

# NEW ZEALAND PRESS COUNCIL

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# Chairman's Foreword

## THE HUTTON INQUIRY

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

# Scanning the 2003 Complaints: Some Key Points

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

## **“Promptly”**

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

## **Complaints from institutions and organisations**

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

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

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

## **Responding in good time**

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

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

## **Corrections**

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

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

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

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

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

## **“Off the Record”**

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

As a result, the Press Council suggests that editors counsel their staff as to how their newspaper, magazine or Internet site prefers to handle information provided “off the record”. There is also profit, in the Council's view, in ensuring what their journalists understand the term to mean.

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

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

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

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

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

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

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

## **Anticipating readers' needs**

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

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

## **Quotation marks and how to use them correctly**

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

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

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

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

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

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

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

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

## **Newspaper policy on selecting letters to the editor**

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

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

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

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

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

# Press freedoms at risk in an era of global turmoil

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

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

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

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

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

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

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

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

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

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

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

# Community Newspaper Association Conference March 2003

## *Terry Snow's address*

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

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

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

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

The Press Council did not uphold a complaint against the use of the word “bollocks.”

A headline in Tauranga’s *Weekend Sun* newspaper referring to “bollocks” offended a reader, Mr J A Franklin. The headline, “Mid-winter dippers line up to freeze off their bollocks,” was placed over a story about a mid-winter swim.

Mr Franklin’s complaint was published as a letter to the editor. He said he was disappointed with the use of the word and said if the writer could not have found a better headline then he or she should “give up”.

The newspaper editor, Brian Rogers, decided to attempt a light-hearted response which was published alongside the letter below the headline: “Headline writer gone off his/her nut?” It said *The Weekend Sun* was creating new standards – “we’ve taken the old ones by the proverbials and given them a good twist.” It said the headline writer “was given a good bollocking and

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

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

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

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

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

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

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

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

# Visits and visitors

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

## **Visit by representatives of the People's Republic of China**

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

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

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

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

## **Professor Kenichi Asano**

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

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

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

## **Dr Uiliani Fukofuka**

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

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

## **Local Government Communications Officers' Conference**

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

## **NZ Skeptics Society**

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

## **Massey University School of Journalism**

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

# The print media in China

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

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

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

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

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

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

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

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

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

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

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

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

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

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

# Tonga

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

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

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

There were two distinct groups of meetings:

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

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

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

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

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

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

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

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

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

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

## **An Update**

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

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

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

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

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

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

# Personnel

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

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

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

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

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

# An analysis

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

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

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

Most complaints going to adjudication are considered by the full Council. However, on occasions there may be a complaint against a newspaper for which a Council member works. On these occasions the Council member leaves the meeting and takes no part in consideration of the complaint. Likewise, occasionally a Council member declares a personal interest in a complaint and leaves the meeting while that complaint is under discussion. There were 17 complaints in which one or more members declared an interest in 2003.

While the meetings of the Council are not open to the public, complainants can, if they wish, apply to present their claims in person. Two complainants took this opportunity in 2003, one of whom was also represented by his lawyer. One other complainant's case was supported by legal representation at the Council meeting.

## The Statistics

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

# An overview of 2003

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

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

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

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

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

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

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

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

# Decisions 2003

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

# Statement of Principles

## Preamble

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

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

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

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

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

## 1. Accuracy

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

## 2. Corrections

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

### **3. Privacy**

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

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

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

### **4. Confidentiality**

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

### **5. Children and Young People**

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

### **6. Comment and Fact**

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

### **7. Advocacy**

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

### **8. Discrimination**

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

### **9. Subterfuge**

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

### **10. Headlines and Captions**

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

## **11. Photographs**

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

## **12. Letters**

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

## **13. Council Adjudications**

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

# Complaints Procedure

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

cerned must publish the essence of the adjudication, giving it fair prominence. If a complaint is not upheld, the publication concerned may publish a shortened version of the adjudication. All decisions will also be available on the council's website [www.presscouncil.org.nz](http://www.presscouncil.org.nz) and in the relevant Annual Report.

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

# Statement of financial performance

## for the year ended 31 December 2003 (Audited)

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

# Statement of financial position

## As at 31 December 2003 (Audited)

<i>2002</i>	Represented by:	<i>2003</i>
	<b>ASSETS</b>	
7,270	BNZ Current Account	15,139
22,170	BNZ Call Account	19,803
6,946	Accruals and Receivables	
885	Computer hardware (less depreciation)	1,096
14,172	Fit out (less depreciation)	12,434
<b>51,443</b>	<b>Total Assets</b>	<b>48,472</b>

	<b>LESS LIABILITIES</b>	
70	Creditors and Provisions	430
5,458	GST	6,855
2,422	Newspaper House Loan	0
5,937	PAYE Payable	5,936
<b>13,887</b>	<b>Total Liabilities</b>	<b>13,221</b>

	<b>EQUITY</b>	
13,008	Accumulated Funds	31,092
24548	Income over Expenditure	4159
<b>37,556</b>	<b>Total</b>	<b>35,251</b>

# Auditor's report

**CORNISH**  
& ASSOCIATES LTD

Accountants & Business Advisers

7 April 2004

## **To Whom It May Concern**

### **The New Zealand Press Council**

We have reviewed the accounts of The New Zealand Press Council for the period ended 31 December 2003 (12 months).

In our opinion:-

- Proper accounting records have been kept by the organisation as far as appears from our examination of those records, and the organisation's 2003 Financial Statements.
- The accounts comply with the generally accepted accounting practice, and give a true and fair view of the financial position as at 31 December 2003 and financial performance and cashflows for the year ended on this date of the organisation.

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

CORNISH AND ASSOCIATES LTD.