



Australian
Press Council™

Annual Report 2021-2022





Australian
Press Council



Australian
Press Council



**Australian
Press Council™**

Annual Report

2021-2022

ANNUAL REPORT NO 46
Year ending 30 June 2022

**Australian Press Council
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ISSN: 0156-1308

A blue-tinted background image showing a person's hands writing in a spiral notebook. A microphone is visible in the lower right foreground. The text is overlaid on the left side of the image.

The Australian Press Council promotes freedom of speech and responsible journalism.

It also sets standards and responds to complaints about material in Australian newspapers and magazines, as well as a growing number of online-only publications.



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Foreword from the Chair

During 2021-2022, the Australian Press Council continued its core work of promoting high standards of media practice in print and online publications.

This task was undertaken in the context of a dynamic and complex industry, where the lines between media channels continue to blur.

Online news is now an unquestioned and central element of the media's offerings to readers. Public discourse on the divide between print and digital channels has given way to debate about the role of large social media companies in the media landscape. The origin of their editorial content, who should pay for it, and how much, are today's media industry concerns.

The Australian Press Council (APC) is playing its part in responding to the challenges posed by these new digital platforms. In May 2022, the APC made a submission to the Federal Government's review of the News Media and Digital Platforms Mandatory Bargaining Code, which came into effect in March 2021. Our submission reiterated previously expressed concerns in relation to the Professional Standards Test in the Code.

On the matter of press freedom, the APC made a submission to the Senate Environment and Communications Reference Committee's Media Diversity in Australia Inquiry and subsequently gave evidence in October 2021 to the Committee. This included providing answers to a number of questions on notice. Along with the APC CEO, I emphasised the need in a democracy for the press to be free to offer the Australian people a wide diversity of views and opinions.

2021-22 was a time of change for the Council itself.

We farewelled Kirstie Parker, who resigned on 22 August 2021 after serving three years as an Independent Journalist Member. Julie Kinross, who served as a Vice-Chair from 2017-2021, stepped down on 31 December 2021 after serving the maximum term of nine years as a Public Member. Julie remains an Adjudication Panel Member.

In May 2022, it was with great sadness that we reported the passing of John Bedwell, a valued and much-admired member of the APC. As a Public Member since 2014, he served under three Chairs and made significant contributions, professionally and personally. He was a most compassionate, kind and intelligent man who is sadly missed.

In this period we welcomed new Public Members to Council. Mohamed el Roubi, Diana Nestorovska and Dr Siddharth Vohra were appointed on 15 December 2021 for terms of three years.

We also welcomed a new CEO, Yvette Lamont, who commenced as CEO and Executive Director in September 2021, taking over from Paul Nangle, who had been Acting Executive Director since John Pender's resignation during the previous reporting period.

Neville Stevens AO
Chair



Report from the CEO and Executive Director

In September 2021, I joined the Australian Press Council (APC) as CEO and Executive Director. It is a great honour to be part of an organisation dedicated to promoting high editorial standards and freedom of expression in Australia's print and online media.

During the financial year 2021-2022, the APC continued to respond to complaints about material in Australian newspapers, magazines and online publications, receiving 972 complaints from 1554 complainants. Of the 972 complaints received, 694 were found to be in scope of the APC's complaints-handling process. The vast majority of these complaints were resolved through a range of alternative remedies (examples of remedies can be found on page 61 of this Annual Report) and 27 complaints were considered by Adjudication Panels, with a substantial percentage of these being upheld or partially upheld.

The APC is continually looking for ways to improve the efficiency of its complaints-handling process. For instance, in August 2021, Council considered the best way to adapt complaints-handling practices in respect of global digital publishers. It introduced a trial where complaints about articles in Daily Mail Australia (DMA) would be considered only where the article related to events within Australia or concerned an Australian national or resident at the time of publication, who was directly and personally affected by an alleged breach of the APC's Standards of Practice.

Articles written by DMA's Australian journalists continue to be subject to the APC's Standards of Practice. The model recognises that while DMA is a Member of the APC, DailyMail.com and Mail Online are not. It aims to provide DMA – and any other future GDP member – clarity in terms of the complaints that the APC can accept.

We continued to refine Standards and Guidelines, commencing preliminary work to update our Advisory Guideline on reporting on 'race' and held education sessions for journalists on our Standards of Practice and Advisory Guidelines more generally.

During the Reporting Period, three new Public Members and an Adjudication Panel Member were appointed. We have continued to appoint new Council Members and Adjudication Panel Members since the Reporting Period.

Five new Constituent Bodies joined the APC in the Reporting Period – Nascon Media Pty Ltd, Out Publications Pty Ltd, Region Group Pty Ltd, Mandaeen Media Network and Man of Many Pty Ltd. The APC continues to encourage print and online publishers to seek membership.

We also made several submissions on policy areas relevant to the work of journalists, press freedom, editorial standards and media diversity in Australia. The "Year in Review" pages of this Annual Report contain more detail on these activities, which include giving evidence to a Senate Committee on Media Diversity in Australia and a submission to the Review of the News Media and Digital Platforms Mandatory Bargaining Code.

The APC continued its support for the annual Journalism Education and Research Association of Australia (JERAA) "Ossie" Awards as part of its advocacy for press freedom, free speech and responsible journalism. These awards showcase the country's best student journalism. The APC sponsors three award categories – the major award for Journalism Student of the Year and two awards for media ethics essays. The APC provides expert Council Members to assess the student entries and provides cash prizes to the winners.

In other matters, the APC continued to review expenditure to ensure appropriate use of its resources. For example, video meetings, adopted by the APC during COVID-related restrictions, have been retained wherever practicable. This measure is delivering meaningful cost savings.

Please read on for more information about the APC's complaints-handling, finances and Adjudications for the 2021-2022 financial year.

Yvette Lamont
Executive Director

COMPLAINANTS IN 2021-2022

1554

“Public discourse on the divide between print and digital channels has given way to debate about the role of large social media companies in the media landscape.”

PRESS COUNCIL CHAIR / NEVILLE STEVENS

COMPLAINTS

694

81%

COMPLAINTS UPHELD OR PARTIALLY
UPHELD BY THE ADJUDICATION PANEL

FORMAL ADJUDICATIONS

27

7

STAFF WORKING AT THE
COUNCIL SECRETARIAT

The Year in Review

Key Australian Press Council activities

The purpose of the Australian Press Council (APC) is to promote freedom of speech and responsible journalism by:

- ensuring effective complaints handling;
- developing and refining standards and guidelines
- undertaking industry education; and
- advocating for press freedom, free speech and responsible journalism.

Ensuring effective complaints handling

The Australian Press Council (APC) continued to respond to complaints about material in Australian newspapers and magazines as well as a growing number of online-only publications, in accordance with its process.

There were 972 complaints in 2021-22 from 1554 complainants. Of the 694 in-scope complaints received last year, 27 were considered by an Adjudication Panel. A substantial percentage of those were upheld or partially upheld.

In August 2021 the APC considered the best way of adapting its complaints-handling practices to respond to the emergence of global digital publishers.

As mentioned in the CEO and Executive Director's foreword, the APC introduced a complaints-handling process for global digital publishers. Under a 12-month trial the APC no longer accepts complaints which appear on Daily Mail Australia's (DMA) website that have been written by journalists for DailyMail.com, a US-focused publication, and Mail Online, a UK-focused website, except when:

- the article relates to events within Australia; or
- the article concerns an Australian national, or resident at the time of publication, who is 'directly and personally affected' by an alleged breach of the Council's standards of practice. Articles written by DMA's Australian journalists will continue to be subject to the APC's Standards of Practice.

The decision followed concerns raised by DMA that, as a global digital publisher, it was neither practical nor reasonable for the APC to apply its Standards of Practice to articles written by journalists that are not employed by it and over which it has no editorial control concerning events in either the US or UK.

The model being trialled recognises that DailyMail.com and Mail Online are not members of the APC, but that the DMA is. It aims to provide DMA – and any other future GDP member – clarity in terms of the complaints that the APC can accept.

Developing and refining standards and guidelines; undertaking industry education

The Secretariat undertook preliminary work in relation to updating the Advisory Guideline on reporting of 'race'. A Working Group to consider this was appointed outside the Reporting Period. The APC continued to educate journalists about its role, functions, Standards of Practice and Advisory Guidelines.

Advocating for press freedom, free speech and responsible journalism

In the Reporting Period, the APC made a number of submissions on policy areas relevant to the Council's work and objectives, including policy development with impact on the work of journalists, press freedom, editorial professional standards, and media diversity in Australia.

Submission on Inquiry on Constitution Alteration (Freedom of Expression and Freedom of the Press)

In August 2021, the APC lodged a submission with the Senate Legal and Constitutional Affairs Legislation Committee Inquiry on Constitution Alteration (Freedom of Expression and Freedom of the Press) 2019. The submission related to a proposed alteration to the Constitution introduced by Senator Rex Patrick, an Independent from South Australia. The submission expressed the view that the strongest steps possible need to be taken to strengthen freedom of the press and freedom of speech, and to improve Australia's position in this regard, including its position in the World Press Freedom Index. The APC expressed support for the proposed constitutional amendment to enable these freedoms and, if such constitutional amendments were not passed, expressed support for legislative reform to strengthen these freedoms balanced against other responsibilities of the press.

Evidence given to Senate Committee: Media Diversity in Australia Inquiry

Following a submission made by the APC in December 2020 to the Senate Environment and Communications References Committee: Media Diversity in Australia Inquiry, on 22 October 2021 the Chair and CEO and Executive Director gave evidence to the Senate Committee by video conference and provided answers to a number of questions on notice. They gave an opening statement to the Senate Committee, which emphasised (among other issues) that the Press needs to be free to make available to the Australian people a wide diversity of views and opinions. The APC expressed its commitment to further increasing the diversity of its Council and Adjudication Panel membership; and stated it looked forward to contributing to the discourse on media diversity in a cross-platform media environment.

Submission to review of the News Media and Digital Platforms Mandatory Bargaining Code

In February 2022, the Treasurer and the Minister for Communications, Urban Infrastructure, Cities and the Arts announced a review of the News Media and Digital Platforms Mandatory Bargaining Code (which came into effect in March 2021), as well as Terms of Reference for the Review. In May 2022, the Press Council made a submission to that Review, reiterating its previously expressed concerns in relation to the Professional Standards Test in the Code. In addition, in July 2022 (just outside the Reporting Period), the CEO and Executive Director, along with the Director of Strategic Issues, participated in a roundtable convened by Treasury under 'Chatham House rules'. A number of other stakeholders were also invited to share their views on the Code.

JERAA Student Journalist Awards

Each November, the Journalism Education and Research Association of Australia (JERAA) runs the "Ossie" Awards to showcase the country's best student journalism. The APC supports three awards at the Ossies, providing judges and cash prizes.

The 2021 winner of the Journalism Student of the Year award went to Reuben Spargo from Charles Sturt University. The APC's Undergraduate Prize for an essay on the topic of media ethics was won by Samantha O'Connell from Monash University. The Postgraduate Prize for an essay on the topic of media ethics was awarded to Grace Stranger from the University of Technology, Sydney.

Key organisational enablers

The Council continued to develop the key organisational enablers identified in its Strategic Plan:

- Managing relationships well with members and external stakeholders;
- Supporting and growing the membership base;
- Developing skills and capabilities;
- Refining governance structures; and
- Ensuring ongoing financial sustainability.

Managing relationships with members and external stakeholders

The new CEO and Executive Director met with a number of key stakeholders at the beginning of her term, including key governmental representatives.

Supporting and growing the membership base

The APC continues to encourage new publisher members to join. Five new Constituent Bodies were approved – Nascon Media Pty Ltd, Out Publications Pty Ltd, Region Group Pty Ltd, Mandaeen Media Network and Man of Many Pty Ltd. Constituent Bodies agree to abide by the APC's Constitution, provide funding, cooperate with the APC's handling of complaints against them and publish any resultant Adjudications.

Developing skills and capabilities

The ability of members of the Secretariat to attend conferences, seminars and other activities to develop skills and abilities, continued to be impacted by COVID-19 during the reporting period.

Ensuring ongoing financial sustainability

Expenditure is regularly reviewed to ensure appropriate use of resources and there was an increased application of digital technology, including retaining Zoom meetings post-COVID wherever practicable.

Other matters

During the Reporting Period, three new complaints (from one complainant) were made to Anti-Discrimination NSW about the APC. One was closed by Anti-Discrimination NSW following its withdrawal by the complainant (due to it being a duplicate of another complaint); another was declined by Anti-Discrimination NSW (which the complainant subsequently requested be referred to the NSW Civil and Administrative Tribunal (NCAT), requiring leave to proceed); and the other was declined by Anti-Discrimination NSW (outside the Reporting Period) and the file was closed as the complainant did not request that it be referred to NCAT.

During the Reporting Period, an appeal was also withdrawn by the complainant on the substance of an NCAT decision made in the APC's favour in November 2021. Therefore, the NCAT decision that the APC did not discriminate in any way stands.

In not one case to date has Anti-Discrimination NSW or NCAT found that the APC has discriminated in any way.

Complaints Handling

Constituent bodies enter a binding agreement to comply with the APC's Standards of Practice and its complaints process. Complaints about material they publish are submitted through the APC's website or by post.

The APC's complaints team reviews all complaints in detail, meets regularly to discuss them and makes recommendations to the Executive Director for further action. This may mean the APC seeks further information from the complainant or a response from the publication, contacts the subject of the article (where that person is not the complainant) or explores with the complainant and publication a possible resolution, such as a correction, an amendment, an apology or publication of a letter to the editor.

Some complaints can be eliminated at the outset as out-of-scope if they do not fall within the APC's remit; for example, complaints about television or radio content. Other complaints may be declined early in the process. If the complaint is not declined or resolved, it will be investigated further. Where a complainant has been identified or is directly affected by an article, they are regarded as a 'primary complainant' and have a role throughout the process.

A complainant who is not identified or directly affected is regarded as a 'secondary complainant' and usually ceases to have a direct role in the process after lodging the complaint. The issues considered will not necessarily include, or be strictly limited to, those which are raised explicitly by the complainant.

If a complaint is to be considered further, a Provisional Summary of Issues document is used to clarify the issues. This provides a focus for the APC's assessment of whether an article complained about complies with the Standards of Practice. A complaint is discontinued if it is considered unlikely that a breach of the APC's Standards of Practice has occurred, or for some other reason the complaint is inappropriate for further consideration. Sometimes a complainant will withdraw a complaint or cease to respond to communication from the APC about it, in which case it will be discontinued.

Complaints may also be dealt with by the Executive Director issuing a letter of advice to the publication and discontinuing the complaint, or by referring the complaint to an adjudication panel. Adjudication panels are made up of five to seven people. They are chaired by the Council's

Chair, or one of the Vice-Chairs or a designated Public Council member. They have equal numbers of Public and Industry Members. Publisher Members of the Council do not take part in adjudication panels. The final Adjudication is published by the publication and also published on the APC's website. The APC has no power to order compensation, fines or other financial sanctions.

Where a complaint is upheld, the adjudication may include a reprimand or censure, and may explicitly call for (but not require) apologies, retractions, corrections or other specified remedial action by the publisher. The adjudication may also call for specific measures to prevent recurrence of the type of breach in question. Of the 694 in-scope complaints received last year, 27 were considered by an adjudication panel. 81 per cent of those were upheld or partially upheld.

Complaints

NUMBERS OF COMPLAINTS AND COMPLAINANTS OVER PAST FIVE YEARS

	2021-22	2020-21	2019-20	2018-19	2017-18
New in-scope complaints received during year	694	797	1,076	758	554
Complainants making these complaints	1554	1476	1,858	2,004	959
Out-of-scope complaints received during the year	278	341	230	183	158



Complaints Director, Paul Nangle

Complaints and Complainants

Complaints received

New in-scope
complaints received
during the year

694

Out-of-scope
complaints received
during the year

278

Complainants
making these
complaints

1554

Complaints closed

In-scope complaints

853

Complainants

1178

Out-of-scope
complaints

278

Issues raised in
complaints

1099

COMPLAINANTS

Individuals	1098
Associations, companies and other non-government bodies	15
Government and other public bodies	12
Politicians, councillors, electoral candidates and political parties	4
Other	2
Total (in-scope and out-of-scope)	1131

PUBLICATIONS

Newspapers and their digital platforms	
National	356
State	330
Regional and rural	156
Suburban	59
Magazines and their digital platforms	3
Online-only publications	104
Other	123
Total (in-scope and out-of-scope)	1131

TYPE OF PLATFORM

Online-only	706
Online and social media	14
Print	126
Print and online	193
Print, online and social media	14
Social media	68
Unspecified	10
Total (in-scope and out-of-scope)	1131

OUTCOMES OF COMPLAINTS

Declined by the Council at initial stage	597
Discontinued	114
Discontinued with Letter-of-Advice	15
Withdrawn	8
Remedy without adjudication	38
Not pursued by complainant	54
Adjudication – complaint fully or partially upheld	22
Adjudication – not upheld	5
Out-of-scope	278
Total	1131

REMEDIES WITHOUT ADJUDICATION

Apology (public or private)	0
Retraction, correction or clarification published	2
Material deleted entirely	4
Follow-up article published	1
Amendment to article	23
Other private action/explanation	0
Other published action	2
Total	38

ISSUES RAISED

Accuracy/misleading	254
Corrective action	30
Fairness and balance	277
Publication of a reply	25
Intrusion on privacy	86
Offence/prejudice/distress	403
Unfair or deceptive means	8
Conflict of Interest	16
Total	1099

Council Membership and Staff

The governing body of the APC is its Council.
The Council comprises:

- > The Independent Chair;
- > Public Members with no affiliation with a media organisation;
- > Constituent Members nominated by publishers of newspapers, magazines and online media, as well as by the principal union for employees in the media industry, the Media Entertainment and Arts Alliance (MEAA), and
- > Independent Journalist Members.



Chair, Neville Stevens AO



Vice-Chair, Jennifer Elliott



Director of Strategic Issues, Isabella Cosenza

Members

During the 2021-2022 period, the Council welcomed new Public Members Mohamed el Roubi, Diana Nestorovska and Siddharth Vohra.

The Executive Editor of Daily Mail Australia, Lachlan Heywood, was reappointed as a Constituent Member.

Secretariat

The APC farewelled Febe Magno (Complaints and Governance Officer), Joelle Patten (Office Manager) and Nathan Saad (Senior Complaints and Policy Officer).

It welcomed Yvette Lamont (Executive Director and CEO), Lauren Freemantle (Complaints and Governance Officer), Christian Capper (Office and Operations Manager) and Chris Wright (Complaints Officer).



Public Member,
Mohamed el Roubi



Public Member,
Diana Nestorovska



Public Member,
Dr Siddharth Vohra



Independent Journalist Member, Prof. Peter Greste



Independent Journalist Member, Julie Flynn

Constituent Bodies

Five new Constituent Bodies were approved during the reporting period – Nascon Media Pty Ltd, Out Publications Pty Ltd, Region Group Pty Ltd, Mandaean Media Network and Man of Many Pty Ltd.

Sub-committees

The Council has an Administration and Finance Sub-Committee (AFSC), a Constituent Funding Sub-Committee (CFSC), and a Complaints Sub-Committee, known as its Adjudication Panel.

Adjudication Panels are made up of a rotating composition of members. The Panels usually comprise the Chair, a Vice-Chair or a Public Member appointed as a Panel Chair, and equal numbers of Public Panel Members and Industry Panel Members.

The AFSC oversees administration and finances for the APC. It comprises the Chair and at least two other Public Members, two Publisher Members and either one Journalist Member or the Council Member nominated by the Media Entertainment and Arts Alliance (MEAA).

The CFSC determines the overall level of funding for the APC and the contributions to be made by each constituent body. It comprises the Chair, the Vice-Chair, and one nominee from each Constituent Body.



Media Consultant, Dorothy Kennedy



Office and Operations Manager, Christian Capper

Council Members at 30 June 2022

Neville Stevens AO	Chair
Jennifer Elliott	Vice Chair
<hr/>	
Hon John Doyle AC	Public Member
Dr Felicity-ann Lewis	Public Member
Dr Suzanne Martin	Public Member
Lyn Maddock	Public Member
Dr Siddharth Vohra	Public Member
Diana Nestorovska	Public Member
Mohamed el Roubi	Public Member
Prof Peter Greste	Independent Journalist Member
Julie Flynn	Independent Journalist Member
David Braithwaite	Nine.com.au
Glenn Stanaway	News Corp Australia
Lachlan Heywood	Daily Mail Australia
Brian (Hartley) Higgins	Country Press Australia
Erik Jensen	Small publisher representative
Matthew Ricketson	Media Entertainment and Arts Alliance

ADJUDICATION PANEL MEMBERS

- Barry Wilson
- Russell Robinson
- John Fleetwood
- Bob Osburn
- Julian Gardner AM
- Melissa Seymour Dearness
- Susan Skelly
- Andrew Podger AO
- Julie Kinross
- Shenal Basnayake

Finances

As stated in its Constitution, the Australian Press Council Inc. is "an incorporated association of organisations and persons established on 22 July 1976".

It is funded by contributions made by its constituent bodies and receives no government funding.

** Percentage contribution has increased in comparison to FY2021 however this does not represent an increase in the fees paid by News Corp Australia in FY2022. It is due to Australian Community Media not joining the APC after a Constituent Body restructuring.*

The main activities of the Press Council are to promote high standards of media practice and to be the principal body for responding to complaints about material in Australian newspapers, magazines and online media.

Total member contributions for the financial year 2022 were \$1,686,264. There was no increase in contributions from financial year 2021.

Funding in FY2022

Contributions are set by the Constituent Funding Subcommittee after considering a recommendation from the Council. Contributions for the financial year 2022 were made by the following Constituent Bodies:

Up to 1% of core funding:

- Agenda Media Pty Ltd
- Altmedia Pty Ltd
- At Large Media
- Australian Property Journal
- Beaconwood Holdings Pty Ltd
- Budsoar Pty Ltd
- Country Press Australia
- Echo Publications Pty Ltd
- Focal Attractions
- Highlife Publishing Pty Ltd
- Independent Australia Pty Ltd
- Inside Story Publishing Pty Ltd
- Man of Many Pty Ltd
- Mandaean Media Network
- Nascon Media Pty Ltd
- National Indigenous Times Holdings Pty Ltd
- Out Publications Pty Ltd
- Private Media
- Pro Bono Pty Ltd
- Radiowise Productions Pty Ltd
- Region Group Pty Ltd
- Schwartz Media
- Solstice Media Limited
- The Urban Developer Pty Ltd
- Western Sydney Publishing Group Pty Ltd
- Workday Media

1%-10% of core funding:

Are Media Group (formerly Bauer)
Dailymail.com Australia Pty Ltd
Media Entertainment and Arts Alliance
Mediality (formerly Australian Associated Press)
Nine.com.au

11%-30% of core funding:

Fairfax Media

31%-70% of core funding:

*News Corp Australia

Funding commitments

Constituent bodies agree on specific funding commitments for up to three years in advance. For FY2022 the agreed increase in contributions was nil. Funding commitments for FY2023 will remain the same as in FY2022.

PROFIT AND LOSS

THE AUSTRALIAN PRESS COUNCIL INC

For the year ended 30 June 2022

ACCOUNT	30 June 2022	30 June 2021
Income		
Interest income	573	3,690
Core Funding	1,686,264	2,147,386
Other Income	1,418	50,788
Total income	1,688,255	2,201,864
Less: Expenses		
Accounting fees	14,125	–
Amortisation	12,281	12,841
Auditors remuneration	4,439	12,781
Provision for impairment - receivables	(2,219)	17,431
Bank charges	2,419	3,408
Consulting and professional fees	128,469	141,218
Depreciation - Right-of-use assets	163,887	160,891
Depreciation - Property, plant and equipment	11,061	11,337
Equipment < \$300	–	230
Interest expense on lease liability	14,247	19,735
Insurance	38,558	36,228
IT Expenses	52,743	34,202
Lease rentals on operating lease	28,967	45,653
Leave pay	10,541	(20,267)
Long service leave	6,750	(20,120)
Meeting and Consultation	19,768	23,478
Other employee costs	34,413	47,113
Postage	350	410
Printing and stationery	11,885	19,206
Promotion	1,150	2,300
Salaries	868,146	1,075,538
Security costs	3,896	3,872
Software expenses	49,235	6,254
Staff training	–	486
Storage costs	5,579	4,956
Subscriptions	1,179	2,482
Sundry expenses	1,640	(1,034)
Superannuation contributions	82,574	97,467
Telephone and fax	30,387	30,734
Travel - domestic	14,202	19,754
Utilities	3,414	4,395
Total Expenses	1,614,086	1,792,979
Surplus before income tax	74,169	408,885

STATEMENT OF FINANCIAL POSITION
THE AUSTRALIAN PRESS COUNCIL INC
As at 30 June 2022

ACCOUNT	30 June 2022	30 June 2021
Assets		
Current Assets		
Cash and cash equivalents	1,616,705	2,075,035
Trade and other receivables	930,993	359,927
Total Current Assets	2,547,698	2,434,962
Non-current Assets		
Property, plant and equipment	7,538	17,027
Intangible assets	11,361	23,642
Right of use assets (ROU)	196,219	347,866
Total Non-current Assets	215,118	388,535
Total Assets	2,762,816	2,823,497
Liabilities		
Current Liabilities		
Trade and other payables	235,059	255,553
Lease liabilities (ROU)	163,971	145,997
Deferred income	825,083	819,635
Provisions	63,486	52,945
Total Current Liabilities	1,287,599	1,274,130
Non-current Liabilities		
Lease liabilities	28,304	183,373
Provisions	111,527	104,777
Total Non-current Liabilities	139,831	288,150
Total Liabilities	1,427,430	1,562,280
Net Assets	1,335,386	1,261,217
Equity		
Retained earnings	1,335,386	1,261,217
Total Equity	1,335,386	1,261,217

Publisher Members

As at 30 June 2022,
the following Constituent
Bodies were publisher
members of the APC

News Corp Australia
Nine Entertainment Co. Holdings Ltd (Fairfax and nine.com.au)
Are Media Pty Ltd (includes former Bauer and Pacific Magazine titles)
Mediality Pty Ltd (formerly AAP)
Country Press Australia (CPA)
Dailymail.com Australia Pty Ltd)

Small Publishers

Agenda Media Pty Ltd
Altmedia Pty Ltd
At Large Media
Australian Property Journal
Beaconwood Holdings Pty Ltd
Budsoar Pty Ltd
Echo Publications Pty Ltd
Focal Attractions
Highlife Publishing Pty Ltd
Independent Australia Pty Ltd
Inside Story Publishing Pty Ltd
Man of Many Pty Ltd
Mandaeen Media Network
Nascon Media Pty Ltd
National Indigenous Times Holdings Pty Ltd
Out Publications Pty Ltd
Private Media
Pro Bono Pty Ltd
Radiowise Productions Pty Ltd
Region Group Pty Ltd
Schwartz Media
Solstice Media Limited
The Urban Developer Pty Ltd
Western Sydney Publishing Group Pty Ltd
Workday Media

The individual titles published by each constituent body are available on the APC website <https://www.presscouncil.org.au>

Complaints and Complainants

Complaints received

New in-scope complaints received during the year

694

Out-of-scope complaints received during the year

278

Complainants making these complaints

1554

Complaints closed

In-scope complaints closed

853

Out-of-scope complaints closed

1178

Complainants making these complaints

2178

Adjudications

Complainant / Daily Mail Australia Adjudication 1800

20-Jul-2021

The Press Council considered whether its Standards of Practice were breached by articles published in Daily Mail Australia headed “Cross-dressing serial killer, 75, wants YOU to pay for his sex change surgery when he's released from jail – and he looks almost certain to get his way” on 20 October 2020 and “Notorious cross-dressing serial killer who bludgeoned his fiancée to death with a piece of wood walks free after 23 years in jail – despite her brother's pleas for him never to be released” on 12 November 2020.

The October article reported “A cross-dressing serial killer set to be freed from jail wants a taxpayer-funded sex change upon his release...”. The article quoted the brother of one of the murder victims saying: “It's disgusting to think this man will be out and trying to use taxpayers' money to have a sex change”. The article went on to report that the “NSW State Parole Authority said there is nothing it can do in its power to prevent the convicted murderer from having the surgery” and included the comments from the NSW Attorney General saying that he “had sought legal advice on applying for a continuing detention order to keep Arthurell behind bars.”

The November article reported that the person had been released from prison and “came out as a transgender while in custody and told authorities he hopes to have a sex change and live the remainder of his life a woman”. The article said “he has been referring to himself as a female and asked all prison workers to treat him as a woman inside jail”. The article quoted the brother of one of the murder victims saying there “wouldn't be a member of the (parole) board that would like this person living in their neighbourhood, let alone living as a neighbour”.

In response to complaints, the Press Council asked the publication to comment on whether the articles complied with the Council's Standards of Practice, which require publications to take reasonable steps to ensure that factual material is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts (General Principle 3); and to avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest (General Principle 6). The Council noted that complaints expressed

concern that the prominent references to the planned ‘sex change’ suggest that gender affirming surgery is not medically necessary; that the gender treatment itself is as abhorrent as the crimes committed; and that the references to being transgender were prejudicial, given that it was not a relevant factor at the time the crimes were committed.

In response, the publication said it is in the public interest to report on the release into the community of a convicted multiple murderer and to report the views of the brother of one of the victims. The publication noted that the October article reported that the brother had a very strong opposing view to the person using tax-payers' dollars to have gender affirming surgery. The publication said the articles are factual and neither article states nor suggests that the gender affirming surgery was not necessary or that it is as abhorrent as the crimes described. The publication said that referring to the person's transgender status is a significant fact to both articles as it allows its readers to understand the history of the case. The publication said it was reported at the parole hearing that the person had identified as a woman and that she wanted to commence gender affirming surgery.

CONCLUSION

The Council recognises the importance of allowing the brother of a murder victim to express his robust personal views on the release of the prisoner. However, in relation to the October article, the Council considers that the headline's prominent reference to gender affirming surgery being at the cost of the ‘taxpayer,’ together with the comments in the article stating that the parole board is powerless to stop the surgery, diminishes the importance of the surgery. The Council considers the headline and comments in the article unfairly imply that such surgery is either not medically necessary or that such surgery should not be paid for by Medicare. The Council considers this unfairness is compounded by an absence of any balancing comments, either in support of why such surgery is medically necessary treatment, or in support of rights of released prisoners to access public health care. Accordingly, the publication has failed to present factual material with reasonable fairness and balance in breach of General Principle 3.

The Council considered there was a public interest in the public being informed about the prisoner's release given the seriousness of the crimes committed. However, the Council does not consider there was sufficient public interest in the prominent references to the person's transgender status, which was not reported to have a connection with the crimes

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for which the person was convicted. The Council considers the prominent references to the person being transgender could lead some readers to conclude this was somehow connected to the crimes and could contribute to substantial prejudice against transgender people. Accordingly, the Council concludes that the publication breached General Principle 6.

The Council considers in relation to the November article, that the publication on balance took reasonable steps to ensure the presentation of factual material in the article was reasonably fair and balanced, and concludes the publication complied with General Principle 3. The Council also accepts the strong public interest in reporting on the release of the prisoner and concludes that the publication complied with General Principle 6. The Council acknowledges the publication amended the article after receiving the complaint to remove the irrelevant and potentially prejudicial references to the person's transgender status.

RELEVANT COUNCIL STANDARDS

This Adjudication applies the following General Principles of the Council. Publications must take reasonable steps to:

3. Ensure that factual material is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts.
6. Avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest."

Complainant / Herald Sun Adjudication 1802

22-Jul-2021

The Press Council considered whether its Standards of Practice were breached by an article published by the Herald Sun online on 21 January 2021 headed "Mill Park fire: Samantha Noack allegedly detonates homemade bomb".

The article reported a "transgender woman allegedly detonated a homemade petrol bomb in a Mill Park park then threw a molotov cocktail at a truck, starting several fires. Samantha Noack, 49, was refused bail for a second time ... with a magistrate deeming her a too greater risk to public safety." It went on to state "Noack, who was formerly

known as Kenneth Noack, allegedly set off a homemade petrol bomb...". The article also reported that the court heard "Noack was a transgender woman who suffered from personality disorder, PTSD and depression and had struggled with drug use. Her lawyer submitted she was particularly vulnerable to exclusion in custody, proposing she be bailed to live in temporary accommodation organised by support services."

In response to a complaint, the Council asked the publication to comment on whether the article complied with the Council's Standards of Practice, which require publications to take reasonable steps to ensure that factual material is presented with reasonable fairness and balance (General Principle 3); and to avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest (General Principle 6). The Council noted the complaint expressed concern that the prominent and repeated references to the accused's transgender status, and inclusion of the accused's former name, were unfair and were not justified by the public interest as the article established no relevance between the accused's transgender status and the alleged crime.

In response, the publication said the accused's transgender status was entirely relevant to the court proceedings upon which the article was based. The publication said it was the defendant's legal counsel who introduced the transgender status of his client into the proceedings and used it as the basis of the bail application because Ms Noack would be vulnerable in custody. The publication said the transgender status of Ms Noack was taken into account by the magistrate when deciding whether to grant bail. The publication also said that Ms Noack's former name was mentioned in the course of the bail proceedings. It said its report of the proceedings was fair and accurate and did not imply that the accused's transgender status was a factor in the commission of the crime.

CONCLUSION

The Council has for a long period considered that publications should exercise great care to not place unwarranted emphasis on characteristics of individuals such as race, religion, nationality, country of origin, gender, sexual orientation, marital status, disability, illness or age.

The Council notes that the article was presented as a purely factual report of bail proceedings in relation to a serious crime. It is satisfied based on the publication's responses that the information in the article fairly and accurately

reflects statements made in open court. Accordingly, the Council concludes the publication complied with General Principle 3.

However, while the accused's transgender status may have been relevant in relation to the bail hearing given the concerns expressed by the accused's lawyer, it does not appear to have been relevant in any way to the commission of the crime itself. The Council considers the repeated and prominent references to the accused's transgender status, including in the opening paragraph of the article which did not refer to the bail proceedings, could lead some readers to conclude that this characteristic was either a cause of, or a factor in, the alleged crime, and could contribute to substantial prejudice against transgender people. The Council considers that in prominently identifying the woman as transgender, the publication failed to take reasonable steps to avoid contributing to substantial prejudice and that there was no sufficient public interest justifying it doing so. Accordingly, the Council concludes that the publication breached General Principle 6.

RELEVANT COUNCIL STANDARDS

This Adjudication applies the following General Principles of the Council. Publication must take reasonable steps to:

3. Ensure that factual material is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts.
6. Avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest."

Complainant / The Daily Telegraph Adjudication 1801

28-Jul-2021

The Press Council considered whether its Standards of Practice were breached by the publication of an article headed "Exclusive: Serial killer wants Medicare gender change: FIEND'S SEX OP ON YOU" (front page), "Killer's sex change farce" (page 6) in print and "Serial killer Reginald Arthurell planning sex change after jail release" online on 21 October 2020.

The article reported "A SERIAL killer due for imminent release from jail wants a taxpayer funded sex change operation infuriating the family". The article quoted the

brother of one of the murder victims saying: "It's disgusting to think this man will be out and trying to use taxpayers' money to have a sex change". The article went on to report that the "Parole Authority said it has no power to stop Arthurell having a sex change" and that "all he will need is referral from his doctor to have most of the procedure covered by Medicare." The article stated that relatives of one of the victims had passed on evidence to police that "Arthurell had told two inmates he has plans to kill them and police when he gets out".

In response to a complaint, the Press Council asked the publication to comment on whether the article complied with the Council's Standards of Practice, which require publications to take reasonable steps to ensure that factual material is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts (General Principle 3); and to avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest (General Principle 6). The Council noted that the complaint raised concerns that the prominent references to the planned 'sex change' suggest that gender affirming surgery is not medically necessary and that the gender treatment itself is as abhorrent as the crimes committed.

In response, the publication said the article reports the concerns of the brother of one of the murder victims. The publication said the brother expressed concern that the person remains a danger to the public and should not be released and that if released, no money should be spent on sex change surgery. The publication said that the article is not about a sex change or whether or not such surgery is necessary. The publication said the article was to give the brother of a murder victim a voice to express his concerns about a serial killer's release and the use of taxpayer money, which it said is in the public interest.

CONCLUSION

The Council accepts that a brother of one of the murder victims expressed his strong negative views on the prospect of the person's release and that in his view taxpayer money should not go towards gender affirming surgery. As such, the Council considers the publication took reasonable steps to ensure the presentation of factual material in the article was reasonably fair and balanced and concludes that General Principle 3 was not breached.

Nonetheless, in considering the treatment of the person's

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apparent request for gender affirming surgery, the Council considers that the prominent and repeated references to 'sex change' and the description of it as a farce is likely to cause offence, distress and prejudice to those in the community having either undergone or seeking such surgery. The Council considers that the prominent emphasis on the gender affirming surgery diminishes the importance of such surgery by both implying that it is not warranted and questioning whether it should be covered by Medicare. The Council considered there was a public interest in the public being informed about the person's release but that there was no public interest in diminishing the person's request for gender affirming surgery. Accordingly, the Council concludes that the article breached General Principle 6.

RELEVANT COUNCIL STANDARDS

This Adjudication applies the following General Principles of the Council. Publications must take reasonable steps to:

3. Ensure that factual material is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts.
6. Avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest."

Complainant / The Daily Telegraph

Adjudication 1781

06-Aug-2021

The Press Council considered a complaint about an article published in The Daily Telegraph online on 28 February 2019, headed "Young men 'at risk' from new university policies for adjudicating rape".

The article reported that universities were introducing regulations to adjudicate rape allegations on campus. It reported that social commentator Bettina Arndt said that an Australian Human Rights Commission survey "shows that 0.8 per cent of students surveyed said they'd had some sort of sexual incident; which Ms Arndt says means that 99.2 per cent of students have not experienced sexual assault."

The Council received a complaint noting that the AHRC Survey referred to in the article said that "Around half of all university students (51%) were sexually harassed on at least one occasion in 2016, and 6.9% of students

were sexually assaulted on at least one occasion in 2015 or 2016. A significant proportion of the sexual harassment experienced by students in 2015 and 2016 occurred in university settings." It also said that "1.6% of students were sexually assaulted in a university setting, including travel to and from university on at least one occasion in 2015 or 2016."

The Council, in noting the statements in the AHRC survey, asked the publication to comment on whether reasonable steps were taken to ensure that the article was accurate and not misleading, presented factual material with reasonable fairness and balance, and that writers' expressions of opinion were not based on significantly inaccurate factual material or omission of key facts.

The publication said the survey result that "6.9% of students were sexually assaulted on at least one occasion in 2015 or 2016" refers to sexual assault of students in any setting. This would include for example a student from a regional city who was assaulted by someone in visiting their hometown and should not be regarded as "campus rape". The publication also said that the reference in the report to sexual harassment is a very different issue from the serious criminal offence of sexual assault. The publication said most sexual harassment referred to in the survey is unwanted staring, jokes or comments and most recipients do not feel it was significant enough to report. The writer's concern was the campaign about campus rape and harassment was not relevant to that. The publication said that the figure of 1.6% provided by AHRC was for a two-year period 2015-16, which equates to an average annual figure of 0.8%. This figure includes sexual assault "during travel to and from university", meaning that it could involve a stranger on the train.

The publication also noted that the writer had a professor of statistics and numerous other experts check her interpretation of the AHRC survey results and was confident she was correct.

CONCLUSION

The Council's Standards of Practice applicable in this matter require publications to take reasonable steps to ensure factual material is accurate and not misleading (General Principle 1) and presented with reasonable fairness and balance and opinions not be based on significantly inaccurate factual material or omission of key facts (General Principle 3). If the material is significantly inaccurate or misleading, or refers adversely to a person, publications must take reasonable steps to provide adequate remedial

action or an opportunity for a response to be published (General Principles 2 and 4).

The Council notes that the article is a discussion of the opinions of Ms Arndt and her criticisms of the proposed policies of the universities, and in particular covers Ms Arndt's opinion on the appropriate interpretation of the AHRC survey and what it shows.

The Council notes the AHRC survey does clearly distinguish between assault and harassment. However, given the context of the article and the clear contrast between "incident" and "sexual assault" in the summary of Ms Arndt's opinion, the Council considers that reasonable steps were taken to ensure accuracy and fairness and balance. The Council also considers that reasonable steps were taken to ensure the writer's opinions were not based on significantly inaccurate factual material or omission of key facts. As General Principles 1 and 3 were complied with, there was no breach of General Principles 2 and 4.

Accordingly, the Council considers that the publication complied with its General Principles.

RELEVANT COUNCIL STANDARDS

This Adjudication applies the following General Principles of the Council. Publications must take reasonable steps to:

1. Ensure that factual material in news reports and elsewhere is accurate and not misleading and is distinguishable from other material such as opinion.
2. Provide a correction or other adequate remedial action if published material is significantly inaccurate or misleading.
3. Ensure that factual material is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts.
4. Ensure that where material refers adversely to a person, a fair opportunity is given for subsequent publication of a reply if that is reasonably necessary to address a possible breach of General Principle.

David Lindenmayer / The Weekly Times

Adjudication 1793

11-Aug-2021

The Press Council considered a complaint from Professor David Lindenmayer concerning articles published by The Weekly Times headed "Chipping away at the facts" in print

and "Native forest logging: ANU academic's claims on timber industry scrutinised" online on 10 June 2020 ("the June article"); and "Loggers can expect classic action: academic" in print and "Academic says forest industry face class action over bushfires" online on 1 July 2020 ("the July article").

The June article reported the "academic who first called for an end to native forest logging across Victoria's Central Highlands to create a new 355,000ha Great Forest National Park, has been accused of distorting facts to further his arguments. Evidence has emerged which appears to show Australian National University Professor David Lindenmayer is feeding environment groups and the media information on logging, fire harvesting and threatened species that contradicts critical facts." The article set out several of Professor Lindenmayer's comments on a range of issues including fire-damaged trees and salvage logging, employment figures in the East Gippsland forestry area, plantation forestry, and trends in the size of the Leadbeater's possum population. The article then set out counterpoints on each of these topics, including statements attributed to forestry industry representatives, consultants and other academics, and data from sources such as the Victorian Government which it said contradicted Professor Lindenmayer's claims.

The July article reported "ANTI-logging academic David Lindenmayer claims legal action is about to be taken against the forestry industry for loss of property in this summer's fires." The article included various comments made by Professor Lindenmayer at a recent zoom seminar, and quoted him as saying "I'm quite surprised there hasn't been a class action around the issue (logging near urban areas)...I'm sure there will be fairly soon" and "[w]e need to rethink logging of forests, that are becoming more fire prone, particularly near human settlements". The article then reported an opposing view attributed to a "professional forester" as well as comments from a bushfire scientist.

In relation to the June article, the complainant said the print headline and subheading "[t]imber workers and foresters want the distortions to end..." unfairly imply that he runs a campaign to distort facts. The complainant said the publication quoted him out of context in order to misrepresent his views and omitted much of his response to the journalist's questions. He said he was not given the opportunity to respond to several assertions in the article, including his remarks about growing the forest industry using plantations; his statement about 'salvage' logging;

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and factual material regarding the Leadbeater's Possum population. The complainant also said various statements in the article were inaccurate or misleading, and that several key facts were omitted from the information he provided. These included: the fact the East Gippsland post-fire logging would recover a maximum of 10% sawn timber and perhaps a percentage as low as 5 or 3%; the fact he was referring to East Gippsland post-fire logging of the mixed species forest; and the fact he was referring to recovery rates of actual timber compared to woodchips. He also said the article's definition of the East Gippsland forestry area was deliberately misleading, and contrary to the VicForests' definition. The complainant said his statements about "on-the-ground" harvesting employees and plantation logging were taken out of context and presented unfairly. He also said the article misleadingly suggests the population of the Leadbeater's Possum is not declining by confusing sightings of animals with long-term population change and noted long-term data shows unequivocally that populations of Leadbeater's Possum have declined by 50% in the past 20 years. He said the article failed to make clear that the 'professional forester' quoted is also a lobbyist for the timber industry.

In relation to the July article, the complainant said the phrase "Anti-logging academic David Lindenmayer" is an unfair and misleading attempt to discredit his work. The complainant said he supports sustainable use of natural resources and always has and noted that he has worked extensively with the forestry industry for decades. The complainant also said the statement "...Lindenmayer claims legal action is about to be taken against the forestry industry for loss of property in this summer's fires" is inaccurate, as his statement was in fact about logging in forests that have become very fire-prone near human settlements, and did not refer to a particular fire or time.

In response to the concerns expressed with the June article, the publication said Professor Lindenmayer is one of the go-to experts on the impact of logging and fire on the forestry industry. It said the article was initiated after it received calls from timber industry workers, VicForests' staff and forestry researchers raising concerns at the accuracy of material Professor Lindenmayer was supplying to environmental groups for use in lobbying and the media. The publication said it obtained an email, which was crucial to the industry's concerns, containing information the complainant was supplying to the media and environmental groups. It noted Professor Lindenmayer's email explicitly stated that information "gets sent to the media" and said

the timber industry and forestry researchers had every right to challenge such information. The publication said timber and forestry industry researchers challenged three key points in Professor Lindenmayer's email, which the publication then raised with Professor Lindenmayer. These three points were: (1) that just three contracting crews in East Gippsland Victoria employed 15 people, (2) that trees cut after being fire damaged cannot be used for sawn timber, and (3) that the logging industry is uneconomic. It said the complainant did not respond by the deadline. It later received a draft response from a PR consultant, and then eventually a response from the complainant.

The publication said the article was based on details from the questions it put to the complainant as well as comments he has made on the public record. The publication said the complainant had attempted to qualify his original claims in the email he sent to environmental groups after the fact.

The publication said in relation to possum numbers, it relied on Victorian Government information which evidenced that the species is found in many of the areas which were burnt out in the 2009 Black Saturday fires. The publication also said it accurately and clearly identified a named individual in the article as a 'professional forester'.

The publication said in relation to the July article that it is clear in numerous publications that Professor Lindenmayer has called for an end to logging in Victoria's vast Central Highlands. The publication said he was one of the first to call for the formation of Great Trees National Park across the region and has been active in promoting the end to logging. It also said the complainant's comments regarding legal action were made in the wake of last summer's devastating bushfires, and any audience would consider he was referencing that event.

CONCLUSION

The Council's Standards of Practice applicable in this matter require publications to take reasonable steps to ensure factual material is accurate and not misleading (General Principle 1) and presented with reasonable fairness and balance (General Principle 3). If the material is significantly inaccurate or misleading, or unfair or unbalanced, publications must take reasonable steps to provide adequate remedial action or an opportunity for a response to be published if that is reasonably necessary to address a possible breach of General Principle 3 (General Principles 2 and 4).

The Council notes that the articles were presented as news

stories which set out various statements of fact, as distinct from commentary or opinion.

In relation to the June article, the Council considers its definition of the East Gippsland forestry area to be misleading, noting in particular that information provided to the publication by the complainant made it clear he was utilising the relevant VicForests' definition. The Council considers that the article misleadingly conflated sightings of the Leadbeater's Possum with trends in the possum's population, and notes the complainant was not given the opportunity to respond to this claim. The Council also considers the articles should have made clear that the "professional forester" referred to is also a forestry industry consultant. The Council accepts that the information contained in Professor Lindenmayer's original email, which gave rise to the article, was provided to the media. However, it considers the statement "...Lindenmayer is feeding environmental groups and the media information..." unfairly implies a political motivation on the part of the complainant. On the issue of "contracting crews" in the East Gippsland area, the Council notes the complainant's original statement was relayed accurately, but considers the publication should have sought a response from the complainant to the criticism in the article. Accordingly, General Principles 1 and 3 were breached in these respects.

In considering the issues of fire-damaged timber and plantation forestry, the Council did not find a breach of the Council's Standards of Practice in these respects.

In relation to the July article, the Council considers the references to Professor Lindenmayer as "anti-logging" were unfair and misleading, given the evidence of the complainant's extensive, ongoing involvement in sustainable logging. The Council also considers that the article did not accurately report the complainant's statement regarding possible legal action, and the publication failed to seek a response from the complainant on this issue. Accordingly, General Principles 1 and 3 were breached in these respects.

As the claims in the articles called into question the validity of statements made by the complainant as an expert, the Council's Standards of Practice required the publication to put such adverse claims to the complainant in their entirety. It was not reasonable in the circumstances to simply criticise comments the complainant may have made in the past, without giving him a fair opportunity to respond to those criticisms in the article. As such, the publication breached GP4.

The publication is required by General Principle 4 to ensure the complainant is given the opportunity for the subsequent publication of a reply.

RELEVANT COUNCIL STANDARDS:

This Adjudication applies the following Standards of Practice: General Principles:

Publications must take reasonable steps to:

1. Ensure that factual material in news reports and elsewhere is accurate and not misleading, and is distinguishable from other material such as opinion.
2. Provide a correction or other adequate remedial action if published material is significantly inaccurate or misleading.
3. Ensure that factual material is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts.
4. Ensure that where material refers adversely to a person, a fair opportunity is given for subsequent publication of a reply if that is reasonably necessary to address a possible breach of General Principle 3.

Complainant / The Daily Telegraph Adjudication 1795 13-Aug-2021

The Press Council considered whether its Standards of Practice were breached by a reader's letter published in print by The Daily Telegraph headed "Briefly" on 14 November 2020. The letter read, "With reference to the serial murderer Reginald Arthurell wanting taxpayers to fork out for his sex change operation, my husband said he'd perform this procedure absolutely free!".

In response to a complaint noting the letter appeared to be threatening genital mutilation of a person on the basis of their transgender status, the Council asked the publication to comment on whether the letter complied with General Principle 6. This requires the publication to take reasonable steps to avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest.

In response, the publication said the letter expresses the opinion of the letter writer and focuses on the issue of taxpayers paying for a medical procedure of a convicted

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murderer. The publication said genital mutilation is not mentioned and the brief letter expresses one opinion held by a person in the community. The publication said there may be alternative views on how taxpayers' money should or could be spent. The publication said the majority of their readership would perceive the author to be using humour to make their intended point, however acknowledged that some may have misconstrued the meaning of the letter.

The publication offered to provide a letter of similar length expressing the complainant's viewpoint and they were prepared to publish it in the same position that the original letter appeared. The complainant did not pursue this remedy.

CONCLUSION

The Council's General Principle 6 requires that publications avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest.

The Council notes that publications must comply with the Council's Standards of Practice in relation to letters they select and edit for publication, while also acknowledging that letters to the editor are very much an expression of the letter writer's opinion. The Council does however recognise that passive or incidental promotion of violence and prejudice against transgender persons, including in the guise of humour, could breach the Council's Standards of Practice and those choosing and editing letters for publication should be aware of the need for care.

The Council considers that in this instance, rather than being a serious call to violence, the letter very much reflects the strong disapproval of the writer at the crimes of the convicted person and what the letter writer considers in the circumstances to be an unjust use of community money to fund the person's transition. The Council also considers that the letter was intended as morbid humour and most readers would recognise this. While some readers would regard the letter as offensive, distressing and prejudicial, the Council considers that in context it did not reach the level of the publication failing to take reasonable steps to avoid substantial offence, distress and prejudice.

Accordingly, the Council considers that General Principle 6 was not breached.

RELEVANT COUNCIL STANDARDS:

This Adjudication applies the following General Principles of the Council. Publications must take reasonable steps to:

6. Avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest.

Secondary Complainant / The Australian Adjudication 1794 20-Aug-2021

The Press Council considered whether its Standards of Practice were breached by the publication of a cartoon in The Australian on 14 August 2020. The cartoon depicts a scene of the then United States Presidential candidate Joe Biden giving a speech congratulating Kamala Harris on being the Vice-Presidential candidate. Joe Biden is depicted saying "It's time to heal a nation divided by racism" followed by "So I'll hand you over to this little brown girl while I go for a lie down".

In response to complaints received, the Council asked the publication to comment on whether the material breached its Standards of Practice which require it to take reasonable steps to avoid causing substantial offence, distress or prejudice, unless doing so is sufficiently in the public interest (General Principle 6). The Council noted that the complainants were concerned that Joe Biden was depicted in the cartoon calling Kamala Harris a "little brown girl" and that this appeared to reference Joe Biden's Tweet on 13 August 2020 saying: "This morning, little girls woke up across this nation – especially Black and Brown girls who so often may feel overlooked and undervalued in our society – potentially seeing themselves in a new way: As the stuff of Presidents and Vice Presidents". The complainants were concerned that a Tweet intended as a positive and affirmative message was instead portrayed by the cartoonist as offensive and prejudicial to all women of colour because the phrase "little brown girl" used race and gender to demean and belittle, and portrays Joe Biden's words as condescending, derogatory and racist.

The publication said that the background to the cartoon was the tweet by Joe Biden announcing Kamala Harris as his running mate. The publication said that Joe Biden had made healing the racial divide in the United States a hallmark of his campaign and the selection of Kamala Harris as his Vice Presidential candidate reflected this. The publication said that the cartoonist had not misrepresented Joe Biden's words, but instead had rearranged those words to present his own interpretation of Joe Biden's words and therefore produce an effective cartoon. It said the

cartoonist intended to scrutinise Joe Biden's words in his Tweet referring to little "Black and Brown girls". The publication noted Joe Biden's history in politics, including that Kamala Harris had previously called him out for, as a senator, opposing race-integration busing policy in the 1970s. The publication noted that this background is important in contextualising the message the cartoonist is trying to convey.

The publication said that Joe Biden's tweet could be interpreted as being racist and derogatory as an appeal to identity politics, and the cartoon questions whether Joe Biden chose Kamala Harris on the basis of merit or because of her race to bolster his campaign. The cartoonist said the central message was, at its core, an anti-racist, anti-misogynist and anti-identity politics message. The publication said that it is a duty and right of every public commentator and analyst to examine statements from politicians and not simply to accept their words at face value. The publication said that the cartoon's intention is to highlight how identity politics had overshadowed the selection of a strong and talented woman as a Vice Presidential candidate and used satire and humour to do so.

The publication also said that Joe Biden's selection of the first woman of colour to be a Vice Presidential candidate was a matter of public interest. It said it would be an unwarranted restriction on the media for a cartoonist to be unable to highlight what they see as racism, hypocrisy and the dominance of identity politics.

The publication also said that the reaction to the cartoon on Twitter and online demonstrated that readers saw the point being made. The publication said it had also published letters to the editor in response to the cartoon that examine both sides of the issue.

CONCLUSION

The Council has consistently expressed the view that cartoons are commonly expressions of opinion examining serious issues and which use exaggeration and absurdity to make their point. For this reason, significant latitude will be given in considering whether a publication has taken reasonable steps to avoid substantial offence, distress or prejudice in breach of General Principle 6. However, a publication can, in publishing a particular cartoon, still fail to take reasonable steps to avoid contributing to substantial offence, distress or prejudice without sufficient justification in the public interest and breach the General Principle.

The Council acknowledges that the cartoon is a comment on what the cartoonist considers a hypocritical choice by Joe Biden to secure votes from people of colour rather than out of any genuine concern to address racial inequality. The Council does not dispute the public interest in dissecting politicians' statements and the words and actions of US Presidential candidates in particular. Nor does the Council dispute a publication's right to publish its and its cartoonist's partisan views. The question is whether, in doing so, the publication took reasonable steps to avoid substantial offence, distress or prejudice, or whether such offence, distress or prejudice was sufficiently justified by the public interest involved.

The Council notes that, by rearranging Joe Biden's words, the cartoon not only attacks Joe Biden's alleged hypocrisy but could also be interpreted as demeaning Kamala Harris and other women, particularly those of colour, by referring to her specifically as a 'little brown girl'. This is far from what Joe Biden was doing when using the words 'little black and brown girls' in his tweet to reference the role modelling aspect of having a Vice-Presidential nominee who is both female and of colour. While many readers might see the cartoon as a criticism of Joe Biden and of 'identity politics', the Council does not accept the publication's view that readers would see it is anti-racist or anti-misogynist. Rather, in appearing to demean Kamala Harris, and other women, by referring to her as a 'little brown girl', it could be seen to contribute to prejudice and to undermining measures to overcome the obstacles facing women, particularly those of colour.

While the Council notes that the publication and the cartoonist have strongly stated that there was no intention to cause offence, distress or prejudice, the Council considers the prejudice to women and particularly women of colour which the cartoon contributes to is substantial and that it offended a wide range of people, in particular women. The Council considers the public interest in questioning Joe Biden's words and actions was not sufficient to justify the substantial offence and prejudice caused, and that criticism of identity politics could have been achieved without such offence and prejudice. Accordingly, the Council concludes that the publication breached General Principle 6.

RELEVANT COUNCIL STANDARDS:

This Adjudication applies the following General Principles of the Council. Publications must take reasonable steps to:

6. Avoid causing or contributing materially to substantial

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offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest.”

Complainant / The Sydney Morning Herald

Adjudication 1807

23-Aug-2021

The Press Council considered a complaint from John Nagle, the former Chief Executive Officer (CEO) of NSW workers compensation scheme, icare NSW, concerning 25 articles published in The Sydney Morning Herald. The articles complained of were published between 27 July 2020 and 1 October 2020. A list of the articles is available [here](#).

The articles, which included opinion pieces, concerned the performance of icare and its financial position, and reported criticism of the system by injured workers, referencing a NSW treasury document that said 52,000 injured workers had been underpaid \$80 million. The articles also reported on a NSW Government Parliamentary inquiry into the workers' compensation scheme. In this context, it was initially reported in August 2020 during the parliamentary inquiry that the complainant “had quit after it had emerged he was stripped of a bonus for failing to properly declare his wife had been given a contract with the agency”. It was reported that the inquiry heard that the complainant's wife was “paid \$750 a day for contract work performed between 2016 and 2019, totaling more than \$800,000.” It was also reported that the complainant failed to declare in icare's annual report, “business class flights to Las Vegas to speak at a conference organised by a software company” which the inquiry heard had received “millions of dollars in contracts from icare to provide claims management software” and that the complainant had appeared in a promotional video for the company. It was also reported that the complainant had “refused” to disclose his pay details to the inquiry.

The complainant said that the publication was conducting a campaign that was intended to discredit him, and the ongoing articles about icare issues are inextricably linked to his reputation and capability given his role as the former CEO. The complainant said the tenor of the reporting incorrectly implied corruption or impropriety on his part. In relation to his wife's contract with icare, the complainant said that his wife was contracted by icare while he was also employed there but before he became CEO and, at that time, he declared a conflict of interest. The complainant later clarified that as an icare executive, the reporting line for the

project his wife was engaged to complete, reported to him. Strategies were put in place in response to the conflict of interest. The complainant said that he was not involved in the hiring of his wife or in any decision about her contract renewal or remuneration. The complainant also said the figure of \$800,000 was inaccurate. He said that upon being appointed CEO and after an internal investigation, it became apparent that he ought to have made an additional declaration to the icare Board concerning his wife's employment. The complainant said however, that the investigation confirmed that there had been no intent to deceive on his part and, as required, details of the complaint and investigation were referred to ICAC which took no further action.

Regarding the trip to Las Vegas, the complainant said it was inadvertently omitted from icare's annual report. The complainant said however, there was no secrecy about this trip and there was a video presentation of a keynote speech given at the conference on icare's website for some time and it was also promoted in internal staff announcements. The complainant said that the reporting unfairly implied corruption or impropriety on his part.

The complainant said that he “did not ‘refuse’ to disclose” his pay details to the inquiry. He said he was appearing at the inquiry ‘under oath’ and, as he did not have accurate details of his salary and bonuses at the hearing, he took the question ‘on notice’. This meant he was required to provide the information within a specific timeframe, which he subsequently did. In relation to the reports that 52,000 injured workers had been underpaid \$80 million, the complainant said the publication omitted to mention the figure came from an icare report which gave a range of possible scenarios with \$80 million being a conservative worst case scenario, and the probable range being \$15 million to \$25 million.

The publication said it stands by its journalism, much of which is backed up directly by Hansard records of the parliamentary inquiry into the state's workers compensation scheme. Regarding the complainant's wife being employed by icare, the publication said it did not report that he did not declare the contract's existence but instead accurately reported that the complainant failed to properly disclose the contract. The publication said that in relation to the \$800,000 value of the contract, it did not state in any article that the complainant's wife was paid this amount directly. Rather, it accurately reported what was said by a director of icare under oath at a parliamentary inquiry that the contract was worth that amount. The publication said it was

willing to publish a footnote to clarify that the inquiry was subsequently informed that the value of the contract was \$772,524. Concerning the Las Vegas trip, the publication said the complainant has acknowledged that it ought to have been included in icare's annual report. In relation to the complainant's knowledge of his salary, the publication said it accurately reported the comments made by him at the inquiry that he did not know what his salary was for a defined period. The publication said it did initially report that he refused to disclose his salary, but this was later amended to say "Mr Nagle did not disclose his salary". The publication said the reports that 52,000 injured workers in NSW have been underpaid up to \$80 million is based on icare estimates that were put to the parliamentary inquiry and the State Insurance Regulatory Authority.

CONCLUSION

The Council's Standards of Practice applicable in this matter require that publications take reasonable steps to ensure that factual material in news reports and elsewhere is accurate and not misleading and is distinguishable from other material such as opinion (General Principle 1), provide a correction or other adequate remedial action if published material is significantly inaccurate or misleading (General Principle 2), is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts (General Principle 3) and provide an opportunity for a response to be published by a person adversely referred to (General Principle 4).

The Council notes the complainant's concerns that the volume and tenor of articles concerning icare were intended to discredit him personally. However, the Council has not been provided with any material that is consistent with this view. The Council notes that it is legitimate journalistic practice to comment on parliamentary inquiries and accepts that the publication's reporting was based on an accurate record of comments made at the NSW parliamentary inquiry, including by the complainant. This includes reporting on the complainant's failure to properly declare a conflict of interest; that his business trip ought to have been included in icare's annual report; and comments concerning his response to questions about his salary. In relation to the estimated \$80 million reportedly owed by icare to injured workers, the Council accepts this figure is based on information on the public record referred to at the inquiry, which is of significant public interest. The Council notes that the complainant was given a fair opportunity to respond to the matters concerning him but did not pursue

it. Accordingly, the Council finds no breach of its General Principles.

The Council acknowledges the publication's offer to publish a footnote clarifying that the inquiry was subsequently informed that the value of the relevant contract was \$772,524. The Council also acknowledges that the publication has amended its original article which stated the complainant had refused to disclose his salary.

NOTE:

Publications must take reasonable steps to:

1. Ensure that factual material in news reports and elsewhere is accurate and not misleading, and is distinguishable from other material such as opinion.
2. Provide a correction or other adequate remedial action if published material is significantly inaccurate or misleading.
3. Ensure that factual material is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts.
4. Ensure that where material refers adversely to a person, a fair opportunity is given for subsequent publication of a reply if that is reasonably necessary to address a possible breach of General Principle 3.

Complainant / NT News

Adjudication 1804

01-Sep-2021

The Press Council considered whether its Standards of Practice were breached by an article published by NT News in print on 14 September 2019 headed "Man granted hospital leave killed himself".

The article reported on a coronial inquest of a young man who committed suicide "after being granted leave from the mental health ward at the Alice Springs Hospital despite showing symptoms of psychosis." The article included information heard at the inquest, including details of the man's history with mental health services, his discharge from a hospital's mental health ward while apparently delusional, a prior suicide attempt and his subsequent suicide. Amongst the information included in the article was the location of the suicide and the method used in a suicide attempt, expressed in thoughts about suicide and in the subsequent article.

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In response to a complaint it received, the Press Council asked the publication to comment on whether the article complied with the Council's Standards of Practice, and specifically whether the details of the suicide methods and locations included in the article were justified in the public interest (Suicide Standard 5); and whether the article gave undue prominence to the reported suicide and/or caused unnecessary harm or hurt to people who have attempted suicide or to relatives and other people who have been affected by a suicide or attempted suicide (Suicide Standard 7).

In response, the publication said the article was of substantial public interest as it went to the heart of the quality of medical service and treatment being provided in the Northern Territory. The publication said the inquest was investigating how a man showing signs of psychosis could be released from the mental health ward of a hospital. It noted the decision to release someone said to be visibly and obviously at risk is a serious issue, particularly as in this instance the man later died. The publication said more so than in major capital cities, the issue of health care in the Northern Territory is of greater public interest and debate especially for the vulnerable and whether they are receiving adequate care.

The publication said the inquest was canvassing whether the care and assessment received by this man was part of the circumstances that led to his death, and that few other issues are more deserving of reporting. The publication said it was important and in the public interest to provide some detail of the background and relevant facts in the court proceedings noting the importance of open justice. In relation to Specific Standard 5, the publication said the article only stated that the location was a store room, with no other details given. It said this was very different to publicising a location known for suicide attempts.

In relation to Specific Standard 7, the publication said the matter was of significant public interest to report and was not given undue prominence. In this regard, it noted that the article appeared on page 16 without any images; the headline explained clearly why the inquest was investigating the hospital's actions; and the contact details for Lifeline were provided at the bottom of the article.

CONCLUSION

The Council's Standards of Practice relevant to this complaint provide that the method and location of a suicide should not be described in detail unless the public interest in doing so clearly outweighs the risk, if any, of

causing further suicides. This applies especially to methods or locations which may not be well known by people contemplating suicide (Specific Standard 5).

They also provide that reports of suicide should not be given undue prominence, especially by unnecessarily explicit headlines or images. Great care should be taken to avoid causing unnecessary harm or hurt to people who have attempted suicide or to relatives and other people who have been affected by a suicide or attempted suicide. This requires special sensitivity and moderation in both gathering and reporting news (Specific Standard 7).

The Council acknowledges the strong public interest in reporting on the coronial inquest and on the medical care received by the Deceased. It also notes that the description of the location was not specific. However, the Council does not consider it was necessary for the publication to report the method of the Deceased's attempted suicide and subsequent suicide to the extent it did in order to legitimately scrutinise the health care provided to the Deceased. Accordingly, the Council concludes that Specific Standards 5 was breached.

As to Specific Standard 7 in relation to sensitivity and moderation, the Council recognises that although the family of the Deceased would likely find the article distressing, given the death was the subject of an inquest it does not consider the article was unduly prominent or unnecessarily explicit. The Council also recognises there is public interest in reporting on the quality of medical services and treatment being provided in the Northern Territory. Accordingly, the Council finds Specific Standard 7 was not breached.

NOTE:

If you or someone close to you requires personal assistance, please contact Lifeline Australia on 13 11 14.

RELEVANT COUNCIL STANDARDS

This Adjudication applies the following Specific Standards on the Coverage of Suicide of the Council:

5. The method and location of a suicide should not be described in detail (e.g., a particular drug or cliff) unless the public interest in doing so clearly outweighs the risk, if any, of causing further suicides. This applies especially to methods or locations which may not be well known by people contemplating suicide.
7. Reports of suicide should not be given undue prominence, especially by unnecessarily explicit headlines or images. Great care should be taken to

avoid causing unnecessary harm or hurt to people who have attempted suicide or to relatives and other people who have been affected by a suicide or attempted suicide. This requires special sensitivity and moderation in both gathering and reporting news.

Complainant / The Courier-Mail Adjudication 1805 02-Sep-2021

The Press Council considered whether its Standards of Practice were breached by an article published by The Courier-Mail in print on 30 July 2020 headed "ENEMIES OF THE STATE: Outrage as deceptive teens cause COVID chaos".

The article reported "[T]wo 19-year-old girls with COVID-19 have been fined \$4000 each after travelling to Melbourne and lying to authorities about where they'd been". The article reported "Olivia Winnie Muranga... a cleaner at the now-closed Parklands Christian College – called in sick on Friday after days of feeling ill. Despite this she continued to socialise, visiting restaurants and bars in Ipswich and Brisbane, according to authorities. It is believed she even went shopping after she took a COVID test on Monday." It also stated "[h]er travel companion Diana Lasu... has also tested positive". The article appeared on the front page and included photos of Ms Muranga and Ms Lasu underneath the headline "ENEMIES OF THE STATE".

In response to complaints it received, the Press Council asked the publication to comment on whether the article complied with the Council's Standards of Practice, and specifically whether in naming and using the images of Ms Muranga and Ms Lasu in the article, the publication took reasonable steps to avoid intruding on their reasonable expectations of privacy (General Principle 5), or avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety (General Principle 6), unless doing so was sufficiently in the public interest.

In response, the publication said that it was not unusual for it to publish names and pictures of individuals who have breached COVID-19 rules and that it has been very consistent in its reporting of such people. The publication noted that the situation with Ms Muranga and Ms Lasu was of particular concern as they had not only breached quarantine restrictions in several states, but also upon

return they had tested positive to COVID-19 and then allegedly failed to cooperate with police and health official investigations. The publication noted that the criminality of their actions had seriously endangered the state of Queensland. Accordingly, it said naming them was necessary in the public interest.

The publication also said that during the subsequent sentencing of Ms Muranga and Ms Lasu for the crimes for which it reported, the Deputy Chief Magistrate commented that any distress the defendants may have experienced as a result of their actions was not attributable to mainstream media, but to comments made by the public on social media.

In relation to the headline, the publication said it had considered the consequences of the actions taken by Ms Muranga and Ms Lasu and the level of trauma that they caused the community. It said that the headline was entirely fair and appropriate given the severity of the crimes committed and the impact of the lockdown on business and the disruption to society. It said it was difficult to anticipate social media responses to reports but that it could not be held accountable for the actions of people on social media.

CONCLUSION

The Council notes that, at the time of publication, it was a matter of public record that the women in question had been charged with criminal offences related to their failure to comply with COVID-19 travel restrictions. As such, the Council considers their reasonable expectations of privacy had been diminished. Accordingly, the Council finds no breach of General Principle 5.

The Council acknowledges that the headline is provocative given the language used and the prominence of the women's images alongside it. However, the Council accepts that the reporting reflects the seriousness of the women's actions and risk to the community and was not due to any personal characteristic of the women involved. Accordingly, the Council finds no breach of General Principle 6.

RELEVANT COUNCIL STANDARDS

This Adjudication applies the following General Principles of the Council:

5. Avoid intruding on a person's reasonable expectations of privacy, unless doing so is sufficiently in the public interest.
6. Avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest.

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Dr Michelle Telfer / The Australian Adjudication 1799

03-Sep-2021

The Press Council considered a complaint from Dr Michelle Telfer, the Head of Department of Adolescent Medicine at the Royal Children's Hospital and Director of the Royal Children's Hospital Gender Service (RCHGS), concerning 45 articles published in The Australian which appeared online and some which appeared in print. The first article complained about was published on 9 August 2019 and the last on 29 June 2020. A list of the articles is available here.

The articles – which included editorials and opinion pieces – concerned the role of gender affirming healthcare and its application by the RCHGS; transgender children and adolescents; the safety and ethics of giving hormone treatment to young people experiencing gender dysphoria; what the articles referred to as social contagion amongst young girls identifying as transgender; rates of de-transitioning in transgender young people; and a call for an inquiry into a gender affirming model of healthcare for transgender young people.

The complainant said a number of the articles contained specific inaccuracies and did not distinguish fact from opinion; that overall they lacked fairness and balance in reporting the facts and they caused significant distress to her and her colleagues; and offence, distress and prejudice to gender diverse people and their families.

The complainant said the articles included comments from people asserting that gender affirming treatment is 'experimental', or an 'uncontrolled experiment' or 'novel'. The complainant said gender affirming healthcare is not experimental and is accepted internationally by medical experts in the area as the best treatment. The Australian Standards of Care and Treatment Guidelines for Trans and Gender Diverse Children and Adolescents (ASOCTG) is accepted as the current best standard of care for Australia and is used as such across the country. She said that gender affirming healthcare has been used for 20 years internationally and 16 years in Australia and has been authorised by the Family Court and has support in the medical profession as acceptable medical treatment.

The complainant said the medical profession recognises as experts only those who practise extensively in the area. However, the articles repeatedly included comments against gender affirming treatment from people put

forward as experts on treatment of gender diverse children and adolescents who do not practise in the area. She said their views are based on social ideology rather than medical evidence and they have affiliations or associations with organisations or groups of a religious or political nature which are not disclosed. She said that it was misleading to omit reference to the fact that none of these people put forward as experts actually work clinically in the area of transgender health.

The complainant also said the articles refer to discredited theories such as social contagion, include rates of de-transition among transgender adolescents which are inaccurate, inaccurately asserted that the Royal Australian and New Zealand College of Psychiatrists (RANZCP) had abandoned reliance on the ASOCTG and misleadingly reported in three separate articles that there was a "national inquiry" to be conducted into transgender care. She said that for all these reasons the articles were not fair and balanced and, combined with the publication repeatedly approaching her for comment, had a significant adverse effect on her health, particularly given the sheer number of articles and the repeated references to her in the articles. The complainant said the articles, and the repeated references to her, unfairly personalise her role by describing the RCHGS as "the Telfer Clinic" in some of the articles and further implying that the RCHGS and the practice of the many skilled and experienced medical practitioners there, including her, are harming children. She said given the distress she had experienced and given her workload as a treating doctor it was not possible for her to respond to all the publication's enquiries and given the nature of the series of articles, the opinion piece offered by the publication would not in any practical sense correct the errors, alleviate the distress or provide sufficient balance and she did not trust the publication to deal fairly with material she might provide.

The complainant also said that for the same reasons the articles, and particularly a number of the headlines, were likely to and did cause substantial distress, fear and anxiety and prejudice to people who are transgender and their families. The complainant said the accumulation of the inaccurate and unfair reporting over time had exacerbated the stigma, discrimination, marginalisation, social rejection and abuse that the transgender community receives on a day-to-day basis. She said that as the articles challenged the experience of life of people who are transgender and their families, the publication should have included a statement providing details of sources of help in view of the

vulnerable community the articles focused on.

The publication said the medical care of children and adolescents who are transgender and gender diverse is not only a matter of significant public interest, but also a matter of considerable debate worldwide among medical practitioners and patients, parents and children, advocates and people who de-transition, lawyers and academics, politicians and the judiciary. The fact of this debate, which has resulted in landmark legal rulings here and overseas, questions over treatment guidelines, and calls for political intervention is cause enough for it to fulfil its purpose and report on the various points of view being raised questioning aspects of the care provided. The publication said it has endeavoured to shed light on all aspects of the debate over the treatment of transgender and gender diverse children as a matter of public responsibility as a media organisation, in the public interest as a matter of public policy and expenditure of public funds, as a legal and ethical issue and as a health and welfare issue for some of our most vulnerable children.

The publication said that on multiple occasions it had offered the complainant opportunities to comment on articles and input from RCHGS has been sought on numerous occasions. The complainant had also been offered space on the newspaper's commentary page. The publication said it has sought information and data, responses and background on the RCHGS's practices. The publication had sought assistance in contacting patients from RCHGS to give their view of their treatment. It said it has been rejected in its multiple attempts to engage with the complainant and staff at Royal Children's Hospital. Accordingly, it had endeavoured to provide balance by including public statements, links and videos to represent the views of the RCHGS.

The publication noted that while the complainant disparaged some of those people who have been quoted in the articles, the complainant had offered no balancing quotes or expertise. In regard to the articles concerning 'calls for an inquiry' into gender affirming healthcare, the publication said that following its news reports of concerns about gender clinic treatments, the government saw the need for those concerns to be examined. The Federal Health Minister's request for advice has been followed by three other reviews or inquiries, all triggered by news reports in the publication. The publication said that in each article the quotes were always sourced and the relevant qualifications of those quoted are published and factual material is offered with sources and any available data or studies.

The publication said in relation to the claim by the complainant that its coverage lacked balance, the complainant declined requests to contribute to the debate, or even provide commentary on her position. Instead, the publication went to great lengths to provide the views of the complainant and the RCHGS and other interest groups that refused to engage with it.

The publication said that the debate over the medical treatment and care of transgender and gender diverse children is of such public interest that discussion of this issue is of great importance not only as a matter of public policy but also as a matter of the future of individual treatment.

CONCLUSION

The Council's Standards of Practice applicable in this matter require that publications take reasonable steps to ensure that factual material in news reports and elsewhere is accurate and not misleading and is distinguishable from other material such as opinion (General Principle 1), is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts (General Principle 3) and provide an opportunity for a response to be published by a person adversely referred to (General Principle 4). The Standards also require publications to take reasonable steps to avoid causing or contributing materially to substantial distress or prejudice, or a substantial risk to health or safety, unless sufficiently in the public interest (General Principle 6).

As to the factual inaccuracies raised by the complainant concerning regret rates for hormone therapy, high rates of de-transition and social contagion, the Council notes the apparent conflict in research material relating to these issues and is unable to resolve this conflict. As to the complaint about reporting a national inquiry, the Council notes that national inquiry might have a wide range of meanings. While the Royal Australian College of Physicians (RACP) was not undertaking a statutory inquiry, the Council considers it was undertaking enquiries and is a national body. Accordingly, it finds no breach in this respect. However as to the statements that the RANZCP had abandoned reliance on the ASOCTG, the Council is satisfied it is not correct and was a breach of General Principle 1.

As to fairness and balance in presentation of factual material over time, the Council notes that there is a relatively high threshold before a publication will be

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considered to have failed to take reasonable steps to present factual material with reasonable fairness and balance. While many articles approached the issue from a particular perspective, the publication did take steps to try to achieve a measure of fairness and balance in an area of social uncertainty. It was also reasonable to refer to the complainant in her role as head of the RCHGS. While the Council accepts that many in the medical community would consider that only transgender treatment specialists are regarded as experts, it considers there is no requirement for the publication to rely only on such experts.

On the other hand, the Council notes that gender affirming healthcare has been used for 20 years internationally and for 16 years in Australia. Aspects of the treatment have been authorised by the Family Court and it is supported by specialist doctors treating gender dysphoria as currently the best medical treatment which was largely not reported in the articles. In quoting opinions of named persons critical of gender affirming treatment, the publication omitted that they were not medical specialists in transgender treatment. Also, in a number of articles the RCHGS was described as “the Telfer Clinic”. The Council considers that by repeatedly quoting the views of professionals from various fields of medicine and psychology that the treatment was experimental and harmful without explaining they are not medical specialists in the area, and linking the criticism so personally to the complainant, the publication failed to take reasonable steps to ensure fairness and balance and breached General Principle 3.

As to General Principle 4, the Council accepts the publication did repeatedly contact the complainant for comment during the series of articles and that the publication’s offer of an opinion piece was not accepted by the complainant and accordingly finds no breach in this respect.

As to General Principle 6, the Council considers the articles were likely to and did cause substantial distress to the complainant. There is undoubted public interest in a journalistic analysis of the debate on the many issues connected with transgender issues and people, and associated healthcare. However, the public interest did not justify the extent of references to the complainant in so many of the articles or implying that the healthcare practised at the RCHGS is out of step with mainstream medical opinion and this was a breach of General Principle 6.

As to offence, distress and prejudice affecting gender diverse persons and their families, the Council recognises that such a series of articles is likely to have such an effect, even a substantial one particularly given the lack of material published from the specialist part of the medical profession which was supportive of affirmative gender treatment. However, the Council notes that even medical treatment accepted as appropriate by a specialist part of the medical profession is open to examination and criticism and the difficult issues connected with treatment of gender dysphoria need to be debated to allow society to move forward. The Council considers, given the range of issues and concerns such as those expressed in the UK concerning the Tavistock clinic and at least some medical opinion, that the material dealing with the issues was sufficiently justified in the public interest and General Principle 6 was not breached in this respect.

The Council notes the publication’s view that a sources of help notice was not appropriate because the risk of self-harm has not been established or the notice itself would increase risk. While the Council considers the absence of a notice was a not breach, it accepts that a number of the articles would be read by a vulnerable section of the community and might be taken to be challenging their experience of life and including sources of assistance might have been a prudent step.

Due to the scope and detail of the material relating to this complaint, it has not been possible to include details of all arguments put forward by the complainant and the publication. However, the Council considers that its conclusions encompass in general terms the arguments put forward.

If this Adjudication has raised any concerns for you please refer to one of the sources of assistance here: <https://www.presscouncil.org.au/uploads/52321/ufiles/APC-Advisory-Guideline-2019-final.pdf>.

RELEVANT COUNCIL STANDARDS

This Adjudication applies the following General Principles of the Council. Publications must take reasonable steps to:

1. Ensure that factual material in news reports and elsewhere is accurate and not misleading, and is distinguishable from other material such as opinion.
3. Ensure that factual material is presented with reasonable fairness and balance, and that writers’ expressions of opinion are not based on significantly inaccurate factual material or omission of key facts.

4. Ensure that where material refers adversely to a person, a fair opportunity is given for subsequent publication of a reply if that is reasonably necessary to address a possible breach of General Principle 3.
6. Avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest.

Complainant / The Sunday Telegraph Adjudication 1803

05-Sep-2021

The Press Council considered whether its Standards of Practice were breached by an article published in print by The Sunday Telegraph on 14 June 2020 headed "Where's the real justice?".

The article commented on the 'Black Lives Matter' protests in Australia in June 2020 concerning police behaviour and black deaths in custody. The article said: "The reality in this country – and the US – is that the greatest danger to aboriginals and negroes – is themselves" and that until "we address this issue, protests damning white police officers are nebulous". In support of this view, the article said that the "protests are facile and irrelevant because police and indigenous deaths in custody are a small part of the complex jigsaw that goes into making black lives matter." The article referred to the death of four Aboriginal teenagers in a stolen car and asked "Where was the protection for four innocent children? Police say they knew the car was stolen and decided not to pursue". The article also referred to a university study which said that "indigenous females and males are 35 times and 22 times as likely to be hospitalised due to family violence related assaults as other Australians", and to the death of a four-month-old Aboriginal girl while her mother was in police custody and said "Blaming police and the Corrective Services system for their ills is, frankly, a cop out". The article also referred to the killing by a policeman of an Australian woman (presumably non-Indigenous) in the US and asked "where were the marches through the streets of Australia after Ms Damond died?".

Following a complaint, the Council asked the publication to comment on whether the article complied with its Standards of Practice. In particular, the Council sought comment on the statement that "The reality in this country – and the US – is that the greatest danger to aboriginals

and negroes – is themselves". The Council referred the publication to concerns raised that the term 'negroes' is an outdated racial slur and the article unfairly characterises Indigenous Australians and African Americans as the key perpetrators of racial violence, and implies that they are responsible for, or deserving of, such violence. Concerns were also raised that the article is based on unfounded, racist generalisations and is likely to contribute to substantial prejudice against those minority groups.

In response, the publication noted that the article is an opinion piece and said the columnist is entitled to express his personal views on issues which are clearly in the public interest for community discussion and debate. As with many opinion columns, there will be alternative views within the community which disagree with those of the author. However, this fact should not deny the author the right to express his opinion which is a fundamental right of a free press and, importantly, a democratic society. This aspect is part of the normal discourse of public debate. The publication also noted that at the time of publication, the columnist believed his opinion column to be fair and balanced and was assessed as such by the publication before it decided to publish the column.

In relation to the use of the word "negroes", the publication said the columnist removed the word before publication from the versions of his column which appeared in other newspapers and online. It was his intention also that the version published in The Sunday Telegraph did not contain the word negroes. Regrettably, this did not happen because there was a communications breakdown during the production process which resulted in the original, not amended, version of the column being published in The Sunday Telegraph's print edition. It said both The Sunday Telegraph and the writer published apologies in the next print edition of The Sunday Telegraph. The publication said the columnist, in particular, regrets that the column was published with the word negroes. It said he is a passionate advocate of all Australians as a society working together to improve the lives of Indigenous Australians. His column never intended to vilify any person or group but rather to engage in public discussion on issues of public importance and to express his own opinion on the issues.

CONCLUSION

The Council's Standards of Practice applicable in this matter require that publications take reasonable steps to ensure that factual material is presented with reasonable fairness and balance, and that writers' expressions of

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opinion are not based on significantly inaccurate factual material or omission of key facts (General Principle 3) and to avoid causing or contributing materially to substantial offence, distress or prejudice, or to a substantial risk to health or safety, unless doing so is sufficiently in the public interest (General Principle 6).

The Council recognises that opinion articles by their nature make an argument. However, even in an opinion article, the publication is obliged to ensure that factual material is presented with reasonable fairness and balance and expressions of opinion are not based on significantly inaccurate factual material or omission of key facts. The Council notes that, in criticising the protests, the article drew on factual material about deaths and family violence amongst Indigenous people not related to police behaviour or deaths in custody. In doing so, however, the article omitted any reference to well-documented societal factors contributing to Indigenous community and family dysfunction including unemployment and poverty, poor housing and overcrowding, and poor education and health, and that the attitudes of non-Indigenous Australians can also contribute. In referring to an Australian woman killed in the US, the article in the Council's view includes factual material that bears no relevance to the protesters' concerns or actions or to Indigenous welfare.

The Council believes the columnist's criticisms of the protesters could have been made based on a fair and balanced presentation of factual material, highlighting the deeper problems in many Indigenous communities than caused by alleged police brutality and deaths in custody. However, the article published did not do so.

Accordingly, the Council considers the publication did not take reasonable steps to ensure the factual material was presented with reasonable fairness and balance and to ensure the writer's expression of opinion was not based on significantly inaccurate material or omission of key facts in breach of General Principle 3.

The Council also considers the publication failed to take reasonable steps to avoid substantial offence and prejudice. Although the Council notes the very substantial public interest in allowing freedom of expression, the public interest did not justify the level of offence and prejudice in its assertion that the greatest danger to Indigenous Australians and African Americans is themselves. The lack of fairness and balance in the presentation of factual material was also likely to have caused substantial offence and prejudice beyond that

which might have been justified in the public interest. In relation to the use of the term "negroes", the Council welcomed the apologies from the publication and the columnist. The measures taken by the publication do not, however, remove the effects of the breach.

Accordingly, the Council considers that the publication failed to take reasonable steps to avoid causing substantial offence, distress or prejudice, without sufficient justification in the public interest. In doing so it breached General Principle 6.

RELEVANT COUNCIL STANDARDS

This adjudication applies the following General Principles of the Council.

"Publications must take reasonable steps to:

3. Ensure that factual material is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts.
6. Avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest."

Complainant / Herald Sun Adjudication 1798

30-Sep-2021

The Press Council considered whether its Standards of Practice were breached by an article published in The Herald Sun on 12 November 2020 headed "Islam butchers slaughter women and kids" in print on page 19.

The article reported that "Heavily armed Islamic militants have killed dozens of unarmed villagers in a campaign to establish a caliphate in southern Africa... Up to 50 people, including women and children, were murdered, with some beheaded and dismembered in a three-day rampage in north Mozambique."

In response to a complaint received, the Council asked the publication to comment on whether its use of the words "Islam" in the headline and "Islamic" in the article complied with the Council's Standards of Practice. These require publications to take reasonable steps to ensure factual material is presented with fairness and balance (General Principle 3) and to take reasonable steps to avoid causing or contributing materially to substantial offence, distress

or prejudice, unless doing so is sufficiently in the public interest (General Principle 6). The Council noted that the complaint raised concerns that the headline and article attributed the act of violence to the Islamic religion.

The publication said the references to Islam in the headline and Islamic in the article are entirely relevant to the reported events. The publication said the reference to Islam is specifically attributed to the Islamic militants who want to set up an Islamic caliphate in southern Africa and that it made this very clear by publishing the article on its World News pages. The publication said that no reasonable reader could draw the conclusion that the terror could be attributed to all Muslims around the world, let alone those in Australia. The publication said the terrorists who slaughtered innocent and unarmed villagers have pledged allegiance to the Islamic State and wish to establish an Islamic caliphate in northern Mozambique. It said it is not possible to report the story without referring to Islam. The publication also said there is public interest in reporting mass killings and a push to establish an Islamic caliphate in traditionally non-Islamic countries such as Mozambique and Tanzania.

CONCLUSION

The Council notes that prominent references to religious or ethnic groups in headlines can imply that a group, as a whole, is responsible for the actions of a minority among that group. Accordingly, in reporting on instances of violence purportedly conducted in the name of religion, publications must take reasonable steps to identify the particular sources of violence as clearly as possible. In this instance, the Council considers the headline could have been clearer by referring specifically to 'Islamic State militants' for example, rather than 'Islam' which could be read more generally. However, the Council is satisfied that the attribution of the violence to 'Islamic militants' in the first paragraph of the article was sufficient to avoid the suggestion that their conduct was associated with all of those who adhere to the religion of Islam. The Council also accepts that the references to Islam were relevant in the context of reporting on attempts by Islamic militants to establish a caliphate in southern Africa. The Council considers that, in making it sufficiently clear that the violence was perpetrated by Islamic militants, the publication took reasonable steps to comply with its Standards of Practice. Accordingly, there was no breach of General Principles 3 and 6.

RELEVANT COUNCIL STANDARDS

This Adjudication applies the following General Principles of the Council. Publications must take reasonable steps to:

3. Ensure that factual material is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts.
6. Avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest."

Jared Owens on behalf of Kevin Rudd / The Australian Adjudication 1809 30-Oct-2021

The Press Council considered a complaint from Jared Owens on behalf of Hon Kevin Rudd about an article published by The Australian headed "New Chinese era of living dangerously" online on 29 November 2019; and "Radical new Chinese era signals years of living dangerously" in print on 30 November 2019.

The article commented on Australia-China relations and the scale of Chinese foreign intelligence activities. It stated that "The development of the Quadrilateral Dialogue – involving the US, Japan, India and Australia – is one of many important developments. That the Quad recently- held its first meeting at foreign minister level is encouraging. The decision by Rudd and his then foreign minister, Stephen Smith, to unilaterally kill the Quad in 2008, to please Beijing, was one of the most foolish and counter-productive foreign policy moves of any modern Australian government. It did immense harm to the Canberra-New Delhi relationship. It was a decision that had to be reversed and the Quad now enjoys bipartisan support in Australia."

The complainant said it is inaccurate to state that the Rudd Government 'unilaterally killed' the Quad. The complainant said the documentary record clearly shows that Australia's decision to withdraw from the Quad was first taken by the Howard Government. He said then Defence Minister Brendan Nelson made this position public on several occasions in India and China in July 2007. This position was subsequently reaffirmed by Foreign Minister Alexander Downer in September 2007. The complainant said there is no appreciable difference between the statements

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made by the Howard Government officials in relation to the Quad and those made shortly afterwards by the Rudd Government officials including Foreign Minister Stephen Smith after the Rudd Government assumed office.

The complainant also said the documentary record shows the Quad was abandoned by all of the proposed participants (Australia, Japan, India and the United States) prior to Foreign Minister Smith's statement concerning the Quad in February 2008. The complainant referred the Press Council to public statements and extracts from diplomatic cables which he said demonstrated this.

The complainant said the assertion the Rudd Government unilaterally killed the Quad is not a matter of historical interpretation, but a statement of fact that is provably untrue.

In response, the publication maintained that its reporting was accurate, and rejected the complainant's call for a correction. It said there is wide acceptance among foreign policy experts and diplomats that Rudd's Foreign Minister Stephen Smith made a public statement in February 2008 that unilaterally withdrew Australia from the Quad. In relation to this, it referred to a number of contemporary articles on the matter by publications both domestic and abroad, which it said demonstrated The Australian's interpretation of the Rudd Government's policy was widely shared. It also referred to a diplomatic cable which it said demonstrated this.

The publication said that if the Howard Government or any other proposed participant had in fact already withdrawn from the Quad, it would not have been necessary for Foreign Minister Smith to address Australia's participation in it in February 2008. It said the complainant's assertion of an alternative view of his government's position on the Quad merely proves that such matters can be open to interpretation by foreign affair experts and historians. It would therefore be wrong to issue a correction on a matter of historical debate. It said the article is a true reflection of the Foreign Editor's assessment of the issue as an expert in the field and is in line with other mainstream thinking.

The publication also said its Foreign Editor had been in direct communication with Foreign Minister Smith at the time of his announcement and had firsthand knowledge of the Rudd Government's decision to withdraw in 2008. It also said statements made by politicians and diplomats in foreign affairs matters are often intentionally ambiguous. It said the Rudd Government's position on the Quad could clearly be distinguished from previous comments made by

Howard Government officials. The publication also noted it previously offered the complainant an opinion piece to ventilate his version of events, which the complainant declined.

CONCLUSION

The Council's Standards of Practice applicable in this matter require publications to take reasonable steps to ensure factual material is accurate and not misleading (General Principle 1); and to ensure that factual material is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts (General Principle 3). If the material is significantly inaccurate or misleading, or unfair or unbalanced, publications must take reasonable steps to provide adequate remedial action or an opportunity for a response to be published if that is reasonably necessary to address a possible breach (General Principles 2 and 4).

The Council is satisfied, based on all the submissions before it, that Foreign Minister Smith's announcement in Tokyo on 1 February 2008 that "we are not proposing to add to the trilateral by including India...and that view is shared by the Japanese government" affirmed the Rudd Government was effectively continuing the Howard government's position on the Quad as reflected in 2007 statements by Defence Minister Brendan Nelson. The position was consistent with the previous Howard government's position and therefore not "unilateral". The Council is also satisfied that the submissions and the Tokyo announcement together with Foreign Minister Smith's announcement at a joint press conference with the Chinese foreign minister on 5 February 2008 that "The United States has indicated a similar disposition in recent weeks and I think that's been welcomed by all" is sufficient to show that the Australian Government's position was shared at least by Japan and the United States and not unilateral in this respect. Accordingly, General Principles 1 and 3 were breached in this respect.

The Council notes the publication offered the complainant a right of reply which was not pursued by the complainant. Accordingly, General Principles 2 and 4 were not breached.

RELEVANT COUNCIL STANDARDS

This Adjudication applies the following General Principles of the Council:

1. Ensure that factual material in news reports and elsewhere is accurate and not misleading, and is distinguishable from other material such as opinion.

2. Provide a correction or other adequate remedial action if published material is significantly inaccurate or misleading.
3. Ensure that factual material is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts.
4. Ensure that where material refers adversely to a person, a fair opportunity is given for subsequent publication of a reply if that is reasonably necessary to address a possible breach of General Principle 3.

Complainant / The Daily Telegraph Adjudication 1808

10-Nov-2021

The Press Council considered whether its Standards of Practice were breached by an article published in The Daily Telegraph online headed "Retired porn star sparks Surry Hills apartment block controversy" on 11 November 2020.

The sub-headline of the article stated "A noisy retired gay porn star has been told to behave and show respect to his neighbours after police were called four times, causing angst in his apartment building". The article went on to report that "[r]esidents at a landmark apartment block in Sydney's gay heartland have been told to show more respect after reports a retired US porn star was sparking conflict by working from home". The article reported that police "had been called four times this year to the same apartment" and that "[i]t is understood the calls have all involved 'concern for welfare'" and "[o]ne involved an argument between the porn star and the boyfriend he is staying with". The article also included an embedded video of Mardi Gras 2020 and an image of the rainbow flag flying over "Sydney's gay community in Darlinghurst".

In response to a complaint received, the Press Council asked the publication to comment on whether the article complied with the Council's Standards of Practice which require publications to take reasonable steps to avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest. The Council noted that the complaint raised concern that the reference to the porn star's sexuality in the sub-headline was not justified by the public interest as the article established no relevance between the person's sexuality and the noise complaints.

In response, the publication said it was merely describing the resident's past occupation as a 'gay porn star'. The publication said it was acceptable terminology for people in that profession as it refers to a specific genre of pornography, and is a term that many individuals in the industry use to describe themselves. It said it took this description from the resident's own social media accounts and used this information as background to the story, as it would for any other individual's profession. The publication said it chose to report this story in particular because it involved several calls to the police, which were not mere noise complaints, but also expressed concerns for the residents' welfare. It noted this information was corroborated by police and therefore it was in the public interest to report.

CONCLUSION

The Council has consistently stated over a long period that publications should exercise great care to not place unwarranted emphasis on characteristics of individuals such as race, religion, nationality, country of origin, gender, sexual orientation, marital status, disability, illness or age.

The Council notes that the resident may have described himself in social media accounts as a 'gay porn star'. However, given the resident's sexuality was not reported to be a contributing factor in the noise complaints, identifying him as such in the sub-headline of the article, could lead some readers to conclude that his sexuality was either the cause of, or a factor in, the complaints and could contribute to substantial prejudice to the gay community. The Council considers that in prominently referring to the resident's sexuality in the sub-headline, the publication failed to take reasonable steps to avoid contributing to substantial prejudice and that there was not sufficient public interest justifying doing so. Accordingly, the Council concludes that the article breached General Principle 6.

NOTE:

This Adjudication applies the following Standards of Practice. Publications must take reasonable steps to:

6. Avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest.

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Complainant / Great Southern Weekender Adjudication 1813

11-Nov-2021

The Press Council considered whether its Standards of Practice were breached by readers' letters published in the Great Southern Weekender headed "Still infectious" on 22 July 2021 and "Lockdowns not the answer" 29 July 2021. The 22 July letter stated "The drug Ivermectin has been passed for use in treating COVID-19 infection..." and the 29 July letter stated "...the most prestigious medical journal in the world, "The Lancet", has published a study indicating that the COVID-19 vaccines are only 0.84 per cent effective."

In response to a complaint, the Press Council asked the publication to comment on whether the letters complied with the Council's Standards of Practice, which require publications to take reasonable steps to ensure that factual material is accurate and not misleading (General Principle 1); that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts (General Principle 3); and to avoid causing or contributing to substantial risk to health or safety, unless doing so is sufficiently in the public interest (General Principle 6). The Council noted that the complaint raised concerns that comments in the letters were inaccurate and could contribute to a substantial risk to health and safety.

In response, the publication said the letters both appeared on a regular page clearly labelled "Opinion" at the top of the page. Both letters included the author's name and suburb, which clearly indicated they were the opinions of those individuals. While the letters themselves express erroneous views and incorrect facts, the publication said it had also published other letters, editorial comments and an interview with a clinical trials expert, which refuted those erroneous views and incorrect facts. The publication said, given the vast amount of misinformation freely available on the subject of COVID-19 treatment and prevention, it was unlikely that two letters would cause or contribute materially to substantial offence, distress or prejudice, or a substantial risk to health and safety. The publication added that a letters page is an excellent public forum for public debate and the exchange of ideas, and that such debate is increasingly absent from the "echo chamber" of social media forums, from which many people source their ideas and opinions. The publication said in relation to the 29 July letter, the comment that vaccines are only 0.84 per cent

effective, was a typo that it intended to correct noting that it ought to have said 84 percent effective.

CONCLUSION

The Council notes that while letters to the editor are very much an expression of the letter writer's opinion, publications must nonetheless comply with the Council's Standards of Practice in relation to letters they select and edit for publication. The Council considers that, on the information available to it, the letter writers' comments concerning Ivermectin and vaccine efficacy rates are inaccurate and based on an omission of key facts. Accordingly, the Council finds the publication failed to take reasonable steps to comply with General Principles 1 and 3.

The Council recognises the significant public interest in publishing a range of views on matters of public debate. However, the Council considers there was no public interest in publishing significantly inaccurate and potentially harmful information concerning Covid-19 vaccines particularly during the pandemic. Accordingly, the Council also finds the publication failed to take reasonable steps to comply with General Principle 6.

The Council acknowledges the publication's offer of correction of the 29 July 2021 letter.

RELEVANT COUNCIL STANDARDS

Publications must take reasonable steps to:

1. Ensure that factual material in news reports and elsewhere is accurate and not misleading, and is distinguishable from other material such as opinion.
3. Ensure that factual material is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts.
6. Avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest.

Complainant / Australian Financial Review Adjudication 1810

15-Nov-2021

The Press Council considered whether its Standards of Practice were breached by an article published by The Australian Financial Review online on 9 May 2021 headed "Apollo Global MD contracts COVID-19 in Sydney", and

in print on 10 May 2021 headed "Apollo Global MD Pizze contracts COVID-19 in Sydney".

The article reported "Investment giant Apollo Global Management managing director" is the "Sydney person that has been diagnosed with COVID-19". The article reported that the person, "who is one of only two full-time employees at Apollo in Australia, is still suffering COVID-19 symptoms and is suspected of catching the virus from a returned US traveller." It also said the person "is understood to be the mystery shopper who ducked into two Sydney-based Barbeques Galore stores on Saturday, May 1, and then his local butcher, in a shopping trip that has since been documented by NSW Health as part of its contact tracing protocols. It is understood the person went to Barbeques Galore looking for a new barbecue, but also as part of his firm's due diligence on the retailer."

Following complaints it received, the Press Council asked the publication to comment on whether the article complied with the Council's Standards of Practice. In particular, it asked whether the article intruded on the person's reasonable expectations of privacy by reporting their name and personal medical information; whether the article may have caused substantial distress to the person or could discourage other members of the public from getting tested for Covid-19; and whether identifying the person in this manner was necessary or justified in the public interest.

In response, the publication said it considered the question of privacy in publishing the article. It said its reporter approached Apollo Global Management and outlined the story well before publication. The company confirmed that the managing director had tested positive to the coronavirus, provided comments and did not ask the Financial Review to refrain from identifying him. After the article appeared online on 9 May, the company contacted it and asked that it remove a photograph of the managing director, which it did. The publication said the company did not complain about the story or the naming of the managing director and did not ask for his name to be removed. The company did not express the view that the article had, or would, cause the managing director distress.

The publication also said that the named person made no complaint to it after publication. He did not ask for the story to be amended or withdrawn and there is no evidence that he was distressed or harmed by the publication.

The publication said the person is a managing director of Apollo Global Management, an international private

equity firm listed on the New York Stock Exchange with more than \$US460 billion of assets and he is a significant figure in Australian investment circles. Some in the market already knew that he was the person who had contracted COVID-19 while visiting multiple BBQs Galore shops. Helping to fully inform the market on this relevant point involving a potential transaction of \$100 million or so is in the public interest.

It said the identification of the person has not destroyed, nor would it destroy, public confidence in the contact tracing system, testing or vaccination. There is no evidence, whatsoever, that this occurred. It also said there is no stigma in being identified as a person having COVID-19, noting various prominent people have been identified as such, and said the identification of prominent people having contracted COVID-19 is helpful in reducing any stigma and helping the public's understanding of the spread of the virus.

CONCLUSION

The Council considers there is a public interest in reporting on the business activities of Apollo Global Management in Australia, and notes the named person is somewhat of a public figure given his position within the organisation. It also notes that such public interest does not necessarily justify identifying a person's medical information. In this case however, the Council is satisfied the publication took reasonable steps to not intrude on the person's reasonable expectations of privacy by contacting the company in advance of the article's publication and by removing a photograph of the person upon request. Accordingly, the Council finds there was no breach of General Principle 5.

The Council accepts the publication's submission that the article did not cause substantial distress to the person, noting that neither the person, nor Apollo Global Management raised such concerns after being notified of the article by the publication. The Council also notes the article was not derisive or critical of the named person and is unlikely to discourage other members of the community from getting tested for COVID-19. Accordingly, the Council finds there was no breach of General Principle 6.

RELEVANT COUNCIL STANDARDS.

This Adjudication applies the following General Principles of the Council:

5. Avoid intruding on a person's reasonable expectations of privacy, unless doing so is sufficiently in the public interest.

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6. Avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest.

Complainant / Byron Shire Echo

Adjudication 1812

16-Nov-2021

The Press Council considered whether its Standards of Practice were breached by a reader's letter published in the Byron Shire Echo headed "Midwife quits" on 17 April 2021. The letter stated "... Work with lies and deceit at all levels has led me to despair. I am very good at my job as midwife. You would want me to take care of you. You would be very safe in my care. 'The jab' cannot be called a vaccine. It will kill and it will make people very sick with autoimmune disease, which will manifest in many types of diseases. Please do not acquiesce."

In response to a complaint, the Press Council asked the publication to comment on whether the letter complied with the Council's Standards of Practice, which require publications to take reasonable steps to ensure that factual material is accurate and not misleading (General Principle 1); that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts (General Principle 3); and to avoid causing or contributing to substantial risk to health or safety, unless doing so is sufficiently in the public interest (General Principle 6). The Council noted that the complaint raised concerns that the letter is likely to excite irrational fears surrounding vaccines. The complaint also expressed concern that the writer, who identified themselves as a 'professional midwife', could not be found on the register of midwives and nurses with the Australian Health Practitioner Registration Agency.

In response, the publication said the letter was published in the context of providing a balanced debate on vaccine safety. It said it also publishes letters and articles which strongly support vaccination, support an approach based on scientific evidence, and objections to anti-vax opinions, conspiracy theories and untruths. The publication said it reports the reality that there are a range of opinions on vaccination, without giving readers the impression that these opinions are accurate statements of fact. It said that given the longstanding vaccine scepticism in its community, it is in the public interest to publish a curated selection of material on the sorts of views its community

holds, balanced with factual information and opposing views, rather than driving the whole debate to social media where there is less opportunity of opposing views being heard. The publication said it has also published criticism of its editorial stance on this issue from people who feel that it should not publish anti-vax opinions. The publication said that there is some validity to the comments noting that some people have died as a result of a particular vaccine. Nonetheless, the publication said while the letter writer was in fact a registered midwife, it took the letter down after further consideration of the letter's content.

CONCLUSION

The Council notes that while a letter to the editor is very much an expression of the letter writer's opinion, publications must nonetheless comply with the Council's Standards of Practice in relation to letters they select and edit for publication. While the Council accepts that there have been reported cases of deaths associated with a particular type of vaccine, on the information available to it, there is no evidence to support the writer's emphatic comment that vaccines "...will kill and it will make people very sick with autoimmune disease" is accurate. Accordingly, the Council finds the publication failed to take reasonable steps to comply with General Principles 1 and 3.

The Council recognises the significant public interest in publishing a range of views on matters of public debate. However, the Council considers there was no public interest in publishing significantly inaccurate and potentially harmful information concerning Covid-19 vaccines particularly in the time of a pandemic and when the letter writer is asserting they are a health professional. Accordingly, the Council concludes that the publication breached General Principle 6.

The Council welcomes the publication's decision to remove the letter.

RELEVANT COUNCIL STANDARDS

Publications must take reasonable steps to:

1. Ensure that factual material in news reports and elsewhere is accurate and not misleading, and is distinguishable from other material such as opinion.
3. Ensure that factual material is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts.
6. Avoid causing or contributing materially to substantial

offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest.

Bayside Council / The Sydney Morning Herald Adjudication 1806 11-Dec-2021

The Press Council considered a complaint from Bayside Council about an article published by the Sydney Morning Herald in print on 31 October 2020 headed “\$1b lost in council merger failures” and online headed “‘Rates will have to rise’: Council mergers in crisis as losses mount”.

The article reported “[the] NSW government’s controversial merger policy is in crisis, with the 20 amalgamated councils losing \$1.05 billion in three years and ratepayers facing hike in rates and cuts in services”. It reported that LSI Consulting, “[u]sing the published audited financial statements of NSW’s 128 councils ... created a productivity index to measure the operating performance of councils dating back to 2016, when NSW forced the super council mergers”. It reported that LSI’s productivity index “measures councils’ output relative to input. Output measures the services delivered by each council relative to the income they receive from rates, parking fees and other regulatory income. Input is what each council pays to deliver the services”.

The article reported that “[t]he data showed that the productivity index of the 20 merged councils went backwards 16 per cent since amalgamation” and “[t]he worst-performing council in NSW was Bayside Council, formed from the merger of Botany Bay and Rockdale City councils. Its productivity has gone backwards since the merger, losing the equivalent of \$155.7 million in productivity losses over three years”. The article also includes a chart compiled by LSI Consulting called ‘In the red: The 10 worst-performing merged NSW councils’ which showed Bayside Council at the top with a loss of \$155,721,400.

The article reported that a Bayside Council spokesperson said: “‘On a cumulative basis, for the past four financial years since amalgamation, Bayside has reported an operating surplus of \$162.5 million (including capital grants and contributions) or a surplus of \$17.9 million (excluding capital grants and contributions)”. It also reported that principal LSI Consultant “disputed the council’s figure and said part of the deterioration in

productivity since the merger was due to a blowout in labour and other costs”.

The complainant said that the article was inaccurate as Bayside Council is one of the state’s strongest performers, making productivity gains of \$78 million from September 2016 to June 2019 and productivity gains of \$104 million to June 2020, and is operating in surplus. The complainant said the publication used incorrect figures from LSI Consulting’s report as it failed to include inputs from rates revenue of \$70 million for 2016-17, and did not account for the fact that in the 2016-17 financial year the rates revenue for Bayside Council was recorded in the financial accounts of the two former Councils (Rockdale and City of Botany Bay) before the merger. It said while the expenditure was recorded in the accounts of Bayside Council, it was not formally amalgamated until September 2016 and not May 2016, when other NSW councils were amalgamated. The complainant said that re-calculating the index would result in Bayside Council being the best-performing merged council with positive productivity measure.

The complainant also said it was factually incorrect to allege that Bayside Council had a blowout in labour costs as Bayside Council’s labour expenses had only risen in line with inflation and standard award increases.

The complainant said the publication relied on factually incorrect data and that Bayside Council was not given the opportunity to correct the record or a right of reply to the claims before or after publication. It said the journalist sent a query a week before the article was published and that no questions were asked about productivity gains and losses. The complainant said Bayside Council had written to the Sydney Morning Herald editor about the factual inaccuracies in the article within two days of publication. It said it is looking for a retraction, an apology and for the publication to cease referring to the original article in subsequent articles.

The complainant said that the article has caused alarm and unnecessary angst amongst leaders in the community regarding Bayside Council being the worst-performing council.

The publication said there were no errors in the original article and that it accurately reported LSI’s findings at the time of the article’s publication and that since publication, LSI’s productivity index has not changed. It said there was no reference to a rates revenue of \$70 million in Bayside Council’s annual financial statements for the period of 10 September 2016 to 30 June 2017. It said that, since the \$70 million was not included in the publicly available financial

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statements, it was therefore not included in the 2017 calculations.

The publication said that in relation to labour costs, the employee numbers reported by former councils in 2016 were 324 FTE (Full-Time Equivalents) in Botany and 361 FTE in Rockdale, totalling 685 FTE. It said that Bayside Council reported in June 2019 a total FTE of 767, which is an increase of 11.97%.

It also said that prior to publication of the article it spoke to the relevant person at LSI who confirmed its calculations included Botany Council revenue from 2016. The publication said it had reported the correct figures from the outset and no error had been made. The publication also noted that Bayside Council's entire response to its queries was included in the original article. In regard to the correspondence it received from the Mayor of Bayside Council, it said it responded to his concerns and suggested the Mayor contact LSI Consulting about the methodology it used to arrive at the conclusion it did. The publication proposed to attach a footnote to the original story to the effect that a recalculation of the index taking into account unaudited financial information subsequently provided by Bayside Council to LSI, would show that Bayside was not the worst performing council.

CONCLUSION

The Council's Standards of Practice applicable in this matter require that publications take reasonable steps to ensure that factual material in news reports and elsewhere is accurate and not misleading and is distinguishable from other material such as opinion (General Principle 1) and that material is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts (General Principle 3). They also require publications take reasonable steps to provide a correction or other adequate remedial action if published material is significantly inaccurate or misleading (General Principle 2) and provide an opportunity for a response to be published by a person adversely referred to (General Principle 4).

The Council considers that in writing the article it was reasonable for the publication to rely on the factual material contained in the report by LSI Consulting, as it was a reputable source of productivity information regarding Local Governments over a number of years and its report was based on publicly available information. The Council accepts the information in the LSI report was relayed

accurately in the article and concludes General Principle 1 was not breached. The Council also considers the publication took reasonable steps to present material with reasonable fairness and balance by including comments from Bayside Council and other relevant Councils in the article. Accordingly, the Council concludes that General 3 was not breached.

However, while the Council accepts that the publication relied on information that it believed was accurate at the time of publication, and that the authors of the report do not wish to update that information as previously considered, the Council nonetheless considers that the publication had an obligation to update the story. The Council considers that independent of any action by LSI Consulting, once the publication became aware there was an apparent anomaly relating to the base year for the productivity calculation, it was obliged to update the article. While the Council acknowledges the publication's subsequent offer of a footnote, it does not consider this proposal sufficiently remedies the matter given the relevant information relied on was not itself being updated, and notes the publication ought to cease referring to the original article in any subsequent articles. Accordingly, the Council concludes that General Principles 2 and 4 were breached.

RELEVANT COUNCIL STANDARDS

This Adjudication applies the following General Principles of the Council. Publications must take reasonable steps to:

1. Ensure that factual material in news reports and elsewhere is accurate and not misleading, and is distinguishable from other material such as opinion.
2. Provide a correction or other adequate remedial action if published material is significantly inaccurate or misleading.
3. Ensure that factual material is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts.
4. Ensure that where material refers adversely to a person, a fair opportunity is given for subsequent publication of a reply if that is reasonably necessary to address a possible breach of General Principle 3.

Jordan Shanks-Markovina / The Daily Telegraph Adjudication 1811 13-Dec-2021

The Press Council considered a complaint from Jordan Shanks-Markovina about an article published by The Daily Telegraph on 21 September 2020 headed "Friendlyjordies: Labor members concerned by leader's links to YouTube star" online; and "Labor Leader's Controversial New Friend" in print.

The article stated "Labor MPs have expressed concern about leader Jodi McKay engaging with controversial YouTube star Friendlyjordies, suggesting it was "risky" to be associated with someone who has made controversial statements about mental health and sexual assault." The article reported comments from an unnamed Labor source that stated "[i]t's just risky, you don't need to take that risk", and referred to comments made by then NSW Premier Gladys Berejiklian, stating "I have heard that he has made inappropriate and racist comments about a number of people and I think that's completely unacceptable." The article also reported that "Shanks did not respond to written questions last night. In a subsequent phone conversation, his assistant criticised this reporter, before Shanks claimed he did not have access to the questions sent by The Daily Telegraph."

The complainant said that he was not given a fair opportunity to respond to the allegations against him and that the questions put to him by the publication were leading, unfair and impossible to answer within the confines of a quarter-page article. He said that questions regarding his "controversial statements about mental health and sexual assault" were based on comments he had made during an hour-long podcast, that had been deliberately taken out of context and stripped of any nuance. He said another of the publication's questions, about whether his impersonation of a particular politician was 'racist', had already been addressed by him publicly in a ten-minute video on his YouTube channel. The complainant said certain adverse references to him in the article were not specifically put to him by the publication, including the comments of the unnamed Labor source and Gladys Berejiklian.

The complainant also said he was given inadequate time to respond to the journalist's questions. He said the questions were sent to him via Twitter and an email account designed for tip-offs by the public. He received the questions on a

Sunday evening and was given less than an hour and a half to respond. The complainant said it was completely unreasonable for him to see and respond to the journalist's message in that timeframe.

The complainant added that it was inaccurate to report that he "did not respond to written questions ... [and] ... claimed he did not have access to the questions." He said in a subsequent telephone conversation, recorded by the complainant, the journalist was asked to put questions to him verbally but did not. The complainant said he could not access the journalist's questions digitally while recording the telephone conversation. The complainant said he preferred for the interview to be conducted by telephone as he wanted to gauge the journalist's intentions and considered there was a greater risk of any written responses being taken out of context.

The complainant also said the publication did not adequately disclose the journalist's conflict of interest and suggested that the story had been written at the behest of a senior NSW Coalition member.

In response, the publication said it put a series of questions to the complainant via email and Twitter following the publication of an earlier article in another publication which raised similar issues. It said its questions were based on public comments by the complainant which had been previously reported by other publications and circulated widely on social media; a tweet sent by the Friendlyjordies twitter account in which he told another user to "produce some serotonin and then get a job"; and an earlier story published by The Daily Telegraph on 21 June 2020 headed "YouTube funnyman in hot water over mocking accents of Gladys Berejiklian, John Barilaro." It also said the comments attributed to Gladys Berejiklian had been made at a press conference earlier that morning. It said the complainant was given the opportunity to respond to the questions as posed.

The publication said on the Sunday in question the Friendlyjordies Twitter account had been actively tweeting and the questions were not deliberately difficult to see, as the complainant suggested. The questions were also emailed to the complainant via an email address to which he invites correspondence. In relation to the subsequent telephone conversation, the publication said the journalist ascertained that he was being recorded for the purposes of uploading to the Friendlyjordies YouTube channel, but nevertheless asked the complainant multiple times if he wished to respond to the written questions as posed via

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email and Twitter. The publication said nowadays it is commonplace for interviews to be conducted by email and/or Twitter. It also said if the complainant had simply answered the questions, his responses would have been included in the article.

The publication said the article did not arise as a result of any improper relationship between the publication and a NSW Coalition member, and that there was no evidence to support this contention.

CONCLUSION

The Council's Standards of Practice applicable in this matter require publications to take reasonable steps to ensure factual material is accurate and not misleading (General Principle 1); and is presented with reasonable fairness and balance (General Principle 3). If the material is significantly inaccurate or misleading, or unfair or unbalanced, publications must take reasonable steps to provide adequate remedial action or an opportunity for a response to be published if that is reasonably necessary to address a possible breach (General Principles 2 and 4). Publications must also take reasonable steps to ensure that conflicts of interests are avoided or adequately disclosed, and that they do not influence published material (General Principle 8).

The Council accepts that, based on the material before it, the factual material in the article reflects comments made by a Labor Party source and by Gladys Berejiklian. Accordingly, General Principles 1 and 2 were not breached.

In relation to General Principle 3, the Council does not accept that the complainant could not access the questions posed by the journalist. The Council notes that the apparent inability to access the questions was solely due to the complainant's own actions and not that of the publication. However, the Council considers the article's comment that the complainant "did not respond to written questions" was an unfair characterisation of the communications between him and the publication. The Council also notes that the questions as posed lacked necessary context and could not have been fairly answered by the complainant given the deadline provided. In relation to the comments made by then Premier Gladys Berejiklian, which called into question whether the complainant had in the past made 'inappropriate' and 'racist' comments, the publication was required to provide him with an opportunity to respond to those comments specifically. Accordingly, the General Principle 3 was breached in these respects.

As the complainant did not seek a subsequent right of reply,

General Principle 4 was not breached.

The Council is satisfied that given both the absence of evidence and the routine and accepted journalistic practice of using confidential sources, that the article was not a result of an improper relationship between the journalist and a politician. Accordingly, there was no breach of General Principle 8.

RELEVANT COUNCIL STANDARDS

This Adjudication applies the following General Principles of the Council. Publications must take reasonable steps to:

1. Ensure that factual material in news reports and elsewhere is accurate and not misleading, and is distinguishable from other material such as opinion.
2. Provide a correction or other adequate remedial action if published material is significantly inaccurate or misleading.
3. Ensure that factual material is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts.
4. Ensure that where material refers adversely to a person, a fair opportunity is given for subsequent publication of a reply if that is reasonably necessary to address a possible breach of General Principle 3.
8. Ensure that conflicts of interests are avoided or adequately disclosed, and that they do not influence published material.

Complainant / Herald Sun

Adjudication 1816

23-Mar-2022

The Press Council considered whether its Standards of Practice were breached by an article headed "Lockdowns show Australia has lost its marbles" published online by The Herald Sun on 30 June 2021.

The article was an opinion piece in which the columnist was critical of lockdown policies. The 'precede' which appeared beneath the headline of the article stated "Half the country is locked down because state leaders are whipping up fears about a virus that's less dangerous than its vaccine." The article went on to state, amongst other things, "...we've now vaccinated the vast majority of the people most likely to die – people aged over 70, and people in aged-care homes"; "...this dominant Delta strain is half as deadly as last year's strain, according to Public Health England"; "Our

main aim from the start should have been to stop people dying, and live with the fact that others will still get the sniffles. Treat this like the flu"; and "why vaccinate millions of young Australians who won't get very sick from a virus that almost exclusively kills people over 65?".

The article also stated "Queensland's health officer, Jeannette Young, exposed the craziness of this when she tried to justify banning the young from taking the AstraZeneca vaccine that's saved Britain: 'I don't want an 18-year-old in Queensland dying from a clotting illness who, if they got Covid, probably wouldn't die.' If this virus is less dangerous than even a vaccine, why is half the country in lockdown?"

In response to a complaint received, the Council asked the publication to comment on whether the above statements complied with the Council's Standards of Practice, which require publications to take reasonable steps to ensure factual material is accurate and not misleading (General Principle 1) and to ensure factual material is presented with reasonable fairness and balance and writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts (General Principle 3).

In response, the publication noted that the 'precede' was written by a digital producer and accurately reflected a statement made by Queensland's Chief Health Officer concerning risks associated with a vaccine who was quoted in the article. The publication said that at the time of writing more than 50% of Australia's population resided in states where various forms of Covid-19 lockdown restrictions applied, and that in the period (1 January 2021 – 30 June 2021) more Australians had in fact died from vaccine side effects than from Covid-19 through community transmission. The publication said the statements that the majority of people most at risk had already been vaccinated; and that the virus almost exclusively kills people over 65; were factual, and referred to information published by the Commonwealth Department of Health, which it said substantiated these assertions. Similarly, the publication referred to a Technical Briefing from Public Health England dated 18 June 2021, which it said provided the factual basis for the columnist's comments about the deadliness of the Delta strain. The publication said that the columnist's pro-vaccination stance has been well publicised and the statement "Treat this like the flu" was clearly an expression of the columnist's genuinely held opinion.

CONCLUSION

The Council notes that although the article is an opinion piece, the publication is nonetheless obliged to take reasonable steps to ensure that factual material in the article is accurate, not misleading, fair and balanced; and to ensure that the writer's expressions of opinion are not based on inaccurate factual material.

In considering the 'precede' to the article, which states "... state leaders are whipping up fears about a virus that's less dangerous than its vaccine" the Council notes that this assertion is made without any qualification or context, and inaccurately portrays the risks associated with Covid-19 vaccines and the virus itself. Accordingly, General Principles 1 and 3 were breached in this respect.

However, the Council considers that where the columnist elsewhere poses the question "If this virus is less dangerous than even a vaccine, why is half the country in lockdown?", reflected a statement concerning risks associated with a vaccine made by Queensland's Chief Health Officer who was quoted in the article. Accordingly, General Principles 1 and 3 were not breached in this respect.

In relation to the remaining matters detailed above, the Council is satisfied, based on the information before it, that there was a reasonable factual basis for the writer's expressions of opinion, and that the factual information in the article was accurate and not misleading. Accordingly, General Principles 1 and 3 were not breached in these respects.

RELEVANT COUNCIL STANDARDS

Publications must take reasonable steps to:

1. Ensure that factual material in news reports and elsewhere is accurate and not misleading and is distinguishable from other material such as opinion.
2. Ensure that factual material is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts.

Lisa Guglielmucci / The Daily Telegraph

Adjudication 1815

24-Mar-2022

The Press Council considered a complaint from Lisa Guglielmucci concerning an article published in The Daily

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Telegraph headed “Liar cleric’s fresh call” in print and “Disgraced Hillsong singer Michael Guglielmucci launches homeless charity” online on 3 April 2021.

The article reported that “Disgraced fake cancer pastor Michael Guglielmucci has resurrected his career, setting up a charity to support the terminally-sick and homeless.” The article went on to state that “The pop star preacher, who performed with the Hillsong church band and confessed to inventing a two-year cancer battle to hide his porn addiction, has resurfaced announcing God has called him to create a community that feeds and supports the homeless, asylum seekers and the chronically and terminally ill in Port Adelaide.” The article included a large and prominent photograph with the caption: “Popstar preacher Michael Guglielmucci is starting a charity”.

The complainant said the photo used in the article is of her “deceased husband but the story is not about him, it is about his brother”. The complainant said the incorrect use of the photo caused her deep distress seeing her “amazing, faithful and integrous late husband in a half page newspaper report with words like LIAR and DISGRACED plastered next to his photo”. The complainant said the article which comments on a fake cancer journey and a porn addiction “paints such a shameful horrible picture about [her late] husband when it’s not even about him and he did nothing wrong”.

In response, the publication said the photo was published by mistake as the photo taken from its photo library had been incorrectly captioned. The publication said that once it was informed that the photo was incorrect, it immediately removed it from the online article and also removed it from online stories published on other associated news sites. The publication said it also published a clarification in the next print edition and added an editor’s footnote to the online article to advise readers of the error that had occurred. The publication also said that after being contacted by the complainant, it wrote to her to apologise for the mistake and to inform her that the photograph had been removed from the article and also from its photo library to ensure that it could not be used incorrectly again.

CONCLUSION

The Council’s Standards of Practice applicable to this matter require that publications take reasonable steps to ensure that factual material in news reports and elsewhere is accurate and not misleading and is distinguishable from other material such as opinion (General Principle 1), and to provide a correction or other adequate remedial action if

published material is significantly inaccurate or misleading (General Principle 2). The Standards also require publications to take reasonable steps to avoid causing or contributing materially to substantial distress or prejudice, or a substantial risk to health or safety, unless sufficiently in the public interest (General Principle 6).

The Council accepts that the publication of the photograph was the result of human error. Nonetheless, the Council considers that given the seriousness of the reported conduct of the individual named in the article, there was an obligation on the publication to ensure that the photo was in fact that of the person named in the article. Accordingly, the Council considers the publication did not take reasonable steps to verify the photograph, and to ensure that the factual information in the article was accurate. Accordingly, the Council finds that General Principle 1 was breached.

The Council considers that given the seriousness of the mistake it would have been preferable for the publication to publish a prominent correction rather than a clarification. Nonetheless, the Council commends the publication for immediately removing the online photo once the mistake was brought to its attention. The Council also notes that together with a written apology, the publication published a print clarification and added an editor’s note on the online article informing readers of the mistake. Accordingly, the Council finds no breach of General Principle 2.

The Council considers that given the prominence of the photo and the seriousness of the reported past conduct of the individual named in the article and the failure to verify the accuracy of the photo, the publication failed to take reasonable steps to avoid substantial distress. Accordingly, the Council finds that General Principle 6 was breached.

NOTE:

Publications must take reasonable steps to:

1. Ensure that factual material in news reports and elsewhere is accurate and not misleading, and is distinguishable from other material such as opinion.
2. Provide a correction or other adequate remedial action if published material is significantly inaccurate or misleading.
3. Avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest.

Complainant / The Courier-Mail Adjudication 1817

14-Apr-2022

The Press Council considered a complaint about three online articles published in The Courier-Mail, headed "Brisbane house flipper's alleged secret life as drug trafficker" 8 July 2021, "'Hectic': House flipping accused drug kingpin's texts, associates" 8 July 2021 and "'WTF just happened?': ANOM text messages revealed" 24 July 2021.

The articles reported on court proceedings of the complainant's partner who had been charged for allegedly being involved in serious criminal activities. In reporting on the proceedings, the articles also reported the serious criminal enterprise in which the complainant's partner and others were allegedly involved. The article headed "Brisbane house flipper's alleged secret life as drug trafficker" reported that "A million-dollar Brisbane house flipper who has virtually no online presence is alleged by police to have been living a secret life as a high-level wholesale drug trafficker" and the article headed "'Hectic': House flipping accused drug kingpin's texts, associates" reported "Details of the police claims against Adelaide-born Spurling were revealed in documents filed in the Supreme Court in Brisbane as part of his successful bail application on June 22 charges of trafficking in cannabis and ice and gun trafficking". The article headed "'WTF just happened?': ANOM text messages revealed" reported "Text chats between Queensland men who believed they were shielded by using an encrypted app will form the basis of police allegations they plotted million dollar drug deals".

The complainant said the 8 July 2021 articles included the names, occupations and suburbs of residence of the accused's close relatives. The complainant said the articles also included personal information including details of her relationship with her partner, her employment details, a photograph of her as well as the name and age of their infant child. The complainant said the 24 July 2021 article also included a photograph of her as well as her employment details. The complainant said that while she acknowledged that court hearings and outcomes can be reported on, the inclusion of such personal and sensitive information was not necessary for the full, fair and accurate reporting of the alleged crime or legal proceedings. The complainant said the articles have had a direct impact on her personal and professional reputation and have caused great angst and anxiety for all the relatives involved. The

complainant also said the publication of personal details and locations of various named relatives had caused serious concerns for their safety, given the seriousness of the allegations.

In response, the publication said the articles report on court documents that are available to any member of the public prepared to pay the relevant court fees. The publication said the complainant's partner and his legal representatives made a decision to highlight the stability of his family and longstanding connections to Queensland to support his bid for bail. The publication said the court documents on which the articles are based, are replete with references to the information the complainant has expressed concern with and noted that at least one the court documents would appear to have been prepared with the complainant's full cooperation and consent.

The publication also said that as the complainant is a solicitor, she would have been aware that once the court documents were filed, these documents would become public documents and could not only be reported on as part of a fair report but also accessed and read by any member of public who chose to apply for the court file. The publication said while it appreciates that the reports may have impacted the complainant's reputation, this will remain true irrespective of whether the articles continue to be published or not as her partner stands charged with serious alleged drugs offences. The publication added that although the complainant would appear to have consented to her daughter's name and date of birth being included in at least one of the court documents, it subsequently amended the articles to remove such references.

CONCLUSION

The Council's Standards of Practice applicable in this matter require publications to take reasonable steps to avoid intruding on a person's reasonable expectations of privacy unless doing so is sufficiently in the public interest (General Principle 5) and to avoid causing or contributing materially to substantial distress or prejudice, or a substantial risk to health or safety, unless sufficiently in the public interest (General Principle 6). They also require that unless otherwise restricted by law or court order, open court hearings are matters of public record and can be reported by the press. Such reports need to be fair and balanced. They should not identify relatives or friends of people accused or convicted of crime unless the reference to them is necessary for the full, fair and accurate reporting of the crime or subsequent legal proceedings (Privacy Principle 7).

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The Council notes the complainant had a reduced expectation of privacy as the information about which she expressed concern is based on publicly available court documents. The Council also considers that to the extent that those named in the article did have a reasonable expectation of privacy, this was outweighed by strong public interest in open justice, including the freedom of the press to report on matters of public importance, such as the legal proceedings associated with alleged criminality. Accordingly, the Council finds no breach of General Principle 5.

The Council also finds that to the extent the complainant and the named relatives were distressed by the publication of personal information, this was outweighed by the strong public interest in reporting on serious criminal activity and associated legal proceedings. However, the Council does not consider it was necessary or sufficiently in the public interest to include the name and the age of the complainant's infant child. Accordingly, General Principle 6 was breached in this respect. The Council welcomes the publication's subsequent amendment to the articles to remove such references.

As to Privacy Principle 7, the Council acknowledges there was no suppression order in place to prevent publication of information concerning the complainant and named relatives. The Council also acknowledges it is clearly in the public interest for publications to report on findings of courts. However, on balance, the Council does not consider the inclusion identifying information, namely photographs of the complainant, the name and age of the complainant's infant child, and the occupations and suburb locations of named relatives, was necessary for the full, fair and accurate reporting of the crime and subsequent legal proceedings. Accordingly, Privacy Principle 7 was breached.

NOTE:

Publications must take reasonable steps to:

5. Avoid intruding on a person's reasonable expectations of privacy unless doing so is sufficiently in the public interest.
6. Avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest.

PP7. In accordance with Principle 6 of the Council's Statement of General Principles, media organisations should take reasonable steps to avoid causing or

contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest. Members of the public caught up in newsworthy events should not be exploited. A victim or bereaved person has the right to refuse or terminate an interview or photographic session at any time. Unless otherwise restricted by law or court order, open court hearings are matters of public record and can be reported by the press. Such reports need to be fair and balanced. They should not identify relatives or friends of people accused or convicted of crime unless the reference to them is necessary for the full, fair and accurate reporting of the crime or subsequent legal proceedings.

Complainant / Herald Sun

Adjudication 1818

10-May-2022

The Press Council considered whether its Standards of Practice were breached by an article published in The Herald Sun headed "Out-of-school sex ed" in print on 22 February 2022. The article reported on the sexual abuse of a minor by his then teacher at a Victorian school in the mid-to-late 1990s.

The sub-headline of the article stated, "Female teacher admits violating boys". The article went on to report that the teacher "pleaded guilty in the County Court on Friday to several counts of sexual penetration of a child under 16." It also reported that the teacher "taught one victim how to perform sexual acts," and said, "She later showed him how to put on a condom."

In response to a complaint received, the Council asked the publication to comment on whether the headline in particular complied with the Council's Standards of Practice which require publications to ensure that factual material is presented with reasonable fairness and balance (General Principle 3); and to avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health and safety, without sufficient justification in the public interest (General Principle 6).

The Council noted that the complaint raised concerns that the headline was an unfair description of the reported sexual abuse of a child by his teacher. The Council also noted that the complaint raised concerns that the headline and its attitude maybe harmful to sexual abuse survivors, as it may minimise the perception of harm done by sexual abusers.

In response, the publication said the reference to “sex ed” in the headline was underpinned by two paragraphs in the story which outline how the perpetrator taught one of her victims how to perform sexual acts. It said this ‘teaching’ formed a prominent part of the evidence of the court case reported on, and pertained directly to the perpetrator’s actions, in that she had control over the students and guided them through the abuse. The publication also pointed to the public interest in reporting instances of child sexual abuse, and the deterrent potential of reporting on abuse cases prominently. The publication denied the possibility that the headline could be harmful to survivors of abuse.

CONCLUSION

The Council notes the limitations of headlines to reflect the tenor of an article. However, the Council also notes that headlines must nonetheless comply with the Council’s Standards of Practice. In this instance, the Council considers the description of the reported child sexual abuse matters as ‘sex-ed’ was an unfair characterisation of the reported events. The Council considers that readers could interpret the headline as implying that the child sexual abuse had some connection to the victim’s school curriculum; or that the teacher’s offences were not sufficiently serious. Accordingly, the Council considers the publication failed to take reasonable steps to ensure factual material was presented with reasonable fairness and balance in breach of General Principle 3.

The Council notes the publication’s comments concerning how the perpetrator ‘taught’ the victim how to perform sexual acts. However, the Council considers that describing such acts as ‘sex-ed’ particularly when the reported abuse concerned a teacher student relationship, trivialises the seriousness of the conduct and potentially diminishes the reported emotional impact on the student.

The Council considers that in describing the reported child sexual abuse as ‘sex-ed’, the publication failed to take reasonable steps to avoid contributing to substantial prejudice and that there was not sufficient public interest justifying doing so. Accordingly, the Council concludes that the article breached General Principle 6.

RELEVANT COUNCIL STANDARDS

This adjudication applies the following General Principles of the Council. Publications must take reasonable steps to:

- 3 Ensure that factual material is presented with reasonable fairness and balance, and that writers’

expressions of opinion are not based on significantly inaccurate factual material or omission of key facts.

- 6 Avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest.”

Complainant / Daily Mail Australia

Adjudication 1814

08-Jun-2022

The Press Council considered whether its Standards of Practice were breached by an article published by Daily Mail Australia online on 25 November 2020 headed “Student artist sparks fury by saying war crimes report ‘shows Australia’s character’ and arguing mental health helplines shouldn’t be displayed for struggling veterans”.

The article reported that “a non-binary queer youth worker whose parents are Afghan refugees, wrote a scathing article for university-funded literary magazine Meanjin. [The student’s] comments referred to the Brereton report into alleged Australian war crimes in Afghanistan that was made public last week.” The article also included several photographs of the student attributed to the student’s Instagram account.

In response to a complaint, the Press Council asked the publication to comment on whether the article complied with the Council’s Standards of Practice, which require publications to take reasonable steps to ensure that factual material is presented with reasonable fairness and balance (General Principle 3); and to avoid causing or contributing to substantial risk to health or safety, unless doing so is sufficiently in the public interest (General Principle 6). The complainant, who was not the subject of the article, raised concerns that the repeated, prominent references to the student’s sexual orientation and gender identity were not relevant to the article written for the university literary magazine and were therefore not in the public interest to report. The complaint also said these references, together with the photographs included in the article, were salacious and contribute to substantial prejudice against persons of diverse gender or sexuality.

In response, the publication said the article does not say or imply that the student has no right to comment or have an opinion on the alleged war crimes in Afghanistan because they are non-binary and queer. The publication said that the article as a whole is focused on the student’s comments

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made about the alleged war crimes. The publication also said that it 'reached out' to the student for comment after it became aware the student had shared the article on social media. It said that although the student did not accept an offer for comment, it noted that the messages exchange were friendly and no concerns were expressed by the student with the article's content. The publication noted that the student had the opportunity to raise any concerns about the reference to their gender or sexuality in the article and they chose not to comment. In this context, the publication questioned if the student was offended by the article's content. Nonetheless, the publication said that in order to remedy the complaint, it amended the online article by removing the words "non-binary queer" and two photographs of the student.

CONCLUSION

The Council notes that General Principle 3 requires publications to take reasonable steps to ensure factual material is presented with reasonable fairness and balance. The Council accepts that the student identifies as non-binary and queer and acknowledges the publication's comments that the student raised no concerns with the article in this respect. The Council considers, although prominently identifying the student as non-binary and queer could lead some readers to conclude that the views of the student should be criticised on the basis of irrelevant personal characteristics, on balance the publication took reasonable steps to ensure the presentation of factual material in the article was reasonably fair and balanced. Accordingly, the Council concludes the publication complied with General Principle 3.

The Council notes that given the student's gender identity and sexuality were not reported as being a relevant factor for their views expressed in the article, prominently identifying the student as non-binary and queer, could lead some readers to conclude that the views of the student should be criticised on the basis of irrelevant, personal characteristics and could contribute to substantial prejudice to others who also identify as either non-binary and/or queer. The Council considers that in prominently referring to the student's sexual orientation and gender identity, the publication failed to take reasonable steps to avoid contributing to substantial prejudice and that there was not sufficient public interest justifying doing so. Accordingly, the Council concludes that the article breached General Principle 6.

The Council welcomes the publication's subsequent

amendments to the article, which included the removal of two photographs of the student, and the deletion of all references to the student's gender identity and sexuality from the article. However, it emphasises that publications are obliged to take reasonable steps comply with its Standards of Practice at the time of publication. In this context, the Council has consistently stated that publications should exercise great care not to place unwarranted emphasis on characteristics of individuals such as race, religion, nationality, country of origin, gender, sexual orientation, marital status, disability, illness or age.

RELEVANT COUNCIL STANDARDS

This Adjudication applies the following General Principles of the Council. Publications must take reasonable steps to:

3. Ensure that factual material is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts.
6. Avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest.

Complainant / The Daily Telegraph Adjudication 1819 09-Jun-2022

The Press Council considered a complaint about an article published in The Daily Telegraph on 11 February 2021 in print headed "HE'S JUST A GOOD GUY" on the front page and continuing on pages 6 and 7 and online headed "Real estate agent Karl Howard took Viagra before alleged sword attack" on 11 February 2021.

The front page reported that a "former girlfriend" of "the real estate agent accused of a samurai sword attack on a woman at his home has told of her concern for him as he remains in hospital following his arrest, stating he is a 'good guy'". The print article went on to report that the complainant is "herself an agent" who "told The Daily Telegraph: 'We're very worried for him ... he's scared. 'We've known each other for a very long time'". The front page included a prominent photograph of the complainant next to the headline "EXCLUSIVE Ex-Partner of agent accused of samurai sword attack struggles to comprehend the allegations". Page 7 included a prominent photograph of the complainant below the caption "We're very worried for him...he's scared". The online article reported

"A prominent real estate agent who police allege choked one woman before turning a samurai sword on another had taken four Viagra pills and had a 'sexual intent' before the bloody ordeal at the \$2 million home he shared with his former partner, a court has heard". The article, which also included a prominent photograph of the complainant, went on to include further details of the alleged assault by the agent against two women.

The complainant, who the article identified as the 'ex-partner' of the accused, said the journalist "broke confidentiality" and acted in a completely unethical manner with regards to the story. The complainant said the journalist phoned her several times prior to publication requesting a comment. The complainant also said she refused the journalist's request for her to pose for a photograph. The complainant said the journalist's manner was borderline harassment, and that she only agreed to provide a small comment on the proviso that it was confidential and that her name was explicitly not to be included. The complainant said the journalist agreed to this condition and that a colleague was a witness to this agreement. The complainant said that once she became aware she had been identified in the online article and prior to the publication of the print article, she pleaded with the journalist to de-identify her in the article. The complainant said the publication proceeded to publish the print article which included her comments and prominent photographs. The complainant said the article has caused her an enormous amount of stress and unwanted media attention and that since publication of the article, she has received calls from strangers leaving messages threatening and harassing her. The complainant said the reported allegations of assault had nothing to do with her and the inclusion of her photograph, name and business in the article is damaging to her career, emotional state and safety.

In response, the publication said the journalist who spoke with the complainant denies strongly the claim that an arrangement was made concerning confidentiality and also does not accept in any way that any of the phone calls to the complainant bordered on harassment. The publication said the journalist kept a log and contemporaneous notes of the calls noting that some lasted several minutes, which it said demonstrates the journalist and the complainant had an ongoing dialogue and were talking completely amicably all day. The publication said that the complainant was not harassed, rather the journalist spoke to the complainant on numerous occasions to ensure the quotes attributed

to her were correct and that she understood they were quotes that would be attributed to her. The publication said no agreement was made to keep the complainant's name out of the article and no agreement was made not to publish any photographs of the complainant. It said that after the article was first published online the complainant put the journalist on loudspeaker during a call, and the complainant claimed she had never spoken to the journalist or agreed to any of the quotes despite their ongoing dialogue. The publication also said it only published photographs that were available publicly online via her public Facebook profile and from images on her real estate agency website. The publication said that it had amended aspects of the online article to address some of the complainant's concerns.

CONCLUSION

The Council's Standards of Practice applicable in this matter require publications to take reasonable steps to avoid intruding on a person's reasonable expectations of privacy unless doing so is sufficiently in the public interest (General Principle 5) and to avoid causing or contributing materially to substantial distress or prejudice, or a substantial risk to health or safety, unless sufficiently in the public interest (General Principle 6). They also require publications to avoid publishing material which has been gathered by deceptive or unfair means, unless doing so is sufficiently in the public interest (General Principle 7).

The Council notes there are significant differences between the views of the complainant and the publication as to what was said concerning 'confidentiality' and as to whether the complainant's comments were 'on the record'. The Council also notes that due to the absence of information to enable it to conclusively determine what was said, the Council is unable to form conclusions on this aspect of the complaint. However, it is not disputed that the journalist clearly identified herself as a journalist for The Daily Telegraph; stated that she was investigating the reported assault; and that conversations did take place between the complainant and the journalist.

The Council also notes that at the time of publication, the complainant's personal information, including her profession and where she was employed, was publicly available. Although the Council does not accept that all information that is in the public domain will necessarily diminish an individual's expectation of privacy, in this instance it is satisfied that the publication took reasonable steps to avoid intruding on the complainant's expectation of

Adjudications

privacy, noting that the personal information was publicly available and the occurrence of conversations between the complainant and the journalist. Accordingly, the Council finds no breach of General Principle 5.

In relation to General Principle 6, the Council notes the complainant was not in any way connected to the alleged assault. Accordingly, the Council considers the article was likely to and did cause substantial distress to the complainant. Although there is undoubted public interest in reporting on the assault allegations, there was no public interest in including large and prominent photographs of the complainant, particularly on the front page of the print edition when the complainant had made it clear to the publication that she did not wish to be photographed for the story. Accordingly, the Council finds a breach of General Principle 6.

As to General Principle 7, given that the complainant was aware that she was talking to a journalist, the Council concludes that the material published was not gathered by deceptive or unfair means. Accordingly, the Council finds no breach of General Principle 7. However, the Council reminds journalists that it is best practice to clearly identify when a conversation moves from 'off the record' to 'on the record'.

NOTE:

Publications must take reasonable steps to:

5. Avoid intruding on a person's reasonable expectations of privacy, unless doing so is sufficiently in the public interest.
6. Avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest.
7. Avoid publishing material which has been gathered by deceptive or unfair means, unless doing so is sufficiently in the public interest.

Julianne Toogood / Cairns Post Adjudication 1820

11-Jun-2022

The Press Council considered a complaint from Julianne Toogood concerning an article published in the Cairns Post headed "Council's legal bill revealed" in print and "Cassowary Coast Council to release legal costs information" online on 8 August 2020.

The print article reported "DOCUMENTS proving a Far Northern council's legal matters are covered by insurance have been made public after the Office of the Information Commissioner ruled in favour of a previously denied right to information request". The online article reported "Documents detailing a Far Northern council's legal expenditure have been made public after the Office of the Information Commissioner (OIC) ruled in favour of a previously denied right to information request." The article went on to report that a "Cassowary Coast spokeswoman said the information would confirm the CEO's defamation case was covered by council's insurance provider" The article quoted a spokeswoman from the Cassowary Coast Regional Council (CCRC) saying: "We are grateful that the Office of the Information Commissioner deems certain documents to be of sufficient public interest that it should be released to offer assurance to our community".

The complainant said the article is false and misleading. The complainant said the publication had relied solely on a CCRC press release and it should have recognised that the CCRC CEO would benefit directly from false information being published. The complainant said the publication should not have only relied on a media release and should have taken additional steps to query the accuracy of the information it had been provided. She said that the publication ought to have been aware that the information provided by the CCRC should be checked given it had reported on public protest rallies about the CEO's use of public money to fund his personal defamation claim against herself and her husband. She also said the documents released by the Office of the Information Commissioner (OIC) do not prove the insurer is covering the CEO's defamation claim, and that the publication ought to have contacted her for comment.

In response, the publication said the article was based upon a press release from the CCRC concerning documents being released by it as a result of a decision by the OIC. The publication said that, as indicated in the press release, the Council received a sum of money from its insurer in relation to a number of legal matters concerning the complainant. The publication said the documentation referred to in the press release indicated that the defamation proceedings would be covered by insurance. It said the complainant appears to take issue with the fact that the article does not state that the costs paid by the insurer do not include the CEO's defamation claim against the complainant. The publication said, however, the press release upon which the article is based does not make this distinction.

The publication said the article is an accurate and fair report of the CCRC press release. It also said there was no requirement to seek a comment from the complainant given the article was based on a press release concerning a decision by the OIC and the documentation that would be released by the Council as a result of that decision.

CONCLUSION

The Council's Standards of Practice applicable in this matter require publications to take reasonable steps to ensure factual material is accurate and not misleading (General Principle 1); and is presented with reasonable fairness and balance (General Principle 3). If the material is significantly inaccurate or misleading, or unfair or unbalanced, publications must take reasonable steps to provide adequate remedial action or an opportunity for a response to be published if that is reasonably necessary to address a possible breach (General Principles 2 and 4).

The Council considers that publications are entitled to draw heavily on a press release provided that in doing so they comply with the Council's Standards of Practice. It emphasises that any material taken from a press release should be presented in such a way that facts or opinion being asserted by the issuer of the release are clearly distinguishable from those being asserted by the publication itself. In this context, the Council notes that the publication's statement in the print article only, that documents "proving" the CRCC's legal matters are covered by insurance was not attributed to the CCRC press release. Therefore, in this instance, the publication went beyond reporting on the content of the press release to affirming its accuracy without taking reasonable steps to confirm the content of the press release was, in fact, accurate. Accordingly, the Council finds a breach of General Principle 1 in this respect. The Council notes that a subsequent amendment to the online article removed the words 'documents proving.' Accordingly, the Council finds no breach of General Principle 2.

In relation to General Principles 3 and 4, the Council does not consider that the publication was required to contact the complainant for comment. The Council accepts that the article is based on the press release by the CRCC in response to a decision by the OIC. Accordingly, the Council finds no breach of General Principles 3 and 4.



Alternative Remedies

2022/0463

COMPLAINANT / THE AUSTRALIAN VIA NCA NEWSWIRE

The complainant, a specialist obstetrician and gynaecologist, was the subject of an article which reported that he had been suspended from practicing in Western Australia after two patients accused him of misconduct. The doctor complained that the patients' complaints had subsequently been investigated by the State Administrative Tribunal and he was cleared of any wrongdoing, and that by leaving the article online his reputation was being unfairly damaged.

In response to the complaint, the publication published a follow-up article noting that the doctor had been cleared of the allegations and that the State Administrative Tribunal ruled he had "no case to answer" with no further action to be taken. The publication also unpublished the original article on its platform and provided a link to the updated article on syndicated versions of the original article.

The Executive Director considered the action taken by the publication sufficiently remedied the complaint.

2021/1023

SECONDARY COMPLAINANT / NEWS.COM.AU

The complaint concerned the publication of photographs identifying a man who had contracted an emerging variant of COVID-19 in May 2021 and had visited several barbecue stores across Sydney. The article, and other media coverage at the time, dubbed him "BBQ man", and identified his name and place of employment. The complainant said the man had a right to a private life and should not have had his medical information exposed.

In response to the complaint, the publication removed the images depicting the man and his wife.

As the man's name and place of employment had been reported by other media outlets in the public interest, the Executive Director considered that the removal of the images was sufficient to remedy the complaint.

2022/0912

SECONDARY COMPLAINANT / SEYMOUR TELEGRAPH

The complainant expressed concern that a feature article about earth moving equipment was undeclared advertising. The complaint asserted that the article breached the Council's General Principle 8 which requires publications to ensure that conflicts of interests are avoided or adequately disclosed.

In response, the publication said the article had been clearly marked in the print edition as advertorial as part of a home and gardening feature, but that it was run online without disclosure in error. The publication removed the article from its online edition, and the Executive Director considered this remedied the complaint.

2022/0337

SECONDARY COMPLAINANT / MCIVOR TIMES

The complaint concerned an opinion piece that ran on the front page of the publication's September 2022 edition. The article stated "Around nine Australians will commit suicide each year", which is an inaccurate statistic.

In responding to the complaint, the publication informed the APC that it had run a correction and apology for the statistic, and clarified that around nine Australians die by suicide each day.

This remedial action was considered sufficient to remedy the complaint.





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