

NEW ZEALAND PRESS COUNCIL

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Sandra Goodchild Chartered Accountant, Dunedin (until December)
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Lynn Scott Company Director, Whangarei (from August)
Aroha Puata Lawyer and mother, Upper Hutt (from September)
Ruth Buddicom Barrister, Christchurch
Stuart Johnston Emeritus Professor, Lower Hutt (until July)
Denis McLean Retired diplomat, Wellington
Richard Ridout Farmer, Rangiora (until June)

Representing the Newspaper Publishers Association (NPA)

Suzanne Carty Editorial Consultant, FairfaxNZ, Wellington
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Representing Magazine Publishers

Terry Snow Freelance editor, Auckland

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

Alan Samson Lecturer, Massey University School of Journalism
Murray Williams Freelance journalist (from May)



Chairman's Foreword

My eight-year term as chairman ends on June 30, 2005 and therefore the 2004 Annual Report will be my last.

There are a few observations centred on the changes that are appropriate as one leaves an organisation. These changes mostly took place on my watch. In my Foreword for the 1999 Annual Report I reproduced a remark by Franklin D. Roosevelt that, in a changing world, institutions can be conserved only by changing. A timeless remark is exactly that.

The central feature of the constitution of the Press Council is that it is self-regulatory, which carries with it the responsibility of reforming itself. Critical self-examination does not usually come easily but nevertheless must be rigorously undertaken to ensure the mission is met to the satisfaction of the public and the industry.

I finish my term with a strong conviction that self-regulation is the best model. I will not canvass the detailed reasons (they can easily be found in previous Annual Reports) but the only viable alternative is statutory control that, in certain circumstances might be satisfactory, but is by no means ideal. The Press Council in New Zealand is funded entirely from industry sources. Besides adjudicating on complaints the defence of freedom of expression is most effective from the platform of self-regulation.

When I took up the chairmanship in July 1997 there was awareness on the Council that the time had come for change. After 25 years in existence the need for repairs and maintenance was manifest. There were fairly persistent and legitimate criticisms levelled at the Council in two important areas, namely, jurisdiction, and the absence of a written code, or statement of principles. It was agreed – fairly, in my view – that these were needed for the sake of the public and the industry being informed about what the Council itself regarded as of importance in the area of media ethics.

The Council was established in 1972 and was one of the first such bodies in the world. At that time, the print industry in New Zealand consisted mainly of newspapers and a few magazines. The Council had jurisdiction over metropolitan and provincial newspapers and some of the community newspapers but none over magazines. The areas of growth since 1972 have been in magazines (particularly lifestyle magazines) and community newspapers. There were clear areas of the print industry over which we had no jurisdiction. New Zealanders have become huge magazine readers. From 1998 the Council itself moved to extend jurisdiction over practically all print media (including overseas publications) that had a significant public readership in New Zealand. There are a few minor exceptions.

The other main issue was the Statement of Principles. This was an area of difficulty but as part of self-regulation the Council itself had to take the lead. A Working Party comprising members of the Council and our constituent bodies, and representatives of the Newspaper Publishers Association was set up in 1998 and delivered a conclusion that was to adopt a Statement of Principles. It is worth recording that the debate on the Principles within the Working Party was quite vigorous. The Principles are different from a prescriptive Code into which complaints must fit. The Principles are to guide the public, but a potential complainant is permitted to go outside the terms of the Principles and choose their own language to express a complaint.

Towards the end of the last century the Internet was becoming a widely used method



The New Zealand Press Council 2004: From left, Denis McLean (Wellington), Terry Snow (Auckland), Aroha Puata (Upper Hutt), Lynn Scott (Whangarei Heads), Suzanne Carty (Wellington), Mary Major (Secretary), Sir John Jeffries (Chairman, Wellington), Ruth Buddicom (Christchurch), Alan Samson (Wellington), Murray Williams (Wellington). Absent: Sandra Goodchild (Dunedin), Jim Eagles (Auckland). Sir John Jeffries, formerly a judge of the High Court, is the independent chairman. The members representing the public are Mrs Goodchild, Ms Buddicom, Ms Puata, Ms Scott, and Mr McLean. Ms Carty and Mr Eagles represent the Newspaper Publishers Association and Mr Snow represents magazines on the Council. Mr Samson and Mr Williams are the appointees of the Media Division of the New Zealand Engineering, Printing and Manufacturing Union.

of communication. The Council, therefore, opened its own website and basic information about it, and its operation, was made available, including all recent adjudications. Many newspapers published on the Internet and we resolved to accept complaints about Internet publications so long as there were published hard copies.

There were other less radical changes such as revision of the Council's procedure and some relaxation of the past rule that an upheld decision had to be published in full to one that the substance of such an adjudication had to be published. This was in recognition of the difficulties with space encountered by magazines. As with other public bodies email is frequently used but the procedure rules must be followed such as supplying a copy of the publication the subject of the complaint.

The Council looked at the possibility of providing an appeal system but decided against such a procedure. Nevertheless to accommodate the possibility that the Council had overlooked some aspect of a complaint, or that new information had become available not previously known, we undertook to review an adjudication. Not perfect but it has been used and one adjudication has been withdrawn and cancelled. The Council allows dissents from a majority decision and that course has occasionally been used.

We think that, as a Council, it is fair to say the public and the industry have accepted the reforms of the Council. The only significant sanction the Council can impose is that the substance of an upheld adjudication must be published and from time to time this has continued to be criticised as toothless. Our experience is that editors publish such

adjudications and consider it a penalty. It would change for the worse the environment of complaints against the print media to try to adopt harsher penalties such as fines or suspension of publication as some suggest. At present the public has ready access to the Council and a minimum of simple procedures to follow. The procedure is free, quick and fair. No pressure is placed on a complainant to accept mediation, although that is available, and an adjudication is usually made. Most members of the public prefer the procedure of a complaint to the Press Council rather than to take action through the courts even if that is available.

Finally I come to the matter of personnel of the Council. Suzanne Carty, former editor of *The Evening Post* and nominee of the Newspaper Publishers Association, is the only member of the Council who remains since I took over the chairmanship in 1997. In 1999 the Council was increased by two to reflect the incorporation of magazines into the jurisdiction. All other members have been replaced and Suzanne is due to retire at the end of June. The Council considered that it was essential that there be a regular turnover of personnel and to that end introduced the eight-year rule whereby public members could serve two terms of four years and then retire. The rule did not apply to the chairman but I voluntarily accepted the overall term and at the time of renewal asked for only three years.

Mr Stuart Johnston, a public member, died in 2004 during his second term. The passing of Stuart was a great loss to the Council as he was regarded as an outstanding member whose contribution in time he devoted and quality of work were of the very highest order. The Council extended its sincere sympathy to the family over their loss.

Appointment of public members has been done by advertisement and the assistance of the Chief Ombudsman has been sought to meet the requirement of transparency. This system has proved to be very satisfactory.

On a personal note one of the most pleasant aspects of my time as chairman has been the exceptional cordiality of relationships on the Council. The Council has six members representing the public and five the industry. This arrangement, too, has been very satisfactory. At all times Council members have looked first and only to achieve a decision that has integrity and honesty so as to meet the Council's obligations to the public and the industry.

Finally, I come to the secretaries to the Press Council, of which there have been two in my time. Graeme Jenkins, a very experienced journalist who had spent all his working life in the industry, had been at the Council since 1992 when I took up the position of chairman. He knew all aspects of the publishing business and had a wide knowledge of the personnel in the industry. Graeme made a valuable contribution as secretary to the Working Party during 1998-9, in the time of the major changes. He had a particular interest in sport and covered for newspapers five Olympics, three Commonwealth Games, and five overseas All Black rugby tours.

In March 2001 Graeme retired and Mary Major replaced him, working at the Council every day on restricted hours. Mary's background was as a medical radiographer but before coming to the Press Council, she had graduated from Whitireia Community Polytechnic in journalism. Mary very quickly displayed an aptitude for the Council's work and has been of immeasurable assistance to the Council members and me. The Council has been very well served by its secretaries and I formally record on behalf of the Council and myself our gratitude for work performed so effortlessly and cordially.

The Press Council and the 'Big' Stories

New Zealanders, in general, sustain a high level of interest in world affairs and other big questions of the day. The issues may have far-reaching and challenging implications. Reporting them can, however, be a challenge, particularly for daily newspapers, in a relatively small market. There are two kinds of problems.

Exasperated readers seem often to be provoked into taking up their pens to complain to the Press Council because they find that coverage does not do justice to their own particular point of view on such weighty matters. They approach the Council as a sort of court of last resort able to uphold this or that perspective against reporting they see as unfair or unbalanced.

On the other hand complainants are apparently unable to get to grips with the limitations on resources both of people and finances that inevitably constrain in-depth reporting in this field. Even with major national stories it will be hard for editors to free up the reporting staff to follow the issues and delve deeply over perhaps weeks or months to achieve coverage of all the angles. The great global issues — war and peace, disasters, global warming, genetic engineering, ethical questions or the threat of epidemics — are even more difficult to cover from a New Zealand perspective. More than this, there is an inherent difficulty: newspapers are about news; space and time do not allow weighing of every shred of evidence or the production of an academic treatise. For that readers must resort to a library.

A complaint (Case 968) against *The New Zealand Herald*, for example, about publication of a report showing coalition casualties in the Iraq war was based on the proposition that balance and fairness required similar coverage of Iraqi casualties. The editor argued that the article was about the political impact of rising casualty figures in the countries contributing forces to the coalition. The information sought by the complainant was not relevant to the thrust of the report. The Press Council agreed. The report — so far as it went — was not inaccurate. Newspapers cannot be expected in every instance to cover all sides to a story. In this case the point made in the report, that coalition countries were beginning to feel the pressure from the casualty figures, had a narrow focus. Balance and fairness in relation to the overall issues involved in the Iraq war could not be assessed on the basis of a single report about one consequence of the fighting.

Other similar questions were raised in two complaints (Cases 971 and 972) against the *Sunday Star-Times* over an article based on American research that suggested that gays are able to change their sexual orientation. The starting point was a syndicated report taken from Britain's *Sunday Telegraph*. As well as reporting the research findings cited in the British report, the *Sunday Star-Times* interviewed three New Zealanders "who believed they had changed their sexual orientation". Again the issue for the complainants was one of lack of balance and unfairness. It was asserted that the *Sunday Star-Times* had failed to take note of qualifications to his research findings acknowledged by the American psychiatrist who had conducted the original research. The editor responded that it was

not possible for the newspaper to interview the American psychiatrist nor to critique the methodology of his research. Rather the purpose of the story was to introduce a New Zealand perspective with profiles of New Zealand ex-gays whose experiences seemed to corroborate the research findings.

The Press Council noted that in reporting on such areas of academic specialisation, newspapers are caught in a dilemma. "In whatever way the press handles these subjects, proponents for all sides of any issue will be critical that their purpose is not being served with sufficient advocacy," it said. The Council agreed with the editor that journalists cannot be expected to be experts in such academic areas. Although the complaint was not upheld, the Council suggested, nevertheless, that it is important to pay due attention to "the sensitive social and political currents which swirl around" studies of this kind.

A senior American authority on the subject of climate change complained (Case 962) that *The New Zealand Herald* had published the contrarian views of a well-qualified New Zealand scientist. The complainant asked the Council to find against the newspaper on grounds of inaccuracy, lack of balance and excessive advocacy in publishing views that cast doubt on what he claimed was the agreed international position on the evidence about climate change. The New Zealander's views, he said, "have no place in any serious scientific discussion". The Press Council rejects this line of argument and did not uphold the complaint, noting that newspapers are not journals of peer review and can neither be expected to pronounce authoritatively on the merits of issues nor to canvass all views in every article. "Advocates of a particular standpoint", the Council noted, "may not find the press always serving their purpose, but then the function of the press is to serve their readers in the broadest terms." The article in question offered a sceptical New Zealand point of view and accordingly made a valuable contribution to a very important debate.

A complaint (Case 966) against the *Waikato Times* over an article about war crimes raised another aspect. The report, taken from *The Times* of London, discussed the 1995 massacre in the town of Srebrenica in Bosnia and Herzegovina, which had been, it was stated, "under the 'protection' of 110 lightly armed Dutch peacekeepers who offered no resistance when the Bosnian Serbs stormed in" The complainant contended this was unfair to the reputations of the Dutch peace-keepers in that they had faced impossible odds and the bloodlust of thousands of heavily armed soldiers. The Press Council, in not upholding the complaint, found that the *Waikato Times* had printed a high-quality news story that in fact put the blame for the tragedy squarely on the international community. Although the newspaper had abridged a letter from the complainant it had given him the space to write in "energetic defence of Dutch honour". The Srebrenica story, wrapped up as it was in the whole sorry history of the wars of nationalism in the Balkans during the 1990s, could not be encompassed, to the satisfaction of all parties involved, in a single newspaper report.

In all four of these cases partisans of particular interests or points of view complained in essence that their interests had not been served. They clearly believed that the Press Council should take it upon itself to redress the balance in their favour. But this would be to direct newspapers as to the thrust and range of their coverage – a step down a very slippery slope that the Council refuses to take. In general such complaints miss the point.

A free press constitutes a public forum in which the widest possible range of views should get an airing. It is not the Press Council's function to determine what constitutes the "correct" interpretation to be put on reporting on the great issues of the day. There will always be some staunch protagonists of one point of view or the other who would wish to have a body like the Council police the thoughts of their opponents. Political correctness is not on our agenda. The idea is to let the arguments rage – and for the reading public to decide which side they are on.

The Press Council obviously sets store by the need for balance; the importance of accuracy, fairness and balance is established as the first of the Principles against which the Council examines complaints. The Council also aims to encourage newspapers to be as good and as professional as they can be, to report without fear or favour, and to range as widely as possible. Yet, for all the obvious constraints, it will usually do no harm to acknowledge another side to a story, the complexity of the subject or that a report is simply one view of a big, unfolding topic – thus alerting readers to the wider picture.

The facts are of course fundamental. The truth in human affairs, however, is elusive. The well-respected American political commentator, Walter Lippman, put it this way: *We say that the truth will make us free. Yes, but that truth is a thousand truths, which grow and change.*

Plagiarism

The difficult issue of plagiarism came before the Press Council in 2004 (Case 977) with a complaint about a *Southland Times* reporter stealing quotes from the Queenstown paper *Mountain Scene*. The reporter had done so after being declined an interview with Queenstown Airport Corporation chairman John Davies. Mr Davies had apparently referred her to the article in question, saying it was “word perfect”.

Applying the concept of plagiarism to the news media is no simple task: with its emphasis on “finding the news”, the medium is clearly in a different category from literary, artistic or musical works. The Press Council acknowledges that news is news wherever it comes from, and is able to be used freely. Judgment turns on the scale and detailed wording of the suspect material.

Nevertheless, it is accepted newspaper practice that when using direct quotes from another source, rather than obtaining them directly from the person quoted, a publication must attribute those quotes. The news media today regularly pull together a vast number of sources – wire services, syndicated articles from overseas newspapers, magazines to which clipping rights are owned, rival newspapers and the electronic media, as well as staff reporters – for a single story.

If the *Southland Times* story had been correctly attributed there would have been no basis for the complaint. Because the piece failed to credit the source or make any attempt at proper attribution, the Press Council had no recourse but to rule that the “paper had breached acceptable journalism standards”.

Plagiarism also became a public talking point in 2004 when young *New Zealand Herald* reporter Renee Kiriona, after an unsatisfactory interview with rugby league star Tawera Nikau, looked to the Internet for information about him. Finding a profile written by a *Waikato Times* writer, she added a few parts of her own for the top, then submitted it as her own. She subsequently re-interviewed Nikau, sending in a second version of her story. Unfortunately, she neglected to tell her editor who, with two story versions on her desk, combined the copy...

Writing about the Kiriona case in the *New Zealand Listener*, media commentator Russell Brown named some earlier sinners, including some of our most well-known journalism practitioners. He cites Shenagh Gleeson, the author of a backgrounder about the Kiriona affair, describing how in her own early reporting career on the *Waikato Times* she and other reporters, asked to “match” stories, routinely and “without reproach” lifted “chunks” from the originals.

In a 1977 Press Council case cited by Brown, former *Metro* magazine editor Warwick Roger, then a reporter for *The Dominion*, was censured for without permission taking quotes recorded by film-maker Richard Turner for a documentary on the Black Power gang, using them in two major crime stories. In its decision, the Council said that Roger agreed “he and/or *The Dominion* failed to make adequate acknowledgement that a very large part of those two articles (including all the direct quotations) consisted of the work of Richard Turner”. It upheld the complaint saying, “He had not thought it necessary to

approach the publishers of [a magazine that had earlier carried the material] to make sure they did not have an interest in the material.”

Talk about recent plagiarism in journalism around the world and the first name likely to spring to mind is Jayson Blair. Blair was the young *New York Times* reporter who became international news himself in 2003 after stealing sources and quotes as well as making up copy for a wide range of stories. United States media commentator David Plotz reminds us, among others, also of National Public Radio’s Nina Totenberg, who plagiarised a *Washington Post* story about American Speaker of the House Tip O’Neill when she was a young print reporter; and the *New Republic*’s Ruth Shalit, caught after having cut and pasted others’ material for five different stories. Other journalists have gone even further, notably the *New Republic*’s Stephen Glass (who backed up his fictions with fake websites and phone numbers) and the *Washington Post*’s Janet Cooke (who won the Pulitzer Prize for her story about an invented eight-year-old heroin addict).

Plagiarism has always existed in journalism and editors have always, and will continue to, come down hard on the practice. In his book *Quagmires and quandaries: Exploring journalism ethics*, Australian journalism educator Ian Richards cites from a 1938 French journalism charter: “A journalist worthy of the name does not commit any plagiarism”. The press in numerous countries, from Sri Lanka to Czechoslovakia explicitly ban the practice. In New Zealand the code of ethics set up by former newspaper owner Independent Newspapers Ltd (adopted by individual newspapers of Fairfax New Zealand) requires its editorial staff to “value originality in journalism and take every reasonable precaution to avoid plagiarism”. Both the Press Council’s Statement of Principles and the journalist union’s (NZ Amalgamated Engineering, Printing and Manufacturing Union) code of ethics require of journalists scrupulous honesty and accuracy. Coming from the other side of the problem, most senior journalists spoken to can recall at some time in their careers being plagiarised. No working journalist can seriously claim to be ignorant of the requirement not to plagiarise.

The matter could probably be left at that — accepting the inevitability of occasional transgressions and trusting in editorial vigilance — if not for two things. Firstly, the vast body of commentary emerging after Blair, Kiriona et al, has engendered a realisation that the practice, to some degree or other, might be much more widespread than thought.

All that’s bad enough. But what is of particular concern these days, thanks to electronic media and the Internet, is the ease by which plagiarism can be practised. Dr Richards correctly points to a virtually unlimited range of sources to plagiarise. But what about unpremeditated wrongdoing? It is easy to understand, if not approve, the modern-day journalist under pressure who might typically start a story by grabbing a couple of paragraphs of background material to slot into their own story without attribution.

Journalists know that to present someone’s work as their own is ethically wrong but somehow the practice of cutting and pasting electronically in this way seems to escape some people’s ethics alarm bells.

Some say the Internet is fair game. Cited in Martin Hirst and Roger Patching’s *Journalism Ethics: Arguments and cases*, educational consultant Dale Spender argues there is nothing wrong with searching the net for material, cutting and pasting it to come up with

something new, and calling it your creation. Cutting and pasting, she says, is the modus operandi of the Internet and “yesterday’s plagiarism is today’s way of earning a living”. Hirst and Patching beg to differ, saying of the practice, “without suitable attribution it is classic plagiarism”. It would be of extreme concern should Spender’s stance be taken up by younger generations.

Public relations brings another cloud to the issue. Many journalists believe the myriad press releases that land on their desks can be reprinted verbatim, though they are taught to use them as a springboard. PR practitioners often say they are bemused to see their work appear verbatim under a reporter’s byline – but they are never surprised. Seeing the material published, of course, is to their benefit, so complaints are unlikely. Some would say this sin is one of laziness rather than plagiarism.

In the academic world globally, plagiarism is of such concern that website and computer programmes like www.plagiarism.org and Turnitin have been devised to help teachers and institutions detect cheating by scanning and comparing hundreds of millions of pages of essays and exam papers posted on the Internet. Numerous cheaters are also routinely caught each year simply by Googling paragraphs that have been submitted.

The only possible way to confront the dilemma is to start by recognising that the intrinsic dishonesty of plagiarism is the same whether from electronic or non-electronic sources, PR press releases or a book. As Dr Richards points out, it is possible that under pressure from the sheer amount of material accessible via the Internet, the understanding of what constitutes plagiarism can “fray at the edges”. That does not mean we should accept dishonesty, rather that there is a need for increased debate and consideration. A first step would be to remind all journalists of their obligation to truth and honesty, along with a nudge that any sort or degree of plagiarism is unacceptable. But that’s the easy part. Given the immensity of the net, the bigger problem remains — how to detect it in the first place.

Press freedom — an ever-present issue

When the New Zealand Press Council was set up in 1972, one of its founding precepts was to maintain freedom of the press. No press freedom, however, is possible without free speech, a freedom it is often said New Zealanders died for in two world wars.

Today, freedom of speech is underpinned in this country in a way it has not been in earlier times. Though New Zealand does not have something akin to the United States Constitution and its First Amendment, we do have the Bill of Rights Act 1990. The public and the news media are its chief beneficiaries.

It, in Section 14, says: “Freedom of Expression – Everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind and in any form”.

The Act could be changed by a simple majority of parliamentarians – it is not entrenched. But it would be a brave Government, let alone a Parliament, that tried to fundamentally alter the legislation. In an age that demands more accountability from all public institutions, including the media, tinkering with a law that underwrites basic Kiwi freedoms would be more than unwise.

The Press Council finds that freedom of the press and thus, freedom of speech are liberties still not well understood by New Zealanders in the early 21st century. It is not uncommon to hear that an individual believes in free speech, but ... The “but” frequently alludes to an opinion with which the writer disagrees.

In other words, some complainants – those unhappy with opinions expressed in newspapers or magazines – believe in free speech as long as the person exercising it expounds a view they agree with. To disagree with those views, however, means the writer’s very right to express them can be called into question.

Again in 2004, the NZPC received a number of complaints that, when reduced to their essence, hinged on an unwillingness to see a point of view expressed that differed from the complainant’s own or on a discomfort that a report or opinion piece did not place enough – or perhaps, any – emphasis on their particular viewpoint.

Ours is but a small echo of a robust debate that has continued in the US since the terrorist attacks of 2001. Even in the world’s oldest democracy, the ability to express unpopular opinions is becoming harder.

Criticism from the political right has uncomfortable echoes of the 1950s’ persecution of communists, perceived communists and fellow travellers by the House Un-American Activities Committee and Senator Joe McCarthy.

Just this year, US author Ted Rall wrote an article about Ward Churchill, a professor at the University of Colorado, whose resignation is being demanded by a right-of-centre news anchor on the Fox television channel because of a piece Churchill wrote on the web after 9/11, denouncing American jingoism.

Rall said, “Popular opinions don’t require protection. The First Amendment was written to protect free expression that causes discomfort, even rage, by the majority. Both the

ensor and the civil libertarian will probably disagree with [Ward] Churchill's assessment of American collective guilt [over September 11] but the true defender of free speech recognises his own revulsion as further reason to err on the side of open discussion over silence."

This isn't just a problem of the 21st century. In 1945, author George Orwell wrote: "In our age, the idea of intellectual liberty is under attack from two directions. On the one side, are its theoretical enemies, the apologists of totalitarianism, and on the other its immediate practical enemies, monopoly and bureaucracy. Any writer or journalist who wants to retain his integrity finds himself thwarted by the general drift of society rather than by active persecution."

Though the debate does not rage to the same extent in this country, the Press Council and newspaper editors find themselves having to defend free speech – or freedom of the press – more often than they would wish. This is a battle that is never truly won.

The defences need to be mounted wearily often, the ground slips back more frequently than it ought and moves forward agonisingly slowly.

But this is a battle the Press Council is proud to help wage. Without freedom of speech, and by extension, a free press, democracy cannot function. Former US president and founding father Thomas Jefferson, put it well: "Were it left to me to decide whether we should have a government without newspapers or newspapers without government, I should not hesitate to a moment to prefer the latter."

One local example of how free speech needs to be defended involved a complaint by American Michael Mann, unhappy at two articles in *The New Zealand Herald* in August 2003, and that came to the Press Council in early 2004. They quoted, in part, the views of self-confessed climate-change agnostic and Auckland University professor Chris de Freitas.

The grounds of the complaint from Prof Mann, from the University of Virginia's environmental sciences department, were that the articles were inaccurate, lacked balance and showed excessive advocacy. The complaint was not upheld.

In its adjudication, the Press Council said: "The press's requirements ensure a ... popular and general approach to the most arcane subjects and wide-ranging, mass-readership publications will report minority views and even opinions that may be manifestly counter to the prevailing wisdom, or even wrong ... Advocates of a particular standpoint may not find the press always serving their purpose, but then the function of the press is to serve their readers in the broadest terms."

Another example was a sports column in *Hawke's Bay Today* about former All Black coach John Mitchell. Mr J R Braithwaite said the column was "highly personal", "unbalanced", "abusive" and an "excellent example of why people in the public eye desire as little contact with the press as possible".

In deciding not to uphold the complaint, the Council agreed with the paper's editor who conceded, in correspondence over the matter, that the column was in poor taste and did not meet required standards. The Council also agreed that it was unfortunate that criticism of the coach was not redeemed by a higher standard of wit.

Its adjudication went on to say, however, that it had consistently upheld the right of writers of opinion pieces to express their views in strong, even distasteful terms. It repeated comments from its 2002 annual report, where a writer in *The Times* of London was quoted as saying, "It has to be said at regular intervals that press freedom is empty if it

means freedom to be caring, compassionate, thoughtful, sensitive and sensible. True freedom of the press can only mean the freedom to be vulgar, stupid, ignorant, offensive and just plain wrong". The writer was, of course, referring to opinions, not facts.

Another complaint in 2004 also reflected the need for the press to be able to comment unfettered about matters of public interest.

Mr Noel Cox, of Auckland, was unimpressed by a column in *The New Zealand Herald*, reprinted from *The Independent* of London, about the British royal family. Mr Cox took exception to the portrayal of the royal household by columnist Beatrix Campbell. Mr Cox claimed that even opinion pieces should adhere to certain minimum standards of accuracy, fairness and balance.

In its adjudication, the Council acknowledged that Mr Cox was entitled to defend and support the royal household. It then said: "The Council also recognises the acknowledged right to free expression of a columnist's clearly stated opinion. In this case, the article was unmistakably attributed as an opinion piece."

A final example involved Wellington's *Dominion Post* newspaper and a regular correspondent, P J Carmody. Mr Carmody complained about a newspaper editorial and a Tom Scott cartoon, both dealing with the abuse by a Catholic priest, also a teacher, at a number of the Church's schools.

Mr Carmody argued, among other things, that the paper had an anti-Christian agenda and that its editorial should have restricted its criticism to the priest in question, rather than refer to the Church.

Editor Tim Pankhurst defended the editorial, saying he did not resile from it and that sexual abuse by a priest of children in his care as well as the Church's handling of the matter over time were matters of considerable public interest. He conceded that the Scott cartoon was tough, but said the cartoonist was encouraged to give his cartoons a strong current-affairs edge. The Council did not uphold the complaint, saying in reference to the cartoon that cartoonists had wide licence to use their skills to feature the news of the day, humorous or not. "Editorials and cartoons are universally recognised as opinion pieces and are published at the discretion of the editor."

New Zealand is fortunate that arguments about press freedom, and freedoms generally, are carried out in a healthy democracy, where such principles do not have to be defended by one's life.

When the world marked Press Freedom Day in May 2004, already 13 journalists had been killed since January 1, most of them in Iraq. At the same time, 133 journalists were in jail in 22 countries, including Cuba (29), China (27), Eritrea (14), Iraq (12) and Burma (11). More than 70 "cyber-dissidents" were also in prison, most of them in China, for posting information on the Internet.

The year before, 2003, 42 journalists were killed, 766 were arrested, 1460 were physically attacked or threatened and 501 media outlets were censored. New Zealand neighbour Tonga features on that list.

Though no journalist in this country feels physically threatened for merely doing their job that does not mean defenders of press freedom can pack up their tools and go home. In democracies like this, attacks usually take a more sophisticated form. And whatever form they come in, attacks need to be firmly repelled.

Blogging – comment on interesting developments

One of the most vital challenges to the mainstream media to emerge during 2004 arose from the unprecedented growth in the Internet. In the first quarter of 2004, more than 4.7 million websites were created. By then, the Internet had well over 700 million users. Research showed increasing numbers of people had given up newspapers, or watching television, in favour of their computer screens.

News sources on the Internet span from the traditional media to weblogs (known as “blogs”). Blogs are personal journals on the web that are shared among the global blogging community. They have been said to represent a “passage to the public sphere” where journalism is seen as a “practice” rather more than as a “profession”. Bloggers are not reliant on the judgment of an editor, or a position in an established publication, for the vehicle to put their views before others. By posting an on-line blog, they control publication of their own views. Not surprisingly, bloggers, and their blogs, are as diverse as the world’s population. Proponents of, and commentators on, blogging argue that this increase in human freedom adds to democratic possibility.

The use of blogs exploded during 2003-2004 and shows little sign of diminishing. It is significant that some bloggers have acquired readerships greater than many newspapers.

Though blogs were initially dismissed by many media commentators and observers, the increasing penetration of news blogs into the realm of not only journalism, but serious journalism, has led to a belated acknowledgement that readers are not deterred by the subjectivity of blogs. Some commentators even claim that bloggers are forging a grassroots journalism that, although free from the controls and ethics of professional news services, is nevertheless subject to a vigorous critique within its own community. There is no shortage of evidence in the blogging community that many of its participants are informed media critics who apply rigorous scrutiny to the writings of their fellow bloggers just as they do to the mainstream media.

Mainstream media is showing an awareness of the need to respond to this blogging phenomenon. Dan Gillmor in *We the Media: Grassroots Journalism by the People for the People* wrote,

“Big media ... treated the news as a lecture. We told you what the news was. You bought it or you didn’t. You might write us a letter; we might print it ... it was a world that bred complacency and arrogance on our part. It was a gravy train while it lasted but it was unsustainable.”

He predicted that news reporting would become more of a conversation where the lines would blur between producers and consumers, “changing the role of both in ways we are only just beginning to grasp”.

When Salam Pax (The Baghdad Blogger) reached hundreds of thousands of computer screens during the Iraq occupation, in a blog that ran between September 2002 and August 2004, many of the deceits in the supposedly “objective” sources of reportage were

dramatically exposed. His blog never claimed to be anything other than subjective yet, despite all the attempts to attack his credibility and to criticise his lack of objectivity, his accounts frequently proved more reliable than many of those deemed to be from objective sources.

Radical voices in media commentary see blogging as answering the call for a more democratic media that is capable of responding to what they claim is a “politico-corporate media web of deception”. Some bloggers see themselves as answering the calls for a “regime change” to report real news that “speaks truth to power”.

Among the blogging community, there is plenty of discussion that evinces a lack of confidence in the ability of the Fourth Estate, in its opinion-forming role, to avoid the taint of partisanship and self-interest. Most often, this comment is associated with some analysis of media ownership, the increasing global reach of the conglomerates concerned, their joint venture interests and their other industrial activities. There are calls for a “fifth estate” operating on more democratic lines that could protect the interests perceived to have been formerly safeguarded by the Fourth Estate. There is no lack of recognition on the part of these bloggers that the press can perform essential political, social, economic and cultural functions in a democracy. But many people express concern that media content can be determined or affected by the pattern of ownership, management, regulation and subsidy in media organisations.

During the Iraq occupation, when the embedding of journalists became widespread in an unprecedented way, the distrust of many readers toward conventional news sources in a war setting incrementally increased. Perhaps, therefore, it is no accident that it was during these hostilities that the most marked explosion of blogging has occurred. Despite their perceived disadvantages, for many readers blogs were preferable to the alternative. As Dan Gillmor has observed, “In the emerging world of Internet communications, obfuscation and lies will work even less than before.”

Bloggers do have the advantage of needing only their own observations, a personal computer and a power source to spread their opinions to millions. The comparatively cumbersome processes and machinery of publication involve identifiable journalists gathering news, time, people, distribution and in the end public and legal accountability, and are tortoise-like in comparison to the racy speed of a blog.

Bloggers are not a passive audience. They have the tools to challenge mainstream media and to create media themselves. Potentially, this could make the media better for everyone. Already bloggers claim credit for fulfilling this role.

Most notably, the bloggers claimed credit for exposing the forgery in candidate George W Bush’s National Guard documents posted on the CBS website during the 2004 United States presidential election. Within 19 minutes of the *Sixty Minutes II* programme beginning, bloggers were documenting the first signs of the forgery. Ultimately, they proved correct and programme frontman Dan Rather resigned. While Peggy Noonan wrote in her op-ed in *The Wall Street Journal*, “It was ... a great historical development in the history of politics in America”, it could just have as readily served as a warning to the media itself for as one of the bloggers responsible noted, “We are just getting warmed up”. While mainstream media’s authority was in this instance weakened, it didn’t have to be. Poor journalism was the real culprit.

CNN's chief news executive resigned after being pounded by bloggers for reportedly saying that US soldiers had targeted 12 journalists killed in Iraq. And bloggers claimed credit, too, for exposing James Guckert (aka Jeff Gannon) who had gained a White House press pass despite questionable credentials (a false name, a tax-evasion problem and advertising his services on a gay escort site) but who could be relied upon to ask the "soft question" for his Texan republican sponsor.

Before their respective news organisations caught up with them, a number of reputable journalists were also active in the blogging community during the Iraq occupation. Many appeared to enjoy the immediacy and interactivity of the blogger's world with one foreign correspondent commenting, "Bloggers have made me a better journalist because they find my mistakes, tell me what I am missing, help me understand nuances..."

Bloggers have been active, too, in the corporate sphere. When (alleged) trade secrets of Apple Computer Inc were published by bloggers, Apple sued and sought disclosure of sources for the information published. The bloggers have relied on the journalist's right to keep their news sources confidential. It is only a matter of time before the Courts will be required to determine whether this protection will be extended and, if so, in what circumstances.

And bloggers have challenged the politicians' power to control information too. It was a blogger who used the Freedom of Information Act to argue that Americans should be shown photos of the flag-draped caskets of their dead returning from Iraq and that to withhold this information amounted to an unacceptable censorship. As George Orwell wrote in his proposed preface to *Animal Farm*, "If liberty means anything at all it means the right to tell people what they don't want to hear."

Having found their voice, it is unlikely that bloggers will now surrender it. Blogging might challenge the mainstream media, but it can just as easily provide it with real opportunity. Engagement by the public in the media (in all of its manifestations) must enliven it. Far better this, than to remain in the state which Noam Chomsky described in 1994,

"... that for 80% (of the public) ... the main thing is to divert them ... just get them away. Get them away from things that matter. And for that it's important to reduce their capacity to think." [See *Noam Chomsky and the Media* Ed. Mark Achbar, Black Rose Books]

Despite Chomsky's view blogging goes some way to show that some people, at least, still want to think. This is the challenge that the bloggers offer mainstream media. It is a challenge that the media can, if they are willing, rise to meet.

World Association of Press Councils conference

Bagamoyo, Tanzania

Sir John reports

At the request of the WAPC I attended the conference in Bagamoyo, Tanzania held on October 23-26, 2004. I delivered a paper, which is set out hereafter.

The WAPC had in recent times had its own difficulties, about which I refrain from commenting. However, at the Bagamoyo Conference it was reported that the Alliance of Independent Press Councils of Europe (AIPCE) rejected the idea of becoming a more broadly based organisation and including Press Councils outside Europe. Also it is reported they rejected the idea of creating a minimum infrastructure effectively avoiding an independent website. That is their choice but it seems to me that those decisions emphasise the need to support and strengthen the newly structured WAPC. In my view it would be detrimental to the cause of self regulation and freedom of expression to leave the majority of the world without some organisation committed to the ideals and mission of the WAPC should it fail.

As many experienced conference attendees will testify it is the informal social transactions that take place where so much valuable information is traded and exchanged. That was my experience at Bagamoyo and I appreciated first hand the value of such an organization as the WAPC conducting a conference in Africa.

The Tanzanian Media Council hosted the conference. The three-day programme was varied and interesting. Some papers such as that of Mr Reginald Mengi, a media-owner in print and electronics in Tanzania, were particularly interesting especially for Tanzania and other African countries. Two other papers by representatives of the World Press Institute of USA entitled "Globalisation and the Media" (Mr Bob Porterfield) and "Shaping a Competent and Effective Media for Social Development" (Mr Clayton Haswell) were of general interest worldwide.

A paper of particular interest to women worldwide was an excellent presentation "Gender and the Media" by Thandi Shezi.

There were panels and many other papers too numerous to mention.

There were about 110 attendees from 23 countries. The conference was well planned and organised and those there found it very worthwhile.

Media Self-regulation: A Press Freedom Issue

A paper on the theme "Media Self-regulation: A Press Freedom Issue" although apparently straightforward is not an easy concept. It is best not to engage in fruitless analysis of meanings of words but to deal with the central point which, in my respectful opinion is: how is press freedom affected by the model of self-regulation as opposed to other models such as government legislation.

Several years experience in issues of self-regulation and press freedom have taught me to avoid sweeping generalisations and adherence to one solution. Most now accept

that freedom of the press is an essential for a truly democratically governed country. Nevertheless correlatively most agree that in democracies we are all greatly affected by what appears in the press and that there ought to be some form of regulation available to the general public to have complaints resolved cheaply, expeditiously and, most important of all, independently. The recognition of this concept of regulation is relatively new. The trick is to have sufficient regulation so as to satisfy public demand without impinging on the priceless value of freedom of expression.

The term self-regulation is not one that has attracted academic analysis. The reason no doubt is that it is self evident. The undertaking, or social service, takes on the burden of itself providing for the public discipline of the undertaking and a complaint resolution body in which the public can have confidence that its complaints are being dealt with fairly and independently. The range of activities can be straight commercial activity such as banking, insurance, financial services and advertising; professional services such as medicine, law, accountancy and dentistry and, for us particularly, newspapers and print journalism. It is regulation of the press that sharply raises free speech issues.

There are definite undertones of being a judge in one's own cause that I hope can be dispelled by the outline of the New Zealand experience, which is by no means novel or unique. Furthermore if the undertaking financially supports or establishes the complaint resolution body and staffs it, it *must* be prepared in the interests of justice on occasions to bite the hand that feeds it.

The New Zealand Press Council is composed of 11 members of whom six are public members (that includes the Chairman) and five industry members. In making decisions the Council rarely, if ever, divides along industry members versus public members, which latter group is in the majority in any event.

I turn to the free press issue. It is best if an audience is told candidly and up front where the speaker stands. Without dogmatism I hope, I stand on the platform that press freedom is better served by self-regulation. One must never forget that regulation must be tempered and governed by the necessity of not damaging what I have described as of priceless value, namely free expression.

I turn now to describe the system of self regulation of a free press in New Zealand (this includes most print journalism and the Internet if there is also produced a hard-copy publication and overseas publications if they have a significant readership in New Zealand) which I know most about and which is typical of the system in many countries around the world.

The New Zealand Press Council is a self-regulatory body set up 33 years ago by print industry representatives, namely the newspaper owners and the journalists' union. They were, and still are, the founding constituent members and were the two signatories to the Constitution from which we get our authority. We are probably the oldest press council in the world after the United Kingdom, which established one in 1954.

The purposes of the Press Council are to provide the public with a complaint-resolution body, protect freedom of the press, and maintain the highest standards in journalism. They are the objectives specifically stated in the Constitution. The Council was among the first bodies of a straight commercial activity to provide the public with a complaint-resolution service. The Press Council is a social enterprise that we hope is recognised as

an entity that is making its contribution to societal life in the country. Unusual for today, this service is provided free to all. We have received complaints about newspapers from overseas readers.

Self-regulation is a most important core value of the Press Council. The only viable alternative to self-regulation is statutory control. The central feature of self-regulation is retention of independence outside central government control, thus giving the Press Council an unrestricted mandate to control its own industry and, as a responsible body known to the public, to protect freedom of expression. It is quite usual for major government departments and even Ministers themselves to lay complaints with the Press Council. We have had a newspaper complain about another newspaper. Any body or person may complain to the Press Council.

The Press Council is completely independent of any government influence or taxation support. Funding comes entirely from the industry. The nature of its service is a public body-social enterprise activity sharply focused on free expression in a democratically governed country.

The Press Council is an autonomous body in that it is self-governing. But as its business is to offer a service to the public as a complaint-resolution body, to fulfil its function as a protector of freedom of expression and standards of journalism – all public issues – it must pay strong attention to the public and make itself transparently accountable. Transparency for the general public and other users of the Council's services is essential.

The group of readers within the industry have a particular reason for knowing about the Council and are obvious readers of our annual reports. Every editor in the mainstream industry is sent a copy of the annual report, as is every Member of Parliament. The Council has a statutory obligation to supply the National Library Service with copies. The annual reports are available to 10 journalism schools as a valuable source document for them. We hope the widespread dissemination of annual reports stimulates interaction and monitoring of the social service.

At the 25th anniversary, in 1997, of the establishment of the Council it undertook a review to measure whether it was meeting the public needs having due regard for some fairly persistent criticism that was coming our way. In other words, we embarked upon reform. An aspect of self-regulation that must be kept to the forefront is that the self-regulatory body itself must keep a sharp and disinterested eye on its own performance. We found in that review that there were several areas that required our attention. Extension of jurisdiction to cover most print media, and the need for a written document that informed the industry and public of the Press Council's mission, were the most important. These ends were both achieved, but not without some hitches.

Jurisdiction was achieved but without the co-operation of a significant group of publishers. Jurisdiction is a classic example of one of the downsides of self-regulation. Self regulation has no authority to legislate, which is obvious. To get people and bodies to accept the rulings of the Press Council it must do so by persuasion and appeals to publishers' self-interest. The failure of some to contribute and co-operate has not prevented our provision of services to the New Zealand public under the complaint system.

We called the written document the Statement of Principles and it has been a success and well used by complainants and editors.

The foregoing raises the authority of the Council to perform its duties. It has no legislative powers and must rely heavily on persuasion to achieve its ends. This is a large issue but some corporate actors will be aware of the difficulty a self-regulatory body faces without mandatory powers. The New Zealand Press Council's only substantial sanction is that the publication, the subject of an upheld complaint, must publish the adjudication. This is surprisingly powerful in the New Zealand context. However, it must be acknowledged it is not strong on punishment. We have decided not to seek punitive powers because that strategy can be expensive, time-consuming and counter-productive. It also encourages some corporate actors to become adversarial and obstructive.

What then is my closing argument to support the proposition that self-regulation positively contributes to press freedom?

Self-regulation is the system that touches most lightly freedom of expression. The alternatives carry greater danger of interference with press freedom. If one's activity is primarily complaints resolution then there is never any shortage of critics. The criticism must be borne and objectively assessed. If it is valid it must be answered.

There is always a body of opinion, often stemming from academics, that there is a better way. In New Zealand we are not free from such agitation, often well expressed and argued. The better way usually involves government intervention and that has recently taken place in New Zealand in regard to regulation of the medical and legal professions. There is now for the legal profession a form of co-self-regulation but that is another story.

A little appreciated phenomenon is that governments support self-regulation because they simply do not want to burden themselves with the problems associated with attempting to control the print media. One hopes that this will continue to be so for New Zealand but complacency is to be avoided.

Self-regulation can and does work well in society as an alternative to defamation proceedings in the courts. It does so in New Zealand. An aggrieved person who feels damaged by a publication can get satisfaction by an upheld decision from a press council. The complaint procedure is fast and fair at no cost. In New Zealand we have no power to impose monetary penalties as a sanction but we have found many complainants are satisfied if there is vindication of their complaint.

Finally, free expression is a very powerful doctrine with the potential for divisiveness, but nevertheless that cost must be borne for the greater good of overall freedom.

‘Medical misadventure, patients’ complaints and the media’

Report on HDC seminar, by Terry Snow

In December 2004, the Health and Disability Commissioner (HDC) Ron Paterson organised an all-day seminar titled “Medical misadventure, patients’ complaints and the media”. His concern stemmed from the basic question, what is the role of the media in reporting medical misadventure and complaints against doctors?

The Press Council was invited to send an observer. When the question arose about how the Press Council worked as a regulatory body, it was explained how

- the self-regulation principle operated;
- what the Press Council’s principal objects and Statement of Principles were;
- the fact there was a majority of public members on the Press Council;
- that there was ready and cheap access for the public after they had addressed their complaints to a publication first.

Despite some apparent unhappiness in the medical profession with press coverage, in the past six years there had been only one complaint to the Press Council from a doctor and two from District Health Boards.

The genesis of the seminar was the public debate arising from the Commissioner’s annual report and the section “Trial by media”. There he stated that doctors were being scared out of practice by hostile media publicity during complaint investigation, and a majority of disgruntled patients were quick to contact the media despite the willingness of many providers to disclose their mistakes and say sorry. His report did say most media reporting of health issues was positive, and name suppression for doctors found guilty under the complaints procedure should be reserved for exceptional cases. But reporters should aim for fairness and balance in their stories.

The New Zealand Herald responded with an editorial “Let’s get real on medical complaints”, which suggested doctors enjoyed real protections in New Zealand. Letters to the editor both praised the editorial, and criticised it for oversimplifying a complex situation.

The general effect of the seminar for the participants was to make the medical profession’s leaders and the media representatives present aware of each other’s concerns. Of 40 participants registered only six were from the media, and three of those were speakers. A practical suggestion at the end of the session was that the Health and Disability Commissioner might advance education about complaint reporting by giving talks in-house to general reporters and sub-editors as well as to the specialist health reporters, and that use be made of the Journalists’ Training Organisation.

The seminar was conducted under Chatham House rules so that no comments made during the day were to be attributed to any identifiable individual. There were four sessions.

The consumer perspective

The consumer advocates and a former claimant against doctors and a District Health Board (DHB) spoke of the media as always being used as a last resort when doctors, a

hospital or DHB failed to satisfy them or respond to their complaints. Usually the cases were very serious — the death of a young girl, a woman misdiagnosed with breast cancer, the practice of a doctor that made women feel unsafe.

The advocates warned about the two-edged nature of media coverage — likely to help but also exposing the complainants' private lives and details, and not always producing the angle or approach they expected. Mention was made of the way the Cartwright inquiry had changed the face of bland medical reporting, and the usefulness of the media in the cases involving health professionals Parry, Botterill, Morgan Fahey, and the baby hearts stored at Greenlane Hospital.

Practitioner and employer perspective

The doctors presenting this session said recent medical journal articles talked about the stresses on doctors from adverse publicity, and the negative effect this had on the recruitment of doctors. Under the old regime, a doctor could apologise directly to a patient for a mistake but the new regime had management systems built into it. It seemed that doctors were working like lawyers in following systems and processes.

The doctors themselves were divided between the points of view that any publicity equated to “trial by media” (the BBC charter about balance and fairness was quoted) and a genuine recognition that doctors were not communicating well within the health system or to their patients and the public generally. This then reflected in complaints brought up in the media.

Doctors made the point that complaints against doctors were professional not criminal, and the media did not make this distinction. Judgments were quoted that in the Parry case “the facts do not support the public hue and cry” and in the Southland Burton case “no fault was found with a doctor’s supervisory skills”. Only a small percent of complaints against doctors were upheld.

A media riposte to this point of view was that while doctors regarded themselves as victims, they were the second victim and the patient or complainant who had a genuine grievance was the first victim. If more attention was paid in the first instance to the first victims so that their complaints were alleviated, there might not be second victims such as doctors suffering under the stress of publicity about their medical practices.

It was suggested that there was still a lot of inadequate communication within the health system itself and this led to patients feeling they were not being told the whole story, or not understanding what was going on. There was reference to the fact that within various hospitals it was rare for patients to have a single health carer who could advise of the whole picture and what was happening, as many different doctors visited a patient.

From the DHB perspective, it was acknowledged that it was important to identify complaints early, especially after bereavement, otherwise patients complained and went to the press.

- Complaints were rarely about individuals, and the root causes were usually issues within the system. Complex issues often lay behind major complaints, but when these were dealt with in the press they were usually simplified to blame an individual.
- Complaints were mostly about rudeness, delays or the dismissive manner of staff.

- Communication with the press could often come out as wrongly quoted or inaccurate medicine.
- DHBs were often spending a lot of time interpreting between the management and medical layers.

Discussion that some media could be trusted (National Radio) and some could not (flashy TV shows) drew media comment that the medical profession had to be aware that different kinds of media served different audiences with different styles and approaches to stories. Sensationalism was not the same as large headlines, for example, which were simply in large type to draw attention to a story.

Regulatory perspective

It was explained the NZ Medical Council (NZMC) role was to promote public health and safe practice, but as the profession could lose touch with the public, the media had a role to play for doctors. The profession could drift away from the public as happened with the baby organs preserved at Greenlane. This opinion immediately drew a comment that this was not losing touch but inhumane, and a fundamental breach of the rights of families and patients.

The seminar was told the role of NZMC had changed too — lay members meant it was not a closed shop protecting members, but still a major consideration in name suppression was the health of the doctor, unless the doctor agreed to be named. It was later commented that most complainants in disciplinary cases wanted the name of the health professional published, even at the cost of being identified themselves.

Doctors felt that though the first role of the media was that of public watchdog, the media must do its homework – they set aside time for senior health reporters, but the downside was that newspapers often went once lightly over stories. The media distress caused to doctors was not to be underestimated — why were health professionals picked on?

The regulators discussed the pros and cons of name suppression, suggesting the new combined Health Practitioners Disciplinary Tribunal now might remove anomalies over the way name suppression was applied. They urged the media to weigh up the balance between protecting doctors as well as the public. In the matter of complaints, as soon as a patient approached the media with a grievance, they often checked with the HDC to see whether there was a complaint in train, but the process might not even have started. The media comment was that news was timely, and the complaint process worked on a different time scale.

Media perspective

Media representatives explained that, despite the perception of the medical profession, not many complainants came to the media. It was a last resort when patients couldn't get satisfaction — the Gisborne women and the cervical smear inquiry revealed that complainants had tried for three years with the medical system before putting their story to the media. It was not an easy thing for complainants to go public.

The seminar heard that the media saw the “trial by media” accusation as a phrase that tripped too easily off the medical tongue. Contrary to the picture of a sensationalist press beating up medical complaint stories on their own initiative, most came from official

sources. A year's reporting of complaints about doctors in the *New Zealand Herald* was given as an example. Of 19 stories about complaints against doctors, 13 were reports of tribunal hearings, one a Parliamentary disclosure, one from the HDC, two from the courts, one of an overseas practitioner struck off and one NZPA story about a Christchurch surgeon being struck off.

The media published stories not just because they were good copy but good stories, which was another thing. Misadventure was good copy because we were all patients. Doctors were perceived as knowing everything and did not do a good job explaining themselves (to patients, to the public or the media). Also, despite criticism of the media, doctors were not averse to using the media when it suited them.

The media representatives said privacy was often used by doctors as an excuse for not talking about a case. If a reporter asked permission of a patient to talk to their doctor, it was responsible reporting. Some medical criticism of the media reporting on complaints against doctors was simply shooting the messenger for reporting what was actually happening. The media was reporting what it saw.

Doctor-patient relationships were private and the majority should stay that way. But there was a point where public disclosure became a matter of public interest and a line had to be drawn where that happened. Stories about misadventure and medical complaints were not run to serve the financial interests of the papers, contrary to medical claims.

The main motivation for people to complain to TV about medical stories was also that they didn't want the same thing happening to other people. There were frequent calls to TV with complaints but very few stories made it.

Editors were also mindful of the precious reputation of doctors and careful not to run stories without proper checking. Editors were very aware of defamation and did not leap into print. Very few of the complaints made to the press about medical situations saw the light of day. But editorial mistakes could be made and if so, there needed to be immediate redress.

Openness with the media was best, the seminar was told, although the Waitakere hospital decision to be as deliberately open as possible about an operating theatre fire during a caesarean operation led to both good and bad results. The chief executive found all his cautious provisos surrounding the possible cause, while it was still being investigated, were edited out by TV to produce a single sentence answer, leading to a critical reception from his medical colleagues.

Doctors resistant to stories in the press needed to ask if they thought a patient had the right to know about a complaint in process against a health practitioner, so they could choose their health professional safely. Wouldn't doctors themselves in a different region or country want to know how safe another practitioner was before sending members of their family to be treated? It could be that the system was at issue. But the need of patients, and what might happen in future if there was bad medical practice, drove stories.

In general discussion it was acknowledged that there is pressure on resources in newspapers, and the more junior reporters were prone to misunderstanding complex medical stories. But in the seminar there was vigorous public defence of the junior reporters adhering to ethical approaches to medical stories, in the same way that junior doctors would be expected to adhere to the same ethical principles as their senior colleagues.

In Memoriam

Stuart Francis Wilson Johnston 1931–2004

Stuart Johnston, retired professor of English and stalwart member of the Press Council, died on July 4, 2004.

Since his appointment as a public member in July 2000, Stuart was a champion of freedom of speech, the right to publish and, in particular, clear and precise expression of thought and fact. Many was the time that Stuart altered a sentence of an adjudication immediately enhancing the sense and clarity of what was being expressed. He was also our in-house grammarian.

Not only did Stuart bring to the Council table his well thought-out contributions to the consideration of complaints, he also worked behind the scenes on the review of the Constitution and Press Council pamphlet. It was reassuring to the other Council members to know the work was in such steady hands. He scoured the Internet and forwarded many items of interest to other Council members, helping to keep everyone up-to-date with items of international import. If he had any one complaint about the media it was that editors did not seem to recognise the value of a quick and reasonable correction or apology. He admired the Ian Mayes' "Corrections and Clarifications" column in *The Guardian*, and was delighted when *The New Zealand Herald* started their version.

It was with concern and sadness that the members noted Stuart's failing health. It was a measure of the man that he marshalled his remaining strength and energy (and indeed scheduled his blood transfusions) to allow him to attend the Council meetings and at the end, as late as the 20 June meeting, Stuart contributed to the meeting by phone.

The Council gives thanks for his friendship, advice and outstanding contribution to the work of the Press Council. We extend to his family our deepest condolences.

Personnel

There were several changes in the membership of the Press Council during 2004. Among the public members Richard Ridout retired in June and was replaced by Lynn Scott. Mr Ridout was instrumental in the Council's adoption of a Statement of Principles in 1998.

Stuart Johnston's death in July left more than just a space at the Council table.

After nationwide advertising interviews were held in August-September for two public members. The successful candidates were Aroha Puata and Keith Lees. We were fortunate that Ms Puata was immediately able to attend the September meeting. Mr Lees was selected as a replacement for Sandra Goodchild who retired in December. Sir John noted that Mrs Goodchild's intellectual input had been highly valued by the Council, as had her sensible comments on the complaints. Mrs Goodchild's skills as an accountant had also been very useful to the Council over the eight years she was a member.

Lucy Bennett, Union representative, resigned in December having taken a position with the Australian Associated Press. There was a vacancy on the Council until May when Murray Williams was appointed by the EPMU.

An Analysis

Of the 45 complaints that went to adjudication in 2003 nine were upheld in full and three in part. There were 28 complaints lodged against daily newspapers, nine against the *Sunday Star-Times*, five against community newspapers, and one each against *Readers' Digest*, *Rural News* and the Otago University student magazine *Critic TeArohi*. Student magazines are not usually considered to come within the jurisdiction of the Press Council, but some years ago the editor of this particular magazine asked to be included, and since has advertised the services of the Press Council within its pages. This was their first complaint. Five of the complaints against the *Sunday Star-Times* related to two articles.

Most complaints going to adjudication are considered by the full Council. However, on occasions there may be a complaint against a newspaper for which a Council member works. On these occasions the Council member leaves the meeting and takes no part in consideration of the complaint. Likewise, occasionally a Council member declares a personal interest in a complaint and leaves the meeting while that complaint is under discussion. There were 15 complaints in which one or more members declared an interest in 2004.

While the meetings of the Council are not open to the public, complainants can, if they wish, apply to present their claims in person. Three complainants took this opportunity in 2004. At the time the Press Council considered the three complaints against the *Sunday Star-Times* personal representations were heard from one of the complainants, the Transport Accident Investigation Commission, from the editor of the newspaper, and from a legal representative for the newspaper.

The Statistics

Year end Dec	2002		2003		2004	
Adjudications Issued		48		52		45
Upheld	8		14		9	
Part upheld	2		5		3	
Not upheld with dissent	1		2			
Not upheld	36		31		33	
Declined	1					
Not Adjudicated		39		27		30
Mediated/Resolved	3		3		3	
Withdrawn	1		2		1	
Withdrawn at late stage	1		2		1	
Not followed through	16		9		12	
Out of time	2		2			
Not accepted	3		2		2	
Outside jurisdiction	3				3	
In action at end of year	10		7		8	
Total Complaints		87		79		75

Decisions 2004

<i>Complaint name</i>	<i>Newspaper</i>	<i>Adjudication</i>	<i>Publication</i>	<i>Case No</i>
Denis Hampton	<i>The Press</i>	Not Upheld	12.02.04	961
Michael Mann	<i>New Zealand Herald</i>	Not Upheld	12.02.04	962
J R Braithwaite	<i>Hawke's Bay Today</i>	Not Upheld	29.03.04	963
Noel Cox	<i>New Zealand Herald</i>	Not Upheld	25.03.04	964
Sue Evans	<i>The Press</i>	Not Upheld	25.03.04	965
Herman Jans	<i>Waikato Times</i>	Not Upheld	29.03.04	966
Carol Rankin (and the Office of The Clerk of the House of Representatives)	<i>Sunday Star-Times</i>	Upheld	26.03.04	967
Philip Rama	<i>New Zealand Herald</i>	Not Upheld	29.03.04	968
Andrew Williams	<i>North Shore Times</i> <i>Advertiser</i>	Not Upheld	25.03.04	969
David Bosley	<i>Hawke's Bay Today</i>	Not Upheld	14.05.04	970
Dean Spooner	<i>Sunday Star-Times</i>	Not Upheld	16.05.04	971
Christopher Dempsey	<i>Sunday Star-Times</i>	Not Upheld	16.05.04	972
Brian Hartley	<i>The Press</i>	Not Upheld	14.05.04	973
Barry Lawrence	<i>Waiheke Marketplace</i>	Not Upheld	14.05.04	974
Stuart Lowery	<i>New Zealand Herald</i>	Not Upheld	14.05.04	975
Steve McCormack	<i>New Zealand Herald</i>	Not Upheld	14.05.04	976
<i>Mountain Scene</i>	<i>The Southland Times</i>	Upheld	6.05.04	977
André Wardenaar	<i>New Zealand Herald</i>	Not Upheld	14.05.04	978
Anna Wilding	<i>The Press</i>	Not Upheld	14.05.04	979
John Bent	<i>Manawatu Standard</i>	Not Upheld	2.07.04	980
Alan Cato	<i>New Zealand Herald</i>	Upheld	6.07.04	981
Mark Sadler	<i>The Press</i>	Not Upheld	1.07.04	982
New Zealand Immigration Service	<i>The Press</i>	Not Upheld	1.07.04	983
New Zealand Immigration Service	<i>New Zealand Herald</i>	Not Upheld	1.07.04	984
K R Bolton	<i>Sunday Star-Times</i>	Not Upheld	15.08.04	985
Maria Frew, Paddy Beban and Mike Nolan	<i>The Press</i>	Part Upheld	12.08.04	986
Glenn Peoples	<i>Critic TeArohi</i>	Part Upheld	13.08.04	987
Complainant	<i>Mountain Scene</i>	Not Upheld	30.09.04	988
Geoff Stephens	<i>The Press</i>	Not Upheld	12.08.04	989
Associate Minister of Transport	<i>Sunday Star-Times</i>	Upheld	3.10.04	990
Peter Rhodes	<i>Sunday Star-Times</i>	Upheld	3.10.04	991
Transport Accident Investigation Commission	<i>Sunday Star-Times</i>	Upheld	3.10.04	992
P J Carmody	<i>The Dominion Post</i>	Not Upheld	30.09.04	993
Wayne Church	<i>The Dominion Post</i>	Not Upheld	30.09.04	994
Lynmarie Edwards	<i>The Dominion Post</i>	Upheld	30.09.04	995
Tanja and Dejan Mitrovic	<i>The Press</i>	Not Upheld	30.09.04	996
Brenda Ryan	<i>Wainuiomata News</i>	Part Upheld	30.09.04	997
Grant Birkinshaw	<i>Sunday Star-Times</i>	Upheld	26.12.04	998
Anne Braun-Elwert	<i>Rural News</i>	Not Upheld	26.12.04	999
Robin Gwynn	<i>Hawke's Bay Today</i>	Not Upheld	30.12.04	1000
Neil Hayes	<i>Sunday Star-Times</i>	Not Upheld	26.12.04	1001
Christina Paton	<i>Horowhenua-Kapiti Chronicle</i>	Not Upheld	24.12.04	1002
Stratford Racing Club	<i>The Daily News</i>	Not Upheld	24.12.04	1003
Jim Traue	<i>The Dominion Post</i>	Upheld	24.12.04	1004
Variety The Children's Charity	<i>Readers Digest</i>	Not Upheld	30.12.04	1005

Statement of Principles

Preamble

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

There are some broad principles to which the Council is committed. There is no more important principle than freedom of expression. In a democratically governed society the public has a right to be informed, and much of that information comes from the media. Individuals also have rights and sometimes they must be balanced against competing interests such as the public's right to know. Freedom of expression and freedom of the media are inextricably bound. The print media is jealous in guarding freedom of expression not just for publishers' sake, but, more importantly, in the public interest. In complaint resolution by the Council freedom of expression and public interest will play dominant roles.

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

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

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

1. Accuracy

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

2. Corrections

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

3. Privacy

Everyone is entitled to privacy of person, space and personal information, and these rights should be respected by publications. Nevertheless the right of privacy should not interfere with publication of matters of public record, or obvious significant public interest.

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

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

4. Confidentiality

Editors have a strong obligation to protect against disclosure of the identity of confidential sources. They also have a duty to take reasonable steps to satisfy themselves that such sources are well informed and that the information they provide is reliable.

5. Children and Young People

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

6. Comment and Fact

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

7. Advocacy

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

8. Discrimination

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

9. Subterfuge

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

10. Headlines and Captions

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

11. Photographs

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

12. Letters

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

13. Council Adjudications

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

Complaints Procedure

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

council upholds a complaint (in full or in part), the newspaper or magazine concerned must publish the essence of the adjudication, giving it fair prominence. If a complaint is not upheld, the publication concerned may publish a shortened version of the adjudication. All decisions will also be available on the council's website www.presscouncil.org.nz and in the relevant Annual Report.

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

Statement of financial performance for the year ended 31 December 2004 (Audited)

2003		2004
	INCOME	
2,700	Union	2,700
140,000	NPA Contribution	140,000
5,000	NZ Community Newspapers	5,000
8,500	Magazine Contribution	8,500
958	Interest Received	968
157,158	Total Income	157,168
	EXPENDITURE	
418	Acc Levy	436
533	Accounting Fees	533
395	Advertising and Promotion	303
550	Auditor	680
15	Bank Charges	38
457	Cleaning	471
1,201	Computer Expenses	1,200
2,404	Depreciation	2,024
2,637	General Expenses & Subscriptions	2,033
2,375	Insurance	2,375
1,129	Internet Expenses	775
-	Legal Expenses	1,500
1,385	Postage and Couriers	2,013
2,057	Power and Telephone	1,576
10,264	Printing and Stationery	7,725
6,224	Reception	6,462
16,212	Rent and Rates	18,155
92,674	Salaries - Board Fees	90,902
12,022	Travel and Accommodation	15,661
47	Interest - Term Loan	-
152,999	Total Expenses	154,862
4,159	Income over Expenditure	2,306
37,556	Plus Equity at beginning of year	35,251
(6,464)	Prior Period Adjustment	(17)
35,251	Equity as at end of year	37,540

Statement of financial position

As at 31 December 2004 (Audited)

<i>2003</i>		<i>2004</i>
	Represented by:	
	ASSETS	
15,139	BNZ Current Account	7,175
19,803	BNZ Call Account	24,886
	Accruals and Receivables	-
1,096	Computer hardware (less depreciation)	634
12,434	Fit out (less depreciation)	10,871
48,472	Total Assets	43,566

	LESS LIABILITIES	
430	Creditors and Provisions	586
6,855	GST	5,440
5,936	PAYE Payable	-
13,221	Total Liabilities	6,026

	EQUITY	
31,092	Accumulated Funds	35,233
4159	Income over Expenditure	2306
35,251	Total	37,539

Auditor's report

cornish
and associates ltd

accountants and business advisers

2 March 2003

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 2002 (12 months).

In our opinion:

- Proper accounting records have been kept by the organisation so far as appears from our examination of those records, and the organisation's 2002 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 2002 and financial performance and cash flows for the year ended on this date of the organisation.

Our review was completed on 2nd March 2003 and our unqualified opinion is expressed at this date.

CORNISH & ASSOCIATES LTD.



03/03/03 10:00 AM