

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 1999-ID001

Decision No: 1999-ID002

Decision No: 1999-ID003

Decision No: 1999-ID004

Decision No: 1999-ID005

Decision No: 1999-ID006

Decision No: 1999-ID007

Decision No: 1999-ID008

Dated the 19th day of August 1999

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of complaints by

K G SHIELDS
of Christchurch

ROWENA FULHAM
of Christchurch

WILLIAM DE HART (2)
of Christchurch

LYNDA CAMERON (2)
of Christchurch

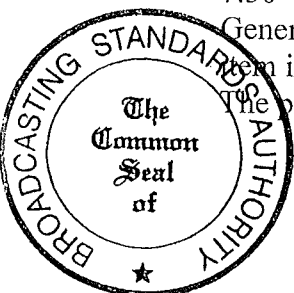
P W AND P M COTTER (2)
of Christchurch

Broadcaster
TV3 NETWORK SERVICES LTD

S R Maling Chairperson
L M Loates
R McLeod
J Withers

INTERLOCUTORY DECISION

"A Position of Power" was the title of an item broadcast by TV3 on 20/20 between 7.30 – 8.00pm on Monday 5 October 1998. Dr Morgan Fahey, a Christchurch General Practitioner and mayoral candidate was the subject of the broadcast and the item included serious allegations from two unidentified women against Dr Fahey. The programme contained his strong denials.



Mr Shields has complained to TV3 Network Services Ltd, the broadcaster, that the item was unbalanced and unfair and, in addition breached Dr Fahey's privacy. Ms Fulham has also complained that the item was biased and unfair to Dr Fahey.

In another 20/20 item broadcast on 8 December 1998 which dealt with similar issues, Dr Fahey was confronted by a former patient and the exchange was filmed with a hidden camera.

Mr de Hart has complained to the Broadcasting Standards Authority under s.8(1)(c) of the Broadcasting Act that the programme breached Dr Fahey's privacy. He also complained to TV3 that it was unfair to Dr Fahey. Ms Cameron complained both to the Authority and to TV3 on similar grounds. Mr and Mrs Cotter complained to the Authority about TV3's use of the hidden camera, and on other grounds which raise issues of fairness and accuracy.


TV3 declined to uphold any of the standards complaints. They were then referred by the complainants to the Broadcasting Standards Authority.

After the first broadcast, Dr Fahey commenced defamation proceedings against TV3. On 1 March 1999, after the Authority had begun its investigation of the complaints, TV3 wrote to the Authority submitting that it would be inappropriate for the Authority to determine these complaints while there were proceedings extant in the High Court.

In early July 1999, before the Authority had made a ruling on this submission, TV3 advised that Dr Fahey had been charged with a number of offences "following complaints received as a result of the TV3 documentary". It again requested that any determination of the complaints be deferred until after the defamation proceedings had been dealt with.

The Authority is not prepared to postpone its determination indefinitely. The defamation proceedings may take some years, and they may or may not proceed with a jury. Nevertheless, the Authority is concerned that at any inquiry at this stage would likely cover material that may well be relevant to the police proceedings, and it accepts that publicity associated with any determination could have an impact on any criminal trial. For these reasons, the Authority proposes to adjourn its inquiry into these complaints for a period of three months. The matters will be reviewed again then and the parties will be notified of the Authority's intentions.

Signed for and on behalf of the Authority


Sam Maling
Chairperson

19 August 1999

