



CJ and VA Turnbull

19 October 2023

Tēnā korua

The Secretary for Education's Office has asked me to respond to your correspondence about the conduct of former Ministry of Education staff members Christine Menzies, David Wales, Murray Roberts and contractor Terri Johnstone following your complaint about Ruru Specialist School. We have also accepted a partial transfer of your correspondence to New Zealand Police about Christine Menzies, and this response will address those concerns as well.

I acknowledge the impact and importance of these issues to you and your family. You have been determined to end seclusion and other harmful practices within New Zealand schools and have been a strong and committed advocate not only for your son but other vulnerable children and young people.

Since you first raised these issues in 2014, there have been investigations across a range of agencies and statutory bodies, that have resulted in legislative change, the development of guidance and support for the education sector and monitoring processes for the use of physical restraint. Seclusion has been prohibited and this is understood by the education sector. Any concerns or allegations about the use of seclusion can be directly referred to the Ministry and we take these concerns seriously.

I want to thank you for your determination to drive changes for children and young people and acknowledge the significant impact this has had across New Zealand schools.

The themes you have raised in your correspondence over the last few months are interlinked, and largely relate to the conduct, or intent of former Ministry staff or contractors. I apologise for the delay in responding to you but needed to take time to seek advice and consider what information we needed to access to respond.

Complaints about Christine Menzies

I refer to your letter of 28 June and the evidence you have attached. I also refer to your letter of 2 July 2023 to New Zealand Police, parts of which were transferred to us for response.

Christine Menzies is no longer an employee at the Ministry of Education. We have considered the information you have provided in relation to her recall of the details of the room and note the conclusions you have drawn from this. We have reviewed this material and do not agree that the examples provided establish a conflict of interest or that Christine was unable to remain impartial during the investigations.



The second example provides a descriptor of our role as regulator and every Ministry manager is in the same situation. There is no evidence that Christine was acting to protect staff or herself, and engaging an external consultant to investigate the issue was to ensure there was an independent, without bias review of your complaint.

You have also raised concerns that Christine withheld information from Police and as a result the Police investigation was flawed. These matters have also been considered by the Ombudsman, and we have accepted the need to provide clear and unambiguous guidance which is now in effect, and legislation has been amended accordingly. However, we consider that the information you have provided falls short of establishing deception.

We cannot address the concerns about Police processes, as that is a matter for Police. Any further concerns regarding the Police investigation should be raised directly with Police.

Complaint about David Wales

I refer to your letter of 25 July about David Wales, Director of Learning Support and the concerns you have raised in relation to his conduct at various points from the 2015 independent report, Police investigation, involvement with the advisory group and questioning at the Royal Commission hearing in 2022.

David Wales is no longer an employee at the Ministry of Education. The areas of concern you have raised, with the exception of the Royal Commission, have been the subject of reviews and scrutiny from multiple agencies. We also do not accept that David's goal was to mitigate the risk of legal liability and cover up abuse. There was public scrutiny and internal oversight over matters related to your complaint to mitigate against this.

I cannot comment on the Royal Commission process as this is still an active matter.

Complaint against Murray Roberts

I refer to your letter of 25 July about Murray Roberts, former Regional Manager for Special Education across the South Island. This letter raises issues with information provided or withheld to Police and his role in accepting Terri Johnstone's report.

The evidence you have provided includes file notes created by Police during their investigation. The weight or inference that Police drew from comments made, and their subsequent actions are a matter for Police.

The concerns you raise about Murray Roberts' role in the investigation and development of guidance have been reviewed including by the Ombudsman and I do not consider that the information you have provided warrants further investigation.

Complaint against Terri Johnstone

I refer to your letter of 25 July about Terri Johnstone in her role as an independent contractor 2014-17. Terri Johnstone is not a Ministry employee and was engaged for specific investigation and advisory work.

You have drawn conclusions that Terri Johnstone had an intent to mislead, minimise legal liability, cover up abuse and by inference, promote self-interest. I have carefully considered your views and the information you have provided, but am unable to reach the same conclusions. I note that these matters have already been subject to review.

It is not unusual for independent contractors to have successive contracts about specific subject matter, due to the expertise they develop in undertaking work. Contracts are developed with terms of reference and relevant scope and are monitored by Ministry teams. The risk of pre-determination (to obtain further work) or bias (in drawing conclusions) can be mitigated and needs to be balanced against the value added through the expertise of using specific contractors, and the public interest in ensuring expedient processes.

Summary

I appreciate that you may not agree with the approach we have taken. I want to assure you that we are committed to ensuring that all children and young people are safe at school and can thrive. The changes that have been made over the past eight years through legislative amendment, guidance and professional learning and support to schools can be attributed in part to your determination to end harmful practices.

We acknowledge also that there is more work to do. New rules and guidelines on minimising the use of physical restraint and better understanding the reasons for ākonga distress took effect in February 2023. All schools must now have a physical restraint policy in place. There is a new online physical restraint incident reporting system in place and a requirement to report all incidents. Teachers and authorised staff must also complete mandatory online learning modules about the new rules and guidelines by February 2024. We have also released modules, webinars, and resources, and provide training, advice and guidance for schools.

We also await the report of Royal Commission and will continue to work with Advisory Groups, sector representatives, disability groups and other agencies to ensure children are safe and feel included at school.

Thank you for your commitment to these matters. I wish you and your family the very best for the future.

Nakū noa, nā



Nancy Bell
Hautū | Deputy Secretary
Te Mahau | Te Tai Runga