

# PRESS COUNCIL ADJUDICATIONS

## Adjudication No. 1221

**The Australian Press Council has upheld a complaint by Irene Triantafillidis concerning an article published in *The Advertiser* dealing with the death of her mother, Magdalini Triantafillidis.**

The page 3 report published on 6 March 2003 was headed *Family of stroke victim wants inquiry* and reported that the Triantafillidis family wanted an independent investigation into the administration of the Queen Elizabeth Hospital.

Ms Triantafillidis complained that the published article was a heavily edited version of a much longer report written by the same journalist in January 2003 which was provided to her family for proof reading but was not subsequently published. Ms Triantafillidis believed the newspaper had broken an undertaking to the family in not publishing this version of the article.

She further complained that the published article contained several factual errors. In correspondence with the complainant, *The Advertiser* accepted that the following errors had been made:

- The headline indicating Mrs Triantafillidis died as a result of stroke was incorrect. Mrs Triantafillidis suffered a heart attack.
- Mrs Triantafillidis died aged 75, not 78 as reported.
- Ms Irene Triantafillidis is the youngest daughter in the family, not the eldest, as reported.

The newspaper offered to publish a correction in relation to these errors or to publish a letter to the editor from the Triantafillidis family. No correction was published following this correspondence.

In further correspondence with the Press Council in July 2003, the newspaper repeated the offer of publishing a letter from Ms Triantafillidis putting her point of view or, alternatively, publishing a brief correction. "It was not our intention to cause distress or concern to the family involved and we are anxious to rectify the position as soon as possible."

Despite this, no correction was published. Further correspondence between the newspaper and the Press

Council in October also failed to result in a correction being published.

The Press Council regards this as unsatisfactory. In accordance with the Council's principles, the newspaper should have acted promptly to make amends for publishing inaccurate information by printing an appropriately prominent correction in a timely fashion.

Alternatively the newspaper could better have dealt with the complainant to reach a settlement either when she first approached the newspaper or, later, when the Press Council sought to mediate the matter. Because the newspaper failed to correct the errors or find another settlement, the complaint is upheld.

On the question of any undertaking which may have been given to the family, the Council notes the unusual circumstances in this case: the journalist had shown the January draft to the family and sought their correction of it. As a result, the family may have made assumptions on how the matter would be handled. The Press Council notes, however, that it is the editor, not the journalist, who has the discretion on the editing and publication of articles. In this case, it does not appear that this was adequately communicated to the complainant.

## Adjudication No. 1222

**On 10 September the Northcote Leader published an article and photo headed *Outside aid for women inside publicising a forthcoming benefit concert to raise funds for the Women's Prison Advocacy program. The concert had been organised by Dykes on Mics, who present a regular program on community radio 3CR. The producer Libby Jamieson contacted the paper with details of the organiser, performers and cost, expecting these to be published. The article gave details of date and place but not the name of the organising group.***

Ms Jamieson's complaint to the Press Council was that this amounted to homophobic censorship. "I would have thought given the large lesbian demographic of Northcote that the paper would be concerned about reflecting the diversity of its readers," she emailed to the journalist, who then offered to meet her to explain her reasons.

Ms Jamieson declined. The journalist did

not refer the complaint to her editor. Ms Jamieson did not contact anyone else at the paper, preferring instead to refer the matter to the Council.

In response, the paper claimed that the article "was put together to promote a benefit concert being held to raise money for the Women's Prison Advocacy program not specifically to publicise Ms Jamieson's own program". The paper also said that originally such information had been included but that it had removed "purely for reasons of space". Further, in the past, the paper had published a piece about Dykes on Mics, a point Ms Jamieson acknowledged.

The Council agrees that the newspaper had been fair and reasonable in its coverage of the concert. The complaint is dismissed.

## Adjudication No. 1223

**The Australian Press Council has dismissed a complaint by Peter Foster that a description of him as a "fraudster", published by *The Sydney Morning Herald* on 22 August, was untrue.**

The article concerned a London interview with Cherie Booth QC, wife of the British Prime Minister, and mentions her associations with Carol Caplin. Mr Foster was described as an ex-boyfriend of Ms Caplin and a "convicted Gold Coast fraudster".

In support of his complaint Mr Foster has provided legal advice which quotes the Macquarie Dictionary definition of fraud as: "deceit, trickery, sharp practice, or breach of confidence, by which it is sought to gain some unfair or dishonest advantage".

Mr Foster himself provided details of his convictions dating back to 1982, which resulted in four separate periods of imprisonment and a substantial fine.

Mr Foster has obtained international recognition for this series of offences, most of which involve false claims.

While none of Mr Foster's convictions are explicitly for "fraud", the Council believes that the word "fraudster" has been used by the newspaper in an accurate, collective sense.

Accordingly the complaint is dismissed.

### Adjudication No. 1224

**The Australian Press Council has dismissed two separate complaints by Peter Foster against The Courier-Mail, Brisbane.**

In the first instance, Mr Foster complained about three different reports on 10, 11 and 12 March which described him as having "fleeced" or "duped" investors. These reports arose from a civil case he is facing in the Federal Court, brought by the Australian Competition and Consumer Commission (ACCC).

On 12 March, Justice Spender of the Federal Court made reference to the three stories in The Courier-Mail, affirming that the ACCC is not alleging that Mr Foster fleeced or duped Australian investors in a slimming pill company of more than \$3 million.

Mr Foster made representations to the newspaper over the following two months seeking a published correction along the lines of Justice Spender's statement.

While the Press Council believes The Courier-Mail was extremely tardy in its response, it notes that, after Mr Foster belatedly registered a complaint with the Council, the newspaper did publish a clarification in its Letters page on 7 October and agreed to make a note of it on its archived copies of the stories.

In the second instance, Mr Foster complained about The Courier-Mail describing him as "convicted conman" in two items published on 4 and 29 July. Mr Foster said that he has not been convicted in a criminal court of law of obtaining money or property by fraud or deception. But he himself provided details of convictions dating back to 1982, which resulted in four separate periods of imprisonment and a substantial fine.

Following representations by Mr Foster to the newspaper, on 6 October, the newspaper said that, "despite Mr Foster's lengthy list of court appearances", it had asked its staff to cease using the expression "convicted conman" to describe Mr Foster.

Despite the paper's tardiness in the first matter, the Press Council believes that the steps taken by The Courier-Mail adequately meet Mr Foster's concerns.

### Adjudication No. 1225

**The Australian Press Council has upheld in part, by a vote of 8 to 9, a complaint from Shari Sciberras about an article, *Bikie pursuit as police target the "X-men" inside*, published in The**

**Daily Telegraph on 29 April 2003.**

The article was about the police investigating the use of youths (the "X-men" of the headline) by motorcycle gangs for low-level drug distribution, car thefts and break-ins.

One sentence particularly upset Mrs Sciberras:

Female associates - or the bikies' "old ladies" - are also recruited and exploited to work in topless bars or as prostitutes.

Mrs Sciberras, the wife of a Bandido motorcycle club member, complained on behalf of the 'Bandido *Ole Ladies*'. She claimed the report was a made up of 'unsubstantiated lies', and that none of the wives or 'old ladies' has ever worked as a prostitute or been exploited by their husbands. She also sought from the newspaper details of its sources.

The Daily Telegraph disputes the complaint, saying that the information was given to the paper by police officers and corroborated by the Australian Crime Commission. The paper says the article "reports a police allegation that *some* gang members' wives or partners ... are recruited by the gangs to work as prostitutes or in topless bars". It also says it does not specify which gangs were involved, and disputes Ms Sciberras's statement that no women associated with the club engaged in the activities described.

Mrs Sciberras' letter of protest about the article appears to have gone astray. She sent a second copy to the editor about six weeks later. This was not published.

The Council believes the report was in the public interest. But it notes that the 29 April article did not use the word "some" and identified the Bandidos a number of times by name.

As a result, the article could be seen as unfair to Mrs Sciberras and her associates. The newspaper was under some obligation to provide her with redress through publication of balancing material. To the extent that nothing was published, the complaint is upheld.

### Adjudication No. 1226

**The Press Council has dismissed a complaint against The Sydney Morning Herald by Mark Braham, over the use of a Biblical reference in a comment article about changing public attitudes towards capital punishment.**

The article (*Sentence that gives oxygen to the vengeful*) appeared following suggestions by the Prime Minister that state leaders could reopen debate on the issue. Recalling the early history of the death penalty, the writer, referring to a passage from the Bible, wrote:

Eye for an eye, tooth for a tooth. In the world of the Old Testament, killing, or putting out the eyes of, a vanquished foe was common.

Mr Braham complained that in the context of the article, the reference amounted to "an attack on Judaism as a cruel and vengeful religion, the Jews therefore, as bearers of that faith, as a cruel and vengeful people".

In the week following its publication, he wrote twice to the paper, claiming that the use of the death penalty was far more circumscribed in Jewish tradition than the Biblical passage suggests. Neither letter was published.

The Herald dismissed Mr Braham's concerns, arguing that a fair interpretation of the article could not lead any reasonable person to the view that it was using the reference to propagate a view about Judaism or Jews.

The Press Council agrees, noting that in recalling the history of retributive justice, the article spoke generally of "the world of the Old Testament" and did not single out the Jews as "cruel or vengeful". While publication of either of Mr Braham's letters could have contributed constructively to debate around the issue, the Herald has breached no Council principle in this instance.

### Adjudication No. 1227

**The Press Council has upheld a complaint brought by Robyn Soxsmith against the Canberra Times.**

The complaint concerns a bylined article published in The Canberra Times of 15 September 2003. The article in the 'Consumer Voice' column was headlined *House vendor avoids bill - by luck, not judgment*.

The article was written after the complainant had contacted the Consumer Voice columnist and requested that he should alert readers to an 'unscrupulous' practice of the real estate agency that the complainant had engaged to sell a property on behalf of her mother.

The complainant's mother had signed an exclusive agency agreement but no sale was effected within the period specified in the agreement. After the agreement had been terminated, there had been, from the agent, an initial offer of \$162,000 for the property but no sale resulted because of disagreement over a subsequent reduction in the offer. The house was subsequently sold by another agent for \$170,000.

Despite the fact that it did not effect the

sale of the property, the first agent made a claim for commission from the complainant's mother. The agent subsequently withdrew the claim after initial proceedings in the ACT Small Claims Court. The article, after explaining the nature of an exclusive agency agreement, went on to add: 'In this case a person ready, willing and able to buy the property had been found by the original agent. Hence the claim for commission.'

The article contained a number of comments to which the complainant objected. It was stated that 'The case illustrates the importance of vendors' understanding fully the nature of agency agreements and the care required when representing another person's interests.'

Referring to the claim of 'unscrupulous' behaviour, the article stated: 'Inquiries indicate that this was not the case but that Ms Shad had not understood the agency agreement. Her incorrect assumption had been that the agent could claim commission only on the selling the property; but some areas of doubt in this case have not been clarified.'

The complainant who was not named but simply referred to as 'Ms S. of Kambah', complained that, the article made her 'look unprofessional and naive'; that the article 'simply missed the point that was important to me'. She was dissatisfied with 'warnings... made about the responsibilities in representing others.'

The newspaper in responding to the complaint accepted that 'the headline on the story was unfair and not representative of the story's content'. Beyond that the newspaper pointed out that the nature of the Consumer Voice column was very different from a news article and that the author of the column was seeking to offer consumer advice and 'in doing so will come to some conclusions'.

In this case, the columnist, even though he was informed of the chronology of events, wrote the article based on inaccurate information. The conclusions he drew were not warranted by the facts. Even though the complainant was not named in the article, the columnist was obliged to ensure the accuracy of this information. When alerted to the false premises on which the conclusions were based, the newspaper should have provided some balance to the complainant.

### Adjudication No. 1228

**The Press Council has dismissed a complaint against The West Australian over an article that argued the case against granting teachers a 30 per cent pay increase over three years.**

The article, an opinion piece on the editorial page, made the points that teachers work what appear to be shorter hours than the general salaried workforce and considerably shorter than many professionals, they have long annual holidays, and in WA their first eight years of teaching carry automatic increases in pay. In addition, said the article, teachers with children of their own could save \$2000 a year in expenses by not having to pay for child care during the holidays while they were at home to look after their children.

It was this final point that caused Dr PR and Ms RA Millett to complain to the paper and eventually to the Press Council. They say that teachers have to continue to pay for child care during their holidays so as to maintain their children's position in a child-care facility, such is the demand for places.

The paper says that its writer maintains that the continue-to-pay situation varies from case to case, and that she knows from friends and acquaintances that there are examples of variation. It also points out that the complainants agree that teachers with children at full-time school do not have to pay for vacation care.

It seems to the Press Council that there is a variety of rules and, beyond that, a variety of practices in the management of child care. It notes that the paper did publish several letters supporting the teachers, including a long one used as an opinion-page feature from a teacher. In a passing reference, the writer dismissed "any supposed child-care advantage" by comparing it with some disadvantage, but she did not directly question its existence.

The paper did not publish the letter from the Milletts, but it cited the letters it did publish.

The Press Council believes that the paper has met its obligations and allowed balanced opinions on the matter.

### Adjudication No. 1229

**The Press Council has dismissed a complaint by Dr Daniel King on the topic of male circumcision.**

The complaint relates specifically to an article published on 5 November 2003. The complainant was concerned with what he considered to be factual errors contained within the article, relating to the inference that anaesthetic and pain killers are only used on circumcision surgery for boys (and not babies); and the potential for law suits later in life against parents who consent to the operation on best-interest grounds.

The 5 November article quoted the views of a prominent Western Australian obstetrician who, while supportive of the good public health argument for the procedure, did highlight the smaller risks associated with it, such as surgery going wrong and the issue of parental consent.

The 5 November article was a follow-up to an earlier and more prominently placed article on 4 November which quoted the views of a leading Melbourne University professor from a recently held Perth conference on the positives of circumcision. Both articles however also mentioned the views of the Royal Australasian College of Physicians, which is reported as having a policy that there is no medical reason for the procedure.

Other than a possible ambiguity about the use of anaesthetic and pain killers for babies, the Press Council considers readers have been given a balanced view of a controversial medical procedure from the articles of 4 and 5 November and from a number of letters also published.

### Adjudication No. 1230

**The Press Council has upheld a complaint by Audrey Robb against the Fraser Coast Chronicle for a front-page article and an editor's column published on the same day.**

The conflict that gave rise to the article is primarily about barking dogs. The Chronicle has shown a proper interest in this serious issue, which is the main noise complaint received by many councils. Miss Robb has a history of concern with this issue and speaks for the Barking Dog Watch Group.

Miss Robb complains that both the article and the column, which appeared on 8 July 2003, vilify her personally. She also complains that the article is full of "gossip, rumour and hearsay ... untruths and inaccuracies". She

considers the Chronicle has a personal vendetta against her.

In an unattributed quote in the article, Miss Robb is called "the neighbour from hell". The article is headlined 'We've had enough', say neighbours. The article details a meeting of the residents of North Street, Maryborough, a meeting suggested by the Chronicle, to discuss the problems between neighbours. The meeting was held at the property of a neighbour and Miss Robb was not invited to attend.

On the same page, a further article, based on an interview with Miss Robb, headlined *Audrey: they've ganged up into a lynch mob*, offers some further background to her side of the dispute.

Responding to the complaint the editor says that Miss Robb "has been a virulent campaigner on the issue of barking dogs and noise in general." She says that the paper has published regular letters of complaint from her in their Letters pages. The editor also says that her column was based upon the accurate reporting of facts gleaned from neighbours and councils and based upon her knowledge of Miss Robb's past history of "vexatious complaints to the Maryborough City Council".

The Press Council cannot presume to know the fine points of the interchanges between the parties involved in this highly charged issue of noise levels. It is, however, concerned that the article blurred the boundaries between a column and news reportage, and used unattributed quotes, some of which are damaging to Miss Robb.

The Press Council is dissatisfied with the response from the paper, which has not addressed queries about some of the alleged inaccuracies and untruths. While not agreeing that the Chronicle has a personal vendetta against Miss Robb, the Council believes it has trivialised and personalised an issue that is of genuine concern and interest.

### Adjudication No. 1231

**The Press Council has upheld in part a complaint by Yung-Fu Lee against the World News Weekly, a Mandarin-language community newspaper published in Brisbane.**

According to Mr Lee, the complaint arose from an editorial in the Weekly

which was critical of Taiwanese community associations. He prepared a lengthy article in reply, but the Weekly did not publish it, and he negotiated its publication in another Chinese paper.

In response to this, the Weekly published a further article, which Mr Lee regarded as containing a curse upon his safety and well-being. He found parts of the article "extremely harmful, ominous, and disrespectful". He wrote to the Weekly to protest, but again his letter was not published. His complaint to the Press Council reflected his concern with the article, and with the paper's failure to give him an opportunity to put his point of view.

Mr Lee said that as a result of the Weekly's handling of the matter, he felt

"emotionally depressed, vulnerable, and intimidated to voice further discussion of Taiwanese community affairs".

The Weekly dismissed Mr Lee's complaints as "frivolous and vexatious", and refused to offer any form of settlement.

The Press Council is in no position to determine definitively the merits of the dispute that triggered the sequence of articles underlying the complaint but did not find in the translations available to it the threats perceived by the complainant.

Nevertheless, the Weekly's persistent refusal to publish Mr Lee's views was unreasonable, especially given the seriousness of his reaction to the article.

## ABOUT THE PRESS COUNCIL

The Australian Press Council was established in 1976 with the responsibility of preserving the freedom of the press within Australia and ensuring the maintenance of the highest journalistic standards, while at the same time serving as a forum to which anyone may take a complaint concerning the press.

It is funded by the newspaper industry, and its authority rests on the willingness of publishers and editors to respect the Council's views, to adhere voluntarily to ethical standards and to admit mistakes publicly.

The Council consists of 21 members. Apart from the chairman (who must have no association with the press), there are 10 publishers' nominees, ten public members (7 attend each meeting), two journalist members and an editor member. The newspapers' representatives are drawn from the ranks of metropolitan, suburban, regional and country publishers as well as from AAP. The public is represented by people who can have had no previous connection with the press.

The Press Council is able to amend its Constitution with the approval of its Constituent Bodies. Significantly, great importance is placed on members acting as individuals rather than as the representatives of their appointing organisations.

### Complaints Procedure

If you have a complaint against a newspaper or periodical (not about advertising), you should first take it up with the editor or other representative of the publication concerned.

If the complaint is not resolved to your satisfaction, you may refer it to the Australian Press Council. A complaint must be specific, in writing, and accompanied by a cutting, clear photostat or hardcopy print of the matter complained of, with supporting documents or evidence, if any. Complaints must be lodged within 3 months of publication.

The Council will not hear a complaint subject to legal action, or possible legal action, unless the complainant signs a waiver of the right to such action.

Address complaints or inquiries to:

Executive Secretary  
The Australian Press Council  
Suite 10.02, 1117 York Street  
Sydney NSW 2000

Phone: (02) 9261 1930 or (1800) 02 5712

Fax: (02) 9267 6826

E-Mail: [info@presscouncil.org.au](mailto:info@presscouncil.org.au)

A booklet setting out the aims, practices and procedures of the Council is available free from the above address.

It, together with other relevant material, is available from the Council website: <http://www.presscouncil.org.au/>

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**Lay-out by Jack R Herman; Printing: Print Mail © Australian Press Council, 2004**