

Complaint:	OMSA 16/015
Complainants:	J. Westaway and K. Westaway
Media:	Television New Zealand Limited ONE News website and Facebook Page
Publication:	“Is this NZ’s worst driver? Dashcam captures Timaru car in near head-on – then on footpath”
Publication date:	25 May 2016
Link:	https://www.tvnz.co.nz/one-news/new-zealand/medical-event-caused-erratic-driving-caught-dashcam
Ruling Date:	8 June 2016
Outcome:	No Grounds to Proceed, in part Settled, in part

The Complainant, J. Westaway, said: “This incident was my grandmother driving! She suffered a serious medical condition at the time of driving causing her to drive like this. She was pulled over by police and taken to hospital! Our family including my grandmother are extremely upset that you are posting news accusing her of the worst driver in NZ! It is disgusting and disrespectful!”

The Complainant, K. Westaway, said, in part: “This is in regard to a video posted on your Facebook of a driver worse driving is erratic. You don't have the facts as this was the result of a medical event. The driver involved is so upset this has been made so public after 14 months when this happened. It has been a tough year with almost losing her twice to now have this come out.

The content of the article had no real accurate content yes it was altered but it failed to say this happened 14 months ago. Which the police were aware of it at the time as the video failed to show her pulling over and the police talking with her. She was never prosecuted as the police could see it was medical (I did arrive on the scene by then) she was treated for her illness and made a full recovery. The video also shows her leaving her own driveway in the car she still drives opposite a street that everyone in Timaru knows as it leads to our Scenic Reserve and school so her car and property are now known. She is my mother-in-law (I acting on behalf of her and my husband) she is 8wks into recovery of a brain tumour removal and this has been so very upsetting to her and us and we fear for her health with the stress of it. This incident happened 14 months ago as I said we never knew that video existed and now without her permission was shared on various sites of the net. The illness at the time made her unaware and impaired her judgement and came on quickly and almost claimed her life. The fact it has been blasted on sites on the net for everyone to know is devastating for her.”

The Chairman noted the Complainants considered the relevant provisions of the OMSA Code of Standards were: Part A Standard 1 Accuracy, Part B Standard 3 Fairness and Standard 4 Privacy.

The response from the Publisher, Television New Zealand, said: “The story is expired from the *ONE News Now* site as is our policy with fair use content (such material expires within 48 hours). The story was first covered by Fairfax media following the publication of the dashcam

video on a Facebook page - <https://www.facebook.com/les.ballard1> TVNZ then sourced the video from that Facebook page, which it would appear has now been deactivated. The script of the original story is shown in Timaru car story version 1.

After the story was published some family members were active in the *ONE News Now* Facebook thread; TVNZ messaged one of them back and they advised that TVNZ call Kelly Westaway about this issue. The Executive Producer of *ONE News Now* talked to Ms Westaway and the story was changed to reflect that the incident was the result of a medical event and that it had happened 14 months ago. The script for this version is shown in Timaru car story version 2 (the video is also attached). In a subsequent conversation (about an hour later) Ms Westaway asked that the video be pulled but this was not agreed to as the event happened in a public place and the driver wasn't identified.

In terms of the claim of breach of privacy – The video only shows the car once it is on a public road. It is not shown on private property. TVNZ notes that the footage was already in the public realm when TVNZ published it and that the footage is still publically available:

<http://www.stuff.co.nz/motoring/news/80334994/Family-angry-over-video-of-woman-driving-while-having-a-medical-event> and

here: <https://nz.news.yahoo.com/video/watch/31691351/people-just-post-things-without-the-facts-family-reacts-to-video-of-woman-driving-while-having-medical-event/#page1>

There was nothing inaccurate in the original article, it accurately reflected an incident of dangerous driving on a New Zealand road but it did have incomplete information as to the cause of that dangerous driving; the medical event suffered by the driver. These details were added to the story and the story was re-angled to reflect them when TVNZ became aware of them after speaking to Ms Westaway. The headline was softened due to the circumstances and the information that the event happened 14 months ago was also added.

The Chairman accepted the Complainants' view the content was misleading, unfair and breached the privacy of the individual shown in the footage.

The Chairman noted the response from the Publisher outlining the actions taken to amended the content in order to reflect the incident was the result of a medical event and provide clarification of the timeframe.

The Chairman said the Publisher had made reasonable efforts to ensure the content was not misleading once additional information was available and it was not in breach of Standard 1 Accuracy. The Chairman said due to the action taken, this part of the complaint was Settled.

Turning to the concerns about Standard 4 Privacy, the Chairman took into account the article did not mention the individual specifically and the video was taken in a public place and widely available. While noting the sincere concerns of the Complainants' and the difficult circumstances illustrated in video, the Chairman said the content did not reach the threshold to be considered to breach the Standard for Privacy.

Noting the self-regulatory actions of the Publisher in amending the content, the Chairman ruled the complaint was Settled.

Chairman's Ruling: Settled

Content: Is this NZ's worst driver? Dashcam captures Timaru car in near head-on – then on footpath

Stopping, starting, both sides of the road and the footpath. This person was only stopped when they almost hit a police car.

Shocking video has emerged online today showing a car being driven dangerously and erratically down a Timaru street.

Dashcam footage shows the red hatchback crossing the centre line and coming dangerously close to hitting an oncoming car.

The vehicle then lurches back over to the left side of the road mounting the curb and leaving dust in its wake as it lurches back onto the road.

The out-of-control car then nearly hits an oncoming truck as it crosses the centre-line again. Les Ballard captured the video and uploaded it to the New Zealand Dangerous Driving Videos Facebook page on Monday.

“I couldn't believe what was happening in front of me” Mr Ballard told Fairfax Media “the worst one I've seen so far.”

Mr Ballard said the erratic driver was finally stopped when it nearly hit a police car and was pulled over and spoken to by a police officer.