest" to override the interests of a child or young person. The prospect that these children were known in the local community should have warned the newspaper against publishing the image in this context. Principles 3 and 10 in this case combine to have required *The Southland Times* to be more sensitive than it was.

The complaint is upheld.

The photograph concerned is currently illustrating the article on Stuff. The Press Council rarely requests that material be removed from online news-sites however, in this case, the photograph should be removed from the website. The online story should note that the photograph has been removed as a result of a complaint to the Press Council and that the Press Council decision is available at www.presscouncil.org.nz

Press Council members considering this complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Penny Harding, John Roughan and Stephen Stewart.

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

CASE NO: 2346 – JOHN NELSON AGAINST THE DOMINION POST

John Nelson's complaint followed an incident in Wellington in which a greyhound attacked a small dog which subsequently died. The Wellington City Council, having asked the owner of the dead dog if she wished to make a formal complaint (she did not) then decided not to prosecute the greyhound's owner. Mr Nelson argues that the Council 'are not really serious when it comes to considering prosecuting the owners of dogs that kill other animals, and are prepared to resort to manipulation and deceit to avoid such action'. The fact that the Council did not tell the dead dog's owner that the greyhound had been responsible for the death of a cat seven months earlier was seen by Mr Nelson as evidence of his allegation.

His complaint against *The Dominion Post*, to distinguish it from his unhappiness with the Council's 'policy', is that in failing to give what he sees as the full background to the story the paper 'misled' the public. He further complained that the editor had not published a letter in which he had given some of the facts which he believed were relevant to his argument.

The editor, in responding to the complaint, argued that the paper's reporting of the incident of the dog attack and of the reporter's discussion with the City Council spokesperson were both accurate, and she rejected the suggestion that the paper had misled its readers. She enclosed copies of the relevant articles and four letters to the editor which had been printed which expressed a variety f views about greyhounds and dog attacks.

The initial article on the attack included a sidebar headed 'Dog Control' in which the first item read 'Under Wellington City Council's Dog Policy 2009, the council will consider prosecution if there is serious and sufficient evidence that a dog has caused significant damage or injury to any person or animal.' While there is no suggestion that the quote is inaccurate, it is clearly open to being interpreted in different ways.

On Mr Nelson's broader complaint, the Press Council concedes that there may be others who would agree with his feelings about dog attacks and the way the local council

implements its dog policy. While we have some sympathy for Mr Nelson's views it is a matter between him and Wellington City Council and not *The Dominion Post*. The Press Council is not persuaded by his argument that *The Dominion Post* has an 'agenda' in giving covert support for the way council deals with dog control. It accordingly does not uphold the complaint.

The Press Council has consistently ruled that newspapers have discretion on whether to publish a letter to the editor. Mr Nelson's complaint in that respect is not upheld.

Press Council members considering this complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Penny Harding, Clive Lind, John Roughan and Stephen Stewart.

CASE NO: 2347 – ANDREW VAN DER VOORT AGAINST THE DOMINION POST

Andrew van der Voort complained that a column in *The Dominion Post* commenting on the shooting of an unarmed black American teenager, Trayvon Martin, by a neighbourhood watch volunteer, was biased and inaccurate on several points.

Mr van der Voort considered the columnist, Rosemary McLeod, was factually wrong to describe the accused man, George Zimmerman, as "white" when he was Hispanic, wrong to describe him as a "vigilante" and misleading when she said Trayvon Martin had been confronted with a gun. The complainant understood the weapon had been concealed when Mr Zimmerman approached the teenager and the gun was produced when they began fighting.

Mr van der Voort said the column was biased when it referred to criminal allegations against Mr Martin as a "claim", and he considered it a further inaccuracy to say the young man was killed because he made Mr Zimmerman nervous.

In response, the editor of *The Dominion Post* pointed out that "white" and "Hispanic" are not mutually exclusive terms. She said the US Census does not recognise Hispanic as racial group. The Census Bureau had explained that, "Persons who report themselves as Hispanic can be of any race and are identified as such in our data tables." Mr Zimmerman's father was white and his mother was Peruvian. In a phone call made by Trayvon Martin on the night he died it was clear he believed the man following him was white.

The editor noted that Mr Zimmerman had been described as a "vigilante" by the prosecution at his trial, where it appeared on the evidence that he had departed from normal neighbourhood watch practice. A columnist was entitled to take a different view from the jury.

As to the question of whether Trayvon Martin had been "confronted by a very large white man with a gun", the editor argued there was no dispute that Mr Zimmerman had a gun when he confronted him.

The Council agreed with the editor on each of these issues. The column was entitled to describe Mr Zimmerman as white in this context. It was fair to call him a vigilante, a word the complainant associates with seeking vengeance. Its meaning is broader, referring to an unauthorised person who takes the law into his own hands. It is clear in reports of the trial that Mr Zimmerman went beyond a neighbourhood watch brief.

The columnist had a right to express her opinions about the allegations against Mr Martin and on Mr Zimmerman's supposed state of mind. The Council did not agree that the reference to being confronted with a gun necessarily implied the gun was visible at the outset, some members found the wording ambiguous.

The column was a strongly phrased opinion on an incident that had attracted a great deal of concern in the United States and worldwide. The column breached none of the Press Council's principles governing publication of opinions. The complaint was not upheld.

Press Council members considering this complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Penny Harding, Clive Lind, John Roughan and Stephen Stewart.

CASE NO: 2348 – PETER WARING AGAINST DOMINION POST

Peter Waring claims that *The Dominion Post* breached Principle 1 (Accuracy, fairness and Balance) and Principle 9 (Conflicts of Interest) in an article published on July 18, 2013.

This complaint is not upheld.

Background

The article, published on the World page, was sourced from Associated Press, acknowledged by AP at the foot of the article, and carried the by-lines of the two contributing journalists.

The article covered the "spy network" exposed by Edward Snowden and commented that those who criticize "a US-led intelligence network go quiet when they realise its worth". The spy network commonly known as Five Eyes, is a group of five English speaking countries that includes New Zealand. The article included quotes from sources in the countries where the Five Eyes system operates.

It was one of many published in newspapers throughout New Zealand at that time, presenting views from both sides of the debate, regarding proposed legislation to extend powers given to the GCSB being considered by Parliament.

Complaint

The complainant believed that publishing the article without any indication of the authors' status, expertise or affiliation and the "bolding" of their names, indicated that "*The Dominion Post* is satisfied with the validity of their expertise on the topic and believes that their views deserve readers' attention" and that in publishing the article without the inclusion of the authors' background and affiliations deprived readers of important information on the background to the article and hence how much notice should be taken of the views expressed.

He went on to state that given the fact that *The Dominion Post* had been supporting a reporter in a recent incident where her information was obtained without her knowledge or permission, the article showed the newspaper as '"having an inclination to hunt with the hounds and run with the hares" when it published an article supporting the "spy system".

The complainant believed that it was doubtful that the authors, of their own knowledge, could, or would, write the article without input from an undeclared government agency.

The Newspaper's Response

The editor responded that the newspaper was happy with the standard of articles published by AP and other overseas outlets to which *The Dominion Post* had clipping rights. The newspaper had no knowledge of the writers' political views and did not intend to seek this information.

The newspaper believed that "readers are sensible enough to divine for themselves which – if any – viewpoint that the newspaper's correspondents are coming from and able to accept the arguments they formulate or dismiss them".

Decision

The issue of the spy networks and New Zealand's involvement in intelligence gathering via the GCSB and its alliance with other intelligence gathering agencies in the Five Eyes network has been the subject of fierce debate within New Zealand with those who support it and those who do not.

This debate was brought to a head with a proposed extension of powers given to the GCSB in legislation put forward by the government which occurred alongside an expose from a former employee of an agency of another Five Eyes country, and actions of the GCSB that were outside their legislative powers at that time.

There were numerous articles published in newspapers throughout New Zealand and much debate throughout the country with proponents on both sides of the debate.

In regards to Principle 1, the article is one of many that covered both sides of the ongoing debate and as such does not constitute a lack of accuracy, fairness and balance as set out in Principle 1 of the Press Council Statement of Principles.

In regards to Principle 9 (Conflicts of Interest), this complaint does not meet the requirements of this Principle. The article was by-lined to two regular journalists and no further declaration was required.

It is the job of a newspaper to present a fair and balanced coverage of both sides of the debate. This is not "hunting with the hounds and running with the hares" as alleged by the complainant but rather the newspaper doing what it is supposed to do – covering both sides of any debate.

The complaint is not upheld.

Press Council members considering this complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Sandy Gill, Penny Harding, Clive Lind, John Roughan and Stephen Stewart.

CASE NO: 2349 – KAY DAVIDSON AGAINST HOKITIKA GUARDIAN

Kay Davidson complained about a letter that she had written to the *Hokitika Guardian* having a signature appended by the editor that linked her to a group. She had not signed her letter thus.

Background

On September 23, 2013 the *Hokitika Guardian* published an article concerning a campaign photograph used in publicity for a local body candidate group named Westland's Future. The photograph, also published in the *Guardian*, showed seven team members standing on a railway track. Kiwi Rail had pointed out that the group was trespassing by being on the rail tracks and putting themselves at risk by doing so. The leader of the group had apologised to Kiwi Rail saying they hadn't realised at the time that what they were doing was illegal.

Concerned by aspects of the article, Ms Davidson wrote a letter to the paper. She pointed out that locals regularly crossed or walked along the tracks as they knew when the few trains used the track, Her letter was published in the *Hokitika Guardian* on September 24. Her signature had been amended by the editor to show "Kay Davidson, Westland's Future, Hokitika". She had signed only as Kay Davidson. She said she was a volunteer member of the team but not a candidate for local body elections nor a public spokesperson for the team.

She emailed the editor immediately expressing her concern about the incorrect inclusion of her link to the Westland's Future team; reiterated that she had written as a private individual not a spokesperson for the team, and requested a correction be printed. The editor replied that he considered her 'close association' with the team as relevant.

Ms Davidson rebutted the editor's statement, indicating that she was 'just a typist for the team, nothing more than that' and that they were unaware she was writing the letter. She reiterated concerns she had about the tenor of the article in its mention of trespassing and fines because the group in the photo had been standing on railway lines, whereas this was a common practice by locals crossing the tracks on the rarely-used line.

The editor replied that regardless of whether Ms Davidson was 'just a typist', she was closely aligned with the group and 'your letter needed to be appended as such. Sorry, but that's how it is.'

The Complaint

Ms Davidson then contacted the Press Council, citing principles of accuracy, fairness and balance in terms of her own personal communication, and discrimination in that she was not permitted to 'speak in my own right'. She was NOT speaking on behalf of the group. She included the principle of comment and fact having been breached, as she is not a spokesperson for the group.

Response

The editor's response indicated that during the local body elections, written responses to queries about the team were

'often' provided by Ms Davidson on behalf of various candidates. He felt that readers deserved to know she had 'more than a passing interest in this matter' as her letter had criticised possible action by rival candidates. He had allowed Ms Davidson a lengthy letter so she could more fully convey her argument.

In her final comments, Ms Davidson held to her argument that the letter had been from her as an individual and claimed that she had replied to queries from the *Hokitika Guardian* during the local body elections only twice, as key people were unavailable for various reasons.

Decision

In her initial complaint, Ms Davidson described herself as a volunteer member of the Westland's Future team 'as typist, web developer, publicity officer and general jack of all trades'. In her letter to the *Hokitika Guardian*, she had suggested that the offending article had occurred because 'it appears very likely to me that an opponent of the Westland's Future team (or one of their supporters, either a mayoral or an individual candidate) has seen fit to forward' the brochure containing the track-side photo to Kiwi Rail. She further suggested that 'it has been done solely for political gain by the person or persons involved'; hence the letter had a clearly political intention.

The Press Council agrees with the editor that readers do deserve to know any relevant affiliations of letter-writers, particularly during election campaigns. In similar situations previously, editors have added a footnote to the letter, signed by the editor, indicating an affiliation. In this case the editor should have followed this process instead.

The Council accepts that Ms Davidson's letter was submitted as a personal view, and that for the paper to identify her in a way that could have caused her letter to be seen as an official Westland's Future team view was unfortunate.

However, given the overtly political content of the letter, the Press Council finds that the affiliation was worthy of noting.

The complaint is not upheld.

Press Council members considering this complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Peter Fa'afiu, Clive Lind, John Roughan and Stephen Stewart.

CASE NO: 2350 – HELEN HINDMARSH AGAINST THE ROTORUA REVIEW

1. Ms Hindmarsh complains about inaccuracy, unfairness and bias in the *Rotorua Review*'s coverage of her candidacy for the Rotorua District Council in the recent local government elections.

2. The Press Council does not uphold the complaints.

Background

3. Ms Hindmarsh stood for election both as Mayor and as a councillor for the Rotorua District Council in the recent local body elections.

4. In the weeks before the election, the *Rotorua Review* invited candidates to make their policies known to the public by providing answers to two questions. The same questions were put to mayoral and to council candidates, but the former were asked to respond in 100 words while the latter were only allowed 50.

5. On 4 September 2013, the *Rotorua Review* published the answers of 26 council candidates to the first question. It did not include the answers given by Ms Hindmarsh or by another mayoral candidate who was also standing for election as a councillor. A previous issue had published the responses of the mayoral candidates, including Ms Hindmarsh.

6. Answers to the second question were published on 2 October 2013. Again answers from the same two candidates were omitted, but this time there was a note to the article stating that they were standing for both mayor and council and had answered the question the previous week when it was put to mayoral candidates.

7. The *Rotorua Review* appears to have published extensive coverage of the local body elections, including reports on 11 and 25 September 2013. The 11 September report is accompanied by a photograph of four of the mayoral candidates, including Ms Hindmarsh, seated in front of an audience at a Greypower event. The 25 September article is a report on three forums for mayoral candidates

Ms Hindmarsh's complaints

8. Ms Hindmarsh complains of three specific instances of inaccuracy, unfairness or bias:

   a. *It was unfair to deny her the opportunity to provide a 50-word answer so that her policies could be compared with those of other council candidates.*

Ms Hindmarsh says that the mayoral and council positions were two very different roles and answering the question required two different perspectives. Unless all council

candidates were given the same opportunity, the public could not fairly compare and contrast the responses, given the difference in publication dates and the different perspectives.

In addition, the first article stated that only 26 of the 31 council candidates had risen to the challenge of responding, thereby implying that she had not risen to the challenge.

b. She was incorrectly quoted as having made a racist statement, citing "the Eastern Arterial Controversy as an example of RDC "doing things the Pakeha way".

She did not make the statement attributed to her and referred to her pre-published speech, which did not include it. She abhors the word "pakeha" and to suggest she would use it is both wrong and suggestive of racism.

c. The photograph published in the 11 September report is objectionable.

The photograph was taken from an angle only visible to the photographer and shows a good deal of Ms Hindmarsh's upper leg. She accepts that her dress was too short but in the interests of common decency, the photograph did not have to be published.

The Rotorua Review response

9. The *Rotorua Review* did not accept that it had been inaccurate, unfair or biased.

10. It had explained to candidates that the same questions would be put to mayoral and council candidates but that because of space limitations, mayoral candidates would be permitted 100 words and council candidates 50 for their responses. It does not accept that answering the very general questions required differing perspectives and submits that it would be unfair to allow Ms Hindmarsh 150 words to answer the questions when other candidates had only 100 or 50.

11. It had addressed some of Ms Hindmarsh's concerns by inserting the footnote in the 2 October article.

12. The reporter who wrote the 25 September article took notes at the mayoral forum and reproduced the statement attributed to Ms Hindmarsh from those notes. The forum in question was one hosted by Maori in Business, while Ms Hindmarsh's published speech was given at a different event, hosted by the Chamber of Commerce.

13. The photograph was taken at a public event. The appropriateness or otherwise of Ms Hindmarsh's dress is not something that should be addressed by the *Rotorua Review*.

Discussion

The candidates' responses to the Rotorua Review questions

14. The questions put by the *Rotorua Review* to candidates were very general. They included "what is the number one concern you are hearing from voters and how do you plan to address it?" and "what is your vision for Rotorua's future?" It is difficult to see that they would have required to be answered from differing perspectives by mayoral and council candidates.

15. In addition the *Rotorua Review* has a valid point in saying that accepting Ms Hindmarsh's request would have given her an unfair advantage by having 150 words to express her views.

16. It is unfortunate that the first article setting out the answers given by council candidates did not explain that readers should refer to the article on mayoral candidates for the views of those standing for both mayor and council. While the heading to the article is not quite as Ms Hindmarsh quotes it (it does not mention the total number of candidates but says that "these 26 rose to the challenge"), there could be an implication that Ms Hindmarsh had not supplied answers to the questions.

17. However the answers of the mayoral candidates (including Ms Hindmarsh) to the same question had already been published in a previous issue of the newspaper so that readers interested in the local elections would have been unlikely to think she was not prepared to answer questions. The position was put beyond doubt by the publication of the footnote to the 2 October article.

The statement on the Eastern Arterial controversy

18. It is obvious that the 25 September article is a report on three mayoral forums. It begins "Six days, three forums and two straw polls" and continues with a brief report on each of the forums. The remarks attributed to Ms Hindmarsh appear on the report on the Maori in Business forum.

19. Accordingly Ms Hindmarsh's script of her address to the Chamber of Commerce is of no assistance in determining this issue.

20. There seems to be no reason to doubt that the reporter recorded the import, if not the actual words of Ms Hindmarsh's address. She may or may not have used the word "pakeha", but its use is not inherently racist, any more than the use of the word Maori is racist.

The photograph

21. The photograph was taken at a public event and there is no suggestion that it is not an accurate record of Ms Hindmarsh's appearance at the event.
22. The Press Council is not an arbiter of taste and there is no identifiable breach of the Press Council principles.

Conclusion

23. The Press Council does not uphold Ms Hindmarsh's complaints

Press Council members considering this complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Peter Fa'afiu, Clive Lind, John Roughan and Stephen Stewart.

CASE NO: 2351 – HELEN HINDMARSH AGAINST ROTORUA DAILY POST

1. Helen Hindmarsh complains that there was inaccuracy, unfairness and bias in the *Rotorua Daily Post*'s coverage of issues related to the recent local government elections.

2. The Press Council does not uphold the complaints.

Background

3. Ms Hindmarsh stood for election both as Mayor and as a councillor for the Rotorua District Council in the recent local body elections.

4. *The Daily Post* carried extensive coverage of the election campaigns and Ms Hindmarsh says that as early as January 2013 it was referring to certain people as mayoral candidates.

5. Before the election, the *Daily Post* announced that it would provide full coverage of the elections and the build-up to them, but it would not publish columns or letters to the editor written by candidates. It appears that it did provide considerable coverage, including the articles about which Ms Hindmarsh complains.

6. On 4 September it published a report of a mayoral forum, including three paragraphs about Ms Hindmarsh's contribution:

   - That Ms Hindmarsh and another mayoral candidate had not received questions to be put to the candidates and were unprepared.
   - That Ms Hindmarsh was keen to promote Rotorua's old motto of "tatou tatou" and the work she was doing on a museum.
   - That "75 per cent of businesses in Rotorua were owned by a man from Taupo, which was not ideal". Rotorua needed to work together to "remove the power this person has". Earthquake strengthening requirements would make it even harder for retail to make a comeback.

7. On 19 September it reported another debate at which a straw poll was taken after the candidates had addressed the meeting but before they had answered questions, with the results given after the questions had been answered.

8. On 24 September there was a report of a further forum. Ms Hindmarsh was reported as

   - Telling the audience of her background in martial arts and helping run a small business with her husband
   - Saying "I am the yin to your yang . . . I meet the need to satisfy your want"
   - Saying the Eastern Arterial route should be removed, Te Ngae Road upgraded and a new emphasis put on rail freight to the Port of Tauranga
   - Telling the audience that leadership was all about inclusion and equality

9. On 25 September, the *Daily Post* published a column written by a person described as a political and media studies student based in Rotorua. The article included an invitation to readers to visit the author's blog where he outlined his views on candidates for the local election. A second column by the same author was published on 3 October and also included the address of his blog.

Ms Hindmarsh's complaints

10. It was unfair, biased and inaccurate to describe anyone as a mayoral candidate before they had been nominated (and before nominations had opened). *The Daily Post* had continuously reported Steve Chadwick's views and policies and described her as a mayoral candidate since January 2013, thus giving her an unfair advantage over other candidates who might not yet have identified themselves.

11. It was unfair to refuse to publish letters from candidates in the "letters to the editor" column. This would stifle community debate on the issues relevant to the campaign.

12. The 4 and 24 September reports of speeches she made at mayoral forums are inaccurate, demonstrate bias against her and do not fairly reflect the content of her speeches. The 19 September article is also inaccurate.

The 4 September article

13. She had not received the questions before the meeting, but this did not mean that she was unprepared.

14. She mentioned the principle of "tatou tatou" in the context of the Eastern Arterial expressway and the need for a combined approach to NZTA.

15. Her reference to her museum project was one of three examples of her ability to plan long term. The report implied that she was seeking office in order to be in a position to promote the museum as a commercial project.

16. She said 75 percent of buildings in the CBD, not 75 percent of businesses, were owned by a man from Taupo. She did not make the remark about removing the man's power, and her discussion of earthquake strengthening was in the context of landlords' costs not retailers' costs.

The 24 September article

17. The article reported her opening comments as if they were policy statements, while other candidates' policies were treated more seriously.

18. It was discriminatory to report her 25 years of business ownership as helping run a business with her husband.

19. She had said that leadership was about inclusion and equality, not "all" about inclusion and equality.

The 19 September article.

20. After the straw poll had been taken, questions were asked of the candidates. Ms Hindmarsh says she was questioned aggressively about the remarks that had been misreported on 4 September and was able to "clear the air" about them. It was unfair to report that the poll had been taken after the questions. She had requested a correction of the article, but her request was declined.

21. On 25 September and on 3 October the *Daily Post* published articles in which readers were invited to visit a blog which contained offensive and disparaging remarks about her.

The Daily Post response

22. *The Daily Post* did not comment on the first complaint, having been advised by the Press Council Executive Director that it was out of time.

Letters to the editor

23. The editor of the *Daily Post* explained that he had decided to close the "letters to the editor" column to candidates as he wished to have it available for readers to discuss election issues. There were a large number of candidates and their campaigning letters would have dominated the small opinion pages. All candidates were given extensive and fair coverage.

The 4 September article

24. Two of the candidates had not received the questions and it was therefore accurate to say they had not been able to prepare answers.

25. There was only room to run a few points per speaker. *The Daily Post* would have been happy to address Ms Hindmarsh's concerns, but she walked out of a meeting with the chief reporter and despite a request from the editor, did not provide specific examples of her concerns.

The 24 September article

26. Ms Hindmarsh ignored the part of the report that addressed some of her key policy points.

The 19 September article

27. The report was accurate. Ms Hindmarsh in incorrect in stating that the report said the poll was taken after questions.

The 25 September and 3 October articles

28. The complaint appears to be largely about the content of the blog, which is not the responsibility of the *Daily Post*. The articles ran on the opinion page in a spot always used for guest columns and are opinion pieces. *The Daily Post* presents a variety of voices in its clearly marked opinion pages and does not necessarily agree with or endorse the opinions expressed.

Discussion

29. Ms Hindmarsh's first two complaints fall outside the time frame for making complaints as set out in the Press Council Principles. In general, complaints must be made within one month of the event complained about.

30. As a matter of general principle, there seems no reason why media should not refer to those who have declared their intention to stand for election as "candidates" nor why an editor should not limit access to the "letters to the editor" page for political candidates. It is important that all candidates are treated fairly and given an equal opportunity to put their views through local media, but the *Daily Post*'s policies appear to apply to all candidates, and from the material supplied by both parties to this complaint, it is clear that it gave extensive coverage to all the mayoral candidates and the debates in which they participated.

The 4 September article

31. It seems entirely reasonable to report that candidates have been disadvantaged by not being given advance notice of questions, and accurate to say that they are therefore unprepared. The context of the remark does not support Ms Hindmarsh's contention that it meant she was generally unprepared for the forum or was unable to give effective answers to the questions.

32. There is more weight to her remaining complaints, particularly about the report that she was concerned to promote her museum project, with the implication that she was seeking office for personal gain. This and the "tatou tatou" remark appear to have been taken out of context. In addition, as Ms Hindmarsh states, it would be ridiculous to assert that 75% of businesses in Rotorua are owned by one person, but much more credible that 75% of CBD retail properties are in a single ownership.

33. It seems likely that there was a degree of inaccuracy in the 4 September article.

The 25 September article

34. Ms Hindmarsh has supplied the text of the address she gave on 24 September. It confirms the mention of her martial arts experience and the ""yin to your yang" remark. These were no doubt meant to attract the attention of the audience and set the context for her subsequent remarks. There seems no question of bias or unfairness in reporting them, particularly as the report goes on to describe some of her policies.

35. The report that Ms Hindmarsh told the audience about "helping run a small engineering and manufacturing business with her husband" is of more concern. It does not accurately describe her statement that she had been a business co-owner with her husband for 25 years.

The 19 September article

36. The report of the straw poll is accurate in that the article states that the result of the poll came after the questions from the floor. It does not say when the poll was taken. Ms Hindmarsh may or may not be right to imply that the result of the poll would have been different if it had been taken after the question and answer session, but the timing of the poll was not the *Daily Post*'s responsibility.

The 25 September and 3 October articles

37. These articles are clearly opinion pieces. They appear in a position reserved for opinion and it was made clear that the writer was not a *Daily Post* employee. The first column is about the local elections and in itself is unexceptionable, but it contains an invitation to visit a blog that includes negative views about Ms Hindmarsh's candidacy. The second column is not about local politics at all, but incudes the same blog address.

38. *The Daily Post* is not responsible for the content of the blog, and neither does the Press Council have jurisdiction over it, so the only question is whether it should have permitted the writer to publish the link to the blog. Given that the material in the blog, while strongly expressed, is no more so than some opinions that are regularly published in the traditional media, there seems no point in considering this issue further.

The Daily Post response

39. Both Ms Hindmarsh and the *Daily Post* agree that as a result of her complaints about the 4 September article she was invited to meet the chief reporter but left the meeting before they had been fully discussed. She then emailed the editor and was invited to specify the incorrect statements in the report.

40. While Ms Hindmarsh responded to the invitation, she did not specify the inaccuracies beyond saying that "every statement attributed to me beyond not receiving the questions in advance was inaccurate."

Conclusion

41. Ms Hindmarsh's first two complaints are out of time for Press Council consideration**.** But as a general principle the Press Council endorses the editor's right to close the letters column to candidates.

42. Most of the matters of which Ms Hindmarsh complains do not amount to a breach of the Press Council Principles.

43. There was a degree of inaccuracy in the report of the 4 September meeting, though not as much as claimed by Ms Hindmarsh. However she did not take up the two opportunities she was offered to specify her concerns and have them addressed – she left the meeting with the chief reporter and did not respond with appropriate detail to the editor's email.

44. There remains the remark in the 24 September article about Ms Hindmarsh's business experience. While this is of concern, it is not sufficient in itself to make a finding of inaccuracy or bias.

45. For these reasons the Press Council does not uphold Ms Hindmarsh's complaints

Press Council members considering this complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Peter Fa'afiu, Clive Lind, John Roughan and Stephen Stewart.

CASE NO: 2352 – ARTHUR KORONIADIS AGAINST THE DOMINION POST

1. Arthur Koroniadis claims *The Dominion Post* failed to comply with Principles 1 (accuracy, fairness and balance), 5 (headlines and captions) and 11 (corrections) of the Press Council Statement of Principles in relation to stories published on July 16 and September 17, 2013. The July 16 story was headed "Developer's loan default costs big". The September 17 story was titled "CBD site well suited to smaller businesses".

2. The Press Council does not uphold the complaints.

Background

3. The July 16 story referred to a High Court judgment whereby Mr Koroniadis had been ordered to pay "more than $1m plus interest and costs" to the Bank of New Zealand after his company had defaulted in making loan payments. The company, now in receivership, had borrowed from BNZ with the debt being secured over a property at Edward Street, Wellington. The property had been put up for sale at the request of the company's receiver. The Bank had pursued Mr Koroniadis, he having guaranteed the company's borrowings.

4. The September 17 story focused on the property's being up for sale and the fact that a deadline for offers was about to expire. This second story referred to the judgment against Mr Koroniadis.

The Complaint

5. Mr Koroniadis says that:-

(a) the July 16 story headline was wrong. It referred to him as a property "developer". Mr Koroniadis claims he had never been a "developer". Rather, he was "full time student". This labelling, a negative one, discredited him "in the eyes of the public". Mr Koroniadis says that a colleague approached the newspaper on the day the story ran asking for the reference to be corrected. Mr Koroniadis followed this aspect up himself on August 15. It was only then that *The Dominion Post* published a correction to the effect that Mr Koroniadis was not a property developer;

(b) the newspaper failed in both stories to refer to the fact another person was similarly liable as a guarantor for the debt subject of the judgment;

(c) the newspaper was in breach by failing to refer to the fact that the company in question was in liquidation as well as being in receivership. Mr Koroniadis says "potential buyers of the building and members of the public would have been misled" by this failure.

The Response

6. *The Dominion Post* responds, first, by saying it did correct the reference to Mr Koroniadis' occupation once the error was pointed out. It says that while Mr Koroniadis' colleague did contact the paper by phone on July 16 the discussion centred on other aspects of the article. The colleague did not refer to the headline as being misleading. Mr Koroniadis contacted the paper by email a month later to complain about the "developer" reference. The correction was published as soon as was practicable on August 31.

7. The newspaper says, secondly, that the Court judgment dated July 8, 2013 "concerned only Mr Koroniadis". The Court unhesitatingly found that Mr Koroniadis as a guarantor was liable for the amount in question.

8. The newspaper denies Mr Koroniadis' complaints over the absence of reference to the borrowing company's liquidation.

The Decision

9. The Press Council does not agree with Mr Koroniadis in relation to his complaint over the July 16 headline. It was not he, but rather his colleague, who contacted the newspaper over the 16 July story. The newspaper disputes Mr Koroniadis' account of the discussion between the colleague and the paper. The newspaper says it only become aware of the inaccuracy claim when Mr Koroniadis himself approached the newspaper on August 15. As a result of staff absences the correction was not run until August 31.

10. The Council is not in a position to determine what was canvassed during this conversation. The Council finds that the newspaper acted reasonably promptly when Mr Koroniadis himself pointed to the error. Even without the correction the Council does not accept Mr Koroniadis' claim that the public would view the headline reference in the way he describes. Mr Koroniadis was closely associated with a commercial property owning company which had failed to meet its obligations to its lender. The title attributed to him in this situation was of no moment.

11. With regard to Mr Koroniadis' second complaint the Council has read the Court's judgment. The judgment focuses on Mr Koroniadis' liability only. Judgment for the same debt had been entered earlier against the other guarantor. While the Court did not expressly say so it is clear the liability each guarantor had to the Bank was "joint and several" (meaning that each guarantor was liable for the whole debt and not just half or any other portion of it). The simple fact is that Mr Koroniadis was found to be liable to the Bank for an amount exceeding $1m. The fact a second person was liable for the

same amount is, in the Council's view, moot. The Council does not agree with Mr Koroniadis when he says that "reporting that a single person has been ordered to pay over $1m makes a more appealing news story than reporting that two people have been ordered to pay".

12. The Council sees no merit in Mr Koroniadis' claim that the stories were inaccurate because they failed to refer to the company as being in liquidation. Nothing would hang on this reference in the eyes of the newspaper's readers. Either way the company was in formal administration following a default in its part.

13. The Council does not uphold the complaints.

Press Council members considering this complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Peter Fa'afiu, John Roughan and Stephen Stewart.

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

CASE NO: 2353 – TARADALE HIGH SCHOOL AGAINST THE DOMINION POST

The Press Council has upheld a complaint from Taradale High School about the reporting of its NCEA results for year 13 level 3 students.

Under the headline *Boys slip further in school's co-ed class*, on August 12 *The Dominion Post* published a story and table about achievement rates in 2012 for NCEA level 3 students in its circulation area, with the table reporting on highest and lowest achieving schools. The table gave pass rates for the highest achieving schools, but failure rates for the lowest achieving schools.

Under the heading "Lowest Achieving Hawke's Bay Schools" the table listed Wairoa High School 43.8per cent not achieved; Dannevirke High School: 40 per cent; Taradale High School: 36.2 percent. The school complained that this conveyed a misleading impression that only 36.2 percent of its students had passed. In fact, 63.8 percent had.

The Complaint

School principal Stephen Hensman said the newspaper had misleadingly used two different measures in the same table. It had assigned pass rates to the schools labelled as "highest achieving", yet assigned rates of failure for those it labelled "lowest achieving".

"It is unfathomable that the *Dominion Post* chose to use the 'failure rate' and represent it as our 'pass rate', thereby indicating that little more than a third of our students had passed, when close to two thirds actually had."

Most readers he knew about had misinterpreted the statistics. The school, students and staff had been brought into disrepute. He asked for a published apology in the newspaper, and said it had failed to observe the Press Council's principle of fairness, accuracy and balance.

He also sent a letter to the newspaper, for publication, in a bid to correct the impression conveyed. This was published a week later, on August 19.

However, after correspondence with editor, Bernadette Courtney - in which he also said the first report disregarded "context" between one school year's results and another – he complained to the Press Council.

Newspaper's Response

Ms Courtney noted that the complaint said the *Dominion Post* had reported the school's results as 36.2 percent. "This is quite clearly not the case. As Mr Hensman's attached article shows, the 36.2 percent figure refers to those who did NOT achieve, not to the number who did."

The accuracy of the figures, which came from the NZQA, was not disputed by Mr Hensman or anyone else. The objection was purely in the presentation.

The NZQA figures originally showed the number of year 13 students who had NOT passed NCEA level 3. The newspaper decided to turn the figures around, to assist readers and also show how well most schools and students had performed. It aimed to show the rates of those who had successfully passed level 3, rather than those who had not. * See footnote.

The figures were also broken down into regions within the newspaper's circulation area, highlighting each region's top three and bottom three schools.

"However, when it came to the bottom three in each region, we stuck with the 'not passing' figures provided to us." Mr Hensman's complaint stemmed from his school being among the bottom performers in Hawke's Bay.

In correspondence with the school, she said the figures did not misrepresent student achievements "although I do accept that we would have been better advised to have used only one measure throughout."

"I am happy to give an undertaking that we will not be using that format again."

Commenting on the complainant's assertion that the figures had not been put into year-on-year context, Ms Courtney said it was unrealistic to expect a newspaper to detail why schools' figures differed year-to-year. People interested in the education sector would be familiar with the long running arguments about the data's value. Readers could make their own informed interpretations.

The newspaper was constantly looking at refining how it provided the annual data to readers, and the concerns of principals such as Mr Hensman would be taken into account next year.

"But providing the essential figures are correct - as they were in this case - we will not resile from publishing them, and we have seen no need to apologise for doing so."

She disputed the complainant's assertion that the figures published were inaccurate, unfair and unbalanced.

Press Council Decision

Readers were confused by the way in which the figures were presented.

The editor defends the newspaper's position, but acknowledges "we would have been better advised to have used only one measure throughout". The newspaper would not use that format again.

She defends the newspaper's report with the comment that anyone interested in the sector would be familiar with the long running arguments about the value of the data and make their own interpretations.

However, the school is aggrieved at the way it has been treated, and says most readers that it is aware of got the wrong impression.

While the *Dominion Post* did publish a letter to the editor from Mr Hensman a week after the initial report, this would have done little to mitigate the immediate effect.

A table provides readers with a quick and ready means of assessing data. But when a comparison is being made it is important that the data is presented in such a way as to make the comparison valid. The use of two differing measures of data in the same table was therefore confusing and misleading.

The editor contended the newspaper had aimed to show that most students had successfully achieved. However, Mr Hensman says most of his students did pass "yet the table and the story lead readers to believe the opposite."

The Press Council supports that view. The complaint is upheld.

Press Council members considering this complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Peter Fa'afiu, John Roughan and Stephen Stewart.

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

NOTE: Subsequent to the publication of this decision NZQA advised that NCEA results are published as rates of success not rates of failure. The newspaper accepted that the statement in their response was incorrect and apologised to the Press Council.

CASE NUMBERS: 2354, 2355, 2356, 2357 – CHARLIE SMYTH, SKRY ADAMSON, JAMES MACAODHGAIN AND JUSTIN DEVLIN AGAINST THE PRESS

The Press (Weekend) newspaper published an article on Saturday October 12, 2013 about health data from the Canterbury District Health Board (CDHB) concerning the increase in chlamydia in the region since 2011. The headline of the article was "Luck of the Irish has downside in sex-disease stats." The intro read "Irish workers helping with the rebuild are sharing the love but it seems they may also be helping to spread sexual disease."

The article was illustrated by a cartoon depicting two men in green coats heading into a doorway sign-posted STD Clinic from which emanated the song "If yer Irish come into the parlour."

The article was also published on Stuff.co.nz on the same date with the headline "Luck of the Irish has sex-disease downside."

Initial complaints to Stuff were responded to by Mark Stevens, editor of Stuff, who replied that it "wasn't the best use of figures/information" and some minor correction was made.

The Press Council also received several complaints/enquiries of which four, from Charlie Smyth, Skry Adamson, James MacAodhgain and Justin Devlin were considered at the November meeting.

The complaints are upheld.

The Complaints

Charlie Smyth's complaint is that both versions of the story were not an accurate reflection of the statistics, have caused considerable offence to the Irish community in New Zealand and overseas, and the accompanying cartoon was "derogatory and blatantly racist." Moreover, the article's author has caused further offence through some of her tweets.

He argues that the coverage breached Principle 6 (Discrimination and Diversity).

Skry Adamson complains that the article was not accurate including that the data was not reflected in the headline. The content of the article was also inaccurate in that the CDHB member did not say the increase was the fault of Irish migrants but that it was local women responsible.

The article was xenophobic and misleading causing more of a health issue through misinformation. He questioned how *The Press* could use such an offensive cartoon and claim it was for the good of the community. He asked that the article be removed from the Stuff website.

He argues that the coverage breached Principle 1 (Accuracy, Fairness and Balance), Principle 4 (Comment and Fact), Principle 5 (Headlines and Captions) and Principle 6 (Discrimination and Diversity).

James MacAodhgain complains that the online article was not accurate, the headline is incongruous with the story's content, the basis of the story was that of correlation rather than causation, the quotes from the CDHB member were "derogatory and sexist" and there was no reference to the statistics that supported the claims of the member.

He argues that the coverage breached Principle 1 (Accuracy, Fairness and Balance), Principle 4 (Comment and Fact), Principle 5 (Headlines and Captions) and Principle 6 (Discrimination and Diversity).

Justin Devlin's complaint is that the version of the story on Stuff.co.nz is a baseless article which, he argues, can be perceived as inciting hatred towards a race of people. The article focuses solely on the Irish although there were numerous other nationalities migrating to Christchurch.

He argues that the coverage breached the principles related to Comment and Fact and Discrimination and Diversity.

The Press Response

There were a number of exchanges between the complainants and Greg Ford, the Weekend editor. Joanna Norris, editor of *The Press*, responding to the Press Council said

- The paper acknowledged that there were problems with the story of October 12 in particular the introduction of the story which should not have stated that Irish workers were "spreading" sexual diseases;
- Recognising the fault in the story, an item (clarification) was published in the paper's Putting It

Right column in a later publication. In addition, the paper published two letters to the editor including from the President of the Christchurch Irish Society and published a piece from a regular columnist taking issue with the article. The paper had gone a long way in correcting any misinterpretation;

- It was regrettable that the headline may have suggested that a serious topic was being treated flippantly. It does not attribute any causation.
- Whilst the cartoon does "indulge itself with a stereotype", the paper does not accept that the cartoon was derogatory and blatantly racist. The editor does concede that it does give a "misleading impression" that the paper was being "offhanded about the matter";
- In terms of the data, the CDHB had recorded a higher number of Irish workers presenting at the clinic. That is factual and public. The collection of information involved Irish workers, understandable given the large number arriving in the city for the re-build effort;
- The CDHB will collect information of other nationalities and the paper will publish these as well. The matter is serious so it will report on the issue as more information comes to light;
- There was no intention to stigmatise any particular nationality and if the introduction conveyed that, then the paper acknowledges this and regrets it.

Decision

The article reported an increase in the number of confirmed cases of chlamydia in Christchurch. It also reported an increase in the number of Irish nationals making appointments for investigation and treatment, presumably commensurate with the increasing numbers of Irish in Christchurch as part of the rebuild. There was no statistical information given to support the statements linking the Irish to the chlamydia.

The article reported that in 2011 there had been 282 confirmed cases of chlamydia, and so far this year there were 320. However it also reported that an *additional* 500 people had been tested for chlamydia. Given an increase of only 38 cases (YTD) from 500 additional tests it is an unfounded assumption that an increase of Irish appointments at the clinic was indicative of their "spreading the disease."

In fact the article states "There are no concrete figures to analyse who is giving chlamydia to whom" and that a CDHB member said New Zealand historically had high rates of STIs and ***he guessed it would be local women passing infections on to rebuild workers rather than the other way round.*** (our emphasis).

The link between the Irish nationals and the chlamydia statistics was of the newspaper's making and not supported by any reported information. The Council upholds the complaints on this limb on grounds of Principle 1 Inaccuracy and Principle 4 Comment and Fact

Likewise the headline "Luck of the Irish has downside in sex-disease stats" is inaccurate and this complaint is upheld.

All the complainants alleged a breach of Principle 6 Discrimination. Given the misrepresentation of statistics and the treatment given to the story (headline, cartoon) it is difficult to see the whole as anything but discriminatory against the Irish. This complaint is upheld.

Cartoons are generally regarded as opinion and are given wide licence to offend. However, in this case the cartoon was not on the op-ed pages, but was an illustration for a news article. As such it does not attract the same dispensation. While it may have had appeal to some, in the context of what *The Press* said was a serious public interest story it was inappropriate at least, and offensive to many. In the context of this complaint the cartoon was an integral part of the article, and as such the complaint is upheld.

The final matter is the reporter's response, using Twitter, to those complaining about her article. She engaged with complainants in a manner that was flippant and rude. The Press Council views her response as highly unprofessional and would suggest the editor addresses this matter with staff.

Press Council members considering this complaint were Sir John Hansen, Tim Beaglehole, Liz Brown, Pip Bruce Ferguson, Kate Coughlan, Chris Darlow, Peter Fa'afiu, John Roughan and Stephen Stewart.

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

CASE NO: 2358 – LENNI AND NUU MAMEA AGAINST THE DOMINION POST

Lenni and Nuu Mamea's complaint stems from a web article published by *dompost.co.nz (Dompost)* on 24 August 2013. The complaint is widespread and alleges breaches of principles 1,2,3,4,5,7,8,9,10 and 11 of the Council's Statement of Principles.

The complaint is upheld, by a majority of 7:3, on breaches of Principles 1 and 11.

Background

With the complainants' encouragement their children have become talented singers, dancers, writers and performers. They have entered many competitions. One of these was sponsored by the Problem Gambling Foundation of New Zealand (PGF). They wrote a fictional story and poem about being victims in a family where the parents were problem gamblers.

PGF were impressed by the entry and arranged for the children, accompanied by their father, to present at a public symposium on problem gambling in Wellington. The children performed at the symposium and, in particular, one read a fictional poem dealing with the problems associated with gambling. They were also interviewed, with parental consent, by the reporter from the *Dompost*.

Accompanied by a photograph of the children this was reported on *Dompost* on 24 August 2013. It appeared under the headline "Kids speak out against problem gambling". The article quoted from the poem and referred to the award winning speech. It included "The Mamea family has been working with the Problem Gambling Foundation of New Zealand for two years, and the parents were recovering from the addictions." This of course was completely untrue. The story and poem were fictional and the complainants were not problem gamblers.

On 24 August the complainants emailed the reporter setting out the factual error in emphatic terms. It was responded to on 25 August by the *Dompost's* Head of News. The response effectively side-stepped the point that the children's presentation was fictional. In fact the Head of News questioned why the children were allowed to travel to the symposium to discuss the negative effects of gambling on "their family". On 26 August the Head of News emailed again stating the *Post* was in contact with PGF regarding the story but that in the meantime the story had been removed from the website. However, Google search results still showed the photo and header for the story even if the link was to a dead page.

Ultimately, PGF confirmed what the complainants were saying. PGF accepted it was an error on its part in not making clear the story was fictional. A correction and apology was published on the web site on 30 August and continued until 7 October, much longer than normal. It was in the following terms:- *"A story published here on 24 August incorrectly said [the children's] parents were recovering gambling addicts who were working with the Problem Gambling Foundation.*

[The children] performed at a symposium that was promoted as featuring children sharing their personal stories about the impact of gambling on their lives. The Problem Gambling Foundation now admits it made a mistake in not verifying that the children's performance came from their personal experience.

We regret the errors in our story and we apologise to the Mamea family for the distress caused."

The Complaint and Response

As noted above a number of principles have allegedly been breached. The embarrassment and effect on the family from this article (extending to one child being questioned at school) is self-evident. The complainants reaffirm the story was false, that the children's introduction makes it clear the story was fictional and the *Dompost's* response was totally inadequate. They take the position it was for the reporter to verify the story.

The response of the *Dompost* is that they considered the PGF a reputable organisation and were entitled to rely on that. They say the reporter was at the symposium and nothing indicated the story was fictional. The reporter requested an interview through PGF with the father that was declined, she understood for language reasons. She obtained consent to interview the children. The *Dompost* removed the offending article quickly and once PGF verified the true position was established issued an apology and correction. The editor accepts the responsibility of a reporter to check facts but said there needed to be trust between organisations and the media and in the circumstances it was reasonable for the reporter to assume the children were speaking from personal experience.

Decision

We do not consider it necessary to address each of the many breaches the complainants have alleged. It is more appropriate to identify the important issues that arise from the complaints made. The first is whether it is acceptable for a reporter to simply rely on an organisation such as PGF, particularly when reporting on statements from children, or should a reporter take steps to verify the facts independently. The second relates to the time taken for a publication to respond when they are advised of an allegedly grave factual error. The third is where such an error is established how quickly a correction and/or an apology should be published and the size and extent of such correction. Finally, in such an apology and/or correction is it appropriate to place the blame on another organisation without apparently accepting direct responsibility.

It was an egregious error that led to the publication of this story. A story that was demeaning to the complainants and, understandably, highly embarrassing. The reporter states she was present throughout but Mr Mamea is adamant that when he introduced the children it was clear that what they had to say was not a personal reminiscence of their family. While it is unnecessary for us to resolve this dispute we do note that in the editor's response of 20 November there is not a specific denial of Mr Mamea's claim.

While we accept that PGF must accept significant blame for what occurred, and while we also accept there must be an element of trust between organisations and the media, we do not accept that absolves a reporter from the obligation to ensure the facts relied on for an article are correct. This should have occurred to the reporter, especially while dealing with young children. It was lazy reporting that lead to a clear breach of principle 1. The fallacy of such reliance is established in this case. PGF proved not to be reliable in this instance.

The Mameas' response to the inaccuracy was swift. The same could not be said of the *Dompost's* response. Much more urgent and immediate steps should have been taken to ascertain the true position. The time taken is compounded by the Head of News' initial response that seems to accept the complainants were problem gamblers. He should have been concentrating on urgently obtaining the advice from PGF.

Any correction, or apology should be published as soon as practicable, this appears to have occurred here. owver However, the fault lies with the inordinate time taken to ascertain the true position…5 days.

While the correction regrets the error and apologises for the distress caused the family it blames the error on PGF. The *Dompost* should have directly accepted responsibility for its own failure to check the facts and this should have been spelt out in the apology. Further, given the factual error established here a more generous apology would have been appropriate. There has been a breach of Principle 11.

The complaint is upheld as breaching both Principle 1 and 11. It is unnecessary to address the other alleged breaches which we do not consider established.

Dissent

Three members of the council, Clive Lind, Stephen Stewart and John Roughan, disagreed with the decision. They considered the case to be an unfortunate misunderstanding, primarily on the part of the Problem Gambling Foundation which put fictional material in front of a seminar billed as a forum "where children would share their personal stories through poetry and song about the impact gambling has had on their lives".

They noted the Foundation had admitted it did not know these children were not writing from personal experience when it invited them to the seminar. The reporter had checked the subject matter with the Foundation before

attending and sought permission to speak to the children after their presentation. She was asked not to question them about their family. In these circumstances the three members did not think it reasonable to expect the reporter to have verified that the children had suffered personally when she spoke to them afterwards.

As soon as the newspaper realised the children's account was purely a work of imagination, it had removed the story from its website. The three members understood its wish to seek an explanation from the Foundation before publishing a retraction. Having done so, it published a correction and an apology online. They considered the newspaper's actions to be reasonable throughout.

Press Council members upholding the complaint were Sir John Hansen, Peter Fa'afiu, Sandy Gill, Liz Brown, Chris Darlow, Penny Harding and Pip Bruce Ferguson.

Press Council members dissenting from this decision were John Roughan, Clive Lind and Stephen Stewart.

CASE NO: 2359 – WENDY ALLISON AGAINST THE NEW ZEALAND HERALD
CASE NO: 2360 – BRENDON BLUE AGANST THE NEW ZEALAND HERALD

Introduction

There are two complaints, by Wendy Allison and Brendon Blue, about a Bob Jones column published in the *New Zealand Herald* on 22 October 2013, 'Spare us from road-clogging women'. The complaints are not upheld.

Background

In his column Bob Jones claimed that 'terrified' women drivers were stopping at roundabouts and causing 'massive pile-ups' and delays. They were also blocking the free flow of traffic by persistently driving in the right-hand lane.

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

Complaint

Ms Allison said the column contributed to a culture in New Zealand of sexism and misogynist violence. It incited violence against women and amounted to hate speech.

The attitudes expressed by Jones were common in New Zealand; they were damaging and contributed to discrimination against women. As such as they were in breach of the Press Council's principle dealing with discrimination.

She says the media has a role in influencing cultural attitudes, but the *Herald* was condoning this negative culture by publishing the column.

Mr Blue complained that the column was misleading, discriminatory, perpetuated negative and inaccurate stereotypes. As such, it breached Press Council principles dealing with fairness, accuracy and balance and discrimination.

Its representation of women drivers was inaccurate because data suggests that women may be superior drivers. He accepted that the column represented Sir Robert's opinion, but this did not allow him to mislead readers by omitting information that contradicted his view – namely official accident statistics which Mr Blue supplied to the Press Council.

He said the column explicitly and wilfully condoned violence against women and appeared threatening, abusive and insulting. Like Ms Allison he said the column bordered on hate speech.

Mr Blue sought an apology from the *Herald* for publishing the column and asked the newspaper to review Sir Robert's continued employment as a columnist.

Newspaper's Response

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

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

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

He stood by Sir Robert's right to freedom of speech and expression.

Discussion

The Press Council has set a high bar for dealing with complaints involving opinions expressed by columnists. This is because freedom to express even offensive views is crucial to any democratic society. Ms Allison has found the column offensive, seeing it as potentially damaging and discriminatory against women.

This goes too far. The column uses hyperbole to revisit the well-worn refrain that women can't drive cars properly. Ms Allison is entitled to say it is drivel, which she has done.

Regarding Mr Blue's complaint, Sir Robert is not misrepresenting traffic accident statistics – he is ignoring them. Rather he is expressing an opinion based on his observations that women drivers don't know what to do at roundabouts and tend to drive slowly in the fast lane.

The tone is one of exaggeration and hyperbole and would be recognised as such by regular readers of the column. It revisits the well-worn refrain that women can't drive cars properly. Sir Robert is entitled to believe that and to say it publicly – and surprisingly there may still be some who agree with him.

Neither complaint is upheld.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Pip Bruce Ferguson, Chris Darlow, Peter Fa'afiu, Sandy Gill, Penny Harding, Clive Lind and Stephen Stewart.

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

CASE NO: 2361 – STUART MILLIS AGAINST THE MIRROR

Stuart Millis claims *The Mirror* failed to comply with Principle 1 (Accuracy, fairness and balance) in relation to a story published on September 25, 2013 headed "Some Key Issues for Candidates".

The Press Council does not uphold the complaint.

Background

The September 25 story referred to issues facing the Central Otago District in the context of the October local body elections. Part of the story related to water use in the area. The article went on to refer to a body called "the Progressive Group", members of which were standing as candidates in the election. The story referred to this Group saying "they claim to be concerned with economic growth in the Alexandra, Clyde and Omakau areas". The story contrasted Cromwell and its economic growth on the one hand with the remainder of the district which "is increasingly battling to attract new enterprise and retain the people it has" on the other. The story went on to refer to "good news" in the form of the region's 2012 GDP growth of 8% and employment growth of 1.4%, both figures being above the national average. The story concluded with reference to certain initiatives being undertaken by the Central Otago District Council to assist struggling businesses in the area.

The Complaint

Mr Millis, one of the Progressive Group, was a candidate for office. He says the Group was formed "to fight to keep jobs and services in the Alexandra area". He says that *The Mirror's* reference to the Group "claiming" to be concerned over economic growth in Alexandra and neighboring areas placed a "negative emphasis" on the Group. The story should simply have said the Group was concerned with the lack of economic growth in the Alexandra area.

Mr Millis also says that the article "confused" readers by implying that the Central Otago growth figures and employment figures were the same as the figures applying to the Alexandra, Clyde and Omakau areas. Mr Millis referred to an article published in *The Mirror* after the election contrasting Cromwell's population growth against Alexandra's population decline in this respect.

Mr Millis says that the reference in the article to Cromwell as being a "service base" for the wider region was "rhetoric" and that the article failed to mention that Cromwell had benefited from the building of a $30m race track.

Mr Millis says *The Mirror's* reporter tried to influence the election.

The Response

The Mirror responds by saying that the article was fair. The article did not criticise the Progressive Group as Mr Millis claims. Further the district wide growth figures mentioned in the article are accurate they having been published by BERL, an economic research group. The newspaper points to the reference in the article to businesses in areas outside Cromwell as "struggling"".

The Decision

The Press Council does not agree with Mr Millis. The Council does not believe the newspaper casts any kind of slur on the Progressive Group. The article referred to the Progressive Group in the context that it was the "first time" candidates for local office in the area were running under a single banner. The reference to the group claiming to being concerned with economic growth in areas outside Cromwell was appropriate given the story's coverage of local issues in light of the election.

The Council believes the article to be balanced. It referred to the difficulties businesses outside Cromwell were facing. Mr Millis' point regarding the BERL figures is a fine one and does not amount to an improper "influence" on the election as he claims.

The Council does not uphold the complaint.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Pip Bruce Ferguson, Chris Darlow, Peter Fa'afiu, Sandy Gill, Penny Harding, Clive Lind, John Roughan and Stephen Stewart.

CASE NO: 2362 - JAMES PARLANE AGAINST RUAPEHU PRESS

The Press Council has not upheld a complaint against the *Ruapehu Press* from James Parlane.

Background

On September 25, 2013 the newspaper published a report about a public meeting of candidates contesting the local body elections for the Ruapehu District Council. Mr Parlane was one of them. Each candidate was given a five minutes to put their views, and could later answer questions. Mr Parlane was upset at the way his comments were reported and alleged the newspaper was biased against him because of an earlier report about him.

The Complaint

Mr Parlane regarded the September 25 reporting as gratuitous and defamatory, sentiments he expressed several times in complaints to the newspaper and the Press Council. The reporter could have reported positive things from the material he had given her, "however she chose to have a go at me instead".

In a small town the newspaper had great influence "and this time it was used unreasonably".

In correspondence with the *Ruapehu Press* he said it had reported him as "taking a swipe" at landlords. He denied saying that, nor was it in written material given to the reporter.

He had also been reported as saying the district council could encourage economic development through indirect taxes such as parking fees, rubbish charges etc. His speech specifically did not advocate those. His written material mentioned these examples as what "others" might consider economic development.

"Generally that report was unfair, incorrect and intended to demolish my election chances at a critical time when she (the reporter) set me up as the outsider."

Newspaper Response

On October 4 editor Mary McCarty wrote a lengthy rebuttal to his initial complaint. She asked him to explain how he had been defamed, which she also had done earlier by return email on September 30. In her letter she said her reporter asserted that Mr Parlane "definitely said that landlords needed to be made to do something about the state of derelict buildings". His lengthy written material contained 13 paragraphs critical about landlords. "Therefore I believe ... summation of your comment that you 'took a swipe' at landlords appears apt."

Responding to his "indirect taxes" complaint, she again cited written material he had provided at the meeting. The reporter's notes reflected that.

The *Ruapehu Press* report was lengthy and covered the views of a variety of candidates. There was no inference of Mr Parlane being an "outsider". It was factually reported that he was a two-term Waipa District councillor and that he was standing again in Hamilton and again in Waipa.

Rebutting his comment that the newspaper was critical or him for being an "outsider", she believed he was referring to an August 14 report in the *Ruapehu Press*, although he did not say so. "If there was an issue regarding this article then we would have expected you to raise that with us at the time."

As far as his claim of defamation was concerned, he had twice been asked to specify which part of the story was defamatory and had failed to do so.

The reporter concerned was a senior reporter with many years' experience. She had no wish to malign Mr Parlane and remained completely neutral in her attitude towards local body elections.

After Mr Parlane complained to the Press Council, the editor again stated that he had failed to demonstrate how he had been defamed. The notes he had given out at the meeting backed up the newspaper's coverage.

Press Council Decision

Small town politics frequently provoke heated debate and candidates are sensitive about how they are reported. In this case, the September 25 report in the *Ruapehu Press* was a comprehensive one, covering remarks of all the candidates at the meeting. Each was summarised succinctly and the reporting reflected the way their comments were expressed. Mr Parlane was treated in the same manner. His own notes could well be summarised as "taking a swipe" at landlords. Less clear, however are his notes on his other reported comments, which were reported as advocating indirect taxes. Those remarks could have been subject to misinterpretation.

However, the Press Council does not accept his complaint that the report was unfair, incorrect, and intended to demolish his election chances when he had been "set up" as an outsider.

The complaint is not upheld.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Pip Bruce Ferguson, Chris Darlow, Peter Fa'afiu, Penny Harding, Clive Lind, John Roughan and Stephen Stewart.

Sandy Gill took no part in the consideration of this complaint.

CASE NO: 2363 – JOSEPH POFF AGAINST THE TRIBUNE

Joseph Poff was a candidate for the Horizons Regional Council at the 2013 local body elections. He complained that the *Tribune*, a community weekly published by the *Manawatu Standard*, removed words from a statement he had been asked to supply for a supplement containing candidates' profiles. The complaint was not upheld. However, it illustrated that editors can be answerable for the handling of material arranged by advertising staff.

The Complaint

Mr Poff was invited to supply a statement of 150 words and a photo for the *Tribune* of September 18. He sought an assurance that his words would not be edited in view of his experience with letters to the editor. He was given the assurance by email from an advertising saleswoman who told him, "With your 150 words - whatever you email in will not be changed - it is cut and pasted in the Elections documents."

Mr Poff was an advocate for wind farms. His statement as submitted included the sentence, "I have witnessed how minority interests came to turn the PNCC (Palmerston North City Council) position from project initiator and partner to one of outright opponent of its own wind farm with the help of a new mayor....." The phrase, "with the help of a new mayor" did not appear in the published version. He had also written, "decisions must be based on factual evidence". The word "factual" was omitted in the version published.

The next day Mr Poff complained to the advertising saleswoman demanding to know who had edited his copy and suggesting the *Tribune* reprint his original statement in full the following week. He was not satisfied with her explanations and she referred him to a journalist, who in turn referred him to the editor of the *Manawatu Standard*. By then, Mr Poff was indicating his intention to complain to the Press Council. The editor told him an advertising supplement was not covered by the Press Council. Mr Poff replied, "Advertising implies one has paid for the privilege of publication, which I did not. Are you sure of your terms here?" He duly submitted his complaint to the Council.

The Jurisdiction Problem

The editor raised the question of jurisdiction with the Council before responding to the complaint. He said his editorial department had no input to, or oversight of, an advertising supplement. The material was "effectively a free ad" for Mr Poff.

The Council decided to accept the complaint. It was aware that the Advertising Complaints Authority would decline jurisdiction for this material. Contributed statements may be a free ad for election candidates but the candidates probably have not had the right to approve a proof before publication as they normally would for a paid advertisement. They are at the mercy of editorial decisions within the newspaper, whether those are made by advertising or editorial staff.

The Newspaper's Response to the Complaint

The editor said it was regrettable that an advertising representative had told Mr Poff his submission would be "cut and pasted" into the supplement. Mr Poff should have been aware he did not have carte blanche to say whatever he liked about others. The words "with the help of a new mayor" were removed because they were potentially defamatory, the editor said. Furthermore they could have exposed the paper to a Press Council complaint if they had been printed without the mayor having a right of reply. While these risks were low, he considered the reference to a mayor of a different body from the one Mr Poff was standing for, made the comment of little relevance. The published statement conveyed Mr Poff's criticism of the council which the mayor leads. The editing did not alter his meaning and what was published accurately reflected his views. The word factual was removed because "factual evidence" is a tautology.

The Decision

The Council agrees that the editing did not significantly change the complainant's statement, though none of the reasons given for removing the reference to the mayor would seem to warrant its removal. The fault in this case lies not in what was published but in the assurance given to Mr Poff that his statement would not be edited. No responsible editor would give such an assurance until the material had been seen. Even then, it normally would be subject to sub-editing where extraneous words, as in "factual evidence", would be removed and a line may be lost if space is tight.

The editor has done the right thing in response to the complaint, telling the newspaper's advertising staff that candidates providing statements in future must be advised that the normal editing process will apply. This ought to have been understood by the advertising staff. There was some sympathy on the Council for Mr Poff's treatment. He should not have been given the assurance he received but since the editing did not significantly alter or detract from his statement, the complaint was not upheld.

The Council notes that the supplement was not marked advertising, or advertising feature. Readers could have assumed that the content, other that the obviously boxed and authorised advertisements, was editorial copy. The Council recommends that all publications make the distinction clear to readers.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Pip Bruce Ferguson, Chris Darlow, Peter Fa'afiu, Sandy Gill, Penny Harding, Clive Lind, John Roughan and Stephen Stewart.

CASE NO: 2364 – RIGHT TO LIFE NZ Inc AGAINST NORTH AND SOUTH

Ken Orr, president of Right to Life New Zealand Inc, complained that an article headed *The Meaning of Life* in the October 2013 issue of *North & South* magazine breached the Press Council's Principle 1 relating to accuracy, fairness and balance.

The complaint is not upheld.

The Article

The preamble to the article which covered nine pages noted that 40 years after the United States Supreme Court's decision familiarly known as *Roe v Wade*, women's rights on abortion and access to contraception were under attack in that country. Abortion was still illegal in New Zealand, "in law if not in practice," and the author, Joanna Wane, asked "if the same could happen here."

The article contained interviews with a wide range of people, including the manager of an Auckland clinic performing medical and surgical termination of pregnancies, protesters outside it, consultants, researchers, a group helping mothers keep their babies, those seeking further legal change in New Zealand and others.

It included much other information including the history of New Zealand abortion law, what the law says and how it has been interpreted, abortion statistics, costs, what services are available in New Zealand and where, recent legal decisions and other developments in the United States and the position of some political parties in New Zealand.

Those interviewed and their experiences, activities or studies were presented in a neutral manner without obvious judgment from the author.

In a separate piece, there were interviews with four women who had had abortions and the different impacts it had had on their lives.

The Complaint

In a wide-ranging complaint to the magazine and later to the Press Council, Mr Orr said that of 20 people interviewed, only three supported "life," their views received a disproportionately small amount of space and that the four women interviewed about their abortions were not given the opportunity of warning other women of the potential suffering that follows an abortion.

The writer had not addressed the issue of when life really began as well as other related topics such as abortion being violence against women and their unborn and the offensiveness to many women of abortion being portrayed as a health service they need or want.

Mr Orr said the article should have emphasised how many women were having repeat abortions, while a specialist who had said 'the law is an ass and a joke and it's being manipulated" should have been challenged on why unborn babies were "being killed unlawfully in violation of their human rights."

The Editor's Response

In a lengthy response to Mr Orr, and later in similar response to the Press Council, the editor of *North & South*,

Virginia Larson, said the purpose of the article was to look at the law and practice of abortion in New Zealand today.

To do so, Joanna Wane had to speak primarily to those working in such services and those pursuing political change. The writer found many New Zealanders believed abortion was legal, but that the law and practice were two different things.

The article was not about the morality of abortion. It was about the application and appropriateness of the law and was not required to give a voice to anti-abortion campaign groups. Nevertheless, adequate attention had been given to the views of such groups.

The article laid out a reality that was unpalatable to both sides of the debate and a conclusion that could be drawn was that it was time for the abortion issue to be given a public hearing.

Decision

The abortion debate in New Zealand has often been accompanied by extreme views and *North & South* deserves credit for tackling the topic in light of what was happening in the United States. In the process, it discovered interesting material relating to perceptions about New Zealand law and new research that questions the basis of that law.

Balance on such a volatile topic was bound to be questioned by proponents on either side. But the writer made a fair attempt to gather the various viewpoints and she and the magazine presented them in a readable way where all viewpoints are clearly and objectively displayed.

The Press Council believes the article had all the balance required for an article about the here and now, and not the rights or wrongs, of abortion services in New Zealand and new pressures in the United States.

Further, it is impossible to measure balance on some line by line or space-allotted criteria.

The complaint is not upheld.

Press Council members considering the complaint were Sir John Hansen, Liz Brown, Pip Bruce Ferguson, Chris Darlow, Peter Fa'afiu, Sandy Gill, Penny Harding, Clive Lind, John Roughan and Stephen Stewart.

Statement of Principles

Preamble

The New Zealand Press Council was established as an industry selfregulatory body in 1972. Its main objective is to provide the public with an independent forum for resolving complaints involving the press. The Council is also concerned with promoting press freedom and maintaining the press in accordance with the highest professional standards.

Its scope applies to published material in newspapers, magazines and their websites, including audio and video streams.

An independent press plays a vital role in a democracy. The proper fulfilment of that role requires a fundamental responsibility for the press to maintain high standards of accuracy, fairness and balance and public faith in those standards.

Freedom of expression and freedom of the media are inextricably bound. There is no more important principle in a democracy than freedom of expression. The print media is jealous in guarding freedom of expression, not just for publishers' sake but, more importantly, in the public interest. In dealing with complaints, the Council will give primary consideration to freedom of expression and the public interest. (See Footnote 3)

The distinctions between fact, on the one hand, and conjecture, opinions or comment, on the other hand, must be maintained. This does not prevent rigorous analysis. Nor does it interfere with a publication's right to adopt a forthright stance or to advocate on any issue. Further, the Council acknowledges that the genre or purpose of a publication or article, for example, satire or gossip, calls for special consideration in any complaint.

The Press Council endorses the principles and spirit of the Treaty of Waitangi and NZ Bill of Rights Act, without sacrificing the imperative of publishing news and reports that are in the public interest.

Editors have the ultimate responsibility for what appears in their publications, and to the standards of ethical journalism which the Council upholds. In dealing with complaints, the Council seeks the co-operation of editors and publishers.

The following principles may be used by complainants when they wish to point the Council to the core of their complaint. However, a complainant may nominate other ethical grounds for consideration.

1. Accuracy, Fairness and Balance

Publications should be bound at all times by accuracy, fairness and balance, and should not deliberately mislead or misinform readers by commission or omission. In articles of controversy or disagreement, a fair voice must be given to the opposition view.

Exceptions may apply for long-running issues where every side cannot reasonably be repeated on every occasion and in reportage of proceedings where balance is to be judged on a number of stories, rather than a single report.

2. Privacy

Everyone is normally entitled to privacy of person, space and personal information, and these rights should be respected by publications. Nevertheless the right of privacy should not interfere with publication of significant matters of public record or public interest.

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

Those suffering from trauma or grief call for special consideration.

3. Children and Young People

In cases involving children and young people editors must demonstrate an exceptional public interest to override the interests of the child or young person.

4. Comment and Fact

A clear distinction should be drawn between factual information and comment or opinion. An article that is essentially comment or opinion should be clearly presented as such. Cartoons are understood to be opinion.

5. Headlines and Captions

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

6. Discrimination and Diversity

Issues of gender, religion, minority groups, sexual orientation, age, race, colour or physical or mental disability are legitimate subjects for discussion where they are relevant and in the public interest, and publications may report and express opinions in these areas. Publications should not, however, place gratuitous emphasis on any such category in their reporting.

7. 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. Care should be taken to ensure both source and publication agrees over what has been meant by "off-the-record".

8. Subterfuge

The use of deceit and subterfuge can only be condoned in cases when the information sought is in the public interest and cannot be obtained by any other means.

9. Conflicts of Interest

To fulfil their proper watchdog role, publications must be independent and free of obligations to their news sources. They should avoid any situations that might compromise such independence. Where a story is enabled by sponsorship, gift or financial inducement, that sponsorship, gift or financial inducement should be declared.

Where an author's link to a subject is deemed to be justified, the relationship of author to subject should be declared.

10. Photographs and Graphics

Editors should take care in photographic and image selection and treatment. Any technical manipulation that could mislead readers should be noted and explained.

Photographs showing distressing or shocking situations should be handled with special consideration for those affected.

11. Corrections

A publication's willingness to correct errors enhances its credibility and, often, defuses complaint. Significant errors should be admitted and promptly corrected, 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.

Footnotes

1. Letters to the Editor: 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. Abridgement is acceptable but should not distort meaning.

2. Council adjudications: Editors are obliged to publish with due prominence the substance of Council adjudications that uphold a complaint.

3. Public interest is defined as involving a matter capable of affecting the people at large so that they might be legitimately interested in, or concerned about, what is going on, or what may happen to them or to others.

4. The following organisations have agreed to abide by these principles and provide financial support to the Press Council:

Metropolitan
The New Zealand Herald
The Dominion Post
The Press
Otago Daily Times

Provincial
Ashburton Guardian
Bay of Plenty Times
The Daily Post
Dannevirke Evening News
The Gisborne Herald
The Greymouth Evening Star
Hawkes Bay Today
Horowhenua Kapiti Chronicle
Manawatu Standard
The Marlborough Express
The Nelson Mail
The Northern Advocate
The Oamaru Mail
The Southland Times
Taranaki Daily News
The Timaru Herald
Waikato Times
Wairarapa Times-Age
Wanganui Chronicle
The Westport News
Northern News
The Wairoa Star

Sunday
Herald on Sunday
Sunday Star-Times
Sunday News

Community
APN Community Newspapers
Fairfax NZ Community Newspapers
Community Newspaper Association of New Zealand member newspapers

Business Weekly
National Business Review

Magazines
New Zealand Magazines (APN)
Fairfax Magazines
Magazine Publishers' Association

Complaints procedure

1. A person bringing a complaint against a publication (namely newspapers, magazines and periodicals in public circulation, together with their websites) must, unless exempted by the Executive Director of the Council, first lodge the complaint in writing with the editor of the publication.

2. The complaint (which should be clearly marked as a letter of complaint) is to be made to the editor within the following time limits, time being of the essence:

(a) A complaint about a particular article: within one calendar month of the date of publication of the article.

(b) A complaint arising from a series of articles: within one calendar month of the earlier of the date from which the substance of the complaint would have been reasonably apparent to the complainant, or the publication of the last article in the series.

(c) A complaint concerning non-publication of any material: within two calendar months of the date on which the request to publish was received by the publication.

(d) A complaint arising from matters other than publication: within one month of the incident giving rise to the complaint.

3. If the complainant is not satisfied by the editor's response or receives no response from the editor within a period of 10 working days from the date on which the editor received the complaint, the complainant may then complain to the Council. In the case of the complainant not being satisfied by the editor's response, such complaint shall be forwarded to the Council within ten working days of the complainant receiving the editor's letter.

4. Complainants are requested where possible to use the online complaint form appearing on the Council's website (www.presscouncil.org.nz) or on a form provided by the Council. The Council will however accept complaints by letter. Whether the complaint be on the online complaint form or in writing, it must be accompanied by the material complained against and copies of the correspondence with the editor. The main thrust of the complaint is to be summarised in approximately 300 words. Any other supporting material may be supplied. Legal submissions are not required.

5. The time limits which will apply on receipt of a complaint are:

(a) The Council refers the complaint to the editor of the publication and the editor has 10 working days from receipt of that complaint to reply.

(b) On receipt of the editor's reply the Press Council will refer the reply to the complainant. The complainant may within 10 working days of receiving that reply, briefly in approximately 150 words, reply to any new matters raised by the editor in the reply. The complainant should not repeat submissions or material contained in the original complaint.

6. The Executive Director of the Council has the power to extend time limits but will not extend those time limits which are of the essence unless there are exceptional circumstances.

7. In appropriate circumstances, the Council may request further information from one or both of the parties. In obtaining further information the Press Council will adhere to the rules of natural justice.

8. Once submissions have been exchanged in accordance with the above timetable, the Press Council will at its next meeting consider and usually determine the complaint. Most complaints are determined on the papers. However, if a complainant wishes to make personal submissions, the complainant may apply to the Executive Director of the Council for approval to attend and make such submissions. If approval is given, the editor, or a representative of the editor, will also be invited to attend the hearing. No new material may be submitted at the hearing, without the leave of the Council.

9. If a complaint is upheld the publication must publish the adjudication, giving it fair prominence. If the decision is lengthy the Press Council will provide a shortened version for this purpose. If the complaint is not upheld the publication may determine whether to publish the decision.

10. If the complained-about article has been further published on the publication's website, or distributed to other media through NZPA or syndication, the Council requires that:

(a) in the instance of a website, the article is flagged as being subject to a ruling by the Press Council and a link to the decision at www.presscouncil.org nz is to be provided.

(b) in the case of further distribution to hard-copy media, the Council will provide a short statement to be published in each publication known to have published the original item.

11. All decisions will also be available on the Council's website and published in its relevant annual report, unless the Council on its own volition or the request of a party agrees to non-publication. Non-publication will only be agreed to in exceptional circumstances.

12. In those cases where the circumstances suggest that the complainant may have a legally actionable issue, the complainant will be required to provide a written undertaking that s/he will not take or continue proceedings against the publication or journalist concerned.

13. The Council may consider a third party complaint (i.e. from a person who is not personally aggrieved) relating to a published item. However, if the circumstances appear to the Council to require the consent of an individual involved or referred to in the article, it reserves the right to require from such an individual his or her consent in writing to the Council's adjudication on the issue of the complaint.

14. The above procedure will apply to all complaints.

15. No provision has been made for publications to complain because such complaints are so rare. Complaints will still be considered but each will be dealt with on an individual basis.

NZ Press Council

Trading Account

For the Year ended 31st December 2013

	2013 $	2012 $
REVENUE		
Union	2,700	2,700
NPA Contribution	240,000	245,000
Community Newspapers	2,768	6,443
Magazines Contribution	11,206	8,897
Total Sales	256,674	263,040
GROSS SURPLUS FROM TRADING	$256,674	$263,040

NOTE: This statement is to be read in conjunction with the Notes to the Financial Statements on page 75 and 76

NZ Press Council

Statement of Financial Performance
For the Year ended 31st December 2013

	2013 $	2012 $
Gross Surplus from Trading	256,674	263,040
SUNDRY INCOME		
Interest Received	2,482	2,647
Total Income	259,156	265,687
Less Expenses		
Accident Compensation Levy	410	-
Accountancy Fees	1,140	926
Advertising & Promotion	640	2,963
Audit Fees	1,085	850
Bank Charges	17	42
Chairman's Expenses	-	2,100
Cleaning & Laundry	544	313
Computer Expenses	468	907
Electronic Complaints Management System	-	5,000
Postage & Courier	3,304	2,823
General Expenses	6,925	9,913
Insurance	3,255	3,100
Printing & Stationery	8,960	7,519
Rent	10,487	13,096
Rent - Carparking	1,920	1,920
Internet Expenses	94	55
Power & Telephone	1,928	1,972
Travel & Accommodation	20,137	21,251
Annual Leave owing	5,732	5,732
PAYE & Student Loan	34,065	25,821
Wages & Salaries	109,939	115,805
Board Fees	29,632	26,455
Total Expenses	240,682	248,563
Net Surplus Before Depreciation	18,474	17,124
Less Depreciation Adjustments		
Depreciation as per Schedule	1,644	631
Depreciation - Loss on Sale	-	14
Net Depreciation Adjustment	1,644	645
NET OPERATING SURPLUS BEFORE TAX	16,830	16,479
Less Taxation Provision	156	644
SURPLUS AFTER TAX	16,674	15,835
NET SURPLUS/(DEFICIT)	$16,674	$15,835

NOTE: This statement is to be read in conjunction with the Notes to the Financial Statements on page 75 and 76

NZ Press Council

Statement of Financial Position
As at 31st December 2013

	2013 $	2012 $
CURRENT ASSETS		
Bank - Cheque Account	17,408	8,436
Bank - Savings account	90,378	79,536
Accounts Receivable	9,718	2,536
Shareholders' Overdrawn Current Accounts	-	-
Total Current Assets	117,504	90,508
NON-CURRENT ASSETS		
Fixed Assets as per Schedule	4,589	6,234
TOTAL ASSETS	122,093	96,742
CURRENT LIABILITIES		
GST Due for payment	11,642	9,417
Taxation	617	624
Accounts Payable	17,120	10,662
	-	-
	-	-
	-	-
	-	-
Shareholders' Current Accounts	-	-
Total Current Liabilities	29,379	20,703
TOTAL LIABILITIES	29,379	20,703
NET ASSETS	$92,714	$76,039
Represented by;		
EQUITY		
Share Capital	-	-
Reserves	-	-
Retained Earnings	92,714	76,039
TOTAL EQUITY	$92,714	$76,039

The accompanying notes form part of these Financial Statements and should be read in conjunction with the reports contained herein.
For and on behalf of the Board ;

Director _____ Director _____

Date

NOTE: This statement is to be read in conjunction with the Notes to the Financial Statements on page 75 and 76

NZ Press Council

Schedule of Fixed Assets and Depreciation
For the Year ended 31st December 2013

Asset	Private Use	Cost Price	Book Value 01/01/2013	Additions Disposals	Gain/Loss on Disposal	Capital Profit	Depreciation Mth	Rate	$	Accum Deprec 31/12/2013	Book Value 31/12/2013
BUILDINGS											
Fitout		22,397	3,563				12	11.4%DV	406	19,240	3,157
Sub-Total		22,397	3,563						406	19,240	3,157
FURNITURE & FITTINGS											
Leather Hiback Chair		1,453	95				12	18.0%DV	17	1,375	78
4 Drawer Black Filing Cabinet		388	20				12	18.0%DV	4	372	16
Wallunits, 2 x 3 dr		1,510	91				12	18.0%DV	16	1,435	75
5 Drawer Desks x 2		883	55				12	18.0%DV	10	838	45
Side Chairs x 4		878	44				12	18.0%DV	8	842	36
Sub-Total		5,112	305						55	4,862	250
OFFICE EQUIPMENT											
Printer		876	2				12	48.0%DV	1	875	1
Computer		2,467	2,364				12	50.0%DV	1,182	1,285	1,182
Sub-Total		3,343	2,366						1,183	2,160	1,183
TOTAL		30,852	6,234						1,644	26,262	4,590

NZ Press Council

Notes to the Financial Statements
For the Year ended 31st December 2013

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1. STATEMENT OF ACCOUNTING POLICIES

The financial statements presented here are for the entity NZ Press Council,

NZ Press Council qualifies as an Exempt entity under the Financial Reporting Act 1993. These financial statements have been prepared in accordance with the Financial Reporting Act 1993 and the Financial Reporting Order 1994.

The accounting principles recognised as appropriate for the measurement and reporting of earnings and financial position on an historical cost basis have been used, with the exception of certain items for which specific accounting policies have been identified.

(a) **Changes in Accounting Policies**
There have been no changes in accounting policies. All policies have been applied on bases consistent with those used in previous years.

(b) **Fixed Assets & Depreciation**
The entity has the following classes of fixed assets;

Buildings

Furniture & Fittings

Office Equipment

All fixed assets are initially recorded at cost with depreciation being deducted on all tangible fixed assets other than freehold land, in accordance with rates set out in the Income Tax Act 1994.

(c) **Goods & Services Tax**
The Statement of Financial Performance and Statement of Cashflows (where included) have been prepared so that all components are stated exclusive of GST. All items in the Statement of Financial Position are stated net of GST, with the exception of account receivables and payables.

(d) **Receivables**
Receivables are stated at their estimated realisable value. Bad debts are written off in the year in which they are identified.

2. AUDIT

These financial statements have been subject to audit, please refer to Auditor's Report.

3. CONTINGENT LIABILITIES

At balance date there are no known contingent liabilities (2012:$0). NZ Press Council has not granted any securities in respect of liabilities payable by any other party whatsoever.

cornish
and associates ltd

accountants and business advisers

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30 April 2014

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 2013 (12 Months).

In our opinion:-

- Proper accounting records have been kept by the organisation as far as appears from our examination of those records, and the organisations 2013 Financial Statements.

- The accounts comply with generally accepted accounting practice, and give a true and fair view of the financial position as at 31 December 2013 and financial performance and cashflows for the year ended on this date of the organisation.

Our review was completed on 30th April 2014 and our unqualified opinion is expressed at this date.

CORNISH & ASSOCIATES LTD.