

BSA | Broadcasting Standards Authority | Te Mana Whanonga Kaipāho (/)

The National Collective of Rape Crisis and Related Groups of Aotearoa Inc and Woodward and Television New Zealand Ltd - 1996-099, 1996-100

Members

J M Potter (Chair)
L M Loates
R McLeod
A Martin

Dated

29th August 1996

Number

1996-099-100

Complainants

The National Collective of Rape Crisis and
Related Groups of Aotearoa Inc
Ruby Woodward of Wellington

Programme

60 Minutes: "Cry Rape" (/decisions/search?
search=searchdecision&task=search&cck=deci

Channel/Station

TV One (/decisions/search?
search=searchdecision&task=search&cck=deci

Standards

(4) Free-to-air TV Code : Controversial Issues -
Viewpoints (/decisions/search?

search=searchdecision&task=search&cck=decision&decision_category=15&broadcasting_codes

(6) Free-to-air TV Code : Fairness
(/decisions/search?

search=searchdecision&task=search&cck=decision&decision_category=15&broadcasting_codes

(8) Free-to-air TV Code : Responsible
Programming (/decisions/search?

search=searchdecision&task=search&cck=decision&decision_category=15&broadcasting_codes

Broadcaster

Television New Zealand Ltd

Where fields have dotted lines beneath them, you can call up other decisions with the same information.

Summary

The impact on a young man of a false accusation of rape was examined in an item on
60 Minutes, entitled "Cry Rape", broadcast at 7.30pm on 31 March 1996.

The National Spokesperson of The National Collective of Rape Crisis and Related
Groups of Aotearoa Inc, Ms Toni Allwood, who was interviewed on the programme,
complained to Television New Zealand Ltd that the programme breached a number of
broadcasting standards. By omitting her expressions of sympathy for the young man,
she contended that she had not been treated fairly. Further, she argued, some of the
images involved the use of deceptive broadcasting practices.

Ms Woodward complained that the item was unbalanced as it had overlooked the
inadequacies in the police investigation in its determination to focus on and make a
scapegoat of the complainant.

Maintaining that the item had conveyed the main points Ms Allwood had made in the
interview, and that it was appropriate to focus on a manipulative liar who had placed a

young man's future in jeopardy, TVNZ declined to uphold the complaints.

Dissatisfied with TVNZ's decision, each complainant referred their complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

For the reasons below, the Authority declines to uphold the complaints.

Decision

The members of the Authority have viewed the item complained about and have read the correspondence (summarised in the Appendices). As is its practice, the Authority determines the complaints without a formal hearing.

The Programme

A young male student, falsely accused of raping a fellow woman student, was the subject of an investigation in an item on *60 Minutes* broadcast by Television New Zealand Ltd on 31 March 1996 at 7.30pm. The item examined the efforts made by the young man and his family to prove that the rape charge was false, and the effect of the incident on the young man's life. It was revealed that Nick, a warden at one of the university hostels at the University of Waikato, was accused by a fellow student of rape. Although Nick protested his innocence, and provided an alibi, he was charged with the offence. With his family's support, he provided evidence which proved that he had been falsely accused and the charge was dropped. It was also revealed that the woman who had accused him was charged with making a false statement, ordered to pay a fine and sentenced to community service. An investigation into her background suggested that she had fabricated stories in the past.

One of the interviewees on the programme was Ms Toni Allwood, spokesperson for The National Collective of Rape Crisis and Related Groups of Aotearoa Inc, who expressed the view that the investigation amounted to a retrial of the young woman by the media. Ms Allwood suggested that because the young woman was traumatised by the "incident she had been mistaken in identifying Nick as the offender, and emphasised that mistaken identity was not the same as a false accusation of rape. She also asserted that the suffering of the young man in this case was not comparable to the trauma of a rape victim.

The Complaints

Ms Toni Allwood complained to Television New Zealand Ltd that because the programme did not convey her expressions of sympathy for the young man, she was not dealt with fairly and the item failed to achieve balance. Further, she maintained that the editing of her interview was a distortion of her overall views and thus

breached standard G19.

She also accused TVNZ of actively misleading the public by setting the scene with shots of prison, thus giving the impression that Nick had been imprisoned, and by the use of reconstructions which, she reported, some viewers believed was footage from police files. She reported that she and her organisation had received a great deal of negative reaction because the programme portrayed her as indifferent to the plight of the young man and his family. Furthermore, her organisation, its staff and workers in other women's groups had been subjected to vitriolic attacks because of what she called "selective editorial cutting.

Ms Woodward's complaint – that the programme should have focused on the inadequate police investigation as a contributing factor instead of only emphasising the young woman's history and her reputation as a "proven manipulative liar – was that it lacked balance. She argued that in its zeal to vindicate Nick, the item ignored the effect on the vulnerable and obviously mixed-up young woman, portraying her as an arch villain, while neglecting to note that ineffective policing had as much to do with Nick's being charged as did the young woman's accusation. She questioned why the programme had not highlighted the reasons for the two-day delay which occurred before the police commenced their investigation into Nick's alibi, arguing that had the alibi been established it would have been unlikely that Nick would have been charged. Thus, she maintained, both parties were let down by the tardiness of the police.

In addition, Ms Woodward complained that the item amounted to a retrial by the media. She argued that the young woman had already been punished and should be permitted to try to put her life back together again. Instead, the matter had become public once more and, as well as being the focus of the 60 Minutes item, was the subject of talkback on radio. Ms Woodward concluded that TVNZ had not acted responsibly in that it had emphasised the shortcomings of the young woman and not the inefficiencies of the police force.

TVNZ's Response

TVNZ advised that it had considered the complaints under standards G4, G7 and G19 nominated by Ms Allwood and standard G6, nominated by both complainants.

Standards G4, G6 and G7 require broadcasters:

G4 To deal justly and fairly with any person taking part or referred to in any programme.

G6 To show balance, impartiality and fairness in dealing with political matters, current affairs and all questions of a controversial nature.

G7 To avoid the use of any deceptive programme practice in the presentation of programmes which takes advantage of the confidence viewers have in the integrity of broadcasting.

The other standard reads:

G19 Care must be taken in the editing of programme material to ensure that the extracts used are a true reflection and not a distortion of the original event or overall views expressed.

In its response to Ms Allwood, TVNZ reminded her that she had initiated the contact with *60 Minutes* and was invited to participate in the programme on the basis that she would present a particular point of view. It also emphasised that the focus of the story was the young man falsely, and apparently maliciously, accused of rape.

With respect to the contribution from Ms Allwood, TVNZ argued that the extract broadcast accurately reflected the main points she had made in the interview – first that the woman had been raped, but that this was a case of mistaken identity, and secondly that the young man's suffering was not comparable to the trauma suffered by a rape victim. While it acknowledged that Ms Allwood had expressed sympathy for the young man, it suggested that it was only in the context of the two points above. Furthermore, TVNZ argued, Ms Allwood was interviewed not for the purpose of eliciting sympathy, but to present the view of Rape Crisis. It asked why it was necessary to show that Ms Allwood had sympathy for the young man when, in the context of the story, surely that was a given. It considered Ms Allwood had been treated fairly throughout and declined to uphold her complaint that standard G4 was breached.

TVNZ then turned to the allegation that editing of certain shots was designed to mislead viewers. First, it reported, the use of the shot of the prison was to illustrate the thoughts which were running through Nick's mind during the two and a half months after he had been falsely accused of the rape. Next, it responded to the

question about the use of the shots of the zipper being undone which, according to Ms Allwood, some viewers thought was from police files. TVNZ advised that the shot of the zipper was used to provide a link to the original police photograph of the marks on the woman's stomach. It denied that the photograph or the link shots evidenced any prurience or inaccuracy and explained that had the zipper shots not been used, it would have been difficult for viewers to work out what it was they were being shown.

Referring to the reconstruction of the young woman's interview with police, TVNZ asserted that it was obvious from the way it was presented that it was not a reconstruction, since it intermeshed pictures of a woman in blackened profile with printed extracts from the interview transcript, indicating that the sequence was simply setting the scene and not that the woman shown was in fact the rape complainant.

TVNZ rejected the complaint that Ms Allwood was treated unfairly in the programme, pointing out that the main points she wished to make were there – and in her own words. It also maintained that because the views of Rape Crisis were presented, the programme was not unbalanced, impartial or unfair.

With respect to Ms Allwood's complaint that her views were distorted by the way the interview was edited, TVNZ argued that the programme accurately reflected the points she emphasised during the interview and declined to uphold that aspect of the complaint. As for the alleged breach of standard G7, TVNZ explained that the standard usually only applied when some technical trickery was suspected. In this case, it noted, Ms Allwood's concern was that viewers were misled. TVNZ disagreed that the imagery used of the prisons, the zipper and the police interview were misleading.

In its response to Ms Woodward's complaint, TVNZ justified the programme's focus on the young woman, stressing that it was significant she was shown to be an inveterate liar – a fact not known at the time of the allegation – because it was her failure to tell the truth which resulted in Nick being charged. As far as the police investigation was concerned, TVNZ responded first that the handling of rape complaints by the police had been tackled in numerous ways before and was outside the ambit of this item. Further, TVNZ pointed out that the deficiencies in the police investigation were noted, in particular the failure to check the young woman's background and to verify Nick's alibi. However, it maintained, those matters were not what the story was primarily about. Its intention was to highlight the plight of a young man whose future had been jeopardised by a false accusation of rape and to

show how, with the help of his family, Nick proved that the charge was false.

TVNZ rejected Ms Woodward's contention that the item amounted to a retrial by the media. It suggested that far from being vulnerable, the young woman was considered and calculated in telling lies to the authorities and had misled the police, Rape Crisis and the examining physician, among others. It noted that her name and identity had been suppressed and that comment on her behalf from Rape Crisis was included. It did not agree that the programme was unfair to her.

The Authority's Findings

The Authority turns first to the complaint from Ms Allwood, who appeared on the programme as a spokesperson for Rape Crisis and its affiliated groups. Ms Allwood's view was that the young woman had been sexually assaulted and was so traumatised that she made a mistake in identifying her attacker. Subsequently, when it was learned that she had falsely accused Nick, she was sentenced to 150 hours of community service and fined \$5000 – and thus had paid her debt.

The Authority understands that Ms Allwood's complaint was that she was not represented fairly because her comments were edited to remove her expressions of sympathy for Nick. The Authority accepts that Ms Allwood was presented as a strong advocate for the young woman, and that she believed that "Wendy had been so traumatised by the alleged attack that she had mistaken the identity of her attacker. She also expressed the view that the young woman had already been punished sufficiently, adding that she was concerned about the effects on her health of a second trial by media, especially if she was able to be identified.

The Authority also notes that when Ms Allwood took the view that a rape had occurred but Nick was mistakenly identified, it was suggested by the reporter that this was another fabrication by the young woman and was the "latest version of the story, which had been accepted as true by Rape Crisis. The Authority notes that this interpretation of events differed from the version given by the young woman to the police when she admitted that not only had she falsely accused Nick but also that no sexual assault had taken place. In that context, Ms Allwood was portrayed as a powerful advocate for the young woman. The Authority sees her role in the programme as presenting the viewpoint of the woman – and indeed other women who have been victims of sexual assault – and of educating the public about how the trauma of sexual assault can result in victims being mistaken in identifying their attackers. Whether there was a sexual assault on this occasion was not relevant – and not

investigated – since the focus was on the false accusation of Nick and the effect on him and his family.

The Authority understands why Ms Allwood would have preferred for her expression of sympathy for Nick to have been included in the programme. However it does not agree that her views were misrepresented simply because she was not shown conveying her sympathy for Nick and his family. In the Authority's view, her role in the programme was to provide support for the young woman – which she did very powerfully – and to provide a perspective about the role of Rape Crisis. It concludes that she was treated fairly and that standard G4 was not contravened.

Turning to the editing techniques used to illustrate aspects of the story – the shots of the prison, the shots of the woman's injuries and the reconstruction of the police interview – the Authority accepts that those devices are standard practice in compiling documentaries and are used to represent aspects of the story in which visual detail is significant. It does not consider the techniques were likely to have misled viewers or that they distorted the truth. Accordingly it declines to uphold the complaint that standards G7 and G19 were breached.

Next, the Authority considers the complaint that because the item failed to focus on the inadequacy of the police investigation, the item lacked balance. The Authority acknowledges that the ineffective police investigation was a factor in the story, but it recognises that the focus on this occasion was the impact on Nick and his family of the false accusation of rape. It was significant that the main reason he was charged was because Wendy's story was so totally plausible, rather than the failure of the police to investigate the allegations and check Nick's alibi. As a result of the resourcefulness of his family and friends, Nick was able to establish his alibi as well as to cast doubt on the veracity of Wendy's story. The Authority notes that although questions were asked in the programme as to why the police had laid charges without checking Nick's alibi and verifying the complainant's story, and why Nick and his parents were forced to initiate the investigation themselves, it was outside the ambit of the programme to investigate those matters further. It considers the programme, which focused on Nick and his family, was balanced by comments from the Rape Crisis spokesperson who explained the circumstances from the position of the young woman and emphasised that she had already paid her debt for her mistake. The Authority declines to uphold the complaints that the item lacked balance.

For the reasons set forth above, the Authority declines to uphold the complaints.

Signed for and on behalf of the Authority

Judith Potter
Chairperson
29 August 1996

Appendix I

The National Collective of Rape Crisis and Related Groups of Aotearoa Inc.'s

Complaint to Television New Zealand Ltd - 26 April 1996

On behalf of the above group, the National Spokesperson, Toni Allwood, complained to Television New Zealand Ltd about a 60 Minutes item titled "Cry Rape broadcast on TV One at 7.30pm on 31 March 1996. She alleged that the broadcast had breached standards G4, G6, G7 and G19 of the Television Code of Broadcasting Practice.

Ms Allwood explained that she had been interviewed for the item which focussed on the situation of a young male student wrongly accused of rape by a female fellow student - who had subsequently been found guilty of making a false statement. Ms Allwood wrote:

The tenor of my comments were sympathy for and condemnation of a man ' being falsely accused of rape; a belief that mistaken identity was not the same as a false allegation; an explanation of how a traumatised teenager could make such a mistake, the pressures of victims of sexual assault to identify their attacker and their need to be believed; my concerns that the sole focus of anger was on a teenage victim when there was a series of mistakes that led to this tragedy, that W had already been punished and that the 60 Minutes programme was shaping up as a second trial (by media); my anxiety that her safety could be jeopardised should the intended nationwide identification of her take place.

However, she stressed, her views on the first point - sympathy for the young man - had not been shown. She stated that she had expressed her dismay that any male could be falsely accused of rape, and that it was fortunate for him that his family was loyal and resourceful. She pointed out that she had made this point more than once. She alleged that, by editing out all her expressions of sympathy, TVNZ had not dealt with her fairly and justly, had been unbalanced and unfair, and had distorted her views in the editing process. She emphasised:

My representation as a cold uncaring person, indifferent to the plight of Nick

or his family has resulted in a flood of hostility both to me personally and via threats to cancel financial support, to the national organisation of Rape Crisis.

Explaining her allegation of a breach of standard G7, Ms Allwood maintained first that shots of prison had misled people to believe that Nick had been jailed, secondly, a reconstruction of Wendy's interrogation misled people to believe that they were witnessing the real thing, and thirdly, that shots of a woman undoing her zip to show an unblemished abdomen were also authentic. She asserted that these constituted deceptive broadcasting practices.

In conclusion, she noted that while she had been happy about what she had said in the interview, she had been cynical about what "creative cutting would do to her statements. Seeing the result, she knew that while she could live with the editing:

What I find much harder to accept is that because of selective editorial cutting Rape Crisis as a national organisation has been subject to resulting extreme vitriolic attacks and that these have had to be endured not only by our paid and unpaid workers around the country, but also by women who work for other community groups which are quite independent of Rape Crisis.

TVNZ's Response to the Formal Complaint - 27 May 1996

Assessing the complaint under the nominated standards - G4, G6, G7 and G19 -

TVNZ noted nevertheless that it believed that Ms Allwood's prime concern was that she had been misrepresented.

In the recollection of the crew present during the interview, it stated, the two main points Ms Allwood had emphasised were that Rape Crisis believed that this was a case of mistaken identity as distinct from a false accusation of rape, and that the young man's suffering in this case was in no way comparable with the trauma suffered by a rape victim. It was acknowledged that Ms Allwood did express sympathy for the young man, but the crew stressed that it was always in the context of either of her two main points.

Observing that it was true that all sympathetic statements had been cut, TVNZ reported that Ms Allwood had only referred to Nick as "that young man, and such statements only amounted to three and a half sentences in a 22 minute interview. TVNZ said that it had seemed sensible to choose an excerpt from the interview in which the points which Ms Allwood had made were most succinctly put. It also explained:

You were interviewed, not for the purpose of eliciting from you a statement of sympathy, but to provide you with an opportunity to spell out the more important points that you as a representative of Rape Crisis, wished to make.

As such, TVNZ believed that this aim was achieved. It also considered that the views included were those that Ms Allwood really wanted to get across to viewers. It noted: In the context of these particular circumstances sympathy for Nick's predicament was surely a "given?"

Turning to Ms Allwood's concerns about the imagery used in the programme, TVNZ responded point by point. As for the images of a prison, it argued that they were not inappropriate as, for two and a half months, Nick had faced the possibility of 10 years in prison. In regards to the shot involving the zipper, TVNZ contended that this had been necessary to link the preceding material with the original police photos of "Wendy's stomach. Finally, it noted that it did not believe that it needed to label the interview as a reconstruction as the background visuals were simply "setting the scene for the printed extracts from an interview transcript.

TVNZ declined to uphold any aspect of the complaint

Rape Crisis's Referral to the Broadcasting Standards Authority - 18 June 1996

Dissatisfied with TVNZ's response, Ms Allwood on behalf of the Collective referred the complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

Maintaining that the context of her participation was important, Ms Allwood explained that she had been asked to get involved by a number of people who were concerned about Wendy's safety should 60 Minutes identify her. Her family, the Rape Crisis counsellor, and the police officer involved had all agreed that the victim might try to commit suicide.

Pointing out that when she was interviewed an interim injunction had been taken out against TVNZ, she suggested that the line of questioning beginning with "Why has a court injunction been taken out against TVNZ to prevent us from naming Wendy?" was hostile and antagonistic.

She stressed that she was particularly conscious of potential damage to the reputation of Rape Crisis every time she did media work. She commented that for that reason she had wished to convey a balanced perspective of sympathy for Nick and concern regarding TVNZ's proposed treatment of Wendy. She emphasised:

Because it was crucial that my condemnation of the intended actions of 60 Minutes should not be misinterpreted by viewers as an indifference to the plight of Nick and his family, I repeatedly expressed my sympathy --- four times in all.

That I was misrepresented was demonstrated by the fact that in the frenzy of public antagonism that followed the screening of 60 Minutes, I successfully

defused every hostile call by simply outlining what I did say in the unedited interview.

Ms Allwood believed that as TVNZ had been forbidden to name Wendy, it had attempted to use Rape Crisis and her as a scapegoat. She enclosed a copy of a Sunday Star-Times advertisement with a bold headline of "HE'S AT THE CENTRE OF A RAPE CRISIS. She also pointed out that the Executive Producer of 60 Minutes had deliberately misrepresented her on Auckland's Newstalk ZB, stating that she had not expressed sympathy for Nick or his family and that she wanted to stop the entire programme. She enclosed a fax which she had sent to the director of the item on 1 March which was contradictory to all these claims.

She concluded:

The negative repercussions of the 60 Minutes programme have been considerable and in my opinion, undeserved. For example they extended beyond myself and Rape Crisis to the Auckland Help Foundation. They included financial losses for local Rape Crisis groups who had to cancel their street appeals during our 1996 Rape Awareness Week (9-12 April) because they had concerns about their safety in view of the continuing public hostility.

TVNZ's Reply to the Authority - 27 June 1996

In its report to the Authority, TVNZ pointed out first that while Ms Allwood had claimed that she had been subjected to a "hostile and antagonistic line of questioning, she had stated in her original complaint that she had been happy with what she had said in the interview. TVNZ acknowledged that the interview was "hard-hitting as a current affairs interview should be, but contended that Ms Allwood, as an experienced interview subject, would not have been surprised. It explained that the reporter frequently stopped the interview to check the quality of Ms Allwood's responses.

TVNZ observed that the programme focused on the ordeal of a young man falsely accused of rape, rather than an wider ideological debate on rape. The latter approach would have been inappropriate in the context. It recalled that the interview had in fact been initiated by Ms Allwood, and that she had been informed that it would be necessary to address the essential points of the story.

TVNZ repeated that Ms Allwood had never referred to Nick by name, but always as "that young man. It wrote:

In editing the interview the priority was to condense from it the more important points that Rape Crisis wished to make - first that Rape Crisis believed a rape had occurred but that this was a case of mistaken identity, and

second that the young man's trauma could not be compared with that suffered by a rape victim.

It suggested that it was unnecessary to show Ms Allwood's sympathy for Nick as it was surely a "given. In conclusion, TVNZ noted that Ms Allwood's interview was just one aspect in a story about a young man's fearful experience after being falsely and apparently maliciously accused of rape.

Rape Crisis's Final Comment - 16 July 1996

On behalf of Rape Crisis, Ms Allwood made five points in her final comment.

First, while pleased when interviewed that she had not responded either aggressively or defensively, she had qualified her answer at the time and mentioned her concern about possible "creative cutting. On viewing the item, "I was not happy.

Secondly, while she agreed that Nick's story was worth telling, she was concerned that it should not be at the cost of further harm to Wendy. Her concern was justified given TVNZ's approach to her when she was interviewed and, she added:

The tone of the question indicated to me that TVNZ was angry. These points will be made clear if the Broadcasting Standards Authority is able to see a VHS copy of my original interview as well as the item screened on 31 March 1996.

Next, she explained that she had deliberately avoided mentioning either Nick or Wendy by name given the court proceedings relating to Wendy's name suppression, and thought it was illogical for TVNZ to criticise her for doing so.

As the fourth point, she maintained that the removal of her expressions of sympathy for Nick added to the item's tone of hostility.

Finally, she wrote:

A very important task for Rape Crisis in every interview is to show that our expertise on rape and sexual abuse is tempered by balance and fairness, indeed our credibility depends on it. In its distorted portrayal of me the 60 Minutes "Cry Rape item not only misrepresented my views but also unfairly undermined the reputation and credibility of myself and Rape Crisis.

Appendix II

Ms Woodward's Complaint to Television New Zealand Ltd - 2 April 1996

Ruby Woodward of Wellington complained to Television New Zealand Ltd about a 60 Minutes episode titled "Cry Rape broadcast on TV One at 7.30pm on 31 March 1996. She alleged that the broadcast was unbalanced.

Ms Woodward stated:

As presented by Janet McIntyre, it would appear that this whole sorry event occurred because a young girl (17 or 18?) falsely accused a young man of

rape. The story was structured around a young girl's actions and attempts to counter them by a young man's family.

She continued by pointing out that there was little mention of the police investigation and the impact of its conclusions. She suggested that more emphasis should have been placed on the point that the police apparently did not take the girl's character into account, and that the young man's alibi was not adequately investigated and substantiated until some time after he had been charged.

She contended that the emphasis should have been on shoddy police work, police underfunding, or poor police training, rather than on an obviously vulnerable and disturbed teenage girl. She questioned whether the focus of the programme had been determined solely by the quest for ratings.

She concluded:

What I do know, however, is that if a wider focus had been chosen for its exposition, the programme would not have been presented as lacking balance as it did.

TVNZ's Response to the Formal Complaint - 24 May 1996

TVNZ assessed the complaint in the context of standard G6 of the Television Code of Broadcasting Practice.

Suggesting that while Ms Woodward might feel genuine compassion for the young woman involved, "Wendy was, in TVNZ's opinion, "a proven manipulative liar and had placed a young man in jeopardy by a prolonged refusal to tell the truth. It was also noted that "Wendy's inclination to lie was not known to the authorities when the allegation was made.

Dealing with the suggestion that the focus of the programme should have been on the police, TVNZ made two points:

First the police's handling of rape complaints has been tackled in numerous ways before and was outside the ambit of this 60 Minutes investigation.

Secondly, the programme did not ignore the apparently ill-judged police work.

Their failure to check the young woman's background and exaggerated stories was described, as was their failure to verify Nick's alibi.

TVNZ pointed out that a spokesperson for Rape Crisis had suggested that this was simply a retrial by media and that, in her view, the damage done to the victim in this case could not be compared to the trauma suffered by a rape victim. TVNZ noted, however, that these points were not central to the story. The central points were:

Its intention was to point to the plight of a young man whose life may have been shattered by a false accusation of rape. Even now, although the

complainant has acknowledged the complaint was false, the accusation hangs over him. It was a story about a family coming together to fight a case of injustice that even their lawyer thought was hopeless.

In declining to uphold the complaint TVNZ stressed that "Wendy was not vulnerable, but had been, in fact, considered and calculating in telling her lies to the authorities. It also stressed that the item was a fair description of what the young man had been through, that it had included a comment from Rape Crisis and that it (TVNZ) had been prevented from naming "Wendy by a court injunction.

Ms Woodward's Referral to the Broadcasting Standards Authority - 20 June 1996

Dissatisfied with TVNZ's response, Ms Woodward referred the complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

After pointing out that the Executive Producer of 60 Minutes had been quoted in the Listener as saying that the programme lives or dies by the ratings, Ms Woodward expressed a suspicion that the quest for ratings had had a particularly important aspect of this programme. She then made the following points:

1. If Wendy was a "proven manipulative liar, that showed that she had an emotionally or mentally vulnerable state of mind and that if that was "proven, then the police should have found this out. The absence of focus on these two matters in the item, she wrote, indicated a complete lack of balance.
2. That Wendy was a "proven liar was significant. As the police didn't take this into account until after charging Nick, there was a fine balance between poor policing and the accusation leading to Nick being charged. However, the programme simply focussed on Wendy's actions.
3. The fact that there was a two day delay between the time when Nick was charged and when the police began to investigate his alibi was only briefly alluded to. She made a comparison to a burglary, in which she suggested the police could not charge someone until they had confirmed that an offence occurred. She pointed out that this point was not made for the viewers.
4. The professional negligence of the police was not depicted in remotely the same "lurid manner as Wendy's actions had been approached.
5. Ms Woodward considered that 60 Minutes was so intent on vindicating Nick that it had been prepared to shatter the life of Wendy - a person who was vulnerable and obviously mixed up. She alleged:

From the outset, it was obvious that the ambit of this item was the portrayal of a young-woman as an arch-villain. No matter that poor policing had as much

to do as with Nick being charged with rape as Wendy's accusation; no matter that the girl was obviously very mixed up, already tried and punished in court for her behaviour and now trying to put this episode behind her - the focus of the programme remained firmly fixed on Wendy.

6. Ms Woodward noted that in contesting her complaint, TVNZ had not acknowledged the court injunction, which it had contested.

7. Presumably the injunction acknowledged that young people, such as Wendy, make mistakes, but nevertheless that they should be allowed to get on with their lives.

8. Despite the injunction, the programme however made her name quite clear, by using beeps to cover her full name and blocking her face in a photograph taken with other students. Ms Woodward pointed out that other students could have recognised her in the photo.

9. Ms Woodward argued that 60 Minutes succeeded at putting Wendy on trial again, this time in the sitting rooms of the ordinary New Zealand citizen.

10. She concluded:

In this way, and by placing less emphasis on the inefficiencies of the police force, I believe TVNZ, and 60 Minutes failed to act responsibly in that the item entitled "Cry Rape lacked balance and fairness in the treatment of a controversial issue.

TVNZ's Response to the Authority - 27 June 1996

TVNZ noted that Ms Woodward's quote about 60 Minutes living or dying by the ratings was selective, but irrelevant as the complaint should be focussed on the programme.

TVNZ suggested that it was ironic that Ms Woodward was accusing it of being unbalanced as she had not expressed any sympathy for the young man involved, either in her original complaint or in the referral to the Authority.

TVNZ pointed out that it was irrelevant that it had not mentioned the injunction in dealing with her complaint, as it had no bearing on any of the points she made. It was also claimed that her interpretation of the order was subjective and irrelevant.

Ms Woodward's Final Comment - 6 July 1996

In her comment, Ms Woodward expressed surprise at TVNZ's "ad hominem comment. She "heartily empathised with the young man and his family, but her complaint had focussed on the item's alleged lack of balance.

The crux of the complaint, she reiterated, was the item's lack of balance in not dealing with bad policing. Without police negligence, she added, the young man would not have been put in the dreadful position explored in the item.

Her reference to the injunction, she wrote, was to explain what she saw as the item's focus on Wendy.

Ms Woodward concluded by referring again to the Listener article which reported that 60 Minutes lived or died by its ratings.

<https://bsa.govt.nz/decisions/show/399>