

CASE NO: 3012

RULING BY THE NEW ZEALAND MEDIA COUNCIL ON THE COMPLAINT OF JENDI PATERSON AGAINST CRUX

FINDING: NOT UPHELD

NOT TO BE PUBLISHED BEFORE APRIL 12, 2021

Background

[1] Jendi Paterson, a consultant working for the Queenstown Lakes District Council, has complained about an article titled *You be the judge: Is QLDC telling the truth over how it spends your money?* published on January 15, 2021 on the Crux website.

[2] Ms Paterson, her colleague Ruth Stokes and the company ZQN7 have been the subject of an ongoing series of articles by Crux looking into spending on contractors by QLDC. The tenor of the investigations has been that QLDC is withholding information and is not being a responsible and transparent steward of ratepayers' money.

[3] While Ms Paterson's complaint singles out the January 15 story so as to come within the Media Council's time limits, she says being the subject of repeated allegations for more than a year has become too much for her.

[4] This is the fifth complaint made to the Media Council about this series of stories into QLDC spending, all by the council, its subsidiaries or contractors.

Complaint

[5] Ms Paterson complains that the January 15 article is both inaccurate and derogatory and that Crux's reporting is damaging her professionally and personally. She argues the news value of the articles is to question QLDC's procurement processes and her continued inclusion is unnecessary.

[6] In her initial complaint to Crux, Ms Paterson raises a list of complaints related to the January 15 story, some of which were also included in earlier stories.

- That Ms Paterson and Ms Stokes had "earned big money elsewhere in New Zealand – often working for other councils". She says "this statement has no supporting evidence".
- They are both called "former QLDC managers" when Ms Paterson was only a Team Leader and not management level.
- They had "earned around \$1m from different consulting clients (including QLDC) spanning a two-year period during 2018-2019/20". She says she is a ZQN7 employee on a salary, so this is incorrect.

- That Ms Paterson “worked for the Hamilton City Council as their Parks Manager during this same consultancy period – earning \$25,000 a month”. She says she worked for the HCC from September 2019-June 2020, but the QLDC work was completed by August 2019.
- “Paterson is the former nanny to Mayor Jim Boulton’s two children, James and Victoria”. Ms Paterson says she only nannied Victoria. Those five complaints fall under Principle 1, Accuracy, Fairness and Balance.
- Crux used photos of Ms Paterson and the family of Queenstown mayor Jim Boulton from before Boulton was mayor and included a “child under the age of 18”. The dates were not noted in the caption. This breaches Principles 3, Children and Young People and 11, Photographs and Graphics.
- Crux claims the Stokes family was living with Ms Paterson in 2018, when it was December 2019-June 2020. Ms Paterson says such personal details are inappropriate and that Crux’s continual efforts to contact her “verge on harassment”. She complains under Principle 2, Privacy.
- Finally, Ms Paterson has contacted Crux to alert it to these errors and while some changes have been made, many have not, which breaches Principle 12, Corrections.

[7] She says while the article acknowledges she has done nothing wrong, “the general tone of the articles suggest that I received work for QLDC without merit and on the basis that I knew the mayor”.

Editor’s Response

[8] Crux Managing Editor Peter Newport, who has written these stories, believes Ms Paterson’s complaint is down to unwanted attention due to QLDC’s flawed procurement process.

[9] He notes that since Ms Paterson’s complaint was filed, QLDC has finally admitted that it did not follow its own procurement policy in most of its direct appointments over the past four years. Responding to Ms Paterson’s points, Mr Newport writes:

- The January 15 story contains links showing that as well as earning \$630,000 from QLDC, ZQN7 earned \$150,000 from the Hamilton City Council for a Parks Review while it paid Ms Paterson \$25,000/month as Parks Manager from September 2019-June 2020. It also earned \$166,000 from Auckland City Council in the 2018/19 financial year.
- As a Team Leader, Ms Paterson managed other staff so can reasonably be called a manager. Her complaint is pedantic.
- Crux has corrected its stories to make clear Ms Paterson is an employee of ZQN7 not an owner, and asked her to confirm how much she did earn from this work.
- The QLDC by-law work covered “the period between 2018 and 2020”, including an additional bus stop by-law review.
- Ms Paterson is “a particular and close friend of the Boulton family”. She also worked at the “same Auckland marketing agency as Boulton’s son James.
- As for the photos, he says they show Ms Paterson in close social contact with the Boultons in recent years, which is of significant public interest. As a result of the complaint Crux has blurred the face of the person in the photos who Ms Paterson says is under 18.

- The Stokes' living arrangements with Ms Paterson were supplied to Mr Newport by Ms Paterson herself outside her parents' home in Arrowtown, where they spoke for about half an hour. (He does not say when the interview took place). He describes his interaction with her at her parents' home and claims to have withheld other off-the-record information. He says it's legitimate to include her in the stories, "not because she was necessarily a key decision maker within the company ZQN7, but because she was the sole employee of the company and had prior connections to QLDC, Ms Stokes and the Mayor. Reporting her connections are in the public interest.
- Finally, some corrections were made, although some were delayed while he sought legal advice. Ms Paterson was informed of the delay.

[10] Mr Newport argues that the rigour of his investigation has resulted in the QLDC admitting it had "ignored or misunderstood its own procurement policy for the past four years". The QLDC is now making changes to its procurement process.

Further Correspondence

[11] Ms Paterson has developed her complaint in reply to Mr Newport's response. She says she was not ZQN7's sole employee and "takes exception" at Newport's repeated questions about her remuneration and the suggestion she earned "big money" from other councils.

[12] The complainant has found Mr Newport "persistent and intrusive" and is distressed by his account of his visit to her parents' home. She says he must have entered private property without permission to describe the scene as he has, an action "designed to cause stress and anxiety".

[13] Ms Paterson also says Crux's reporting that QLDC has "finally admitted that it has not followed its own Procurement Policy and Guidelines for the past four years" is a fiction and quotes a statement from Mayor Jim Boulton saying there was "no misalignment" between the appointment of ZQN7 and the QLDC's Procurement Policy.

[14] She repeats what appears to be central to her argument – that Crux's concern is with QLDC and its procurement processes and it's unfair to keep including her in their investigation.

[15] Mr Newport, finally, says Mayor Boulton's statement is at odds with the QLDC report and points to another story on March 8 reporting ZQN7's work for QLDC was \$200,000 over budget. He denies trespassing on her parents' property, saying he only knocked on the front door and observed things from there.

Discussion

[16] The detail in this complaint and the four others against Crux over the past year show the complexity and depth of feeling around the issues raised and how they have been reported.

[17] As we have said in some of those past rulings, a close look at these complaints has not reflected well on either side of this argument. Public bodies have been less than open and Crux's reporting has repeatedly crossed the line, especially in its failure to separate fact and

comment. And while Ms Paterson points to some inaccuracies in Mr Newport's correspondence, the Media Council's only concern is with what has been published.

[18] The complainant appears to have been caught in the middle of all this and is understandably frustrated by the repeated use of her name in this series of stories. The heart of her complaint is that she has been treated unfairly. Her frustration and distress does not however mean Crux has failed to meet the Council's principles.

[19] Contrary to her claim that Crux does not provide supporting evidence to its claim she earned "big money" from other councils, it links to an email from Hamilton City Council confirming Ms Paterson earned \$25,000 a month for 9-10 months. Readers can decide for themselves, but given the average salary in New Zealand depicting \$25,000 a month as "big money" is not unfair.

[20] The team leader/manager complaint is one of semantics and while Crux would do well to correct precisely which child she nannied, the detail is not sufficient to uphold that complaint.

[21] Ms Paterson says she had finished her work for the QLDC by August 2019, before she started with the HCC. But the QLDC's own report shows payments to ZQN7 for its bylaw work from March 2018 to January 2020. It's reasonable for Crux to rely on such official information.

[22] Mr Newport's single visit to the house where Ms Paterson was living and his continued efforts to seek comment from her can reasonably be seen as giving her every opportunity to have a say in the stories he was writing. That she has chosen not to comment and put her side of the story, is her own choice. It's likely some of her concerns would have been addressed much earlier had she been willing to be interviewed after that initial conversation.

[23] While the photos used by Crux could have been better captioned, with more dates and context, there is no principle against using Facebook photos or including young people under the age of 18. While it's best practice to request permission to use such social media photos, they are published in a public place and our principles say privacy concerns should not interfere with the public interest. What's more, Facebook's privacy settings allow individuals to hide photos if desired. It would be hard to identify the person aged under 18 in the photos and the person in question does not appear to be a young child. Crux has been wise, however, to blur the photos. Mr Newport is correct to say that showing the close relationship between Ms Paterson and the Boults is central to the story and in the public interest.

[24] Most concerning is Crux's inaccurate reporting that implied whatever ZQN7 had earned, Ms Paterson and Ms Stokes had earned, when in fact Ms Paterson was an employee. It seems Crux made assumptions, which is another example of the sometimes sloppy reporting by Crux in this matter. Crux has however now corrected that error.

[25] While it's understandable that Ms Paterson feels distressed after a year-long series of stories, the articles have been a consistent and vital journalistic attempt to understand the QLDC's use of consultants. If the QLDC had been more open, there would likely have been fewer articles.

[26] But the undisputed facts remain that ZQN7 has received significant amounts of public money for its work, Ms Paterson has a close relationship with the mayor, she chose to work for a company receiving money from that council and, according to the QLDC's own report written in response to Crux's persistent stories, "in a number of instances the engagement of ZQN7 did not meet the requirements of the Procurement Guidelines". These all make Ms Paterson and ZQN7 legitimate objects of reportage.

[27] While continued and repeated stories over a long period of time might amount to harassment, in this case Crux has kept developing the story and a year in this instance does not amount to a long period.

[28] The complainant might count herself unlucky that her employer was chosen "at random" by Crux, however she cannot say its coverage has been unfair to her, given the legitimate public interest in council spending.

Decision

[29] The Media Council urges Crux to improve its captions, correct the nanny detail and ensure any corrections around Ms Paterson's employment and earnings are corrected in all the stories in this series.

[30] But Ms Paterson's complaints under Principles 1, 2, 3, 11 and 12 are **not upheld**.

Media Council members considering this complaint were Hon Raynor Asher (Chair), Rosemary Barraclough, Katrina Bennett, Liz Brown, Jo Cribb, Ben France-Hudson, Jonathan MacKenzie, Marie Shroff, Pravina Singh and Tim Watkin.