

Australian Press Council Submission to the Senate Legal and Constitutional Committee in response to its inquiry into the *Privacy Act 1988*

Executive Summary

The Australian Press Council, as the body which administers the Privacy Standards for the Print Media under the media exemption in the *Privacy Act 1988*, comments solely on the effectiveness and impact of the media exemption inserted into the Act by the *Privacy Amendment (Privacy Sector) Bill*. The Council submits that the exemption is working well, that the Council's experience indicates that an appropriate balance between the flow of information of public interest and concern and individuals' rights to privacy in their private affairs has been struck and that, within the print media, the appropriate organisations and activities are covered by the exemption. The Council also appends a brief summary of the privacy matters with which it has dealt in the last three reporting years.

Historical background

From the time, in late 1999, when the then federal Attorney-General foreshadowed change to federal privacy legislation, which limited access to personal data held by the public sector, to extend the protection to information on individuals held by the private sector, the Australian Press Council was involved in the development of the proposals. In its initial submissions, the Council drew the Attorney's attention to the need for a better definition of proposed exemption of the press from the operation of the legislation.

In June 2000, the Council's Chairman, accompanied by Warren Beeby, an industry member of the Council, appeared before the House of Representatives Standing Committee examining the tabled *Privacy Amendment (Privacy Sector) Bill*. They addressed the committee on the definitions in the Bill and on the New Zealand experience with similar privacy legislation. Following up that appearance, the Council's Chairman noted to the committee, "I appreciate the suggestion that the exemption proposed in the Australian Bill is very broad and may possibly embrace bodies that designate themselves as engaging in journalism. However, in balancing freedom of the press against the right of privacy, I reiterate what I said to the Committee: today's small publisher of a community newsletter or Internet website may be tomorrow's global media network. It has always been a proud principle in Australia that anyone can become a publisher in the print media. There have been no licensing or other controls imposed over print, in contrast with the electronic media where scarce resources dictate a different approach. For this reason it is necessary to define media organisation broadly in the Privacy legislation. The Press Council therefore supports the inclusion of the present definitions in the Bill."

The Standing Committee made three recommendations regarding the media exemption section of the Bill.

Recommendation 8

The Committee recommends that the operation of this exemption be monitored and specifically reassessed in the next review of this legislation.

Recommendation 9

The Committee therefore recommends that, in order for a journalist or media organisation to obtain the benefit of the media exemption under this legislation, he, she or it must subscribe to a code developed by a media organisation or representative body or, in the absence of such a code, a model code prepared by the Privacy Commissioner.

Recommendation 10

The Committee further recommends that the Privacy Commissioner conduct an education campaign to inform the public about the special provisions applying to the media.

Following that report, the Attorney-General's Department suggested that the definition of "journalism" was circular and should be deleted. The Council had no concerns with that, provided the definition of "media organisation" remained.

In introducing the revised Bill, the Attorney said in Parliament:

The media in Australia have a unique and important role in keeping the Australian public informed. In developing the Bill the government has sought to achieve a balance between the public interest in allowing the free flow of information to the public through the media and the individual's right to privacy. In order to achieve this balance the Bill does not apply to acts and practices of media organisations in the course of journalism.

A range of other provisions in the Bill also recognise the important role of the media in facilitating the free flow of information to the public.

In the light of the likely passage of the Bill through Parliament, the Press Council decided also to develop a model code for the print media, based on current press practice and established industry codes, in line with the House Committee's recommendation 9.

In mid-2000 the Bill, in its amended form, was passed by the House of Representatives and sent to the Senate, which also referred it to a Standing Committee for report. The Council reiterated its earlier submissions, calling for a broad exemption for the press to be included in the Bill.

Professor Pearce appeared before the Senate Committee in September. The Senate Committee reported in October and the Bill was subsequently passed into law in a form similar to that approved by the House of Representatives, including an exemption for media organisations in their journalistic role. ("Media organisation" is defined in the Act but "journalism" is not.)

The Privacy Standards for the Print Media

The exemption exists for media organisations that subscribe to a code of practice on privacy. The Press Council continued to develop such a code, in conjunction with its Constituent Members, and invited media organisations publicly to subscribe to it. The draft code was discussed by the Council's Freedom of the Press Committee at several meetings and the Council's Executive Secretary met with officers of the Privacy Commission to seek its views on the draft code.

The Council's Privacy Standards for the Print Media were agreed to in 2001 and are published on the Council's website and in its information booklet. A copy is attached to this submission.

In particular, the Council took note of the possibility that complaints under the Standards may lead to a further invasion of the privacy of those involved if third party complaints were allowed. It therefore determined that, in the case of complaints under the Privacy Standards, only those directly involved could lodge a complaint.

All of the Council Constituent Members subscribed to the standards except for Australian Consolidated Press and Australian Provincial Newspapers and Media. These two media organisations, which own electronic as well as print media, decided to develop their own standards in order to seek exemption. This is because the Press Council's Privacy Standards are specifically addressed to the print media. In February 2005, APN News and Media Ltd formally subscribed its newspaper publications to the Council's Privacy Standards. That means that all major newspaper publishers now subscribe to the Standards.

In addition to the Constituent Members, a large number of country newspapers, affiliated only indirectly through Country Press Australia, all major suburban newspapers and a number of magazine publishers not affiliated with the Council as Constituent Members also publicly subscribed to the Standards. The complete list of subscribing organisations, and the titles represented, is published on the Council's website [http://www.presscouncil.org.au/pcsite/priv_org.html] and is attached to this submission.

Who can subscribe?

Following inquiries from a number of other organisations about the possibility of subscribing to the Standards, the Council considered the position of, *inter alia*, schools, churches, hospitals, and telecommunication companies which claimed to engage in 'journalism'. It determined that the Privacy Standards for the Print Media can only be subscribed to by 'media organisations' as the Act allows exemption only for such organisations, and not others who might, incidentally, publish periodicals. The attached list indicates that the Council has been at pains to ensure that only organisations which are principally publishers of print media can subscribe to the Standards.

Continuing consultations

Each year the Council's Chairman and Executive Secretary conduct regular forums with editors and senior executives of metropolitan, regional and country newspapers, and magazine publishers. These forums are both an exchange of information and a chance for the Council to benchmark its performance in the administration of its complaints process. At these forums, privacy and the print media Privacy Standards have been a major issue for discussion. This ensures that the Council is aware of any concerns with the Standards which may arise from time to time in the industry, and that editors are aware of the Council's requirements in the observation of those Standards.

The Council also conducts each year a series of Case Studies seminars at which journalists, journalism students and members of the public simulate the Council's adjudication process. Complaints about invasion of privacy have perennially been included among those used at these sessions. As the sessions are conducted by members of the Council who report back to it, the Council is continually benchmarking its interpretation of the Privacy Standards against contemporary community standards.

Definition of 'journalism'

In its role as administrator of the print media Privacy Standards, the Council has been in contact with the Office of the Privacy Commissioner on possible interpretations of 'journalism' in the *Privacy Act*. A complaint received by the commissioner, arising from material in a published letter to the editor, caused the commissioner's office to raise the question of whether the material fell under the 'journalism' exemption. Coincidentally, the same complainants had already raised the issue with the Press Council under the Privacy Standards and the Council was able to mediate a satisfactory settlement of their concerns. After discussing the matter, the Council responded to the commissioner's office:

The Council's Policy Development Committee considered your request for a definition of 'journalism' applicable to the federal *Privacy Act* and its media exemption.

The committee formed the same view that the federal Attorney-General's department formed, i.e. that any definition it might provide would be circular within the exemption which already refers to activities of media organisations.

The committee took the view that all activities of news gathering, including news reporting and commentary on news reports, should be considered 'journalism' within the definition and that its Privacy Standards for the Print Media and its Statement of Principles detailed all those areas wherein the Council's remit operates: all areas of editorial discretion, excluding largely advertising and the commercial operations of the news organisations.

Administration of the Standards

The Council's experience with administering the Standards has been positive. By and large, the print media respect such provisions, as demonstrated by the low number of complaints received each year by the Council on such matters, fewer than 5% of complaints to it are about invasion of privacy. Similarly, the most recently available statistics from the NSW Privacy Commissioner indicate that only 1.6% of complaints received by that office arise from intrusions by the media. Polls and complaints overwhelmingly indicate that the public main concern with respect to privacy invasions is through the proliferation and cross-matching of databases.

The Council Secretariat, which generally administers the complaints procedure, is composed of individuals from a variety of backgrounds but none has a background in journalism. The Executive Secretary and the Office Manager, the staff members primarily responsible for the processing of complaints, are trained mediators and frequently use alternate dispute resolution techniques to arrive at an amicable settlement of complaints. When complaints are referred to the Council for adjudication, the Council includes representatives of the publishers, independent journalists and members of the public. The Council's Public Members, drawn from every state and a variety of backgrounds, provide the Council with a link to the contemporary view of issues in the community.

In the year 2001-2002, there were 23 complaints on privacy matters dealt with by the Council. 5 were refused, 4 were settled by mediation or otherwise settled to the complainant's satisfaction; and 4 were adjudicated (No. 1144 upheld a complaint against a general interest magazine; No. 1160 was dismissed; No. 1162 dealt with complaints against two newspapers, one of which was upheld and one dismissed).

During the reporting year 2002-2003, there were 22 complaints which cited the Privacy Standards. Two were the subject of adjudication (No. 1189 and No. 1192, both complaints were dismissed); in four cases the complainant preferred to take legal action; and the vast majority were settled by mediation or otherwise settled to the complainant's satisfaction.

During the 2003-2004 reporting year, there were 24 new complaints which cited the Privacy Standards. One was the subject of adjudication (No. 1219 - which was upheld in part but not on the question of privacy invasion); in two cases the complainant preferred to take legal action; three were carried forward and the majority (14) were settled by mediation or otherwise settled to the complainant's satisfaction. Two matters carried forward from the previous year were also successfully mediated.

I attach the cited adjudications for your information.

Conclusion

The Council's experience with administering the Standards indicates to it that the media exemption in the *Privacy Act* 1988 is working effectively and that no changes are needed to the media exemption as it currently stands.

23 February 2005

The Australian Press Council

The Australian Press Council is a voluntary association of organisations and persons established on 22 July 1976. The membership of the Council is set out in the attachment.

The objects of the Australian Press Council are to promote freedom of speech through responsible and independent print media, and adherence to high journalistic and editorial standards, by:

1. Considering and dealing with complaints and concerns about material in newspapers, magazines and journals, published either in print or on the Internet;
2. Encouraging and supporting initiatives by the print media to address the causes for readers' complaints and concerns;
3. Keeping under review, and where appropriate, challenging political, legislative, commercial or other developments which may adversely affect the dissemination of information of public interest, and may consequently threaten the public's right to know;
4. Making representations to governments, public inquiries and other forums as appropriate on matters concerning freedom of speech and access to information;
5. Undertaking research and consultation on developments in public policy affecting freedom of speech, and promoting public awareness of such issues.

Australian Press Council Privacy Standards

November 2001

Background

Underlying Principles

Principle 3 of the Press Council's Statement of Principles states, with respect to privacy:

Readers of publications are entitled to have news and comment presented to them honestly and fairly, and with respect for the privacy and sensibilities of individuals. However, the right to privacy should not prevent publication of matters of public record or obvious or significant public interest.

The need to balance respect for privacy with standards that recognise freedom of speech and of the press is recognised by the *Privacy Act* 1988. The *Privacy Act* provides an exemption for acts done or practices engaged in by a media organisation in the course of journalism, if the media organisation is publicly committed to observing standards that deal with privacy in the context of the activities of a media organisation, and those standards have been published in writing either by the organisation or a body representing a class of media organisations.

These Standards deal with privacy in the context of the activities of media organisations. They elaborate on the Press Council's Statement of Principles, and are published by the Press Council for the purposes of the *Privacy Act* exemption.

Application of these Standards

These Standards apply to '*personal information*', which is information or an opinion (including forming part of a database) whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent or can reasonably be ascertained from the information.

These Standards also recognise, as does the *Privacy Act*, that the media have a duty to inform the public on matters of significant public interest. For the purposes of these Standards, '*public interest*' is defined as involving a matter capable of affecting the people at large so they might be legitimately interested in, or concerned about, what is going on, or what may happen to them or to others.

The media organisations, and the relevant publications, which are committed to these Standards are listed in the Schedule.

1. Collection of personal information

In gathering news, journalists should seek personal information only in the public interest.

In doing so, journalists should not unduly intrude on the privacy of individuals and should show respect for the dignity and sensitivity of people encountered in the course of gathering news.

In accordance with Principle 4 of the Council's Statement of Principles, news obtained by unfair or dishonest means should not be published unless there is an overriding public interest. Generally, journalists should identify themselves as such. However, journalists and photographers may at times need to operate surreptitiously to expose crime, significantly anti-social conduct, public deception or some other matter in the public interest.

Public figures necessarily sacrifice their right to privacy, where public scrutiny is in the public interest. However, public figures do not forfeit their right to privacy altogether. Intrusion into their right to privacy must be related to their public duties or activities.

2. Use and disclosure of personal information

Personal information gathered by journalists and photographers should only be used for the purpose for which it was intended.

A person who supplies personal information should have a reasonable expectation that it will be used for the purpose for which it was collected.

Some personal information, such as addresses or other identifying details, may enable others to intrude on the privacy and safety of individuals who are the subject of news coverage, and their families. To the extent lawful and practicable, a media organisation should only disclose sufficient personal information to identify the persons being reported in the news, so that these risks can be reasonably avoided.

3. Quality of personal information

A media organisation should take reasonable steps to ensure that the personal information it collects is accurate, complete and up-to-date.

4. Security of personal information

A media organisation should take reasonable steps to ensure that the personal information it holds is protected from misuse, loss, or unauthorised access.

5. Anonymity of sources

All persons who provide information to media organisations are entitled to seek anonymity. The identity of confidential sources should not be revealed, and where it is lawful and practicable, a media organisation should ensure that any personal information which it maintains derived from such sources does not identify the source.

6. Correction, fairness and balance

In accordance with Principle 8 of the Council's Statement of Principles, where individuals are singled out for criticism, the publication should ensure fairness and balance in the original article. Failing that, the media organisation should provide a reasonable and swift opportunity for a balancing response in the appropriate section of the publication.

A media organisation should make amends for publishing any personal information that is found to be harmfully inaccurate, in accordance with Principle 2 of the Council's Statement of Principles. The media organisation should also take steps to correct any of its records containing that personal information, so as to avoid a harmful inaccuracy being repeated.

7. Sensitive personal information

In accordance with Principle 7 of the Council's Statement of Principles, media organisations should not place any gratuitous emphasis on the categories of sensitive personal information listed in Principle 7, except where it is relevant and in the public interest to report and express opinions in these areas.

Members of the public caught up in newsworthy events should not be exploited. A victim or bereaved person has the right to refuse or terminate an interview or photographic session at any time.

Unless otherwise restricted by law or court order, open court hearings are matters of public record and can be reported by the press. Such reports need to be fair and balanced. They should not identify relatives or friends of people accused or convicted of crime unless the reference to them is necessary for the full, fair and accurate reporting of the crime or subsequent legal proceedings.

8. Complaints

The Council will receive and deal with complaints from person or persons affected about possible breaches of these Standards in the same way as it receives and deals with complaints about possible breaches of its Statement of Principles. Where the Council issues an adjudication in relation to these Standards, the publication concerned must prominently print the adjudication.

These procedures apply to those media organisations listed in the Schedule.

Privacy Standards

Media organisations committed to the Privacy Standards

The following media organisations have publicly committed to observe the Australian Press Council Privacy Standards. Where there is more than one publication involved, the mastheads represented are generally listed.

Advertiser Newspapers, Adelaide

The Advertiser
Sunday Mail

The Advocate, Burnie

(including *the Western Tiers*)

Australian Associated Press

Australian Geographic Pty Ltd

(including *Our Favourite Places* magazine)

APN News and Media Ltd – daily and non-daily newspapers

The Daily Mercury, Mackay
Whitsunday Times, Airlie Beach
Mackay Midweek
Miners Midweek
Sarina Midweek
The Central Queensland News, Emerald
The Blackwater Herald, Blackwater
The Morning Bulletin, Rockhampton
Capricorn Coast Mirror
Capricorn Local News
The Central Telegraph, Biloela
The Observer, Gladstone
Port Curtis Post
The News-Mail, Bundaberg
Guardian Bundaberg
The Fraser Coast Chronicle, Maryborough
Hervey Bay Observer
The Maryborough Herald
Let's Go Fishing
Western Times, Charleville
The Gympie Times
Cooloola Advertiser, Gympie
South Burnett Times, Kingaroy
Central and North Burnett Times
Western Times
Balonne Beacon, St George
Sunshine Coast Daily
Sunshine Coast Sunday
Nambour Weekly
Buderim Weekly
Caloundra Weekly
The Weekly
Noosa News
Caboolture News
Bribie Weekly
The Queensland Times, Ipswich
The Ipswich Advertiser
Satellite, Ipswich
Big Rigs, Ipswich

The Chronicle, Toowoomba
 Toowoomba's Mail
 Rural Weekly
 Cotton Insight
 Dalby Herald
 Northern Down News, Dalby
 Gatton Star
 The Western Star, Roma
 The Stanthorpe Border Post
 Chinchilla News
 Western Times
 Daily News, Warwick
 Bush Telegraph, Warwick
 The Weekly Trader, Warwick
 Daily News, Tweed Heads
 Gold Coast Mail, Tweed Heads
 Border Mail/Tweed Mail
 Northern Star, Lismore
 Byron Shire News
 North Coast Advocate, Ballina
 Rivertown Times, Ballina
 Northern Farmer Bulletin, Lismore
 Richmond River Express Examiner, Casino
 The Daily Examiner, Grafton
 Coastal Views, Yamba
 The Advocate, Coffs Harbour

Bendigo Advertiser

(and associated newspapers)

Border Morning Mail, Albury

(and associated newspapers)

Cairns Post

The Cairns Post
 Cairns Sun
 Port Douglas and Mossman Gazette
 Tablelands Advertiser

Carpentaria Newspapers

The North West Star
 Business Direct
 Inland Queensland Tourist Guide
 North West Country
 North West Industry

Community Newspapers Group, Perth

Canning Community
 Comment News
 Eastern Suburbs Reporter
 Fremantle Gazette
 Guardian Express
 Hills Gazette
 Joondalup-Wanneroo Community
 Melville Times Community
 Midland-Kalamunda Reporter
 News Chronicle
 Southern Gazette
 Stirling Times
 Wanneroo Times Community
 Weekend Courier

Country Press Australia - independent newspaper members

NSW

Area News
 Australian Senior
 Bingara Advocate
 Border News
 Coly Point Observer
 Cotton Magazine
 Daily Advertiser
 Deniliquin Pastoral Times
 Irrigator
 Kiama Independent
 Kiama Property Link
 Lake Times
 Namoi Valley Independent
 North West Magazine
 Riverina Leader
 Riverine Grazier
 Southern Riverina Times
 Temora Independent
 Victorian Senior
 Wee Waa News
 West Wyalong Advocate

Victoria

Alpine Observer
 Bairnsdale Advertiser
 Ballan News
 Baw Baw Shire & W. Gippsland Trader
 Benalla Ensign
 Bendigo Weekly
 Buloke Times
 Campaspe News
 Casterton News
 Chronicle
 Cohuna Farmers' Weekly
 Corryong Courier
 Courier, Cobram
 Dimboola Banner
 Eaglehawk Times
 East Gippsland News
 Free Press
 Hepburn Shire Advocate
 Hindmarsh Messenger
 Hopetoun Courier and Mallee Pioneer
 Huon Valley News
 Kyabram Free Press
 Lakes Post
 Mansfield Courier
 Mirror
 Myrtleford Times
 Mountain Views Mail
 North West Express
 Numurkah Leader
 Ovens and Murray Advertiser
 Phillip Island & San Remo Advertiser
 Portland Observer and Guardian
 Rainbow Argus
 Ranges Trader Mail
 Riverine Herald
 Sea Lake and Wycheproof Times Ensign
 Seymour Telegraph

Seymour-Nagambie Advertiser
 Shepparton Advertiser
 Shepparton News
 Snowy River Mail
 South Gippsland Sentinel-Times
 Spectator
 Warracknabeal Herald
 Warragul & Drouin Gazette
 Weekly Advertiser
 West Wimmera Advocate
 West Wimmera Messenger
 Yarram Standard News

Queensland

Beaudesert Times
 Brisbane Valley-Kilcoy Sun
 Fassifern Guardian
 Jimboomba Times
 Moreton Border News

South Australia

Eyre Peninsula Tribune
 Loxton News
 Murray Pioneer
 River News

Western Australia

Geraldton Guardian
 Gnowangerup Star
 Kimberley Echo

Davies Brothers

The Mercury, Hobart
 The Saturday Mercury
 The Sunday Tasmanian
 Tasmanian Country
 Treasure Island
 The Gazette

Elliott Newspaper Group, Mildura

The Sunraysia Daily
 Castlemaine Mail
 Cohuna Farmers Weekly
 Gippsland Farmer
 Gippsland Has It All
 Gippsland Times & Maffra Spectator
 The Guardian, Swann Hill
 Latrobe Valley Express
 Loddon Times
 Macedon Ranges Guardian
 Midland Express
 Midland Tourist News
 Mildura Midweek
 Murray Region Tourist News
 Northern Times, Nerang
 Traralgon Journal

Emap Australia

ADB Roost
 Australian Bodyboarder
 Australian Dirtbike
 Australian Mountain Bike
 Australian Snowboarding
 Barbie
 Empire
 FHM
 Freesail
 Kerrang
 Mother & Baby
 New Woman
 Outdoor Australia
 Pregnancy & Birth
 Skateboarding
 Skiing
 Slimming
 Smash Hits
 Tracks
 2020bmx
 Waves
 Waves Surfgirl

Geelong Advertiser Pty Ltd

Geelong Advertiser
 The Echo
 Peninsula Bride
 Bride West
 Geelong Info Pages
 Geelong News
 Geelong & The Great Ocean Road
 Geelong Today (GT Magazine)
 Geelong Advertiser Bride Magazine
 Geelong Advertiser Baby & Toddler Magazine
 This Month in Geelong

Herald and Weekly Times

The Herald Sun
 Sunday Herald Sun
 The Weekly Times

Independent News Pty Ltd

Frankston Independent
 Hastings Independent
 Cranbourne Independent
 Chelsea Independent
 Mornington Mail
 Southern Peninsula Mail
 Dandenong Examiner
 Western Port Trader
 Mornington Peninsula Holiday Magazine

John Fairfax Holdings**National**

The Australian Financial Review
 The Financial Review - Weekend Edition

Metropolitan NSW

The Sydney Morning Herald
 The Sun-Herald

Regional Daily NSW

The Newcastle Herald
Illawarra Mercury

Suburban and Country NSW

Blacktown City Sun
Fairfield City Champion
Liverpool City Champion
Macarthur Advertiser
Parramatta Sun
Penrith Star
St. George & Sutherland Shire Leader
Wollongong Advertiser
Auburn Review Pictorial
Bankstown/Canterbury Torch
Cooks River Valley Times
Port Stephens Examiner
Hills News
The Camden & Wollondilly Advertiser
Northern Beaches Weekender
St Marys Star
The Post
The Sun Weekly

Metropolitan Victoria

The Age
The Sunday Age

Regional Daily Victoria

The Warrnambool Standard

Suburban and Country Victoria

The Journal
The Mail (Footscray)
Altona/Laverton Mail
Werribee Banner
Williamstown Advertiser
The Advocate
Melton Express Telegraph
Bacchus Marsh Express Telegraph
Macedon Ranges Telegraph
Sunbury Telegraph
Community News - Mooney Valley
Community News - Moreland
Knox Journal
Maroondah Journal
Monash Journal
Yarra Ranges Journal

BRW Group magazines

Business Review Weekly
Personal Investor
Shares

Metropolitan magazines

Good Weekend
TV Now
Homes Pictorial
Sunday Life
Emag

National magazines

The Great Southern Tourist New

Specialist magazines

MIS Australia
 CFO Australia
 Business Online
 Business Online Asia
 MIS Asia
 MIS South Asia
 MIS New Zealand
 MIS UK

MATP Newspapers

The Australian
 Daily Telegraph
 Sunday Telegraph
 Sportsman

Murdoch Magazines

Better Homes and Gardens
 marie claire
 Men's Health

News Limited Community Newspapers

Quest Newspapers,
 Albert & Logan News
 Caboolture Shire Herald
 City and Shire Leader
 City News
 Northern News
 Northern Times
 Northside Chronicle
 North-West News
 Redcliffe & Bayside Herald
 Pine Rivers Press
 South-East Advertiser
 Southern News
 Southern Star
 South-West News
 Westside News
 Wynnum Herald
 Real Estate News
 South-East Queensland Tourism

Cumberland Newspapers,

Blacktown Advocate
 Central Coast Express
 Chronicle
 The Express Weekly
 Fairfield Advance
 Glebe & Inner Western Weekly
 The Hills Shire Times
 Hornsby District Advocate
 Lake Macquarie News
 Liverpool Leader
 Manly Daily
 The Mosman Daily
 Mt Druitt/St Marys Standard
 North Shore Times
 Northern District Times

Parramatta Advertiser
Penrith Press

Leader Newspapers,
Bayside Leader
Berwick Leader
Brimbank Leader
Brunswick Moreland Leader
Caulfield Port Phillip Leader
Coburg Moreland Leader
Cranbourne Leader
Diamond Valley Leader
Frankston Standard Leader
Heidelberg Leader
Hume Moreland Leader
Knox Leader
Lilydale & Yarra Valley Leader
Manningham Leader
Maroondah Leader
Melbourne Yarra Leader
Moonee Valley Leader
Moorabool Melton Leader
Moorabbin Glen Eira Leader
Mordialloc Chelsea Leader
Mornington Peninsula Leader
Northcote Leader
Oakleigh Monash Springvale Dand. Leader
Preston Leader
Progress Leader
Ranges Leader
Stonnington Leader
Sunbury/Macedon Leader
Waverley Leader
Whitehorse Leader
Whittlesea Leader
U Magazine

Messenger Newspapers
City Messenger
East Torrens Messenger
Eastern Courier Messenger
Guardian Messenger
Hills & Valley Messenger
Leader Messenger
News Review Messenger
Portside Messenger
Southern Times Messenger
Standard Messenger
Weekly Times Messenger
Adelaide Real Estate Guide
Adelaide Matters

Next Media

Australian Guitar
Bananas in Pyjamas
Bear in the Big Blue House
Blunt
DVD Now
Hyper
Internet.au
Mania
Nintendo Gamer

PC Active
 PC Powerplay
 Rolling Stone
 Soap World
 Wiggles Magazine

North Queensland Newspaper group

Townsville Bulletin
 Ayr Advocate
 Bowen Independent
 Herbert River Express
 Home Hill Observer
 Innisfail Advocate
 The Northern Miner
 The Tablelander
 The Townsville Sun

The Northern Territory News

(and associated newspapers)

Pacific Publications

Magazines

Aussie Post
 B
 Elle
 Girlfriend
 Home Beautiful
 Inside Soap
 K Zone
 New Idea
 That's Life
 TV Hits
 TV Week
 Your Garden

Client Publishing

Aussie Living
 Beyond 50
 Big League
 Bionic Ear Annual Report
 Centrelink Employment Update
 Centrelink Nexus
 Davids Colouring Book
 Davids Dollars and Cents
 Exxon Mobil
 Golf Leisure & Lifestyle
 Flybuys Escape
 Ford Talkback
 Foxtel Adult Channel
 Foxtel Commercial Channel Guide
 Foxtel Commercial Sampler
 Foxtel Sampler
 MLC Keynote
 Price Waterhouse Coopers Audit Committee Matters
 Price Waterhouse Coopers Briefings
 Price Waterhouse Coopers Snapshots
 Priceline Club Magazine
 Prince of Wales Medical Research Institute Annual Report
 Prince of Wales Medical Research Institute Newsletter
 Taralye Annual Reprt
 The Volvo Magazine

Vyeur Magazine
 Weight Watchers Cookbooks
 Weight Watchers magazine
 What's Hot on Video
 Your Business

Queensland Press

The Courier-Mail
 The Sunday Mail
 Gold Coast Bulletin
 Gold Coast Sun
 Hinterland Sun
 Brisbane News

Reader's Digest

(including *Family Handyman* magazine)

Rural Press Limited

Agricultural Publications

Queensland

Australian Cotton Outlook
 Australian Sugar Yearbook
 Hoofs and Horns
 North Queensland Register
 Queensland Country Life
 Queensland Farmer
 Queensland Farmer and Grazier

NSW

The Land
 NSW Agriculture Today
 Farm Equipment Trader
 Friday Magazine
 Alternative Farming
 Capital News
 Festival Issue
 Regional Extra

Western Australia

Farm Weekly

Victoria

Australian Dairyfarmer
 Australian Farm Journal
 Australian Flowers
 Australian Horticulture
 Australian Landcare
 Flower Register
 Gippsland Farmer
 Good Fruit and Vegetables
 Hortguide
 Nursery Marketer
 Saltbush
 Stock and Land
 Turfcraft International

South Australia

Australian Vignerons
 Farmer and Stockowner
 Grape Growers
 Lifestyle Farmer

Pig Industry News
 Stock Journal
 The Grower

Regional Publications

NSW

The Armidale Express
 Armidale Express Extra
 Bay Post, Batemans Bay
 Bega District News
 Bellingen Courier Sun
 Bombala Times
 Boorowa News
 Camden Haven Courier
 Canowindra News
 Central Western Daily, Dubbo
 Cessnock Advertiser
 Champion Post, Parkes
 Cobar Age
 Cooma-Monaro Express, Cooma
 Cootamundra Herald
 Country Leader, Tamworth
 Country Music Capital News
 Cowra Guardian
 Crookwell Gazette
 Daily Liberal, Dubbo
 Dungog Chronicle
 Eastern Riverina Observer, Henty
 Eden Magnet
 Eurobodalla Shire Independent
 Forbes Advocate
 Gilgandra News
 Glen Innes Examiner
 The Gloucester Advocate
 Goulburn Post
 Great Lakes Advocate, Forster
 Great Lakes Happenings, Forster
 Grenfell Record
 Guyra Argus
 Harden-Murrumburrah Express, Harden
 Hastings Gazette, Wauchope
 Hastings Happenings
 Hawkesbury Courier, Richmond
 Hawkesbury Gazette, Richmond
 Hibiscus Happenings
 Highlands Post, Bowral
 Holbrook, Billabong & Upper Murray Chronicle,
 Hunter Valley News, Muswellbrook
 The Inverell Times
 Lightning Ridge Flash
 Lithgow Mercury
 Lower Hunter Star, Maitland
 Lyndhurst Shire Chronicle, Blayney
 Macleay Argus, Kempsey
 Macleay Valley Happenings, Kempsey
 Mailbox Shopper, Dubbo
 The Maitland Mercury
 Manning-Great Lakes Extra, Taree
 The Manning River Times, Taree
 Mid-Coast Observer, Kempsey
 Mid State Observer, Orange
 Milton-Ulladulla Times, Ulladulla

Mountain Gazette
 Mudgee Guardian & Gulgong Advertiser
 Muswellbrook Chronicle
 Nambucca Guardian News, Macksville
 Narooma News
 Narromine News & Trangie Advocate
 The Newcastle Star
 Newcastle Times
 News Weekly, Merimbula
 Nornews Rural
 Northern Daily Leader, Tamworth
 Nota, Myall Lakes
 Nyngan Observer
 Port Macquarie Express
 Port Macquarie News
 Post Weekly, Goulburn
 Property Press, Bowral
 Queanbeyan Age
 The Ridge News, Lightning Ridge
 Sapphire Coaster
 Sapphire Sun
 Scone Advocate
 Shoalhaven and Nowra News, Nowra
 Singleton Argus
 Snowy Times
 South Coast Register, Nowra
 Southern Highland News, Bowral
 Southern Weekly, Wagga Wagga
 Summit Sun, Jindabyne
 Sussex Inlet bay and Basin Times
 The Tamworth City Times
 Tallaganda Times, Braidwood
 Tamworth Times
 The Tenterfield Star
 Town and Country, Goulburn/Bega
 Town and Country, Hunter Valley
 Town and Country, North Coast
 Travel Times, Goulburn
 Walcha News
 Warren Advocate
 Wellington Times
 Western Advocate, Bathurst
 Western Magazine, Dubbo
 Western Times, Bathurst
 Wingham Chronicle
 Yass Tribune
 Young Witness

ACT

The Canberra Times
 Canberra Chronicle
 Muse Arts Monthly
 The Valley View, Tuggeranong
 Sunday Times

South Australia

Barossa and Light Herald, Tanunda
 Eyre Peninsula Tribune, Cleve
 Flinders News, Port Pirie
 The Islander, Kingscote
 The Murray Valley Standard
 The Northern Argus, Clare

Northern Sun, Roxby Downs
 On the Coast, Victor Harbor
 Port Lincoln Times
 The Recorder, Port Pirie
 The Transcontinental
 Victor Harbor Times
 West Coast Sentinel, Ceduna
 Whyalla News/Leisuretime

Tasmania

Deloraine Community News
 The Examiner, Launceston
 Launceston Advertiser
 Northern Midlands Community News
 Sun Coast News, St Helens
 Sunday Examiner, Launceston
 Tamar Times, George Town
 Tasmanian Parent
 Tasmanian Senior
 Tasmanian Farmer
 Northern Tasmania Tourist Guide
 Travelways

Victoria

Ararat Advertiser
 Ballarat Courier
 Ballarat News
 Gippsland Times & Maffra Spectator
 Latrobe Valley Express, Morwell
 Moe & Narracan News, Moe
 Stawell Times-News
 Traralgon Journal

Western Australia

Augusta-Margaret River Mail
 Avon Valley Advocate, Northam
 Bunbury Mail
 Busselton-Dunsborough Mail
 Collie Mail
 Destination Esperance
 Donnybrook-Ballingup Mail
 Esperance Express
 Golden Mail
 Mandurah Mail
 Merredin-Wheatbelt Mercury
 Wagin Argus
 Moora Advocate
 X-Press Magazine, Perth

Queensland

The Redland Times, Cleveland
 Bayside Bulletin, Cleveland

Terraplanet

Australian Style
 Big Hit
 Bob the Builder
 HQ
 Juice
 Monument
 24 Hours

South East Newspapers

Pakenham-Berwick Gazette
 Berwick News
 Cranbourne News
 South Eastern Real Estate News
 North West Property News
 Northern Property News
 Pakenham News
 St Albans, Deer Park, Caroline Springs Star
 Sunshine, Ardeer, Braybrook Star
 Keilor, Taylors Lakes, Sydenham Star

West Australian Newspapers Ltd

West Australian Newspapers Ltd
 The West Australian
 Countryman
 TABFORM

Albany Advertiser Pty Ltd

Albany Advertiser
 Albany Advertiser Extra
 Broome Advertiser
 Great Southern Herald
 North West Telegraph
 Northern Guardian
 The York Chronicle

Hocking & Co Pty Ltd

Goldfields-Esperance Magazine
 Kalgoorlie Miner

South West Printing & Publishing Company Limited

Bunbury Herald
 Busselton Margaret Times
 Coastal Times
 Harvey-Leschenault Reporter
 Mandurah Telegraph
 Manjimup Bridgetown Times
 Narrogin Observer
 Sound Telegraph
 South Western Times

ADJUDICATION No. 1144 (November 2001)

The Australian Press Council has received a complaint from Shari-lea Hitchcock over an item included in an article entitled *Australia's 40 Most Eligible Husbands* published in the September issue of *She* magazine.

The item to which Ms Hitchcock objected ran under the sub-heading 'Non-Eligible Husbands (or Most Tolerant Wife Award)' and, in focusing on the private life of Melbourne businessman Richard Pratt, said "wife Jeanne has had to share him with his long-term mistress Shari-lea Hitchcock who's also mothered his illegitimate child - and the whole world knows it".

While *She* magazine described the article as "a tongue-in-cheek play on the eligible bachelor concept", Ms Hitchcock claimed the item referring to Mr Pratt, herself and their child invaded the privacy of their four-year-old daughter, was not of significant public interest, was in bad taste and placed unfair gratuitous emphasis on her marital status.

Further, Ms Hitchcock objected to the word 'illegitimate', saying that its use today is insensitive pointed out that other children born out of wedlock and mentioned in the article were not described in the same way.

The Press Council recognises that the relationship between Mr Pratt and Ms Hitchcock had received wide publicity and aroused strong public interest during the early months of 2000. Therefore Council does not believe that her complaint about the magazine's unfair, gratuitous emphasis on her marital status can be sustained.

However, the Council agrees that the magazine was careless in its treatment of the sensibilities of the child and has upheld this aspect of the complaint.

ADJUDICATION No. 1160 (March 2002)

The Australian Press Council has dismissed a complaint against a report in *The West Australian's* 1 December 2001 edition detailing day trips in Perth by a confessed killer detained indefinitely in a psychiatric hospital. In doing so, the Council notes that newspapers have to make editorial decisions in which the public's right to know outweighs an individual's right to privacy. This is one such case given the killer's notoriety.

The killer, Kevin Elliott Kenny, had been found not guilty of wilful murder on the grounds of insanity after confessing to brutally killing two people in 1994.

The Council of Official Visitors, acting on behalf of Kenny, argued that the newspaper had breached the Press Council's principle respecting the privacy and sensibilities of individuals by naming the killer in the report and describing details of his treatment in a Perth psychiatric hospital and of the crime seven years earlier.

The same principle also states that "the right to privacy should not prevent publication of matters of public record or obvious or significant public interest".

The newspaper argued that in this case, "Any consideration of privacy was overwhelmed by the demands of public interest".

It pointed out that the details of the case and the conditions under which the killer was to be confined to the psychiatric hospital were public knowledge and argued that the public had a right to know that a man ordered by the court to be detained for public safety had been allowed into the community "accompanied only by hospital staff, not trained guards".

The Press Council agrees, and also dismisses the complainant's contention that the article breached confidentiality and placed gratuitous emphasis on the killer's disability in the sub-headline "insane man unguarded".

There is no evidence of any confidentiality breach and far from being gratuitous, the reference to the man's mental state was based on the court's decision not to convict him of wilful murder because of insanity and was at the core of the Council seeing the article as dealing with an issue of significant public interest.

ADJUDICATION No. 1162 (March 2002)

The Australian Press Council has upheld aspects of a complaint about coverage in The Northern Territory News of the trial of Lionel Anthony Godwin, who was convicted in January of fraud and forgery.

Godwin had persuaded two Darwin men to form a property development partnership with him, and then borrowed over \$730,000 in their names which he misappropriated for his own use.

The NT News gave the case front page coverage and ran an article in February in which Godwin's mother, Lesley Godwin, expressed her views about the conduct of the trial and the sentence. This article and a photo of Mrs Godwin were also published in the News's Alice Springs-based sister paper, The Centralian Advocate.

Mrs Godwin complained to the Press Council about the trial coverage and the February article. She said there were significant inaccuracies in the NT News's coverage of the case.

One, she said, was a statement in the front page report on the day of sentencing that Godwin had told his partners that he could raise the capital for their venture, "claiming he owned property, shares, a car, cash and his father had just won lotto. He was lying."

In fact, Mrs Godwin says her husband had won a lottery. However, in the Press Council's view, the quote was obviously a reference to Godwin lying about the overall extent of his assets, not the various particulars. Further, the newspaper published Mrs Godwin's detailed clarification of the lottery issue in the February article.

Mrs Godwin also complained that the newspaper more than once gave the clear impression that her son had swindled his victims out of \$570,000 more than he actually did. Newspapers have an obligation to report court cases accurately and fairly. The paper appears to have misrepresented this crucial element of the case and this aspect is upheld.

Mrs Godwin also had two complaints about the February article, which was based on an e-mail from her and a lengthy telephone interview with her.

Mrs Godwin denied she told the newspaper that her son "wanted to big note himself" and was chasing "the good life", and said there are no such quotes in her e-mail. However, the newspaper maintains Mrs Godwin was accurately quoted, evidently from the telephone interview. As this is a case of one person's word against another, the Press Council cannot adjudicate on this point.

However, the Press Council also upholds Mrs Godwin's complaint in regard to another aspect of the article's publication. In her e-mail, Mrs Godwin asked the NT News not to make the article and photo of her available to The Centralian Advocate, as she had just moved to Alice Springs, with Lionel Godwin's son, to start a new life.

Mrs Godwin said the publication of the photo article in her new home town showed no regard for the privacy and sensitivities of herself and her grandson.

The Centralian Advocate said it was not made aware of Mrs Godwin's request but, that if it had been, it would not have published the photo. The NT News said it gave Mrs Godwin no undertaking in this matter. However, in the Press Council's view, that does not excuse the failure to give the Advocate the opportunity to make its own decision.

ADJUDICATION No.1189 (March 2003)

The Press Council has dismissed a complaint by Rodney Adler against The Sydney Morning Herald, about a photograph of him and his teenage son preparing to board a plane.

The front-page photograph, taken at a British Airways check-in counter, appeared under the headline *First-class Rodney flies north*. The accompanying article contrasted Mr Adler's current financial and legal difficulties, particularly those in connection with the HIH Royal Commission, with his apparently undiminished capacity to take his family on an overseas holiday.

Mr Adler, who had attempted to avoid reporters at the airport and refused to answer questions from them, complained that the photograph exploited him and his family. He was especially concerned about the publicity it gave to his son, which he described as "thoughtless, gratuitous, contrary to the public interest", and in breach of relevant Press Council Principles and Privacy Standards.

The Herald's response to Mr Adler pointed out that he was a public figure, on bail after being charged with serious offences by the Australian Securities and Investments Commission, and facing further scrutiny through the HIH Royal Commission. Against this background, the paper considered that the Adlers' holiday was a matter of legitimate public interest, and maintained that its reporters had acted reasonably.

In its Principles and Standards, the Press Council seeks a balance between the public interest and the need to respect individuals' sensibilities and right to privacy. While public figures like Mr Adler sacrifice this right in some circumstances, the Council is especially concerned for the protection of their families, friends, and other members of the public caught up in newsworthy events.

In this case, the Herald devoted considerable efforts to exposing an Adler family holiday that some readers might find, at the very least, paradoxical. The Council does not believe these efforts were unduly intrusive.

The central theme of the Herald's story necessarily involved Mr Adler's family. On this occasion the public interest in the publication of the photograph outweighed the normal privacy rights of the son. The Council can understand Mr Adler's annoyance at what he considered unwarranted publicity but believes that, in this instance, the newspaper was justified in covering the family's departure for overseas in both words and images.

ADJUDICATION No. 1192 (March 2003)

The Press Council has dismissed a complaint against the Eaglehawk Times about a report entitled *Time to take action on bad tenants* and *'The tenants from hell' worry landlord*. It referred to "a middle aged woman with a small dog" as an example of a problem tenant whose eviction was difficult to achieve under current tenancy legislation. The article did not name the complainant but did identify her landlord and described one problem tenant in one of three Eaglehawk rental properties owned by the landlord. It went on to describe the circumstances of the complainant's tenancy leading to her eviction.

The complainant believes that the article was unbalanced, inaccurate, blurred fact and opinion and was in breach of the Council's privacy principles in that it was sufficient to identify her and therefore adversely affected her ability to secure new rental accommodation after her eviction by the named landlord.

The paper maintains that the description in the article could have applied to some 50 tenants in the area, and that the article was fair.

In a regional community such as Eaglehawk, the risk of identification is higher than in a metropolitan circulation area. Nonetheless, the Council is of the view that the paper took sufficient steps to preserve the complainant's anonymity. Given the circumstances and the need for the newspaper to preserve the complainant's anonymity, the Council found no breach of its principles on fairness.

ADJUDICATION No. 1219 (October 2003)

The Australian Press Council has upheld in part a complaint against The Sunday Herald Sun over two articles and an editorial on Victoria's program for releasing on temporary leave into the community, for rehabilitation, patients from the high-security unit at the Thomas Embling Hospital.

The complaint was lodged by the director of the Victorian Mental Health Awareness Council, Isabell Collins. It concerned a front-page article on 15 June headed *Insane killers on leave*, which continued inside the newspaper, as well as a background article naming some of the people in the security centre and giving details of the crimes they had committed. There was additionally an editorial arising from the articles published in the same edition.

Using as its source the annual report of the Forensic Leave Panel – a Government-appointed body chaired by a Supreme Court Justice – the newspaper reported that in the past year 39 people had been granted leave from the unit to visit family, go shopping, go to church, and take part in personal development programs. It said that many of those given leave were “killers”. Others had committed serious assaults, or were “inmates” who had been found not guilty of crimes due to insanity, or convicted and sent to hospital instead of prison based on psychiatric advice.

The newspaper reported that, since the high-security centre had opened in 2000, three inmates had escaped from it and nine others had escaped from staff looking after them outside the unit. However it quoted the Leave Panel president, Justice Bernard Teague, as saying that, of those given leave by the panel, there had been no instances of escaping. The background article also detailed offences that it said had occurred near the security centre.

In her complaint, Ms Collins describes the article as “pejorative and sensationalist in nature”. She says the people referred to are “patients”, not “inmates” or “prisoners”, and naming some of them was a gross breach of privacy. Some of those named in the background article were not eligible for leave under the Forensic Panel processes, but the article implied they were.

Ms Collins says the article helped to instil fear and loathing of people with mental illness - in particular those diagnosed with schizophrenia – and caused great distress to some of the families.

Mental illness, and particularly the subject of the release back into the community of people suffering from mental illnesses who have committed crimes, is an emotional and difficult issue for media at any time.

In this case The Sunday Herald Sun took the annual report of the body responsible for a supervised program, and used its figures in conjunction with details of escapes from the security unit outside the program. It did not clearly distinguish between the two. To this extent the complaint is upheld.

However, in the Council's view, the complaints about invasion of privacy and language are not sustainable. The cases cited are on the public record, either through court appearances or the panel's report. The Council does not consider that prescriptive directions on language would be helpful nor that the newspaper's use of language created a “pejorative” tone.

The newspaper also published at least two letters critical of the reports' possible impact on people's perceptions of mental illness.