

Anne Barwick

From: Anne Barwick

Sent: Wednesday, 11 March 2009 11:57

To: REDACTED .com.au'

Dear Adrian

I refer to your recent e-mail in which you sought certain information in the context of the recent arrests and charges against former teachers of Knox College, including Mr Adrian Nesbitt. I understand the nature of the allegations you have made against Mr Nesbitt and the information that you provided to Mr Grahame Wilson in 2004. I note that you have recently provided information about this matter to police.

Let me say at the outset that I acknowledge the effect that the reported incidents at Knox College have had on your life and the lives of others, and would wish to assist you in so far as possible. However, as I foreshadowed in my initial response to your email, in relation to much of the information you have requested we are bound by the strict non-disclosure provisions of the Ombudsman Act 1974. These provisions apply to all of the work of this office and, in particular, section 34 of the Act prohibits the Ombudsman and an officer of the Ombudsman, from disclosing any information obtained by the Ombudsman or that officer in the course of the Ombudsman's or officer's duties. The Ombudsman Act offers only very limited exceptions to our obligation of non-disclosure.

You should also be aware that the Ombudsman's primary role under Part 3A of the Ombudsman Act is to ensure that an investigation of an allegation of reportable conduct (generally referred to as a "reportable allegation") is properly conducted by the organisational employer of the person against whom the allegation is made. Heads of agencies, including school principals, are required to notify the Ombudsman within 30 days of becoming aware of any reportable allegations against persons they employ or engage, including teachers, foster carers, volunteers, clergy or contractors.

In addition, the Ombudsman must ensure that appropriate action is taken by the organisation as a result of the investigation. An agency has to investigate the allegation and act upon the findings of its investigation, that is, develop a risk management plan, notify the Commission for Children and Young People and take disciplinary action if appropriate, amongst other things. At the completion of an investigation, the head of agency must provide us with information that enables us to assess the adequacy of the investigation and any actions taken. If the reportable allegations appear to involve criminal conduct, we advise agencies to notify police.

I am unable to provide you with any of the documents you have requested but can, within the constraints of section 34 of the Act, confirm that Knox College notified the Ombudsman of reportable allegations made against Mr Nesbitt in 2004, within the required timeframe. We provided certain advice to the school and the reportable allegations were investigated by an external investigator engaged by Knox College. We were satisfied with the adequacy of the school's investigation and the actions which the school informed us that it had taken in light of the investigation.

I understand that your situation is a difficult one and trust that the above is of some assistance.

Yours sincerely

11/03/2009

Anne Barwick