

Radio 2GB Interview: Ray Hadley and NSW Ombudsman, Bruce Barber Thursday 26 February 2008

Knox Grammar School has defended its handling of an internal investigation into sex abuse claims against a teacher five years ago. They say at the time they conducted a probe into the allegations. We're talking about 59-year old Adrian Nisbett who taught English at the school for three decades, charged on Tuesday with allegedly indecently assaulting three boys between '76 and 1990.

The school received complaints in 2004 about Nisbett's actions. Now Adrian Nisbett hasn't taught at the school since the allegations were made. The Knox school headmaster, John Weekes, who wasn't there at the time, said the school sought advice from the New South Wales Ombudsman's office on how to conduct the investigation as they had a set of guidelines for dealing with certain allegations against employees. The school also used a qualified external investigation who sent a report to the Ombudsman's office. In turn, the Ombudsman's office said no further action was required. But New South Wales police say they need to be made aware of the investigation.

I thought I'd start with the New South Wales Ombudsman, Bruce Barber, who can take me through the process.

RH Good day, Bruce.

BB Good day, Ray, how are you?

RH Good, mate. Now I would have thought as a layman the first port of call would be the coppers, I'm wrong obviously?

BB Look Ray, that would be the case if it was a criminal offence and if the allegations were sexual misconduct or sexual assault. Now obviously I can't talk about the specific circumstances in relation to the Knox matter in 2004.

RH Right.

BB But if I can tell you generally when allegations are made of a kind of grooming, in other words, possible inappropriate conduct, getting too close in terms of relationship with someone, that is not a criminal offence. And any investigation of those allegations requires the cooperation of the people involved. In other words, the people making the allegations and the alleged

RH So we've got a fine line here. As opposed to the man being charged now with indecently assaulting three boys and we make no reference to the guilt or innocence of that party, those were not the allegations back in 2004 by the look of it, or by the sound of it?

BB No. If allegations of that kind were made and ?.....not only would we say to the school refer them to police, but we would also make sure that they are referred to police. And I'm delighted that as a result of the publicity that's been given to the first incident, that other people have felt comfortable enough to come forward because this is one of the problems we experience. Particularly with male victims, they feel very embarrassed, they don't want to become known for having been a victim of any abuse and they often don't come forward.

- RH Okay, I don't mean to be disrespectful but let's just say ... and I know you do an excellent job as New South Wales Ombudsman, but you don't have the resources nor do your office have the expertise as many officers would in dealing with young people who may have been offended against, if you understand what I mean? If they had a question, these children at the time, maybe they could have got to the basis of the allegations as opposed to what had turned out to be when you investigated it?
- BB No, well look, first of all the allegations were very different. Secondly, there was a proper investigation conducted by an excellent external investigator. The allegations were not criminal, they were not alleging sexual conduct or inappropriate sexual conduct and the person about whom the allegations were being made, the victim for want of a better word, would not provide any information or assistance to the investigator.
- RH Okay, alright.
- BB Now in those cases where there's no criminal offence and we can't get people to talk, there's very little we can do and that's why I'm delighted if there is criminal conduct now, that someone is prepared to come forward and talk about, that the police are investigating.
- RH Alright, you've cleared it up, Bruce, thank you, I now have a better understanding and I'm sure my listeners do as well.
- BB Great, thanks Ray.
- RH Thanks, Bruce Barber, New South Wales Ombudsman.
- RH I go from Bruce to the Kuring-Gai Local Area Commander, Shane White who's investigating the sex offences, the alleged sex offences at Knox, he's on the line. Shane, good day. Good day, Shane. Sorry Shane, I've got you there now.
- SW Yes, I'm with you, Ray.
- RH Sorry, mate, we had a cross line, it's all cleared up now. Now you obviously heard what Bruce Barber as the Ombudsman had to say so I guess we're dealing with apples and oranges. What he was charged with investigating in 2004 is much different to where we've arrived in 2009 by the sound of it.
- SW By the sound of it and Ray ... but I will acknowledge that we've yet to see a copy of the report so really I can't comment on what the issues were in that report nor compare them with the allegations that we're investigating today. We're only made aware of the report last week and we've been making moves to obtain a copy of that report along with some other material that we're seeking and I do expect to have that later today.
- RH Will it help you talk to your superiors and maybe they can talk to the government about the need for some clarity here? Because it would appear that when little kids, and now we're talking about little kids who are adults, when little kids make accusations if they're not handled appropriately by the investigating people, be it the Ombudsman or police, well they're thinking they being buried in paperwork.

- SW Well I guess there's a potential for that but we do have the Childcare and Protection Act which makes it mandatory for certain classes of people and we're talking about teachers and police and nurses and doctors, and all sorts of people to report any allegations of child abuse to authority.
- RH Yeah and so until you see what was reported, I guess you're in the dark as we're in the dark. If as Mr Barber portrayed here, and he's always been upfront with me, and it was talking about not appropriate touching or not of a sexual nature but more of someone forming some sort of a relationship, if you know what I mean, a friendship with a child which was thought to be inappropriate, well we're a bit far removed from someone actually being charged with a sexual offence, I guess?
- SW Well on the surface, yes. But of course any allegation like that ... you need to interrogate and quite thoroughly, of course. Due to the dangers, the inherent dangers in that type of relationship but ...
- RH So I get to the point. If you read the report and it says as portrayed by Bruce Barber that they weren't of a sexual nature but they were about inappropriate behaviour in relation to a child and a teacher, do we need to get to the stage where even that has to be reported so that your expert officers who have expertise in these areas can investigate?
- SW Ray, it's a difficult comment just generally, but I mean if there are inappropriate matters that don't border on the criminal there's no suggestion that a criminal or there's child abuse occurring, well then I think we're at danger of you know, perhaps overloading the system if we report everything.
- RH Yeah okay.
- SW We've got to be a bit cautious
- RH And I guess to a certain extent children may be reluctant to talk about things but when the children become adults, they're more than happy to talk about things in given circumstances
- SW Absolutely. And I guess what we ... it's only a month ago that we've picked up this investigation. From that initial courageous victim who came forward, since then and due to the publicity we've had so many more people come forward and commit to paper which is outstanding and of course, we've got three people before the court and the inquiry goes on, so it is encouraging to see people now coming forward and assisting with investigations.
- RH Okay, from that one brave person can you tell me, Superintendent, how many people you've now got making accusations?
- SW Well the subject of the matters before the court. Ray, there are nine victims at this stage.
- RH Nine victims?
- SW Nine alleged victims.
- RH And eight came forward after this very brave person came forward in the first instance?

- SW That's right but we're still in the process, we've received quite a bit of information Ray, and we're still in the process of working through that and I'm certainly not commenting in respect of the people currently before the court but in respect of the investigation generally, it may be that we do identify or we have more potential victims yet as well.
- RH Okay, I appreciate your time, thank you Shane, keep up the excellent work.
- SW Thanks Ray.
- RH Superintendent of the Kuring-Gai Local Area Command, he's the boss up there, Shane White.