

CASE NO: 3398

THE NEW ZEALAND MEDIA COUNCIL RULING IN THE COMPLAINT OF JAN RIVERS AGAINST STUFF

FINDING: UPHELD WITH DISSENT

**TO BE PUBLISHED ON MEDIA COUNCIL WEBSITE ON 29 MAY 2023
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Overview

1. On 25 September 2022, Stuff published an article titled **Puberty blockers still considered safe and reversible, health Ministry says**. Jan Rivers complains the article and Stuff's ongoing coverage of issues of sex and gender breaches Principle (1) Accuracy, Fairness and Balance; Principle (4) Comment and Fact; Principle (6) Headlines and Captions; and Principle (10) Conflicts of Interest. The complaint is upheld with dissent under Principle (1) in relation to balance.

The Article

2. This article was angled off a Ministry of Health statement to Stuff reiterating puberty blockers are safe and reversible for young people wanting to halt potentially unwanted physical changes.
3. Stuff approached the Ministry after it made changes to information on its website about puberty blockers, removing the words "safe and fully reversible" and adding a line saying blockers were used under specialist clinical guidance.
4. The article said anti-trans and conservative groups claimed the change meant the Ministry had changed its position. The article did not name these groups.
5. The story quoted a Ministry statement: "While puberty blockers are currently considered safe, all treatments have risks and benefits." The Ministry also told Stuff the changes made clear the Ministry was not providing clinical advice and treatment suitability should be assessed by a clinician.
6. The Ministry was also quoted as saying gender-affirming healthcare was rapidly evolving and it was adjusting its webpage "in a way that gives the opportunity to review and assess emerging information".
7. The article quoted the Ministry as endorsing the Professional Association for Transgender Health Aotearoa (PATHA) guidelines, which say puberty blockers are considered "fully reversible".
8. PATHA was quoted as saying puberty blockers can be used in adolescents experiencing gender dysphoria distress and are used only after puberty starts and act to pause some irreversible

physical changes. PATHA also stated the decision to use them is carefully considered and involves the young person, their family and clinicians.

9. Ahi Wi-Hongi, of Gender Minorities Aotearoa, was quoted saying puberty blockers had been safely used for decades in children experiencing early puberty .

The Complaint

10. Jan Rivers complained to Stuff about the article and its wider coverage of transgender issues, saying the article followed others highly prejudicial to people concerned about the health risks of puberty blockers and sceptical about affirmative approaches to young people who report gender issues.

11. Ms Rivers believed the coverage “amounts to a serious lack of fairness, accuracy and balance...”

12. Eight specific omissions in Stuff’s coverage on transgender issues over time were identified.

13. In terms of the article cited in this complaint, Ms Rivers complained it contained claimed information about which no proof had been provided by experts at the Ministry in pursuit of their policy goals. The complaint’s key points included but were not limited to:

- There had been no public Ministry communications or quote from a senior clinician, spokesperson or published article that supported the statement puberty blockers were still considered safe and fully reversible;
- The Ministry had said in private communications and OIA responses that it removed the wording to reflect the limitations of the available evidence and Ms Rivers said this was not the same as saying blockers were safe and reversible;
- There was no proof the groups referred to in the article were anti-transgender or predominantly conservative;
- PATHA guidelines mentioned in the article were in fact published by a collaboration of people working professionally for transgender health before PATHA was even formed;
- Quotes from PATHA can be rebutted;
- Numerous reviews show the quality of the medicine is poor;
- Puberty blockers have multiple FDA advice against their use due to health risks and Ms Rivers had seen OIA documentation saying the Ministry had changed its advice “in a way that acknowledges the current limits of available evidence”.

14. In complaining to the Media Council, Ms Rivers reiterated the complaint had two aspects: a broad failure by Stuff over time to address the concerns about gender medicine for children based on an ideological stance that prevents proper reporting; and a lack of balance in the article specifically

complained about. Ms Rivers says in the 22 Stuff stories over six years that mentioned the issue, none covered the emerging problems with puberty blockers that are becoming evident overseas.

15. Ms Rivers provided correspondence between Stuff and the Ministry, obtained under the Official Information Act (OIA), which partly formed the basis of the article. This correspondence contained questions and answers. Rivers complained that, based on these documents, there was a predetermined view at Stuff that puberty blockers were safe and reversible and that anyone who thought otherwise was anti-trans.
16. Furthermore, Stuff did not believe it had to provide balance and did not approach organisations that claimed the Ministry advice was changed because it had identified issues with puberty blockers. Ms Rivers said the OIA documents showed Stuff had discovered that the medication had serious health issues but did not include this in the article.
17. Ms Rivers said Stuff had published hundreds of stories advocating the point of view of people who claim a transgender identity but virtually none advocated opposing views.
18. Ms Rivers provided a list of Stuff stories published between January 2020 and June 2022 and said at least 58 were transgender-supportive, seven were neutral but most still favoured the trans point of view, and three were gender-critical articles.

The Response

19. Stuff's response to Ms Rivers also serves as its formal response to the Media Council.
20. Stuff said it was comfortable with its reporting on this issue both in its entirety and in relation to this particular story.
21. In its response, Stuff identified two organisations that had made public comments about the Ministry's website change. One described itself as a conservative organisation and the other believed "no child is born in the wrong body". As that definition sought to erase the existence of transgender people, Stuff was comfortable with the article's anti-trans reference. Highly reputable organisations such as the Mayo Clinic state gender dysphoria is real.
22. Stuff decided that to include commentary from these groups would "represent false balance". One drew a conclusion about the change in wording without asking the Ministry and that conclusion was a fallacy. In situations where there is a potential for misinformation, Stuff seeks to clarify the correct information, not amplify misinformation by repeating it.
23. Stuff accepted the traditional approach to an article like the one complained about may have been different but just as media used to approach climate change deniers for climate change stories, accepted science offers a more useful approach for reader. While the story recognised the field of

gender-affirming healthcare was rapidly evolving, accepted science at the time is as the Ministry says: "While puberty blockers are currently considered safe, all treatments have risks and benefits." And the Ministry said it endorsed the PATHA guidelines which state: "Puberty blockers are considered to be fully reversible and allow the adolescent time prior to making a decision on starting hormone therapy." This was paraphrased in the story.

24. The UK court decision referred to in the complaint was part of the research for the article but given it was overturned it was considered a moot point. There is limited scope in every story to cover the history and background of every issue.

Discussion

25. The Media Council has assessed this complaint on each principle cited.
26. Principle (1) Accuracy, Fairness and Balance states: *"Publications should be bound at all times by accuracy, fairness and balance, and should not deliberately mislead or misinform readers by commission or omission. In articles of controversy or disagreement, a fair voice must be given to the opposition view. Exceptions may apply for long-running issues where every side of an issue or argument cannot reasonably be repeated on every occasion and in reportage of proceedings where balance is to be judged on a number of stories, rather than a single report."*
27. The Ministry and spokespeople from two other organisations are quoted. These organisations are entitled to express their positions and their comments were attributed. The story was based on Ministry responses to Stuff's questions and this is a legitimate way to research a news article. In terms of the PATHA guidelines referred to, these are on the group's website and appropriately sourced. The council is not in a position to comment about information that Ms Rivers has obtained from private communications and other OIA responses. There is no evidence that Principle (1) has been breached in terms of accuracy.
28. However, the issue of balance is problematic. The council -- in a previous decision on a story about a transgender conference sparking fierce national backlash (*Case number: 3327 Fern Hickson v The Nelson Mail*) -- noted that Stuff had the right not to quote certain opinions on transgender issues that amounted to giving a platform to prejudice and views that might cause harm.
29. The article Ms Hickson complained about was about a conference covering a variety of transgender-related issues. Stuff had some balance from the conference organisers.
30. But that decision also noted coverage of the debate about the treatment of gender dysphoria in children is a slightly different, sensitive, complicated and important topic where there appears to be evolving scientific debate and a variety of genuinely held and differing views. "The council ... hopes Stuff and other media outlets will consider whether they are taking a balanced approach overall. It is important that all reasonable views are allowed to be heard, given the seriousness of

the matters under consideration". However, despite these reservations, the council did not uphold the complaint under Principle (1).

31. The article at the centre of this complaint is different in that its entire thrust – including the headline - is about the health and safety of puberty blockers, which raises the threshold.
32. Stuff had the right not to name or quote specific groups but the council believes this article should have acknowledged that at a broader level there is debate over the use and safety of puberty blockers. In relation to puberty blockers there is not the same general scientific consensus as there is on other topical issues such as climate change or covid vaccines. There is no reference to any substantive opinions which query reversibility and long-term safety. For instance, the UK NHS has changed its website to now indicate that the long-term effects of puberty blockers are unknown. Instead, after setting out the news element, the only opinion given is of Ahi Wi-Hongi of Gender Minorities who advocates the safety of puberty blockers.
33. An exception to Principle (1) can apply to long-running issues but the council considers puberty-blocker use to be a rapidly evolving subject and balance is necessary so readers can assess the debate for themselves and draw their own conclusions. We do not consider that the reference in the article to the Ministry denying "anti-trans and conservative" claims that the Ministry no longer believed that blockers were safe and reversible provided any balance.
34. The complaint is therefore upheld on Principle (1) due to a lack of balance.
35. In terms of the complaint about Stuff's overall coverage on transgender issues based on a large number of stories, the council does not have the resources to adequately assess these and has already expressed its general view in paragraph 30.
36. Principle (4) Comment and Fact states: *"A clear distinction should be drawn between factual information and comment or opinion. An article that is essentially comment or opinion should be clearly presented as such. Material facts on which an opinion is based should be accurate."*
37. It is clear this was a news article not an opinion column. It is normal for attributed statements in a news article to represent viewpoints rather than outright proven fact.
38. The labelling of groups as being anti-trans and conservative forms part of this complaint. But these groups are not named in the article and their statements do not appear to have been widely reported. The council does not believe this wording in this instance reaches the necessary threshold to breach this principle.
39. There is no evidence Principle (6) Headlines and Captions or Principle (10) Conflicts of Interest have been breached.

Decision

40. The complaint is upheld on Principle (1) in relation to balance. It is not upheld on the other principles cited.

Dissent by Jo Cribb and Ben France-Hudson:

41. The article has a narrow focus. It is reporting on a change to the Ministry of Health's website about their policy on puberty blockers. The article notes the views of those groups who consider the change to official wording suggests the treatment is unsafe. It also outlines the Ministry's position, that of a group of clinicians and a representative of the community impacted by the policy. The article contains reference that this is an evolving and contentious area of medicine and science and that there are dissenting voices. Given this, we think that the article provided a balanced report on the central focus of the article, which was the response by the Ministry to the claims by groups relating to the change of official advice.

The use of puberty blockers can also be considered a long-running issue, as evidenced by the range of articles linked to in this one and the article's reference to the evolving nature of this issue. In such cases, balance should be achieved over time and not be expected of every article.

Council members considering the complaint were Raynor Asher, Hank Schouten, Tim Watkin, Scott Inglis, Katrina Bennett, Ben France-Hudson, Jo Cribb, Judi Jones, Marie Shroff and Alison Thom.