



Australian
Press Council

Annual Report 2020-2021





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Annual Report

2020-2021

ANNUAL REPORT NO 44

Year ending 30 June 2021

The Australian Press Council

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The Australian Press Council is responsible for promoting high standards of media practice, community access to information of public interest and freedom of expression through the media.

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 the 2020-2021 year, the Australian Press Council Inc. (APC) continued its important work within the continuing constraints of the COVID-19 pandemic.

The strategies that the Secretariat put in place during the previous year to support the ongoing work of the APC meant that the central task of handling complaints continued effectively.

After seven years in the role, the APC's Executive Director, John Pender, left the organisation. I would like to acknowledge the guidance and wisdom John brought to three Press Council Chairs and to Council Members more generally.

During John's tenure, several Advisory Guidelines were introduced which underline Council's commitment to upholding high editorial standards in the digital age, for instance the Advisory Guideline on the digital alteration of images and the Advisory Guideline on the correct treatment of 'advertorial' content.

In addition, guidelines regarding reporting on sensitive social issues and minorities were also introduced, most recently in 2019 with the introduction of the Advisory Guideline on reporting on persons with diverse sexual orientation, gender identity, and sex characteristics.

During the reporting period, we welcomed a new Council member, Hartley Higgins, who was nominated by Country Press Australia, and farewellled public members Andrew Podger, AO, and Zion Walker-Nthenda. Public members play an important leadership and governance role in the operations of the APC and I thank Andrew and Zion for their service and dedication. They have each played an important part in progressing the APC's work of upholding high editorial standards and freedom of expression at a time of great change in Australia's media landscape.

Another important undertaking during the period was a wide-ranging strategic review. You can read about this in more detail in the Executive Director's foreword.

The Council also took opportunities to express some concerns about material in the professional standards test contained in the Treasury Laws Amendment (News Media and Digital Platforms Mandatory Bargaining Code) Bill 2020 (the Bill). Letters were sent to various politicians, meetings took place between the Chair, Executive Director and Director of Strategic Issues and select politicians, as well as senior officers in Treasury and the Department of Infrastructure, Transport, Regional Development and Communications. Council's view is that the professional standards test should be reviewed and it intends to monitor opportunities to contribute to that debate in the future.

I would like to thank both the APC members and Council for their continued support, with a special mention to Paul Nangle, APC's Director of Complaints. He did an admirable job in the role of Acting Executive Director in the weeks between John Pender's departure and the appointment of Yvette Lamont as Executive Director in September 2021.

Neville Stevens AO
Chair



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Report from the Executive Director

This year the APC made progress with numerous strategic initiatives as it continued with its work of promoting freedom of speech and responsible journalism.

To assist the Council in its strategic planning, an extensive consultation process with a range of stakeholders was undertaken from July 2020 to October 2020. This was prompted largely by the need to navigate current industry circumstances and the rapidly changing media landscape.

Stakeholders' views were obtained on many issues including the value of media in a democratic society, the value and role of the Council, its delivery of purpose, ideas for improvement, and its funding into the future.

Views were obtained from a range of external and internal stakeholders including government agencies and entities, journalist and media-related associations, other self-regulatory media bodies, digital platforms, publisher members (both large and small), Council's independent journalist members, public members and adjudication panel members.

The Council continued to monitor and evaluate a range of opportunities to make submissions during the reporting period. These are referred to in more detail in the following "Year in Review" chapter of the Annual Report.

In the reporting period, the Council received 1,138 complaints from 1,476 complainants. Although this represented a slight decrease over the previous reporting period, these numbers remain at a challenging level for our small complaints team. Our efforts to further improve the efficiency and effectiveness of complaints-handling process are ongoing. In this context, the Council introduced a systemic complaints process and is responding to secondary complainants more rapidly when it is considered unlikely that a breach of Council's standards of practice has occurred.

A number of complaints about the APC were made to the Anti-Discrimination Board, NSW (ADB). Some of these were put on hold due to activity on complaints before NCAT. Others have now been finalised with the ADB declining some complaints under section 92(1) of the Anti-Discrimination Act 1977 (NSW).

One matter that had been referred to NCAT was resolved after mediation. Another matter remained before NCAT

during the reporting period and has outside been dismissed by NCAT subject to appeals lodged by both parties outside the reporting period.

The Council continued its work of consulting with community, industry and others on a range of issues, including the representation of Muslims in the Australian media, reporting on alcohol and drugs, reporting on LGBTIQ issues and the reporting of suicide.

The Council also continued to support the annual Journalism Education and Research Association of Australia (JERAA) "Ossie" Awards, which showcase the country's best student journalism. Council sponsors three awards at the Ossies, the Journalism Student of the year and two awards for media ethics essays.

During the reporting period, the Council welcomed two small publisher members – Pro Bono News and The Urban Developer. It also received, with disappointment, notice from the Media Entertainment and Arts Alliance (MEAA) of its intention to withdraw from the Council, but remain a member for the next four years. The Secretariat continued to maintain its strong relationships with international press councils and similar bodies of relevance to our work.

There were changes in Secretariat staff during the reporting period. Monica Park, the APC's Administrative Assistant, left in December 2020. John Pender, the Council's Executive Director left in June 2021, after seven years in the role.

The Council continues to encourage new publisher members to join. Expenditure is regularly reviewed to ensure appropriate use of resources and there was an increased application of digital technology.

Finally, I would like to express my appreciation to the Chair and Council for their support during this difficult year, and most especially to the APC staff for their tireless dedication in support of the Council's work.

Paul Nangle
Acting Executive Director

COMPLAINANTS IN 2020-2021

1476

“Public members play an important leadership and governance role in the operations of the Australian Press Council”

PRESS COUNCIL CHAIR / NEVILLE STEVENS

COMPLAINTS

797

78%

COMPLAINTS UPHeld OR PARTIALLY
UPHELD BY THE ADJUDICATION PANEL

FORMAL ADJUDICATIONS

14

7

STAFF WORKING AT THE
COUNCIL SECRETARIAT

The Year in Review

Key Australian Press Council activities

The purpose of the APC is to promote freedom of speech and responsible journalism. As identified in its Strategic Plan 2016-2020, it does this by:

- Ensuring effective complaints handling;
- Developing and refining standards, guidelines and industry education, and
- Advocating for press freedom, free speech and responsible journalism.

To better equip the APC to undertake future strategic planning, the Chair, Executive Director and Director of Strategic Issues undertook an intensive consultation process with a range of stakeholders from July 2020 to October 2020.

The Council is grateful for the time stakeholders gave to express their views. While divergent views were expressed on a number of issues, there was strong support for media independence. The great majority of stakeholders said that they valued the role of the APC, albeit for a diversity of reasons.

These included being valued for offering a complaint path for those who could not otherwise afford to pursue legal proceedings; offering the public an impartial, independent and relatively cheap forum to flag their concerns, have them addressed and hold the media accountable; its advocacy role; its work in developing standards and advisory guidelines; offering a framework to protect press freedom, and offering an alternative to government regulation.

A number of suggestions were made by stakeholders about ways the APC could modernise, improve its processes and profile, and expand its regulatory role in the increasingly digital media landscape. Where practicable, some suggestions for improvement to the complaints process were harnessed and actioned. These actions included an increased number of direct adjudications and the use of video calls for adjudication panel meetings, which had previously required face-to-face attendance.

Complaints handling

The APC continued to respond in accordance with its process for complaints about material in Australian newspapers, magazines and online publications.

There were 797 in-scope and 341 out-of-scope complaints received from 1,476 complainants during 2020 – 2021. A discussion of the complaints process and complaint statistics for the year are detailed in the following chapters of this report.

Standards, guidelines and industry education

The APC's work of consulting with a range of community, industry and other groups continued. Consultations included:

- Peak Muslim bodies expressing concern in relation to the representation of Muslims in the Australian media;
- Stakeholders who had concerns about reporting on alcohol and drugs;
- A stakeholder who had concerns about reporting that involved members of the LGBTI communities, and
- A suicide prevention service regarding concerns about the reporting of suicide.

In one case, the Secretariat facilitated communications between stakeholders and relevant Council members, to give those stakeholders a further opportunity to be heard and to share resources.

Following representations to the Secretariat by a peak body, the sources of assistance linked to the Press Council's Family and Domestic Violence Advisory Guideline were updated to include references to the National Elder Abuse hotline and Compass.

Advocate for press freedom, free speech and responsible journalism

Each year, the Journalism Education and Research Association of Australia (JERAA) runs the 'Ossie' Awards to showcase the country's best student journalism. The Council continued to support three awards - the Journalism Student of the Year and two awards for media ethics essays.

Jess Malcolm from the University of Melbourne won the 2020 Journalism Student of the Year award. Undergraduate and postgraduate prizes for essays on media ethics were won by Imogen Slater and Merve O'Keefe respectively. Both students studied at Monash University.

The Council monitored and evaluated a range of opportunities to make submissions during the reporting period. The Council made submissions to:

- the ACCC on the Exposure Draft Bill-Treasury Laws Amendment (News Media and Digital Platforms Mandatory Bargaining Code) Bill 2020;
- the Digital Industry Group Inc (DIGI) (a not-for-profit industry association advocating for the digital industry in Australia) on the Draft Australian Code of Practice on Disinformation;
- the Senate Environment and Communications References Committee Inquiry into Media Diversity in Australia;
- the Senate Economics Legislation Committee Inquiry into Treasury Laws Amendment (News Media and Digital Platforms Mandatory Bargaining Code) Bill 2020, and
- the Department of Infrastructure, Transport, Regional Development and Communications on the Media Reform Green Paper.

It also provided feedback to the ACMA on the DIGI code.

Outside of the formal submission framework, the Council took other opportunities to express a number of concerns about some aspects of the professional standards test contained in the Treasury Laws Amendment (News Media and Digital Platforms Mandatory Bargaining Code) Bill 2020. These included:

- Sending letters from the Chair to various politicians, and
- Holding various meetings between the Chair, former Executive Director and Director of Strategic Issues, and select politicians as well as senior officers in Treasury and the Department of Communication.

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

John Pender, Executive Director, and Monica Park, Executive Administration Assistant, left the Press Council during the reporting period. Chrissy Christofa became a full-time Complaints Officer in January 2020 in lieu of her previous part-time role.

The attendances by members of the Secretariat at conferences, seminars and other activities to develop skills and abilities after were limited due to the impact of COVID-19.

The Secretariat continued to maintain its strong relationships with international Press Councils and similar bodies relevant to its work. For example, the Chair and members of the Secretariat met with the Chair of the UK's Independent Press Standards Organisation (IPSO) via Zoom, and discussed, among other issues, recent projects undertaken by IPSO.

During the reporting period, the Secretariat also met with the UTS Centre for Media Transition to discuss current media issues and the work of the Centre.

The Urban Developer and Pro Bono News were approved by the APC as Constituent bodies. These are the publishers and organisations in the media industry that have been admitted as such bodies under the APC's Constitution. They 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.

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 Council'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 Executive Director decides which issues are to be considered by the APC as a result of secondary complaints. This happens after considering the complaints themselves and any other possible breaches of the APC's Standards of Practice that may arise from the material or action in question. The issues 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.

The Executive Director discontinues the complaint 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 as requested by the Executive Director, and also published on the Council'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 797 in-scope complaints received last year, 14 were considered by an adjudication panel. Just over 78 per cent of those were upheld or partially upheld.

NUMBERS OF COMPLAINTS AND COMPLAINANTS OVER PAST FIVE YEARS

	2020-21	2019-20	2018-19	2017-18	2016-17
New in-scope complaints received during year	797	1,076	758	554	582
Complainants making these complaints	1476	1,858	2,004	959	1387
Out-of-scope complaints received during the year	341	230	183	158	120



Acting Executive Director,
Paul Nangle.



Complaints and Governance
Officer, Febe Magno.



Senior Complaints and
Policy Officer, Nathan Saad.



Complaints Officer,
Chrissy Christofa.

Complaints and Complainants

Complaints received

New in-scope
complaints received
during the year

797

Out-of-scope
complaints received
during the year

341

Complainants
making these
complaints

1476

Complaints closed

In-scope complaints

945

Complainants

1176

Out-of-scope
complaints

351

Issues raised in
complaints

1177

COMPLAINANTS

Individuals	1255
Associations, companies and other non-government bodies	26
Government and other public bodies	2
Politicians, councillors, electoral candidates and political parties	11
Other	2
Total (in-scope and out-of-scope)	1296

PUBLICATIONS

Newspapers and their digital platforms	
National	471
State	403
Regional and rural	84
Suburban	110
Magazines and their digital platforms	5
Online-only publications	71
Other	125
Total (in-scope and out-of-scope)	1296

TYPE OF PLATFORM

Online-only	787
Online and social media	3
Print	129
Print and online	338
Print, online and social media	0
Social media	6
Unspecified	33
Total (in-scope and out-of-scope)	1296

OUTCOMES OF COMPLAINTS

Declined by the Council at initial stage	642
Discontinued	98
Discontinued with Letter-of-Advice	25
Withdrawn	6
Remedy without adjudication	75
Not pursued by complainant	85
Adjudication – complaint fully or partially upheld	11
Adjudication – not upheld	3
Out-of-scope	351
Total	1296

REMEDIES WITHOUT ADJUDICATION

Apology (public or private)	3
Retraction, correction or clarification published	12
Material deleted entirely	10
Follow-up article published	0
Amendment to article	46
Other private action/explanation	0
Other published action	4
Total	75

ISSUES RAISED

Accuracy/misleading	324
Corrective action	18
Fairness and balance	183
Publication of a reply	16
Intrusion on privacy	82
Offence/prejudice/distress	469
Unfair or deceptive means	38
Conflict of Interest	21
Total	1151

Council Membership and Staff

The governing body of the APC, known as 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,
Julie Kinross.

Members

During the 2020 - 2021 period, Council welcomed Hartley Higgins as the publisher member for Country Press Australia (CPA). Hartley replaced outgoing CPA publisher member Bob Yeates.

There were also several reappointments: Julie Kinross (public member); Neville Stevens (Chair and public member); Jennifer Elliott (public member), and Felicity-Ann Lewis (public member).

Secretariat

The Press Council farewellled John Pender, Executive Director, and Monica Park, Executive Administration Assistant.



Director of Strategic Issues,
Isabella Cosenza.



Public Member,
Felicity-Ann Lewis.



Independent Journalist Member, Prof. Peter Greste.



Independent Journalist Member, Julie Flynn.

Constituent bodies

Two new constituent bodies were approved in the reporting period – The Urban Developer and Pro Bono News.

Sub-committees

The Council has an adjudication panel (complaints sub-committee), a constituent funding sub-committee and an administration and finance sub-committee.

The adjudication panel considers and decides complaints referred to it for adjudication by the Executive Director. It usually comprises the Chair, a Vice-Chair or an appointed panel Chair, three public panel members and three industry panel members.

The constituent funding sub-committee determines the overall level of funding for the APC and the contributions to be made by each constituent body. It comprises the Chair, Vice-Chairs and one nominee of each constituent body.

The administration and finance sub-committee 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).



Media Consultant, Dorothy Kennedy.



Administrative Assistant, Monica Park.

Council Members at 30 June 2021

Neville Stevens AO	Chair
Julie Kinross	Vice Chair
John Bedwell	Public Member
The Hon John Doyle AC	Public Member
Jennifer Elliot	Public Member
Dr Felicity-Ann Lewis	Public Member
Dr Suzanne Martin	Public Member
Prof Andrew Podger AO	Public Member
Lyn Maddock	Public Member
Prof. Peter Greste	Independent Journalist Member
Julie Flynn	Independent Journalist Member
David Braithwaite	Nine.com.au
Lachlan Heywood	Daily Mail Australia
Erik Jensen	Small Publisher Members Representative
Prof Matthew Ricketson	MEAA
Glenn Stanaway	News Pty Limited
Brian (Hartley) Higgins	Country Press Australia

ADJUDICATION PANEL MEMBERS

John Fleetwood
Julian Gardner AM
Melissa Seymour-Dearness
David Fagan
Bob Osburn
Russell Robinson
Susan Skelly
Mike Steketee
Barry Wilson

SECRETARIAT AT 30 JUNE 2021

Paul Nangle	Acting Executive Director Director of Complaints
Isabella Cosenza	Director of Strategic Issues
Nathan Saad	Senior Complaints and Policy Officer
Chrissy Christofa	Complaints Officer
Dorothy Kennedy	Media Consultant
Febe Magno	Complaints and Governance Officer
Joelle Patten	Office Manager

Finances

The main activities of the APC 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 2020 – 2021 were \$2,147,386. There was no increase in contributions from 2019 – 2020.

Funding in FY2021

Contributions are made by constituent bodies according to a sliding scale based on the agreed budget for the year. Contribution bands for the financial year 2020 – 2021 were as follows:

- Up to one per cent each: Adelphi Printing Pty Ltd, Altmedia Pty Ltd, At Large Media Pty Ltd, Australian Property Journal, Beaconwood Holdings, Budsoar Pty Ltd, Country Press Australia, Crinkling News Pty Ltd, Echo Publications Pty Ltd, Focal Attractions Pty Ltd, Highlife Publishing Pty Ltd, Independent Australia Pty Ltd, Inside Story Pty Ltd, National Indigenous Times Holdings, The New Daily Pty Ltd, Private Media Pty Ltd, Pro Bono News Pty Ltd, Radiowise Productions Pty Ltd, Schwartz Media, The Urban Developer, Solstice Media Pty Ltd, Agenda Media Pty Ltd, Western Sydney Publishing Group, WorkDay Media;
- 1-10 per cent each: Mediality Pty Ltd (formerly AAP), Are Media Group (formerly Bauer), Daily Mail.com Australia Pty Ltd, Media Entertainment and Arts Alliance (MEAA)
- 11-30 per cent: Nine Entertainment Co. Holdings (Fairfax and nine.com.au)
- 31-60 per cent: News Corp Australia.

Triennial commitments

Constituent bodies agree on specific funding commitments for up to three years in advance. For 2020-2021 the agreed increase in contributions was nil. As at the end of the reporting period, funding commitments beyond 2020-21 had not been determined.

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.

PROFIT AND LOSS

THE AUSTRALIAN PRESS COUNCIL INC

For the year ended 30 June 2020

ACCOUNT	30 June 2021	30 June 2020
Income		
Core funding (CBs)	2,147,386	2,153,070
Interest	3,690	12,347
Other Income	788	72
Make Good reversal	0	75,680
Government response to COVID 19	50,000	50,000
Total Income	2,201,864	2,291,169
Expenses		
Amortisation Expense	12,841	9,853
Audit Fees	12,781	12,700
Bad Debts Expense	17,431	86,343
Bank charges	3,408	3,353
Consulting and Professional fees	141,218	101,767
Depreciation	11,337	9,580
Depreciation ROU	160,890	155,452
Equipment <\$300	230	1,280
Interest (ROU)	19,735	24,007
Insurance	36,228	35,718
IT development and support	34,202	15,021
Lease rentals on operating lease	45,653	46,387
Leave Pay	(20,267)	11,093
Long Service Leave Expense	(20,120)	6,634
Costs of meetings and consultations	23,477	86,459
Other employee expense	47,113	11,264
Postage & Couriers	410	1,047
Printing and stationery	19,206	38,346
Prize & Judges Fees	2,300	0
Salaries	1,075,539	1,059,847
Security costs	3,872	3,583
Software expenses	6,254	2,326
Staff Training	486	11,818
Storage costs	4,956	4,181
Subscriptions	2,482	10,582
Sundry Expenses	(1,034)	77
Superannuation contributions	97,467	100,085
Telephone and fax	30,734	30,649
Travel	19,754	5,040
Utilities	4,395	5,551
Website Development	0	8,290
Total Expenses	1,792,980	1,898,333
(Deficit)/Surplus before income tax	408,884	392,837

BALANCE SHEET

THE AUSTRALIAN PRESS COUNCIL INC

As at 30 June 2020

ACCOUNT	30 June 2021	30 June 2020
Assets		
Current Assets		
Cash and cash equivalents	2,074,337	2,165,037
Trade debtors and other receivables	310,625	146,308
Other Debtors	50,000	0
Total Current Assets	2,434,962	2,311,345
Non-current Assets		
Property, plant and equipment	17,026	18,974
Intangible assets	23,642	12,682
Right of use assets (ROU)	347,867	509,387
Total Non-current Assets	388,535	541,043
Total Assets	2,823,497	2,852,388
Liabilities		
Current Liabilities		
Trade and other payables	255,553	246,583
Lease liabilities (ROU)	145,997	134,088
Deferred income	819,635	1,088,301
Employee benefits	52,945	73,211
Total Current Liabilities	1,274,129	1,542,183
Non-current Liabilities		
Employee benefits	26,097	46,217
Lease liabilities (ROU)	262,052	411,657
Total Non-current Liabilities	288,149	457,87
Total Liabilities	1,562,278	2,000,057
Net Assets	1,261,219	852,331
Equity		
Retained earnings	1,261,219	852,331
Total Equity	1,261,219	852,331

Publisher Members

As at 30 June 2021,
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

Adelphi Printing Pty Ltd
Agenda Media Pty Ltd
Altmedia Pty Ltd
At Large Media Pty Ltd
Australian Property Journal
Beaconwood Holdings
Budsoar Pty Ltd
Crinkling News Pty Ltd
Echo Publications Pty Ltd
Focal Attractions Pty Ltd
Highlife Publishing Pty Ltd
Independent Australia Pty Ltd
Inside Story Pty Ltd
National Indigenous Times Holdings
Private Media Pty Ltd
Pro Bono News Pty Ltd
Radiowise Productions Pty Ltd
Schwartz Media (in relation to The Saturday Paper owned by Trustee for the Liberty 2701 and The Monthly owned by Trustee for the Monthly Trust)
Solstice Media Pty Ltd
The Urban Developer.com Pty Ltd
Western Sydney Publishing Group
WorkDay Media

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



Full Adjudications

Senator Richard Di Natale/ The Daily Telegraph Adjudication 1780 (July 2020)

The Press Council considered a complaint from Senator Richard Di Natale about a print article published in The Daily Telegraph on 22 July 2019, headed "Greens put wind up farm".

The article reported on a proposed wind farm on Robbins Island in Tasmania. It began, "The Greens are opposing a proposed wind Farm in Tasmania which would inject \$5 billion into the economy and produce 100 megawatts of clean energy into the grid". The article went on to include a quote from Australian Greens Party leader Senator Richard Di Natale and stated that he "supported Dr Bob Brown's concerns" over the proposed wind farm.

The complainant said the article was inaccurate and misleading, as at no time has The Australian Greens Party opposed the proposed wind farm. The complainant also said that Dr Brown was no longer in any position of leadership in the party, he had no authority over the party's national position, nor did he represent the complainant's position. The complainant said that the publication did not contact his office prior to publication of the article about the party's position. The complainant said that he contacted the publication immediately after the article appeared and informed it that the article was inaccurate and asked for publication of a correction, however the publication refused. Although the publication later offered to publish a response, the complainant did not accept this because he regarded it as an error requiring correction.

The publication said that the article was accurate and not misleading. It said Dr Brown's opposition to the project was well publicised and noted that the party leader had referred to Dr Brown's comments in stating that the party would not support the project without a strict planning process being followed. The publication said it was therefore natural to conclude that the party opposed the windfarm. It also referred to a Press Release issued by the Tasmanian Minister for Energy and a number of articles published by different publications which it said reflected a consensus view that the party opposed the project. It also said that after the complaint was made to the Council, the publication offered the complainant a 400-word opinion piece to clarify his and the party's position on the wind farm, 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 presented with reasonable fairness and balance (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 accepts that the views of Dr Brown are not those of the Australian Greens Party and that while the party sought a strict planning process it did not unconditionally oppose the wind farm. The Council considers that the statement "The Greens are opposing a proposed wind farm in Tasmania..." implied that it unconditionally opposed the wind farm and this part of the article was inaccurate. The Council notes the material relied on by the publication as a basis for the statement that the party opposed the wind farm. However, the Council considers that in the absence of verifying the position directly with the party, the publication failed to take reasonable steps to ensure accuracy.

Accordingly, the publication failed to take the reasonable steps appropriate to ensure that the statement was accurate, not misleading and fair and balanced. Accordingly, the Council concludes that the Publication breached General Principles 1 and 3.

As to remedial action, the Council accepts that after the article appeared the complainant contacted the publication to advise it of the inaccuracy and requested a correction. The Council considers that the inaccuracy in the report was substantial and that in failing to publish a correction the publication failed to take reasonable steps to provide appropriate remedial action. The Council notes that after a complaint was made to the Council, the publication offered publication of a response, however given the nature of the inaccuracy and the time which had elapsed, the publication also breached General Principle 4.

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

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- 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 1781 (6 August 2020)

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.

Complainant/ The Australian Adjudication 1782 (24 July 2020)

The Press Council considered whether its Standards of Practice were breached by an article by Emeritus Professor Ian Plimer headed "Let's not pollute minds with carbon fears" published by The Australian in print and online on 22 November 2019.

The article was an opinion piece in which the writer criticised what he described as an "attack" on carbon dioxide. The article included statements that there "are no carbon emissions. If there were, we could not see because most carbon is black. Such terms are deliberately misleading, as are many claims." The article also referred to "fraudulent changing of past weather records" and "unsubstantiated claims polar ice is melting", as well as "the ignoring of data that shows Pacific islands and the Maldives are growing rather than being inundated...".

In response to complaints received, the Council asked the publication to comment on whether the article breached the applicable Standards of Practice requiring 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 light of a concern raised that Professor Plimer was or has been

a director of a number of mining companies and that this was not disclosed in the article, the Council also asked the publication to comment on whether the article breached the obligation to 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).

In response, the publication said the article appeared in its commentary section, where it has published a range of views on the climate debate over many years. It said there should be considerable latitude given to pieces that are clearly commentary and climate change attracts robust views on both sides and is a complex area with many facts strongly contested. It said its audience is well-equipped to decide what weight they wish to give to the writer's views. The publication provided the Council with academic and other relevant material which it said supported both the factual statements in the article and the bases of the writer's expressions of opinion.

The publication said that while the author holds exploration and mining company directorships, this was not a conflict of interest in breach of the Council's standards. It said the writer's industry expertise and experience in mining geology has equipped him to form his perspectives on climate change. However, it conceded that best practice would have seen such directorship disclosed in the opinion piece.

CONCLUSION

The Council considers that although the article was an opinion piece, the obligation to take reasonable care to ensure factual material is accurate and not misleading applies to factual material which is included in it.

The Council considers that the statement concerning the Bureau of Meteorology fraudulently changing weather records is one of fact and implies an element of dishonesty or deception on its part. The Council does not consider there was anything in the material relied upon by the publication to substantiate this. The Council also notes a 2017 Federal Government commissioned report which dealt extensively with the issue of adjusting weather data found the BOM dataset to be well maintained and an important source of information on Australian climate records. Accordingly, the Council considers the publication breached General Principles 1 and 3 in this respect.

In regard to the reference to "unsubstantiated claims polar ice is melting", the Council notes the material in support of the statement provided to it by the publication

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and considers there is a diversity of scientific opinion on the issue of polar ice, However, it considers that the term "unsubstantiated" misleadingly suggests that there is no reliable evidence whatsoever to support a view that the polar ice is melting. The Council considers that the publication did not take reasonable steps to ensure these statements were accurate and not misleading. Accordingly, the Council concludes General Principle 1 was also breached in this respect.

As to the statement about data showing Pacific Islands and the Maldives are growing rather than being inundated, the publication referred to and provided Council with material providing a basis for its statement. While the Council does not express any opinion on the scientific issue, it considers that the publication has not breached its General Principles in this respect.

As to General Principle 8 and the writer's past or present mining industry directorships, the Council considers it would have been preferable for the publication to disclose them in the article. A conflict of interest might arise when an interest or duty of the writer or publication conflicts with an interest or duty the writer or publication has in the published material. However, the Council considers it is inherent in an opinion piece that the writer will advocate for a position and considers that in this case his past or present directorships of mining companies and advocacy in the debate around climate change were so well known that reasonable steps to adequately disclose the columnist's conflict of interest did not in this case require that they be specifically disclosed in the piece. In the case of an opinion piece, reasonable steps to avoid a conflict influencing published material will often be satisfied, as it is in this case. Accordingly, the Council considers that General Principle 8 was not 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. 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.
3. Ensure that conflicts of interests are avoided or adequately disclosed, and that they do not influence published material.

Complainant/ The Australian

Adjudication 1783 (17 September 2020)

The Press Council considered whether its Standards of Practice were breached by an article published by The Australian headed "Health chiefs can't ignore 'global epidemic' of transgender teens" online on 13 February 2020.

The article reported that "Queensland's health authorities have been urged to confront an under-reported global contagion involving troubled teenage girls declaring they 'are born in the wrong body'". The article went on to report that "'Social contagion' via online platforms - such as Tumblr, reddit and YouTube - and peer groups is suspected to be a factor in the rapid rise of teenage caseloads at gender clinics around the world".

In response to complaints received, the Council asked the publication to comment on whether in using the words "global epidemic" in the headline and "social contagion" in an article concerning the reported rise in transgender teenagers seeking treatment at gender clinics, the publication complied with the Council's Standards of Practice. These require the publication to take reasonable steps to ensure factual material was accurate and not misleading (General Principle 1), to provide a correction or other adequate remedial action if published material is significantly inaccurate or misleading (General Principle 2), that factual material was presented with reasonable fairness and balance (General Principle 3) and provide a fair opportunity for subsequent publication of a reply if that is reasonably necessary to address a possible breach of General Principle 3 (General Principle 4). The Council's Standards of Practice also require publications 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 noted that complaints had expressed concern that the use of "epidemic" in the headline may imply that being transgender is a disease or something that may be cured.

The publication said the article is a news story reporting on the submissions to a Queensland parliamentary committee inquiry concerning a draft law to impose a criminal penalty on carrying out gay conversion therapy and how that term is defined. The publication said it is an accurate report on what was said in the submissions and the debate surrounding the proposed legislation and the words "epidemic" and

"social contagion" were used in submissions and were later referenced in the inquiry report. The publication said the word "epidemic" is appropriate when reporting the exponential increases in those attending gender clinics and the term "social contagion" is an accepted term in social science and was taken from areas such as anorexia and suicide attempts, and where its relevance to adolescents, attitudes and behaviors is widely documented. The publication accepted that some readers may be offended by the reporting, but it is in the public interest to report on the debate.

CONCLUSION

The Council notes that the article reported on submissions made to a Queensland parliamentary inquiry concerning a proposed amendment to legislation and the potential consequences for those treating adolescents experiencing gender dysphoria. The Council notes the words complained about, such as "social contagion" and "epidemic" were words used in two submissions to the inquiry and appear in the headline and article in quotation marks. Accordingly, there was no breach of General Principles 1 and 2. The Council considers by using material from public submissions to the inquiry critical of the proposed legislation and its potential impact on health practitioners, as well as material from those who are supportive of the proposed legislation, the publication took sufficient steps to show both sides of the debate, and present factual material with reasonable fairness and balance. Accordingly, there was no breach of General Principles 3 and 4.

The Council acknowledges that the reporting on submissions to the inquiry, and the choice of words used to describe the reported increase in adolescents seeking treatment for gender dysphoria, may cause offence and distress. However, the Council considers there is public interest in vigorous public debate particularly when it concerns submissions made to a parliamentary inquiry. The Council considers that to the extent there was offence and distress it was justified in the public interest. Accordingly, 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:

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.
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.
5. 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 1785 (17 September 2020)

The Press Council considered whether its Standards of Practice were breached by the publication of an article headed "THURSDAY CHATTERBOX" by The Daily Telegraph on 2 May 2019 online. The article described a "case of a US teacher fired due to a trans violation" and said a teacher in America was fired after a "split second decision to call a trans student 'her'". It said: "The student was reportedly about to walk into a wall when the teacher instinctively said 'stop her'. And so his ridiculous fight to keep his job began. That's it ... 'stop her', and a man's livelihood is under fire. Those split-second safety calls are always problematic".

The article included a thumbnail to a video on YouTube with the words "look out faggot" appearing twice, once in prominent capital letters. The video playable in the thumbnail was of a scene from a television sitcom in which a man sees a piano about to fall on another man walking down a pavement and yells "look out faggot" in an apparent attempt to save the other man while quickly moving to push the man out of its path, narrowly saving him from injury.

In response to a complaint the Council asked the publication to comment on whether the material breached the Standards of Practice requiring publications to take reasonable steps to avoid contributing to substantial offence, distress, prejudice or risk to health and safety unless sufficiently in the public interest (General Principle 6).

The publication said the article is a satirical opinion piece written in the columnist's typical style and noted that the video clip is from a popular US comedy series. The publication said that, in the situation reported in the article,

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the teacher instinctively yelled "stop her" to prevent a student who identified as male from walking into a wall and lost his employment due to this. It said that a problematic word was used in the situation reported in the article and in the video, but that this was used in an urgent attempt to prevent physical injury. The publication said the article was also making the point that it was a case of life imitating art.

CONCLUSION

The Council notes that the word "faggot" is most used as a pejorative term to describe gay men. The Council considers that, notwithstanding the satirical nature of the article, the inclusion of the word in the thumbnail and in the video itself could be read as demeaning and mocking of gay men and, as the article referred to a "trans violation", to others with diverse sexual orientation, gender identity and sex characteristics. The Council concludes that the publication failed to take reasonable steps to avoid causing substantial offence, distress or prejudice, and there was no sufficient public interest in doing so. Accordingly, General Principle 6 was breached in this respect.

RELEVANT COUNCIL STANDARDS

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

1. 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.

Note – "Sufficiently in the public interest": The necessary level of justification in the public interest is proportionate to the gravity of the potential breach of the Principles. Relevant factors to consider may include, for example, the importance in the public interest of: (a) ensuring everyone has genuine freedom of expression and access to reliable information; (b) protecting and enhancing independent and vigorous media; public safety and health; due administration of justice and government, personal privacy, and national security; (c) exposing or preventing crime, dishonesty and serious misconduct or incompetence (especially by public figures)."

Yamaha Motor Finance / Banking Day Adjudication 1786 (1 November 2020)

The Press Council considered a complaint from Yamaha Motor Finance about an article in Banking Day headed "The companies that don't respond to complaints" published online on 12 November 2019.

The article reported on a number of complaints received by the Australian Financial Complaints Authority from customers of businesses such as Yamaha Motor Finance. The article reported that AFCA had "calculated a non-response rate for companies under its jurisdiction" which is "the percentage of complaints that are progressed to the case management stage of the complaint resolution process without a response from the financial services company at the initial stage". The article reported Yamaha Motor Finance had 14 complaints "with a 100 per cent non-response rate".

The complainant said the article is grossly misleading because the data published by AFCA shows there were 14 complaints against it in total and that 12 out of 14 complaints were addressed by it and resolved at the registration and referral stage. In relation to the two complaints not so resolved, the complainant said one was addressed by Yamaha Motor Finance and closed later at the case management stage and the other complaint was discontinued by the person making the complaint. The complainant said that the article misleadingly suggests that Yamaha Motor Finance does not respond to 100% of its customer complaints and this had caused damage to its brand. The complainant also said that after it became aware of the article, it asked the publication to correct the article. While the publication had invited it to submit a letter to the editor for publication, the complainant considered that the publication of a letter without correction of the article would not adequately address its concerns with the accuracy of the article.

In response, the publication said that the article had been prepared by an experienced journalist on the basis of material on AFCA's website and there was a public interest in reporting on the complaint figures. It said that after the article appeared, the publication was contacted by the complainant challenging the veracity of the article. The publication said that as a specialist subscription publication, it had a long standing policy of inviting submission of a letter to the editor where concerns were raised about an article and that in accordance with this

policy it had invited Yamaha Motor Finance to do so. It said this would have been a reasonable and appropriate way of addressing Yamaha Motor Finance's concerns given the AFCA processes and matters of interpretation reported in the article.

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 accepts that 12 of the 14 complaints were addressed and resolved by Yamaha Motor Finance at the registration and referral stage of ACFA's complaints process. The Council accordingly considers that the statement that Yamaha Motor Finance had a "100 per cent non-response rate" was inaccurate. This inaccuracy was compounded by the headline. Accordingly, the Council concludes that the publication failed to take reasonable steps to ensure factual material was accurate and not misleading, and is presented with reasonable fairness in balance, in breach of General Principles 1 and 3.

As to corrective or remedial action, the Council considers that the inaccuracy was significant. While the Council welcomes the publication's offer of a letter to the editor, the Council considers that given the nature of the inaccuracy, the publication of a correction was required and a letter to the editor was not sufficient. Accordingly, the publication also breached General Principles 2 and 4.

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 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 / Daily Mail Australia

Adjudication 1787 (1 January 2021)

The Press Council considered whether its Standards of Practice were breached by an article published online by Daily Mail Australia on 5 April 2020 headed "Beach bums! Sydneysiders ignore social distancing rules as they flock to Bondi to lap up the final days of summer - risking massive fines for breaking lockdown rules".

The article reported "Sydneysiders ignored strict social distancing rules as they lounged on the sand and soaked up the final days of the warm weather. Locals flocked to Sydney's popular Bondi Beach on Friday [3 April 2020], with blatant disregard for the social distancing rules in place to slow the spread of coronavirus." The article also included several photographs apparently depicting beachgoers at Bondi Beach on that day.

In response to a complaint noting that Bondi Beach had been closed to public access from 22 March 2020 and had remained empty as of 3 April 2020, the Press Council asked the publication to comment on whether the article complied with the Council's Standards of Practice. These require publications to take reasonable steps to ensure factual material is accurate and not misleading (General Principle 1); to provide a correction or other adequate remedial action if published material is significantly inaccurate or misleading (General Principle 2); 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).

In response, the publication said it had received the pictures from a reputable picture agency with which it has a long standing relationship, and noted that in this case the pictures of Bondi Beach were erroneously captioned by the picture agency with the wrong dates. The publication said the article was written around the pictures and it was an honest mistake. The publication said there was certainly no intention by it to contribute to fears and anxieties in the community. It also said numerous contemporary stories on social distancing breaches at Sydney beaches had

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also been published by various news outlets, and that it had received accurate photographs of social distancing breaches at other Sydney beaches on that day, which added credence to the story.

The publication said many digital businesses, including it, rely on picture agencies to supply content and there is an expectation that this material is accurate. It said in this instance, the picture agency's United Kingdom office appeared to have "re-captioned" the photographs, which originated in Sydney, with the incorrect dates.

The publication said the article was published at 2:38 am on Sunday 5 April 2020 and once it became aware the captioned dates on images were incorrect, it took immediate steps to remove the article from its website. The publication also said it has taken steps to ensure a similar mistake does not happen again.

CONCLUSION

The Council acknowledges that the publication has an ongoing relationship with the picture agency which it relies on as a source of accurate and reliable information, and notes that the article was written entirely based on the erroneous time and date provided by the picture agency. However the events were reported to have occurred on the Friday and it is reasonable to assume, given the significance and potential illegality of the events reported on, that if they had occurred they would be reported on by one or more media outlets on the Saturday. When deciding to publish on the Sunday, the publication should have been alert to the fact that on the Saturday other media outlets had not carried reports of the events and the publication should therefore have taken steps to check the accuracy of the photographs rather than simply relying upon the reputation of the picture agency. Accordingly, the Council considers the publication did not take reasonable steps to verify the photographs, and to ensure that the factual information in the article was accurate and breached General Principle 1.

The Council notes that the publication took action to remedy the complaint, including removing the article from its website, and reviewing its procedures for handling content provided by third parties. However, the Council considers that in this instance General Principle 2 required the publication to publish a correction to inform its readership of the significant inaccuracy in the story. As the publication did not do so, General Principle 2 was breached in this respect.

As to General Principle 6, the Council does not consider the article is likely to cause or contribute to substantial distress or a substantial risk to health or safety. Accordingly, General Principle 6 was not breached.

Note:

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 adequate remedial action if published material is significantly inaccurate or misleading.
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 Ballina Shire Advocate Adjudication 1788 (2 December 2020)

The Press Council considered whether its Standards of Practice were breached by an article published in print by The Ballina Shire Advocate on 5 February 2020 headed "Church in court against Priest".

The article reported on a claim by a serving priest against the Catholic church for damages for sexual abuse, alleged to have occurred as a child while attending a Catholic boarding school. The article said it was understood that this was the first time a serving priest had brought such proceedings. The article reported that in the alleged incident, the priest engaging in the abuse "allegedly directed the plaintiff to kneel in front of him as he exposed and placed his erect penis into the boy's mouth while repeatedly thrusting until he ejaculated".

The Council asked the publication to comment on whether in publishing specific details of the alleged sexual assault the publication took reasonable steps to avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless sufficiently in the public interest (General Principle 6).

The publication said the description of the sexual assault was contained in documents provided to the court and the special rights and protections on reporting court proceedings applied so as to facilitate public scrutiny of the courts. The publication said it was necessary for media covering courts to take reasonable steps to present

material fairly and accurately and therefore the journalist has a greater onus than normal not to change, embellish, delete or paraphrase evidence presented in court. The publication also said that it was important to include the specific detail as the alleged abuse had only occurred on a single occasion.

The publication said while the description is graphic, it is not gratuitous, nor is it placed in the lead to the story or form part of the headline. The publication said that the statement is placed a third of the way through the story in a way that is designed to minimise any offence or distress to the reader but also meeting the requirement that it be fair and accurate. The publication said that the coverage of historic child sexual abuse, and bringing it out into the open, was so important that it led to the Royal Commission into Institutional Responses to Child Sexual Abuse. The publication said that the case is highly unusual, and perhaps unprecedented, in that it involves a current serving priest making claims of abuse from when he was a child which makes it of special interest to the public.

The publication said it decided against including a graphic content warning as the article had only one description of the alleged sexual abuse, as distinguished from previous articles wherein there were multiple references.

CONCLUSION

The Council considers that beyond the strict requirements of the law, publications have a further responsibility to ensure compliance with the Standards of Practice, which may extend to moderating or not reporting particular information that has been presented in open court. The Council accepts that some readers may have found the specific factual description of the sexual abuse distressing. However, the Council considers that it is in the public interest to report the facts of such abuse without employing general uninformative descriptions or euphemisms and notes that the article was reporting on a single alleged incident. The Council considers that the process and findings of the Royal Commission into Institutional Responses to Child Sexual Abuse support the benefit that specific factual reporting can have in encouraging other victims to report sexual abuse.

In some cases, a warning that an article contains graphic content may be appropriate. However, as in this case, the details were of a single alleged instance and appeared a number of paragraphs into the article, the Council considers that a warning was not required.

The Council concludes that the publication took reasonable steps to avoid causing substantial offence, distress or prejudice, or a substantial risk to health or safety and that in any event, the article was sufficiently in the public interest. Accordingly, 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.

Sue-Ellen White/ The Border Mail

Adjudication 1789 (12 Mar 2021)

The Press Council considered a complaint from Sue-Ellen White about an article published by The Border Mail on 8 May 2020, headed online "Family and friends speak of their grief at the loss of Billy, 'Buffalo Bill', White ahead of 2020 Albury-Wodonga Winter Solstice" and in print on page 1 headed "If only love was enough", leading to an article on page 2 headed "'I'm empty': a son's last words to dad: Gaping grief left by suicide". The article reported on the death of the complainant's son Bill, who died by suicide, and particularly focused on the grief experienced by Bill's father who was named. The article also promoted the Albury-Wodonga Winter Solstice, an event convened by Survivors of Suicide and Friends.

The complainant said that the article had been published without her knowledge or consent and said that she should have been informed about the proposed article before it appeared, given that Bill was living with her at the time of his death. She would have liked the article to acknowledge her and Bill's sister as well as Bill's father. She said she also would have preferred the article not to be on the front page with a very large photo of Bill, leading into a two-page spread. She said that she lived in a small town and that it was shocking for her and others who had known Bill to be confronted with such a prominent article and photographs. The complainant said that the young woman who had found Bill after he died became distressed on seeing the paper for sale in the newsagent. She said the prominence of the article, coming without any ability to prepare for it, had been as mentally and emotionally debilitating as when she first

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learned of Bill's suicide.

The complainant said it had a similar distressing effect on Bill's family and friends. The complainant said she never had an issue with Bill's father sharing his story and understood the intention behind it.

The complainant said that, despite her contacting the publication to explain the distress the article had caused, the publication did not apologise or show any regret. The complainant said the publication's communications showed a disregard to her position and added to the distress caused to her and others involved.

The publication said Bill's father had requested that it write a story from a father's perspective of the grief left by suicide. The publication said that each year it publishes a series of stories before the Winter Solstice event usually focused on a mother's grief and this seemed like a good opportunity to present a father's perspective. The publication said it was strongly in the public interest for Bill's father to share his story and that he did not require the consent of any other party to speak about his own experience of grief and love for his son. The publication said that to have sought the input of anyone else, or the consent for him to share his experience, would have been a betrayal of his trust and may have discouraged Bill's father from telling his story. The publication said it is committed to reporting on suicide and that it has a mission to "End the Suicide Silence". The publication said in this and similar situations involving families where the parents do not live together, it is not reasonable to expect journalists to seek permission from multiple family members.

The publication said it was contacted by Bill's sister on the day of publication and it spoke with a medical professional assisting the complainant and offered for the journalist to speak with the complainant and/or Bill's sister about the story and possible follow-up articles and sources of support. The publication said its further attempts at communicating with the complainant and others were unsuccessful as they did not respond.

The publication said it is regrettable the article caused hurt, but that the tragedy is the suicide itself and not its reporting of it. The publication said it was its responsibility to shine light on the high rates of suicide by men specifically to address the stigma surrounding it, and this was the primary reason for featuring the story on the front page. The publication said that telling men they can't share their stories of grief until they obtain "consent"

from their estranged partner is a bad message to send and will undermine its progress of reporting on suicide. The publication said while it believed it had complied with the Council's standards, it would consider what occurred and be more mindful of the precautions its journalists may need to take in future.

CONCLUSION

The Council's Specific Standards on Coverage of Suicide 3 and 4 require that when reporting an individual instance of suicide and reporting the identity of the person who has died by suicide, clear and informed consent must be provided by appropriate relatives or close friends or the report must be clearly in the public interest.

The Council notes that the publication did not take steps to contact the complainant, despite there being no apparent obstacle to doing so. Although the Council acknowledges the article was well-intentioned and had been initiated by Bill's father, Principles 3 and 4 required, in the circumstances, that consent be sought from both parents. The Council considers it was not sufficient to obtain only the consent of Bill's father.

The Council recognises there can be substantial public interest in suicide-related coverage, and that an aspect of the article promoted an event broadly aimed at preventing suicide. However, the article predominantly focused on the individual instance of suicide by Bill, and the specific experiences of Bill's father. Given this focus, the Council considers the public interest did not justify the nature of reporting in the article in the absence of consent from both parents. Accordingly, the Council considers that the Specific Standards on Coverage of Suicide 3 and 4 were breached.

The Council's Specific Standards on Coverage of Suicide 7 requires that reports of suicide should not be given undue prominence, especially by unnecessarily explicit headlines or images. The Council recognises the publication's intention in attempting to raise awareness in a wider audience by featuring the story in a prominent manner. However, the Council considers that the explicit and large headline, the large front-page photo and the additional images used (one of which featured Bill's baby) constitutes undue prominence. The Council considers that through this prominence, the publication failed to take sufficient care to avoid unnecessary harm to those who had been affected by the suicide, particularly the complainant. Accordingly, the Council considers that Specific Standards on Coverage of Suicide 7 was breached.

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 considers that, given the prominence and level of detail relating to the suicide in the article and the lack of consultation, the publication failed to take reasonable steps to avoid substantial distress. Nor, given the focus of the article, was there a sufficient public interest to justify such distress. Accordingly, the Council considers that General Principle 6 was also breached.

However, the Council recognises and welcomes the publication's comments that it will consider what occurred and be more mindful of the precautions its journalists may need to take in future.

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 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.

Specific Standards relating to Coverage of Suicide:

3. "In deciding whether to report an individual instance of suicide, consideration should be given to whether at least one of the following criteria is satisfied:
 - a) clear and informed consent* "has been provided by appropriate relatives or close friends*"; or
 - b) reporting the death as suicide is clearly in the public interest,"
4. "In deciding whether also to report the identity of the person who has died by suicide, account should be taken of whether at least one of the following criteria is satisfied:
 - a) clear and informed consent has been provided by appropriate relatives or close friends; or
 - b) identification is clearly in the public interest."
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/ Herald Sun

Adjudication 1790 (24 February 2021)

The Press Council considered whether its Standards of Practice were breached by an article published by the Herald Sun on 24 and 25 June 2020 headed "Why we need to probe if tribalism is behind new coronavirus spike" and "VICTORIA'S CORONAVIRUS CRISIS: MADE BY MULTICULTURALISM" online and 'Is Tribalism behind spike?' in print (the June article). It also considered an article published online by the Herald Sun on 12 and 13 July headed "Andrew Bolt: Multiculturalism made Victoria vulnerable to coronavirus" and "VIRUS THRIVES IN MULTICULTURALISM" respectively (the July article).

The June article stated "Victoria's coronavirus outbreak exposes the stupidity of that multicultural slogan 'diversity makes us stronger... It's exactly that diversity – taken to extremes – that's helped to create this fear of a 'second wave'. "It went on to say" ...check where most new infections are breaking out - in six poor, outer-suburban areas in Melbourne's north and south-east. In five, more than a third of residents were born overseas, in countries such as India, Sri Lanka, Iraq, China and Vietnam", and "...it seems there's not just a language barrier. There may also be a cultural one."

The July article stated "Is it coincidence that the three worst virus hot spots in Victoria have been seven public housing commission towers (145 cases), the Al-Taqwa College (134) and the Cedar Meats abattoir (111). Many of the people in those towers are immigrants, often from Africa; the al-Taqwa community is Muslim, many immigrants; and Cedar Meats, is a Labor-donating company that employs many immigrants." It said "What's more, the virus slipped out this time from Victoria's 'quarantine' hotels, thanks to the slackness of private security guards, often from immigrant families." The article stated "Be calm. I am not 'blaming immigrants'... But multiculturalism has made Victoria more vulnerable not just because we're increasingly a nation of tribes, less likely to make sacrifices for people outside our 'own'. There's also 'language and cultural problems' that Victorian Premier Daniel Andrews admitted the virus fighters faced."

In response to complaints received, the Press Council asked the publication to comment on whether the articles complied with the Council's Standards of Practice,

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which require publications to take reasonable steps to ensure factual material is accurate and not misleading (General Principle 1); 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 complaints had expressed concern that attributing the spread of the coronavirus to 'multiculturalism' is not only inaccurate and unfair, it is offensive and prejudicial to those who are from culturally and ethnically diverse backgrounds.

In response, the publication said it took seriously its responsibility to report on coronavirus and its reporting had been informative if sometimes uncomfortable. It denied any breach of the Standards of Practice and defended the writer's right to question whether multiculturalism has played a part and whether governments have failed to communicate to migrant groups. It said the articles were based on indisputable facts.

In relation to the June article, the publication said five of the six outer Melbourne suburbs referenced in the article have more than a third of their residents born overseas and all six are among the most infected areas, according to the Victorian Department of Health and Human Services. The publication referred to data from the Australian Bureau of Statistics verifying the ethnic breakdown of those suburbs, and said the Ethnic Communities Council of Victoria also identified the six "hot spots" as being suburbs with a high proportion of residents born overseas and warned of language and cultural barriers to the coronavirus safety message.

The publication said that for this reason ethnicity was relevant rather than for example population density. It said multiculturalism is, by definition, the presence or support for the presence of several distinct cultural or ethnic groups within a society. This is exactly the status of these six suburbs, according to the ABS, and the writer has simply stated his opinion based on factual data and definitions. The publication said the articles do not suggest racial and ethnic minority groups are responsible for Victoria's coronavirus crisis, but rather rely on ABS data to identify the mix of ethnic groups living in suburbs with the highest infection rates, which is in the public interest

to debate. The publication referred to comments made by Victoria's Chief Medical Officer, that "we know that there are some migrant communities, recent migrants or culturally and linguistically diverse communities, who are overrepresented now with some of our new cases". As to the headline the publication noted it did not identify particular groups.

In relation to the July article, the publication said it relied on factual material, much of which has already been debated in the Victorian community and some of which has been put forward in evidence to the Hotel Quarantine inquiry in Victoria. The publication said the article merely points out indisputable facts concerning the ethnicity of residents of the Flemington towers, members of the Al-Taqwa school, and Cedar Meats workforce. It also said the inquiry has heard that many of the security guards were employed because of their immigrant background due to socially inclusive policies enacted by public servants. The publication said the writer's opinion was based on factual and publicly available material and, that although his opinion may offend certain readers, no evidence has been put forward that the articles contributed to substantial prejudice to immigrant communities in Victoria. The headline did not identify particular groups.

The publication noted that the articles were opinion pieces rather than news reports; it was not necessary or appropriate for the article to investigate in detail the range of additional or specific circumstances which might be relevant to the second outbreak of coronavirus in Victoria but which are not central to the author's opinion. It noted that the outbreak had been a life and death issue and that the public interest justified the words used in the article.

CONCLUSION

The Council is satisfied that reasonable steps were taken to present factual material in the June and July articles concerning the ethnic makeup of suburbs, places of residence and workplace accurately. Accordingly, there was no breach of General Principle 1 in relation to either article.

The June article identified "where most new infections are breaking out" and referred to the five suburbs where more than a third of residents were born overseas, from India, Sri Lanka, Iraq, China and Vietnam. In doing so, the Council considers the article unfairly links individuals from those named groups who may have inadvertently spread the virus, to all people from those groups. The Council notes the article refers to the Victorian Chief Medical Officer's statement that migrant communities were "overrepresented

in new cases". However, the Council considers that neither this, nor the other material in the article, establishes that the migrants from these countries collectively were the cause of the second outbreak.

The July article linked the three worst virus hotspots in Victoria to the immigrants involved in each one. It noted many in the towers were "immigrants, often from Africa" and emphasised the "many" immigrants involved in the other two hotspots. Although the article went on to state the writer was not "blaming immigrants", the Council considers the article links these immigrants with the second outbreak and unfairly implied that they were the cause of it.

The Council notes that opinion articles by their nature make an argument. However, the articles each associated immigrants with the hotspots, and implied immigrants were the cause without any qualification. Under General Principle 3, the publication was obliged, even in an opinion article, to take reasonable steps to present that link and causal connection with reasonable fairness and balance. While some members of those immigrant communities were involved in the transmission of the virus, the Council considers the articles unfairly suggested that the named groups were collectively responsible. In the absence of presenting a more balanced range of reasons behind the transmission, such as population density and insecure employment, 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 June and July articles also attributed the coronavirus outbreak to multiculturalism, referring to difficulty in communicating quickly and effectively with a wide range of cultural groups making up the relevant population and cultural factors. The Council acknowledges that some readers may have inferred that the reference to multiculturalism included an implicit reference to immigrants. However, the Council considers a reasonable meaning of multiculturalism is support for the presence of several distinct cultural or ethnic groups within a society. The Council considers the references to multiculturalism causing the outbreak were expressions of the writer's opinion and was identified as based on difficulties in communication in multiple languages and cultural factors and accordingly did not breach General Principle 3.

In attributing the second outbreak to immigrants without any qualification the publication failed to take reasonable

steps to avoid substantial offence and prejudice. Although the Council notes the very substantial public interest in reporting and commenting on the second Victorian coronavirus outbreak, the public interest did not justify the level of offence and prejudice, and General Principle 6 was breached in this respect. As to the argument that multiculturalism policy had caused the second outbreak, the Council notes the writer identified the argument's basis as difficulties in communication and cultural differences. The Council acknowledges that some readers may have found the argument offensive and prejudicial, however the Council considers such offence or prejudice as was caused was justified in the public interest in debate on the issue and General Principle 6 was not breached in this respect.

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. 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,
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 Australian Adjudication 1791 (2 March 2021)

The Press Council considered whether its Standards of Practice were breached by the publication of a cartoon in The Australian on 2 June 2020. The cartoon depicts a person of colour dressed entirely in black, wearing a face mask and hat and only showing the figure's eyes. The figure is kneeling on the neck of the Statue of Liberty which is lying on the ground next to a car that has the number plate USA. The cartoon depicts a scene of social unrest with buildings on fire and smoke in background. The figure is saying "I AM FIGHTING FOR THE RIGHT TO DO WHAT I HATE" while the words "I CAN'T BREATHE" emanate from the mouth of the Statue of Liberty.

In response to complaints received, the Council asked the publication to comment on whether the material breached

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its Standards of Practice which require it 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 complaints had raised concerns that the cartoon's depiction of an African American engaged in act of violence is a deliberate misrepresentation of the events that have caused social unrest in America. Concern was expressed that the cartoon chose to depict an African American causing the social unrest when protests in the US have concerned police brutality inflicted on racial and ethnic minorities by mostly white police officers.

The publication said the cartoon was not a comment on the killing of George Floyd a week earlier or the peaceful protests, but the riots that followed. The publication said it is the 'rioter' depicted in the cartoon who is shown threatening the American ideals represented by the Statue of Liberty and the cartoon fairly depicts the destruction and arson that was happening that day in the US. The publication said that the cartoon concerns the rioter's violence against the US and many of the communities most affected by police violence. The publication said that, in addition to more peaceful protests, instances of violence committed by people of all races had been widely reported. The publication said the point articulated by the accompanying words of the cartoon reflect the double standards of the rioters; their right to commit violence when the initial protests concerning George Floyd were ostensibly about violence and the impact that violence can have on their own communities.

The publication said the cartoon does not repurpose the image of the murder of an African American man to attack the victims of police brutality and racism. It makes a powerful point about Floyd's killing being used by political forces and rioters to attack and threaten the ideals of the American dream. The publication drew attention to a similar cartoon by a respected cartoonist published in the US. The publication said that, while its cartoon was published in the early days of the public's response to the death of George Floyd, the issues raised in the cartoon have become key flashpoints in the US presidential election and are of significant public interest in the US and, as a consequence, Australia and the world.

The publication said the cartoon reflected news being reported on the day, including a front-page news story which reported: 'America is on the edge. It is a country in chaos, racked by violent protests from coast to coast with buildings aflame, police under angry attack and angry

masses flooding the streets in the most serious threat to law and order in decades'.

The publication said the cartoon did not breach General Principle 6 and drew the Council's attention to previous Adjudications which acknowledged how the public interest is served by cartoonists and their commentary on issues of public significance.

CONCLUSION

The Council has consistently expressed a 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 usually 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 notes that the cartoon could certainly be seen as an offensive and prejudicial portrayal of protestors in the wake of the George Floyd protests, particularly given its depiction of an African-American man kneeling on the neck of the white Statue of Liberty and its use of the words "I CAN'T BREATHE".

However, the Council accepts it was in response to the riots a week after Floyd's homicide and after the peaceful protests and in which violence was perpetrated by African Americans and other racial and ethnic minorities against their own communities. The Council considers that the cartoon would mostly be considered in the context of the articles about the riots on the front page and other pages, as well as the letters section above which the cartoon appeared.

The Council notes that unlike the similar US cartoon the publisher referred to, this cartoon did not clarify that the assailant was a looter and rioter nor did it portray the victim as communities but as the USA and the Statue of Liberty. Nonetheless the Council accepts that the message ('I am fighting for the right to do what I hate') was clearly about the hypocrisy of rioters and did not excuse police brutality or attacks on peaceful protesters.

While the Council accepts that some would be offended by this cartoon, it considers that it was sufficiently in the public interest to comment on the riots and the effects those riots

had on the rioters' own communities. Accordingly, the Council concludes that its Standards of Practice were 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 1792 (16 February 2021)

The Press Council considered whether its Standards of Practice were breached by an article published by The Australian headed "Firebugs fuelling crisis as arson arrest toll hits 183" in print on 7 January 2020 and "Bushfires: Firebugs fuelling crisis as national arson arrest toll hits 183" online on 8 January 2020.

The article reported that "[m]ore than 180 alleged arson cases have been recorded since the start of the bushfire season with 29 fires deliberately lit in the Shoalhaven region of NSW in just three months" and that "Police arrested 183 people for lighting bushfires across Queensland, NSW, Victoria, South Australia and Tasmania". The article reported that since 8 November 2019, 24 people had been arrested in NSW for deliberately lighting bushfires while a further 184 people had been cautioned for bushfire-related offences such as "discarding lit cigarettes, setting off fireworks and failing to comply with a total fire ban." The article went on to report that 101 people had been "picked up" for setting fires in the bush, that four people "were caught setting fire to vegetation" outside Hobart Tasmania while "Victoria reported 43 charged from 2019".

In response to complaints received, 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 factual material is accurate and not misleading (General Principle 1); to provide a correction or other adequate remedial action if published material is significantly inaccurate or misleading (General Principle 2); to ensure that factual material is presented with reasonable fairness and balance (General Principle 3); and to provide a fair opportunity for subsequent publication of a reply if that

is reasonably necessary to address a possible breach of General Principle 3 (General Principle 4).

The complaints challenged the accuracy of the statements that "arson arrest toll hits 183" as in the headline and that "[m]ore than 180 alleged arsonists have been arrested since the start of 2019". The complaints also asserted that the figures included people who had not been arrested or charged for 'arson' but for lesser offences such as unauthorised lighting of fires in contravention of local fire bans.

The publication said that the widespread and serious bushfires in 2019-20 generated intense public interest. Several state authorities had issued new or updated figures on the number of arrests, charges and actions by the police against those causing fires in a variety of time periods during 2019 and 2020. The publication said as is often the case with state-based figures, the different criteria used, including differing definitions of arson, meant that the data might not be strictly comparable. The publication said that reporting on the state-based figures was complex because a large number of fire and arson offences tend to be grouped under the heading of arson, including lesser offences. The publication said the sentence "police arrested 183 people for lighting bushfires across Queensland, NSW, Victoria, South Australia and Tasmania" attempts to draw together the different data as arrests, rather than referring to specific offences which may be defined differently in different states. The publication acknowledged that the print article referred to the beginning of the 2019/20 bushfire season. However, it said its report was an accurate reflection of the data that was available at the time from various state authorities. It said it used the words "toll" and "cases" in the headline and opening paragraphs to grapple with these difficulties. To account for the disparate time frames for the data, the opening paragraph of the online article was updated to refer to the time period since the start of 2019, so that the figures could not be misconstrued as relating solely to the current fire season.

CONCLUSION

The Council accepts that the publication's initial representation of the data may have led readers to consider that an unusually high number of 'arsonists' had been arrested since the beginning of the 2019/20 fire season. The Council also accepts the difficulty in aggregating information from multiple sources while reconciling different definitions of what might constitute arson under

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various State legislation. The Council considers that although there might have been some discrepancies in the reported figures, the publication nevertheless took reasonable steps to be accurate and not misleading when reporting the data. The Council notes that in relation to the data concerning NSW the article reports that 24 people had been charged for deliberately starting bushfires, while a further 184 had been charged or cautioned for "bushfire-related offences" which the article reported included "setting off fireworks", and failing to comply with a "total fire ban". The Council also notes the publication's subsequent amendment to the online article to clarify the time period to which the bushfire data applied and to refer to alleged "arson cases" rather than "arsonists" to better reflect the different interpretations of arson in State legislation and crime data. The Council concluded that the publication took reasonable steps to ensure that the report was accurate and not misleading when reporting information from various authorities. Accordingly, there was no breach of General Principles 1 and 3.

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.

Kate Mostert / Gladstone Observer

Adjudication 1796 (21 May 2021)

The Press Council considered a complaint from a teacher about an article published in the Gladstone Observer headed "Pregnant woman hit by shot put at Calliope" online on 18 September 2020. The article reported on an incident at Calliope State High School in which the complainant was hit by a shot put. It reported her age, that she was pregnant and the stage of pregnancy reached.

The article was subsequently updated to report statements by a Queensland Ambulance spokesman, Department of Education spokeswoman and a Central Queensland Hospital and Health Service spokeswoman who said that the woman had been discharged from Hospital.

The complainant said that reporting she was pregnant and the stage of her pregnancy caused her significant anxiety and distress, given she had not at the time announced her pregnancy to any family, friends or work colleagues. She said that, due to her medical history regarding pregnancy, her husband and herself had decided to not make this public until after the 12-week tests. The complainant also said that only she, her husband, the Deputy Principal of the School, her doctors and ambulance officers knew of her pregnancy status before the article appeared.

The complainant said that her pregnancy was personal and very private to her and she did not want it made public at that point. She said that, whilst she was not named in the article, the details given were sufficient for the community to easily identify her and for her pregnancy to be common knowledge. She said that there was no justification for publication of this personal information in the article.

The complainant said that the article appeared online approximately 10-15 minutes after the phone call was made to the ambulance. She said that the publication made no contact with her, her family or the school to ascertain any details prior to the article being published. The complainant said she could only infer that the publication had obtained this information, which was provided to the ambulance solely for her medical treatment, from a scanner of emergency services communications. The complainant said the publication had no right to use her personal health information in the article without her consent.

The complainant said that after the article was published, she discussed her concerns with the publication's editor. However, the complainant was not satisfied, based on the publication's response, that it had undertaken sufficient steps to prevent a similar incident from occurring in the future, and so made a complaint to the Council.

The publication said the journalist believed the information about the complainant's pregnancy was provided by a Queensland Ambulance spokesperson and it was attributed to that source in the article. The publication said that the journalist would have made the initial call to the Queensland Ambulance spokesman to get information for the initial article and the subsequent updates to it. The

publication said it could not confirm whether the journalist had obtained that information from scanning emergency services communications, but accepted that the newsroom did have the ability to do so.

The publication said that the editor spoke to the complainant after the article was published and apologised to her for any distress the article had unintentionally caused her.

The publication said that with the benefit of hindsight, the reporting on the complainant's pregnancy, although attributed to a Queensland Ambulance spokesman, should not have been included in the article. Had it been aware of the full circumstances regarding her pregnancy, it would have handled its coverage of the incident more sensitively. The publication also said it had since amended the online article to remove all references to the complainant's pregnancy.

Although the publication maintained it was in the public interest to report the accident and the complainant's pregnancy due to the risks to health and safety involved, it said that it would be more aware of the factors to be considered in reporting on pregnancy in future.

CONCLUSION

The relevant Council Standards of Practice require publications to take reasonable steps to avoid intruding on a person's reasonable expectation of privacy (General Principle 5), causing or contributing materially to substantially distress or risk to health or safety (General Principle 6), or publishing material gathered by unfair means (General Principle 7) - unless doing so is sufficiently in the public interest.

The Council welcomes the publication's apology to the complainant and its indication that that it will take greater care in reporting on pregnancy in the future. However, the Council considers that the complainant had a reasonable expectation of privacy and that it was her own decision as to when she made it known that she was pregnant. The Council also considers that the premature public reporting of her pregnancy would be substantially distressing to any person in her situation. The fact that the article attributed the information to a Queensland Ambulance spokesman did not alter the complainant's reasonable expectation of privacy nor the likelihood of distress. The Council considers there was no sufficient public interest to justify reporting against the complainant's reasonable expectations of privacy or in causing her substantial distress.

Accordingly, the Council concludes that the publication breached General Principles 5 and 6.

As to General Principle 7, the Council is unable to conclude that an emergency scanner had in fact been used to obtain the information and the Council does not conclude that General Principle 7 was breached in this respect. The Council notes that it should not be assumed that use of all information obtained from a scanner would necessarily be unfair, but cautions publications who may obtain information from a scanner to verify that information from an appropriately reliable source.

RELEVANT COUNCIL STANDARDS:

This adjudication applies the following General Principles of the Council. "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."

Complainant/ Herald Sun

Adjudication 1797: (13 May 2021)

The Press Council considered whether its Standards of Practice were breached by an article published by the Herald Sun online on 10 December 2020 headed "Allergy warning over Pfizer COVID vaccine".

The article reported "People who suffer severe allergic reactions have been advised by UK regulators not to take the Pfizer COVID-19 vaccine after two British nurses who received the jab suffered allergic reactions." The article went on to report, under the sub headline "SIX PEOPLE DIED DURING PFIZER TRIAL", that "Six people that took part in the Pfizer-BioNtech COVID-19 vaccine clinical trial died - including four who had received a placebo shot but the vaccine was unlikely to be the cause of their death."

In response to a complaint it received, the Press Council asked the publication to comment on whether the sub headline SIX PEOPLE DIED DURING PFIZER TRIAL and Facebook post complied with the Council's Standards of Practice, which require publications to take reasonable

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steps to ensure that factual material is accurate and not misleading (General Principle 1); and presented with reasonable fairness and balance (General Principle 3). The Council noted the sub headline may imply that six people died as a result of receiving the Pfizer vaccine, despite the article later stating "[the vaccine was] unlikely to be the cause of their death."

The publication said it stood by the accuracy of its headline, which when read in context with the opening paragraph immediately below the headline, was not misleading. It said the figures reported were contained in a 53-page report to the United States Food and Drug Administration, and that this context was made clear in the article. It also said the sub headline was a secondary part of the story and was placed well into the main article.

CONCLUSION

The Council accepts that the sub-headline 'six people died during Pfizer trial' is accurate based on a report delivered to the United States Food and Drug Administration, as set out in the article, because they did die during the period of the trial. However, the Council considers that the clear implication of this statement is that the six deaths occurred or could have occurred as a result of receiving the vaccine.

The Council accepts that headlines usually refer to only one aspect of a story and the accurate position was established in the first paragraph of the article. However, the obligation on publishers to take reasonable steps to ensure factual material is not misleading will vary in the circumstances. The Council considers it is higher in the context of reporting on deaths during vaccine trials in a pandemic. By implying in the headline that the deaths were or could have been due to the vaccine, the publication failed to take steps to ensure factual material is not misleading in breach of General Principle 1 and for the same reasons the publication also breached General Principle 3.

This was compounded by the Facebook post linking to the article, which began "Six people died during Pfizer's late-stage trial of the COVID-19 vaccine", and used a similar headline but did not include a statement in the post itself that the deaths were not due to the vaccine. The Council noted the need for publications to exercise great care in statements made in any social media posts without context or clarification.

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,"

Alternative Remedies

2021/0953

COMPLAINANT / NEWS.COM.AU

The complainant expressed concern about the headline of an article which stated “Elderly Queensland woman dies hours after receiving Pfizer coronavirus shot.” The complainant said the headline may be misleading, as the article went on to report that the deceased was suffering from other significant health issues and the death may not have been linked to the vaccine.

In response, the publication amended the online headline to state “Elderly Queensland woman died hours after receiving Pfizer coronavirus shot, may not be linked to vaccine.”

The Executive Director considered the amendment to the headline sufficiently remedied the complaint.

2020/1297

COMPLAINANT / DAILY MAIL AUSTRALIA

The complainant expressed concern that several photographs included in an article about family violence were substantially distressing. The article carried a graphic content warning, and the photographs complained of were provided to the publication by the subject of the article.

In response, the publication updated the article by including relevant sources of assistance for those affected by the article’s contents at the bottom of the article.

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

2021/0952

COMPLAINANT / THE ADVERTISER

The complainant expressed concern about an opinion piece which commented on the Chinese consulate in Adelaide, and the city’s growing defence and aerospace industries. The complaint noted that several companies mentioned in the article were clients of a lobbying firm owned by the writer.

In response, the publication amended the article by including a full disclosure of the writer’s interests. The publication also noted the writer would not mention such clients in future columns unless essential to his argument, and with full and appropriate disclosure.

The Executive Director considered the addition of the writer’s disclosure of interests sufficiently remedied the complaint.

2020/1129

COMPLAINANT / AUSTRALIAN FINANCIAL REVIEW

The complainant expressed concern that a cartoon depicting Treasurer Josh Frydenberg was anti-Semitic, and was substantially offensive, distressing and prejudicial particularly to the Jewish community.

In response, the publication noted it amended the online version of the cartoon and published a detailed explanation and apology. It also published a follow up article including comments from the head of the NSW Jewish Board of Deputies, and Mr Frydenberg.

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

2020/0001

COMPLAINANT / THE DAILY TELEGRAPH

The complainant expressed concern that an article which reported on the career of a high-profile NSW barrister contained a reference to the transgender status of one of his client defendants. The complaint said the reference was not relevant and may be prejudicial to transgender people.

In response, the publication updated the online article by removing the reference to the defendant’s transgender status.

The Executive Director considered the amendment sufficiently remedied the complaint.





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