



# **Objects, Principles and Complaints Procedure**

**[The Press Council deals with complaints about news reports and commentary (including images and cartoons) in any commercial periodical, and cooperating website, published in Australia, but not against an advertisement or the non-journalistic operations of a publication or media organisation. Complaints should be lodged within sixty days of initial publication.]**

**Complaints and all other correspondence to:**

The Executive Secretary  
Australian Press Council  
Suite 10.02, 117 York Street,  
Sydney NSW 2000  
Australia

**Telephone** (02) 9261 1930  
or (1800) 025 712  
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**Internet** *http://  
www.presscouncil.org.au*  
**Email** *info@presscouncil.org.au*

# The Australian Press Council

The Australian Press Council is a self-regulatory body dealing with the print media within Australia, including all commercially available newspapers and magazines, and the Internet news sites agreeing to its oversight. It was established in 1976 with two main aims:

- to preserve the traditional freedom of speech, and of the press, within Australia by keeping a watch on developments which could threaten such freedoms; and
- to ensure that the free press acts responsibly and ethically, by providing a forum to which anyone may take a complaint concerning the press.

## Complaints

In dealing with complaints, the Secretariat tries first, where appropriate, to negotiate an amicable solution. Alternatively, a Public Member of the Council may, in certain cases, be asked to try and conciliate a complaint. In any case, the Council's complaints procedure is free, non-legalistic, accessible and informal. That procedure is detailed in this booklet.

If asked to adjudicate, the Council seeks to have parties attend a meeting of its Complaints Committee, which always has a majority of Public Members, and which makes a recommendation to the Council. The Council has no punitive power beyond that of announcing its findings. Its authority stems from the willingness of publications to admit mistakes publicly by printing all adjudications arising from complaints against them, with due prominence.

The industry takes the Council seriously. The proprietors voluntarily finance the Council's operations, abide by the Council's principles and guidelines and co-operate with it in processing complaints and negotiating settlements.

For further information on the complaints process, see

- The Statement of Principles** on page 6
- Print Media Privacy Standards** on page 8
- The Complaints Procedure** on page 11

## Free Speech Issues

The Council seeks to ensure the freedom as well as the responsibility of the press. In doing so, it has, over the last thirty years, made representations to governments, parliamentary inquiries, law reform commissions and various other individuals and bodies, setting forth its position on matters that may adversely affect free speech, or the freedom of the press. It does so under the objects in its Constitution (see page 16).

In its role as a defender of press freedom, the Council scrutinises legislation, court decisions and any activities of politicians, courts, newspaper proprietors and others that might threaten press freedom. Where appropriate it issues press releases, and makes submissions to ministers, parliamentary committees, officials and inquiries and to bodies such as Law Reform Commissions. It also organises seminars and public meetings to foster public knowledge of issues relating to press freedom and journalistic ethics. It exchanges information with press councils around the world, and with other relevant Australian and international organisations. Reports on its activities in this area are published on its website and in the quarterly *Press Council News* and the *Annual Report*.

The Council's free speech activities are underpinned by, and based on, *The Charter of a Free Press* (see page 4).

Amongst the material available on the Council's website dealing with its free speech activities are:

- A summary of the major positions taken by the Council;
- A report on the Council's free speech activities from the most recent *Annual Report*;
- A list of submissions from 1988 including the full text of the most recent ones;
- An article that looks at Australian press law and practice;
- Articles, letters and speeches on issues such as the need for effective shield laws; calling for more open government; and arguing against a tort of privacy;
- Links to sites of interest to those concerned with free speech issues, including, defamation, privacy, the use of news images and restrictions on press freedom here and abroad.

See the website, <http://www.presscouncil.org.au/pcsite/fop.html>, for more details.

# Charter of a Free Press

## Preamble

Freedom of opinion and expression is an inalienable right of a free people.

Australia is committed to The Universal Declaration of Human Rights. Article 19 of the Declaration provides:

Everyone has the right of freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

In a truly democratic society open debate, discussion, criticism and dissent are central to the process of generating informed and considered choices. These processes are crucial to the formation of values and priorities and help in assessing and finding solutions to social, economic and political problems.

A free press means a free people and the people of Australia have a right to freedom of information and access to differing views and opinions and declare that the following principles are basic to an unfettered flow of news and information both within Australia and across the nation's borders.

## The Principles

1. Freedom of the press means the right of the people to be informed by the press on matters of public interest so that they may exercise their rights and duties as citizens.
2. The press shall not be subject to government licence and government authorities should not interfere with the content of news nor restrict access to any news source.
3. The press has a responsibility to the public to commit itself to self-regulation which provides a mechanism for dealing with the concerns of members of the public and the maintenance of the ethical standards and journalistic professionalism of the press.
4. It is in the public interest for the press to make available to the people a wide diversity of views and opinions.
5. It is the responsibility of the press to protect the people's right to know and to contest encroachments upon that right by governments, groups or individuals.
6. Laws, regulations and practices which in any way restrict or inhibit the right of the press freely to gather and distribute news, views and information are unacceptable unless it can be shown that the public interest is better served by such laws, regulations or practices than the public interest in the people's right to know.

## Who are we?

The Council's secretariat is located in Sydney. There it generally holds seven meetings per year (with an eighth held in metropolitan or provincial centre outside Sydney), each attended by 22 members. The Council consists of:

- an independent chairman;
- a panel of up to ten members of the public (seven of whom attend each meeting);
- ten members nominated by the metropolitan, suburban, regional and country publishing groups and Australian Associated Press, all of which fund the Council's operations;
- one member nominated by the Media, Entertainment and Arts Alliance, which also helps fund the Council;
- a panel of three independent journalist members (two of whom attend each meeting); and
- a panel of two editor member (one of whom attends each meeting).

The Council seeks to ensure that its membership covers a broad cross-section of qualifications, experience and community interest along with an appropriate balance of gender, ethnic and regional representation.

Public member representatives of the Council come from all states and are appointed by the Council on nomination of the Chairman following the placement of advertising in newspapers in the state from which the nomination is sought and interviews with short-listed candidates. The Council also appoints the independent journalist and editor members of the Council on nomination of the Chairman, after similar processes. Such members serve three-year terms and can be re-appointed, up to a maximum of three terms.

A list of the current members of the Council can be found on its website at:  
<http://www.presscouncil.org.au/pcs/site/about/members.html>

The full-time secretariat is headed by an Executive Secretary, who acts as the Council's CEO. Jack R Herman is the current Executive Secretary.

# Statement of Principles

To assist the public and the press, the Australian Press Council has laid down the broad principles to which it is committed. First, the freedom of the press to publish is the freedom, and right, of the people to be informed. These are the justifications for upholding press freedom as an essential feature of a democratic society. This freedom includes the right to publish the news, without fear or favour, and the right to comment fairly and responsibly upon it.

Second, the freedom of the press is important more because of the obligation it entails towards the people than because of the rights it gives to the press. Freedom of the press carries with it an equivalent responsibility to the public. Liberty does not mean licence. Thus, in dealing with complaints, the Council will give first and dominant consideration to what it perceives to be in the public interest.

The Council does not lay down rules by which publications should govern themselves. However, in considering complaints, the Council will have regard for these general principles.

1. Publications should take reasonable steps to ensure reports are accurate, fair and balanced. They should not deliberately mislead or misinform readers either by omission or commission.
2. Where it is established that a serious inaccuracy has been published, a publication should promptly correct the error, giving the correction due prominence.
3. Where individuals or groups are a major focus of news reports or commentary, the publication should ensure fairness and balance in the original article. Failing that, it should provide a reasonable and swift opportunity for a balancing response in an appropriate section of the publication.
4. News and comment should be presented honestly and fairly, and with respect for the privacy and sensibilities of individuals. However, the right to privacy is not to be interpreted as preventing publication of matters of public record or obvious or significant public interest. Rumour and unconfirmed reports should be identified as such.
5. Information obtained by dishonest or unfair means, or the publication of which would involve a breach of confidence, should not be published unless there is an over-riding public interest.
6. Publications are free to advocate their own views and publish the bylined opinions of others, as long as readers can recognise what is fact and what is opinion. Relevant facts should not be misrepresented or suppressed, headlines and captions should fairly reflect the tenor of an article and readers should be advised of any manipulation of images and potential conflicts of interest.
7. Publications have a wide discretion in publishing material, but they should balance the public interest with the sensibilities of their readers, particularly when the material, such as photographs, could reasonably be expected to cause offence.
8. Publications should not place any gratuitous emphasis on the race, religion, nationality, colour, country of origin, gender, sexual orientation, marital status, disability, illness, or age of an individual or group. Where it is relevant and in the public interest, publications may report and express opinions in these areas.
9. Where the Council issues an adjudication, the publication concerned should publish the adjudication, promptly and with due prominence.

## Notes on the Principles

- 1 For the purposes of these principles, '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.
- 2 The Council interprets "due prominence" as requiring the publication to ensure the retraction, clarification, correction, explanation or apology has the effect, as far as possible, of neutralising any damage arising from the original publication, and that any published adjudication is likely to be seen by those who saw the material on which the complaint was based.

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# Print Media Privacy Standards

## 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 found on the Council's website.

### 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.

**Note:** These Privacy Standards apply to those media organisations that have publicly subscribed to them. The list of organisations, and their relevant mastheads, can be found in a Schedule published on the Council's website.

# The Complaints Procedure

The Australian Press Council considers news reports, articles, editorials, letters and images (including cartoons) published in Australian newspapers and magazines, and on cooperating websites.

Complaints to the Press Council are treated as being against the publication, not any individual journalist or editor.

Complaints must be lodged within sixty (60) days of the initial publication of the material complained against. The Council will only consider waiving this requirement in special circumstances.

The procedure is as follows:

## 1. Dealing with the publication direct

You should first seek to contact the editor or a senior editorial executive of the publication, outlining your concerns and the amends or redress you see as required. A reasonable approach from both parties can often bring a quick and satisfactory solution to a complaint.

## 2. Lodging a complaint

If you cannot obtain satisfaction in this way, you may complain to the Press Council. Complete the complaint form (either on-line or available from the secretariat). Explain the thrust of your complaint in no more than 400 words. Attach a legible copy of the material complained against (preferably a legible scan of the actual article). In the case of website publication, you will need to provide the web address (URL). Also include copies of any correspondence with the publication. Unless there are special circumstances, complaints should come direct from the affected party (see Note 1).

## 3. On receipt of a complaint

The Executive Secretary may seek from you further details of the complaint.

If the complaint could be the basis for a legal action against the publication, it will be necessary for you to decide which route to take. The Council is an alternate to legal action so, if you decide to proceed through the Council, you will need sign a document waiving your legal rights before the Council will accept the matter for processing (see Note 2).

The Executive Secretary will refuse matters that arrive after the 60-day time limit or are outside the Council's remit, eg complaints about advertising or the electronic media. He has also been instructed to decline a complaint if it does not raise a significant breach of the Council's principles; if it could lead to a further invasion of the privacy of a third party; or if it is largely trivial or frivolous. If you provide further information, or contest the Executive Secretary's decision, the Council's Complaints Committee will decide whether or not to accept the complaint.

If the Executive Secretary considers that a conciliated settlement is possible, the complaint will immediately be referred to the publication, with a request to consider what action it might take to redress the matter. You are strongly urged to respond promptly if the publication seeks to discuss the complaint with you. Many complaints are amicably resolved speedily in this informal way. If, however, the publication has not responded to the secretariat within two weeks, the secretariat then deals with the matter formally, as outlined in section 4.

## 4. Complaint referred to publication for comment

If the attempt at a negotiated settlement fails and/or the Executive Secretary accepts the complaint for processing, it will be sent to the publication for a formal written response.

Once a matter is accepted for processing, copies of all communications received from the complainant are sent to the publication, and *vice versa*.

The complainant is given an opportunity to comment on the publication's response. If such comments are received, they will be sent to the publication to make its final response to the Council. The procedure thus allows each party two opportunities to state its case and/or comment on the other party's claims.

Publications and complainants have a maximum of two weeks to respond to Council communications. If no contact is made, or responses are not received, within these time limits, the Council will normally treat the complaint or defence as abandoned, depending on the party in default.

On receipt of a publication's response/s, the complainant can:

- let the matter rest;
- ask for a face-to-face conciliation of the complaint conducted by a member or officer of the Council (complaints are often successfully settled by this means);
- if the option of conciliation is rejected by either party, or is unsuccessful, refer the matter to the Council for adjudication.

## 5. The Complaints Committee

When a complaint has been referred to the Council, the Executive Secretary arranges for the complaint to be considered at the next meeting of the Complaints Committee. For the sake of fairness, the Council does not accept any further written material from either party after the two exchanges, other than in exceptional circumstances approved by the Chairman.

It is desirable for both parties to be present at the Committee meeting. Alternatively, if personal attendance is not convenient or feasible, the Council expects that either or both of the parties, as necessary, will make themselves available by teleconference to facilitate input to the Committee and to answer Complaints Committee questions.

Legal counsel may *not* appear as a representative of either party. The meeting takes the form of an informal discussion. There is no formal evidence taking. (See the *Guidelines on attending the Complaints Committee*, published separately.)

When the parties leave, the Complaints Committee prepares a draft adjudication that it recommends to the Council.

## 6. The Council adjudicates the matter

The Council considers the Committee's oral report on any attendance and the draft adjudication. It makes a decision on the complaint (that may differ from the recommendation made by the Committee) and produces the final adjudication.

In its adjudication, the Council may uphold all, or some specified parts of, a complaint or it may dismiss all aspects of the complaint. Alternatively, it may simply express an opinion on the matter.

## 7. The adjudication is sent to the parties.

It is the Council's practice to embargo general publication of adjudications for a few days to ensure receipt by all parties and to enable the publication concerned to fulfil its obligation to publish first.

## 8. Reviews

There is no appeal from a Council adjudication. The Council will review a decision if a party can show to the Council's satisfaction that the decision was based on a material error of fact, or there has been a demonstrable procedural unfairness. (See note 3)

## 9. Publication in the affected newspaper or magazine

The adjudication is published by the newspaper or magazine complained against, promptly and with due prominence. (See notes 4 and 5)

## 10. Publication by the Council

The Council publishes all adjudications in its quarterly *Newsletter*, in its Annual Report and on its website. All adjudications are now posted to the Council's website (<http://www.presscouncil.org.au>) and maintained there. Until the Council posts its own database of adjudications, its earlier rulings (Nos 1-1100) are maintained on the AustLII website (<http://www.austlii.edu.au/au/other/apc>). Both sites are keyword searchable.

## Notes on the Complaints Procedure

1. The lodgement of complaints by lawyers or PR people acting on behalf of a client: Complaints are sometimes lodged by lawyers or PR people acting on behalf of clients. Except in extenuating circumstances, the Press Council does not accept their involvement in the complaints procedure, which is designed to be an inexpensive, non-legal redress for readers of newspapers and magazines. After the receipt of a complaint lodged by a lawyer or PR person acting for a client, the secretariat will request that the professional ensure that the correspondence is passed on to the complainant and that the latter be responsible for dealing with the matter.

2. The Council seeks a waiver because it sees itself as an alternative, not a complement, to the courts. There are two other reasons for seeking a waiver: because if it did not in processing the complaint or publishing an adjudication the Council might inadvertently deal with matters that are *sub judice*; and because parties cannot be expected to provide information and co-operation if this might prejudice their position in legal proceedings. A potential complainant will be sent the necessary document and it is advisable to think carefully about the implications of the waiver and, if necessary, seek legal advice before completing it. In some cases, the Executive Secretary will also seek the publication's advice on whether there is a perception of a possible legal action on the matter.

3. When there is a request for a review, the matter is handled in the first instance by the Council's Chairman. Where it is clear to the Chairman that there are no cogent reasons for a review, other than simple disappointment at the decision, the Chairman will, without further ado, refuse the request. Where the Chairman forms the opinion that there are cogent reasons that would possibly lead to a modification or reversal of the Council's determination, the matter will be referred to the next meeting of the Complaints Committee, which will make a recommendation on the matter to the Council.

4. The Council does not require that the adjudication be printed verbatim but requires that, where edited, the conclusion and spirit of the adjudication remain clear and unchanged. It does not prohibit publications from adding separate editorial comments on the adjudication.

5. At each Complaints Committee meeting, the committee reviews the printing of adjudications in the publications concerned in the previous meeting's determinations. If the adjudication has not been printed in the publication affected, or the committee believes that the publication has misrepresented the finding or not printed it with due prominence, it can recommend to the Council appropriate action in the circumstances.

## Self-regulation ... and the alternative

The fundamental basis of the Australian Press Council is to ensure that all Australians can continue to enjoy their democratic rights to be fully, fairly and accurately informed by a free, self-regulated press.

The Council has been branded a ‘toothless tiger’ but the absence of punitive sanctions is the Council’s great strength. It is a self-regulating body, so publications have agreed to co-operate with the Council in resolving complaints quickly and inexpensively. Publications agree to abide by the Council’s rulings and to publish adjudications with appropriate prominence.

A statutory regime with the power to fine publications would see co-operation cease. The speed, efficiency and low cost of self-regulation would disappear. In its place would be a complex bureaucratic procedure inevitably involving long delays and the cost of lawyers.

Self-regulation works because the print media are committed to it. The key to this commitment is the Council’s Statement of Principles and Privacy Standards which are published in full in this booklet. The Principles have been redrafted with the co-operation and support of the publishers and their editors. These Principles are recognised by individual publishers within their codes of practice as industry standards. The Privacy Standards, agreed to in 2001, also have the support of the Council’s publisher members and a large number of other publishers.

Central to the Council’s aims and its Principles is the protection given to particularly vulnerable groups of people. From time to time, the Council issues special guidelines further to assist this protection. Guidelines have been published, for example, regarding the media portrayal of issues of ‘race’ and on the coverage of youth suicide. A complete list of these guidelines can be found on the Council’s website and are available from the Council’s secretariat on request.

The Council’s website has detailed information on the Council’s activities and publications.

## Objects

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:

- considering and dealing with complaints and concerns about material in newspapers, magazines and journals, published either in print or on the Internet;
- encouraging and supporting initiatives by the print media to address the causes for readers’ complaints and concerns;
- 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;
- making representations to governments, public inquiries and other forums as appropriate on matters concerning freedom of speech and access to information;
- undertaking research and consultation on developments in public policy affecting freedom of speech, and promoting public awareness of such issues;
- promoting an understanding of the Objects, Principles and workings of the Council especially among editors, journalists and journalism schools, through forums and consultations; and encouraging feedback for Council’s consideration.

## Schedule of Members

<b>Publisher Members</b>	<b>Number attending each meeting</b>
ACP Magazines	1
Advertiser Newspapers	-
Australian Associated Press	1
Australian Rural Publishers' Association	-
Community Newspapers of Australia	1
Country Press Australia	1
Davies Brothers	-
Fairfax Media - Herald Publications	1
Fairfax Media - The Age	1
Herald & Weekly Times`	1
Media, Entertainment and Arts Alliance	1
News Ltd (incl. Queensland Newspapers)	1
former members of Regional Dailies of Australia	1
Pacific Publications	-
proptreview.com.au	-
West Australian Newspapers	1
<b>Other members</b>	
Independent Journalist members	two
Editor member	one
Public members	seven
Independent Chairman	one