

Witness Name: Callum and Victoria Turnbull

Statement No.: WITN1266001

Exhibits: [WITN1266002] – [WITN1266022]

Dated: 09.11.2022

ROYAL COMMISSION OF INQUIRY INTO ABUSE IN CARE

WITNESS STATEMENT OF CALLUM AND VICTORIA TURNBULL,

We, Callum and Victoria Turnbull, will say as follows:

1. Introduction

- 1.1. Our names are Callum and Victoria Turnbull. Our son, Rovin Turnbull, experienced physical and psychological abuse, including restraint and seclusion, while at school. This is our joint statement about our family's experience with the New Zealand education system, and our attempts to find out what happened to our son and to seek accountability.
- 1.2. Our family currently lives in Cromwell, Otago. We are European New Zealanders.
- 1.3. Rovin is a happy, sensitive, quirky 21-year-old. He enjoys collecting and reading books, watching comedy, gaming and searching the internet for facts and current affairs. He enjoys bush walks and keeps fit walking local trails. He enjoys helping us, and is learning to operate a little digger.
- 1.4. Rovin is profoundly affected by autism. He also has savant abilities – he's highly intelligent and has an aptitude for learning. Rovin is self-taught and very clever. He communicates in a straightforward way but he's not very talkative. He finds it hard to use words to express himself, he struggles with sensory issues, and in social situations.
- 1.5. Although it was a difficult decision, we have read this statement to Rovin in full and he agrees with it. It was hard to read the statement to Rovin as it was like reliving the events. However, we felt we must do this to uphold Rovin's integrity in this statement.

Early life

- 1.6. When Rovin was younger, we were living in Queenstown. Before he turned two years old, he was seen by a paediatrician who confirmed Rovin had traits of autism. After we discovered he was autistic, we had private in-home learning. He attended Arrowtown Pre-School until he was six years old, then attended Arrowtown Primary School. Everyone agreed that Rovin couldn't be at school fulltime unsupported, including the school. For safety and educational reasons, when Rovin was seven, we made the decision to home-school. He'd gone missing from the school and the school didn't know – he was found running down the middle of a main highway by local golfers. There were cars backed up behind him. Fortunately, a golfer recognised Rovin and he was returned safely to school. We were devastated by this. We were under constant pressure from the Ministry to have Rovin attend school fulltime.
- 1.7. There had been multiple meetings with school and Ministry representatives about the lack of support for Rovin, as well as his safety and wellbeing whilst at school. The outcomes were so disappointing. There was no flexibility to accommodate us and we had no options left. The risk to Rovin was too high and going missing from school was the last straw. From that point, we pulled him out and we home-schooled him until he was nine.

Events leading up to enrolment at Ruru Special School

- 1.8. We paid for a lot of support for his progress and learning while Rovin was being home-schooled. We chose a holistic approach. However, this was expensive and challenging as we had employed a case manager who was a qualified speech language and behavioural therapist, a teacher and therapists to work closely with Rovin and ourselves.
- 1.9. A Ministry of Health psychiatrist, who we had started seeing regularly, referred us to Ruru Special School (**Ruru School**) in Invercargill.
- 1.10. We decided to go and have a look at the school after reading its ERO reviews. The principal, Erin Cairns, took us on a tour, and we thought it would be a good schooling choice for Rovin, after meeting a couple of students on our tour. The school was promoted as offering a tailored, holistic, twenty-first century learning approach.
- 1.11. We uprooted our family, sold our home and Queenstown business and shifted to Invercargill.

2. Abuse

Ruru Special School

2011 to 2012

Good start at Ruru School

- 2.1. Rovin started at Ruru School in 2011, when he was nine. Ruru School has a base school, and also operates satellite classes out of other schools in Invercargill. In his time at Ruru, Rovin was primarily based at the satellite unit at Donovan Primary School.
- 2.2. We have included a photo of Rovin with his brother, Turk, on his first day of school.
[WITN1266002]
- 2.3. He had a good start at the school, and for the first month we were all really rapt. It seemed it was going perfectly.

"Honeymoon period over"

- 2.4. After the first month, things took a dramatic turn. Rovin became distressed at home and his teacher at school was telling us about him being upset, unsettled and confused, daily. We were called into the school by the principal, Erin Cairns. We don't know if there was a specific incident that led to us being called into the office. She sat us down and told us: "the honeymoon period was over". She said Rovin's behaviour had dramatically deteriorated.
- 2.5. The principal knew we were seeing a psychiatrist and told us she'd seen many kids like our son before. She suggested Rovin be given anti-psychotic medication. We were emailed a letter from the deputy principal, Hera Fisher, to give to the psychiatrist to support the principal's suggestion. We were also sent a Behaviour Management Plan for Rovin.
- 2.6. Being called into the school was a shock to us. We relayed the "honeymoon period" comment to our psychiatrist and that the principal had said Rovin needed to be on medication to be more teachable. He was already on antidepressants, which the school knew. They made us feel like we had a bad kid.
- 2.7. Agreeing to trialling anti-psychotic medication (Risperidone) was a very difficult decision for us, but it was advised in order to try to help Rovin get back to some more substantial learning. Looking back now, we can see that Rovin's dramatic deterioration aligned with the restraint and seclusion of him that was occurring at Ruru.
- 2.8. After this meeting, Rovin absconded from school a couple of times. He made his way from his satellite classroom to a busy main road and traffic light intersection. This was a distance of approximately one kilometre. He also left the Ruru base school unnoticed and was found out by the main road.
- 2.9. We also knew Rovin was having meltdowns and experiencing sensory overload. We related well, we thought, with his teacher and we were continuously sharing strategies around communication and sensory support that had worked well for Rovin in the past.
- 2.10. Rovin began to regress. His language and connection with us, and the world, disappeared. This regression was immediate and began after his first term at Ruru.

- 2.11. When the principal would discuss Rovin's academic goals with us, they were things he could have done in previous years. It was really basic stuff, like learning the alphabet, even though Rovin could read. Although Rovin's academic learning was important to us, more so was his social and emotional development, seeing as we knew how clever he was. Whenever we raised the topic of his level of academic ability, we felt it was not taken seriously and was generalised as part of autism.
- 2.12. We believed that Rovin was having challenging times because he had been out of school for two years, and the move from Queenstown to Invercargill had been challenging on its own. We attributed his deteriorating behaviour at school and home, his apparent fear and anxiety about school, due to having to be at school for the full day, and this was how hard being at school was for him.

Rovin's regression

- 2.13. It was clear to us that in this period Rovin was unhappy. We picked up and dropped Rovin off at school every day, and it was always a battle. Travelling had become unsafe, as Rovin had attempted to exit the moving vehicle on occasions. He would hide under his bed in the morning and put up a fight not to go to school. These were very troubling times.
- 2.14. We talked about Rovin's regression with the Ministry of Health psychiatrist. The psychiatrist seemed to indicate that something else was wrong. He told us autism doesn't go hand-in-hand with anger – a meltdown is a reaction to something or things. To our horror, the psychiatrist suggested we consider a fulltime residential home for Rovin and for our own safety as things had escalated to the point Rovin was grabbing our glasses and hair while we were driving.
- 2.15. We had other meetings with the school about Rovin's behaviour. He would be upset, crashing around on the ground, unable to verbalise what he was feeling. He had lost his usual level of flexibility, communication and had become hyperreactive in all situations.
- 2.16. When you have difficulty talking, you say "no" the best way you can and Rovin was trying to tell us.
- 2.17. We had been so heavily involved in Rovin's learning before he was at Ruru School that we had to learn to take a step back and let the teachers and school leadership take the lead. It was difficult because we also knew how important everyone being on the same page was.
- 2.18. At school, there was an incident where he was put in a cloakroom by a teacher aide and left unsupervised after becoming upset. Rovin had to be taken by ambulance to hospital with a large hematoma on his forehead. We received an email of acknowledgment and apology from the school for this incident.
- 2.19. Over the next year, Rovin's whole person changed. He was only nine and then ten years old over this period. He began self-harming and talking about ending his life, expressing

morbid thoughts. He would display aggression, strip off his clothes, cut off his hair and hit himself. It was a very distressing time for our whole family.

- 2.20. We had sought help from the Ministry of Health (**MOH**) and had a behaviour support person work with us at home. The behavioural therapist looked at everything we were doing, trying to figure out how to manage and improve things for Rovin. She also observed him at school for a day and met with the principal and deputy principal.
- 2.21. Things began evening out, or we got used to Rovin's behaviour deteriorating at least. Any goodness was good at this time.

2013

Board of Trustees

- 2.22. In May, Victoria was contacted by a Ruru School Board of Trustees member and asked to be considered as a nominee for the Ruru Board elections. After agreeing, and through the normal election process, Victoria joined the Board in June 2013. Victoria's role on the Board was promotions and we thought it would be a great opportunity to help make good things happen at the school and hoped to make a positive difference. Victoria realised soon after joining the Board, that the principal Erin Cairns was very dominant and flanked by Robyn Clutterbuck, the Board chairperson, pulled all the strings. We felt that the two of them held all the power over the Board and the school. The principal micro-managed everything.
- 2.23. The best part about Ruru School was that Rovin formed relationships with the other kids in his class. He had been in this same class for three years. There were always fewer than six kids, and usually two teacher aides and a teacher. Academically, the school was hopeless, but we were really happy with the bond Rovin had developed with two or three of the other pupils. Belonging and being with this group, his friends, was very important to him.

Rovin held back from Verdon College

- 2.24. Then something happened that destroyed Rovin. His whole class was moved on. Most of the kids shifted to Ruru's satellite classroom at Verdon College, a local high school. Rovin was held back. This was after we had started questioning things and making a few waves.
- 2.25. The principal called Rovin into her office and told him he was being held back and would not be going to Verdon with his classmates. This was done without our knowledge and without us present, so we weren't there to support him. We heard the news from Rovin himself.

2014

- 2.26. The school didn't seem to think Rovin would understand what was happening, but he understands everything. This caused him huge emotional distress. He went into a really

dark place again. His anxiety was through the roof, and he really regressed. Rovin asked hundreds of times a day for months if he could go to Verdon College. He would repeat this incessantly at school and at home. It was literally hundreds of times over the course of a day. He promised that he would be good. As he repeats back things, Rovin promising to be good was an indication of the words he was being told at school. We felt the school were using it as a threat, which created more anxiety for him.

- 2.27. Rovin's past teacher, who had had some time off for a health problem, also later moved on with the other kids to the high school. We noticed she had stopped talking with us and later in 2015 told us she had been instructed not to talk to us again, by the principal.
- 2.28. In our opinion, it was solely the principal's decision to hold back our son. We think the principal had predetermined ideas of what Rovin was like and what he needed, rather than seeing him as an individual. Part of that predetermination was holding him back and letting his class progress.
- 2.29. We felt the only good thing about Ruru School was the friendships Rovin had, but that was now gone. The children in Rovin's new class were younger and mostly non-verbal. He was heads and shoulders above them. We think he got the feeling he was a bad kid and he was left behind for this reason. The whole situation was handled very poorly, especially for a twenty-first century school.

Bruising on Rovin

- 2.30. We had lots of concerns and were noticing red flags everywhere. We had to talk to the principal two or three times about bruising on Rovin's body and arms which was put down to his interactions with other children. Rovin's class had a new teacher aide at the start of a term, Suzanne Cleaver, when very dark bruises appeared around his wrists. The principal told us it would be because he was hitting himself and she demonstrated how he was doing this by gesturing. We did not agree.
- 2.31. The next day the principal called us to advise that the teacher aide Suzanne Cleaver had lost her job. At the next Board of Trustees meeting, the principal informed the Board the teacher aide had lost her job because she had failed her Police Vet check, blaming the delay on the results of the check on the Police. Victoria asked why she had failed the check. The principal led the discussion that followed, directing attention to driving offences as a generalisation. Later, Victoria was told by the Board of Trustees staff representative [REDACTED] that the principal had informed school staff at a staff meeting that "the Turnbolls didn't like the teacher aide" and that was why Suzanne Cleaver was no longer working at the school.
- 2.32. Victoria asked [REDACTED] if she had knowledge as to why the teacher aide had failed the Police vetting and was told it was because she had hit foster kids and: "it was such a shame too, as she was really good."

Playground incident

- 2.33. Shortly after this, Victoria was driving past Donovan Primary School around lunch time one afternoon. She looked across to where the satellite classroom was and noticed something odd, so pulled over. There were between 10 and 20 little children, lining the ramp up to the Ruru classroom door. They were hanging off the railing, trying to peer in the classroom windows and giggling and laughing. A boy came out from the satellite classroom, all the kids took off running and screaming, and looking back. They soon stopped but like bees to honey, they all gathered on the railing again to peer in the window. They were making a raucous then this time Rovin came out the door and they jumped off the railing, screaming, running off with Rovin chasing behind them. These were little kids that only came up to his waist. It was like he was the monster they had been waiting for. Victoria sat there for ages, in tears, but Rovin didn't return in that time.
- 2.34. The next day, we both returned and parked outside the school at lunchtime. We were concerned about what was happening and what Victoria had witnessed the previous day.
- 2.35. We witnessed little primary kids, again numbering 10 to 20, in the busy mainstream school playground surround Rovin. They physically pulled him to the ground like he was a giant and then piled on top of him. This wasn't appropriate – and not only because he was about twice their age and size – but the Ruru teacher in the playground just wandered around it while it happened continuously and did not intervene.
- 2.36. At one point we saw Rovin attempt to climb on to some playground equipment, when a teacher aide ran over to him and stopped him and was talking to him. We watched him climb down.
- 2.37. We rang the principal and asked to meet. We wanted answers. Hera Fisher, the deputy principal, was at this meeting and admitted that a parent of a Donovan student, a much younger student, had rung to complain about Rovin being on the playground equipment at school. They felt he was a risk to their children.
- 2.38. Rovin stopped talking and communicating again, apart from asking if he could go to Verdon College. He was attempting to self-harm and was always on the verge of a meltdown. He could have a meltdown at any time – once, it was over a colouring pencil.
- 2.39. It reached a point where anything yellow-coloured caused Rovin to have a meltdown. It obviously was a trigger for some kind of trauma.

Rovin transitioning to Verdon College

- 2.40. After being told by the principal and teachers at Ruru that he would be going to Verdon in 2014, the principal Erin Cairns then told Rovin mid-year that he would not be going until 2015.
- 2.41. Finally, in November 2014, Rovin began transitioning to the satellite unit at Verdon High School, after we requested a gradual transition process take place. We had meetings with

school management requesting better communication from the school and Rovin's teacher.

- 2.42. Rovin was getting picked up and dropped off by a school bus, which was driven by a really lovely man.
- 2.43. On 5 November 2014, on Rovin's first full day at Verdon during this transition period, the bus was 20 minutes late in getting home. The bus pulled into the driveway and you could hear Rovin groaning in complete devastation. Rovin had a hematoma on his head, his face was all puffy and he had marks on his hands.
- 2.44. The driver said he would phone us in the evening to explain, as he was running late and had to drop off the rest of the kids.
- 2.45. Rovin sobbed all evening, repeating: "can I go to Verdon". He remained distressed all through the night.

Rovin assaulted on the school bus

- 2.46. Later that evening, when the driver rang, he told us he witnessed teacher aide Sharyn Jefferies assaulting Rovin during the after-school pick-up.
- 2.47. The driver had promised Rovin he could sit in the front seat that afternoon, but when Rovin got to the bus there was another child was in the front. The teacher aide told Rovin he was to sit in the back seat and used his attendance at Verdon as a threat to get him to do what he was told.
- 2.48. Rovin became agitated. The teacher aide physically was pushing and jamming him into a back seat of the van. This went on for some time. The driver described it as an assault. She forced him into the seat, with Rovin in full hysteria. She told him he couldn't come to Verdon if he didn't behave.
- 2.49. The bus driver told us all the kids were upset and crying.
- 2.50. The following day was the annual Special Olympics swimming sports day and Victoria attended with Rovin's grandparents. Rovin sat with us repeating: "can I go to Verdon".
- 2.51. We were disturbed to notice Rovin used his hand to shield his face from teacher aide Sharyn Jefferies who was sitting nearby. We felt this was done in a fearful manner.
- 2.52. We contacted the principal by email asking for a report from the teacher aide saying we understood there was an incident at home time the previous day.
- 2.53. We received an email back from the school. The email advised that Rovin had become upset as he wanted to sit in the front seat of the bus, but another student was sitting there. Rovin climbed in the back and the van drove away. [WITN1266003]
- 2.54. This email response was another red flag as the school's account of the bus incident was at odds with information we had received from the bus driver.

Other concerns raised by bus driver – broom cupboard and water squirting

- 2.55. The driver rang us again. He then told us he knew that more was going on at the school.
- 2.56. He said there was another child on the bus that would get really upset and wet himself, and he told the driver he didn't want to go in the broom cupboard. Other kids on the bus told the driver that when this boy played up, he was being held in the broom cupboard for a long time, and that the cupboard had no windows.
- 2.57. The bus driver also disclosed that a former Ruru teacher, [REDACTED], had told him she gets the kids into line with a cold-water spray bottle, squirting them in the face. She said she does this especially to the Down Syndrome kids because they don't talk.
- 2.58. The driver said he wanted to tell us because he knew Victoria was a Board of Trustees member, and that he trusted her and he thought she could do something about what he had disclosed to us. We asked the driver to officially file the incident with the bus company, GoBus, which he did. [WITN1266004]
- 2.59. The next day, we met with Hera Fisher, the deputy principal, who downplayed the bus incident. At this meeting we told her the exact details of the allegations given to us by the bus driver. We advised her the information was given to us by a reliable source, but did not name the person. Later that day we were advised by the deputy principal that the principal Erin Cairns was going to handle this matter.
- 2.60. The deputy principal was handling the bus incident but what happened was she gave the teacher aide our email and informed her what she had been accused of. This wasn't a good way to get someone's version of events, and so what the school received back was a rejection of the incident by the teacher aide. [WITN1266005]
- 2.61. Within a fortnight of passing on the broom cupboard and water squirting complaint to the school, there was a scheduled Board meeting. The principal had not followed up or contacted us to discuss the allegations we had raised earlier with deputy Hera Fisher. At the Board meeting, the principal Erin Cairns told the Board that an ex-staff member was saying she had locked up students in a cupboard. This shocked everyone.
- 2.62. The principal then told the Board she had had lengthy discussions about the allegation with two other Board members, but felt there was nothing to it. She said 1: We don't have any cupboards at Verdon Satellite; 2: She felt alcohol may have been involved; 3: The ex-staff member always said she was going to "make trouble" when she left and this was it.
- 2.63. Victoria came forward and told the Board she was the person who had made the complaint and advised the principal that the information she was giving the Board was incorrect and that there was in fact two allegations made, not one and then briefly described the water squirting allegation. Erin Cairns said she did not know about that, but

then recalled something about water. Victoria reminded the principal how important it was that she gather the exact details of the allegations.

- 2.64. After the Board meeting, we put in a formal complaint to the Board about the broom cupboard and squirting accusations, and also made a formal complaint about the bus incident, poor communication from the school, and the threats being made that Rovin couldn't attend Verdon College.
- 2.65. The amount of anxiety this was causing Rovin amounted to psychological abuse. We withdrew Rovin from Ruru School.

Meeting with school leaders

- 2.66. The principal called us on behalf of the Board chairperson to arrange a meeting to discuss our complaints. The meeting was held at Ruru base school after-hours and was attended by the principal, the deputy principal and the Board chairperson. On arrival, we were handed an envelope that we were asked to open after the meeting.
- 2.67. We were advised that there would be no discussion about the broom cupboard and water squirting complaint.
- 2.68. We began talking about the bus incident first. The principal immediately called the bus driver a liar and said the teacher aide denied the incident. The principal said she: "undoubtedly believes her staff, without question." She then accused us of being 'out to get' the teacher aide. That's when it hit home to us that Ruru School were not investigating. The principal stated that the teacher believed there was nothing to report as it was not an incident.
- 2.69. We told them they didn't understand autism, which we felt angered them. The meeting went round and round, with no acknowledgement, and a lot of excuses.
- 2.70. They offered us a "package". The package was that Rovin could attend Verdon in 2015 with eight to nine other students, two teachers, and we could have regular meetings.

"Little room" at the school

- 2.71. When Rovin had started at Ruru School, he had yelled out about a little room. It was only when we heard about this allegation about children being shut into a broom cupboard, that Victoria made the connection to what Rovin had earlier said. It was a hunch.
- 2.72. So, Victoria, out of the blue, decided to ask about the "little room". She asked: "can you show us the little room?"
- 2.73. The meeting fell silent. The deputy principal stood up, got her keys and asked us to follow her. The principal stayed behind. The Board chairperson looked confused.
- 2.74. We followed the deputy principal through a locked corridor into a classroom used for high needs teenagers. This classroom was part of the main base school at Ruru and is behind the office block. It was an area of the school neither of us were familiar with.

- 2.75. There was a door at the back of the locked classroom. It opened into a tiny internal space.
- 2.76. There was no light. It had a dark raw concrete floor, with ragged, frayed carpet stuck on the walls. It was an internal room, with a window at the top facing south into a hallway, so it was dark.
- 2.77. Callum walked forward into the space as he thought it led somewhere, but immediately realised this is somewhere they were shutting kids away.
- 2.78. We both felt panic set in. Victoria grabbed on to Callum, and she could feel his body sink with despair. The deputy principal said: "About time we got some carpet in here."
- 2.79. We turned and walked out in shock. We walked back to the room where the meeting had been held, gathered our things and immediately left the meeting, which confused the Board chairperson. We could hear the principal say in a loud voice as we walked away, "We've got protocol around that room!"
- 2.80. We propped each other up as we walked down the school path, back to the car. We erupted in the car during the drive home. We were hysterical and distraught. We could not comprehend what we saw – it was barbaric. It was abuse. Suddenly, the reasons for Rovin's behaviour became clear to us.

3. Redress

Complaint to Police

- 3.1. We were distraught and awake all night. We couldn't believe what we had seen. We didn't know how we would go to the Police, because the principal's son was a highly decorated and respected Police Officer in Invercargill, and his wife and siblings worked at the school.
- 3.2. Victoria's parents knew a Police Officer who Callum contacted. We gave him our statement, but his boss was the principal's son. The Police Officer gave us another Police contact whom he thought might be more independent. He gave us the understanding that our statement had to be acted upon and that it would be passed on to his superiors and investigated.
- 3.3. The Police contacted Child, Youth and Family Services (CYFS), who came around to interview us the next day, on 4 December 2014. The CYFS lady seemed excited to find out more about what was going on, because her husband had been on the school board at Ruru, and during the interview she disclosed to us that her disabled daughter, a past student at Ruru, was at home being looked after by a Ruru School teacher as we spoke with her. This seemed like a major conflict of interest to us.
- 3.4. After the interview there seemed to be some delay. We had already pulled Rovin out of school due to the bus incident. We hadn't heard back after a day, so we headed to the Police Station to give another statement to Police. We were in the foyer when the CYFS worker called. She said nothing was going to be done about the room because: "it was a

well-used room, known by the Ministry [of Education]."

- 3.5. On 5 December 2014, we talked to Detective Matthew Wyatt who was following up. He said it was a Ministry of Education matter, as: "Police don't investigate abuse at schools". He also said it was a "well used room", and that the Ministry was aware of it. We were unsure how they came to this understanding as neither Police or CYFS had contacted the school. We later found out, when we obtained Police records, that the decision not to investigate made by CYFS, Detective Wyatt and his supervisor, was based on our conversation with CYFS. They all concluded that we were disapproving of our child's education, and that he was not attending Verdon satellite school which they believed we were pushing for. The decision was made on the basis that our son was safe, because he was at home with us and not attending Ruru Specialist School anymore.
- 3.6. The Police file shows on 8 December 2014, Detective Wyatt spoke to Jess Raukawa a fellow Police Officer. She had previously worked at Ruru as a teacher aide and had been Rovin's teacher aide. The Police file notes say she advised Detective Wyatt that on occasions she minded Rovin while he was in the seclusion room at Ruru. However, two years later, during the Police re-investigation, Jess Raukawa gave a Police statement saying during her time at Ruru School she only ever had cause to use the room at Ruru once. The incident she referred to did not involve Rovin. She later refused to be involved in the Ombudsman's investigation, when asked by the Office of the Ombudsman.
- 3.7. We kept pressing CYFS and Police asking how they came to their decision not to investigate, but we never got any answers. In April 2015, Victoria met with CYFS manager and a supervisor Jan Oster, who told Victoria: "We would normally talk to the victim and in this case, that is your son, and because he has ASD that would probably be a waste of time."
- 3.8. Police records show that in May 2015, Detective Matthew Wyatt had an appointment to see Ruru deputy Hera Fisher and principal Erin Cairns at the school to discuss the nature of the Police file. At this meeting they showed the Detective the room. He went on to recommend no further action should be taken.

Complaint to IPCA about Police investigation

- 3.9. In August 2015, we made a complaint to the Independent Police Conduct Authority (IPCA) regarding the failure of the Police to properly investigate the allegation of physical abuse against Rovin on the school bus, the conflict of interest between Invercargill Police and staff at Ruru School, and the failure to investigate the use of a seclusion room at Ruru School.
- 3.10. On 22 December 2015, the Police advised us of the outcome of our complaint to the IPCA. [WITN1266006]
- 3.11. It always concerned us that the Police never contacted the bus driver. The explanation given by Detective Wyatt to the IPCA for not interviewing the bus driver was that he had been spoken to by the person who conducted the report through the Ministry of Education.

- 3.12. That person stated the driver was prone to telling stories and was not a credible person. This did not stack up as the Ministry of Education investigation came months after our complaint to Police. Detective Wyatt also told the Police investigating on behalf of the IPCA that if he had interviewed the bus driver, then they would have had to interview teachers as well.
- 3.13. Our complaint was upheld in relation to the failure of the Police to investigate the school bus allegation sufficiently. We were advised that a further investigation had been completed in relation to this allegation. Police records show they talked to the bus driver 1 year after the incident. He gave a statement and spoke about Rovin being pushed and shoved and threatened by teacher aide Sharyn Jefferies, but Police determined that no offence had been committed.
- 3.14. Our complaint was upheld in relation to the failure of the Police to investigate the use of the seclusion room at Ruru Specialist School. It was noted that the IPCA had consulted with the Ministry of Education and an investigation needs to take place. An investigation into this aspect of the complaint was recommended.
- 3.15. Prior to our IPCA complaint, Police records showed there had been numerous Invercargill Police notified, review and discuss our complaint, even though no action or investigation had taken place. Because so many high-ranking Southland Police had already reviewed our complaints, we were sceptical about an investigation being fair.
- 3.16. Our IPCA complaint was not upheld in relation to the alleged conflict of interest between Invercargill Police and staff at Ruru School as it was considered that Detective Sergeant Cairns had not been involved in the investigation.
- 3.17. It was now 2016. Police finally selected who they would have investigate Ruru and their use of the seclusion room. They settled with Detective Sergeant Greg Baird from Gore Police.
- 3.18. Under OIA, Police informed us that Detective Sergeant Baird first contacted Erin Cairns on 22 March 2016 to advise her of the Police investigation.
- 3.19. After being told the case was assigned to Detective Sergeant Baird, Callum called him to find out when he might commence the investigation. So much time had passed and all that time we worried for the children at Ruru. He told Callum that our file was at the bottom of a very large pile of files that sat on his desk and he would get to it.
- 3.20. We expressed concern over his possible connections to senior colleagues who had already previously reviewed the matter. Callum pointed out that he was in a no-win situation investigating this matter as he was going to be prosecuting a family member of a work associate or making adverse comments about senior colleagues.
- 3.21. We later found out when reading the file, that Detective Sergeant Baird had already flagged these concerns with his superiors who wrote: "Greg informs me that he feels

uncomfortable re-investigating something that has already been reviewed by these people and filed in the circumstances.”

- 3.22. Even though we asked, Detective Sergeant Greg Baird did not alert us to his relationship with principal Erin Cairns or Maree Cairns (the principal’s daughter, who was a teacher at the Ruru) or that he was personally involved with the school on a regular basis when he worked in Invercargill previously. Despite his concerns, his association with the school and Cairns family, he wrote in notes that although he believed he should retain the investigation: “Turnbulls will never be satisfied with the outcome.”
- 3.23. The investigation was reassigned to Detective Sergeant Brian Cameron, Queenstown Police and in April 2016 Detective Sergeant Greg Baird contacted Erin Cairns to advise her that he would no longer be the investigating officer.
- 3.24. The Police never once spoke to Rovin. They disregarded him as a disabled victim. Nor did the Police seek to speak to any other students that were subjected to seclusion at Ruru School. They did not ask for the name of the boy who was upset and frightened about being shut in a broom cupboard by his teacher, or for the names of the children that knew about this and watched it happen. The school principal, teachers, staff and Board of Trustees all declined to be interviewed by Police.
- 3.25. What stood out to us was that although the Police contacted multiple Ministry of Education officials seeking national guidelines about seclusion, they were never provided the Ministry of Education Guidelines. Police reported that Ministry of Education District Manager Christine Menzies identified, that at the relevant time, no National Guidelines were in existence with regards to restraint and seclusion.
- 3.26. Instead, Detective Sergeant Cameron was provided with draft guidelines produced by an advisory group that had been formed off the back of our original 2014 complaint to the Ministry of Education. The draft guidelines that were never promulgated but allowed for seclusion, were used by Detective Sergeant Brian Cameron for his findings which he released in March 2017, even though new guidelines banning seclusion had been issued and announced in October 2016. It was disturbing that Police did not use the guidance issued by the Ministry months earlier, or take notice of the public announcement made by the Education Minister of the time, that seclusion was to be banned by law.
- 3.27. The safety and wellbeing of disabled students at Ruru was not the first and paramount consideration of Police. They narrowed their investigation to one child, our son only, and they seemed to disregard any information relating to suspected abuse of other students. Police did not take into account that because abuse allegations centred around one child, that other vulnerable children in the same school setting were potentially subjects of abuse too and at risk.
- 3.28. We received phone calls and even met with people, who after reading about our complaint in the media, shared their own stories about Ruru with us. We referred these people on to Police, but even though people seemed willing to speak up and talk to Police, most dissipated when put in contact with Detective Sergeant Brian Cameron.

- 3.29. One woman we met with, who worked in the disability sector and visited the school frequently told both of us separately a very disturbing story about witnessing a teacher drag a student along the ground by the student's hair. She repeated to us: "by the hair!" She told us she yelled out: "what's going on! You can't do that!" She said she reported it to the principal, who told her she would handle it.
- 3.30. After talking to Detective Sergeant Brian Cameron and giving a statement, the woman rang Victoria upset. Detective Sergeant Cameron had contacted her repeatedly asking her if we had recorded the meeting we had with her. She also explained she was concerned with her statement, that was written by Detective Sergeant Cameron, and sent to her for signing. He had written – *not seen anything like they want me to say I've seen* and – *didn't see them manhandle*. She told Victoria she had crossed out those parts he had written out and signed it. When we saw her statement in the Police file later, it read "not seen anything" and "They did drag her at the time". The statement further said: "I was concerned but I felt the school managed the situation appropriately – she was on her back and being pulled along but not by her hair."
- 3.31. This woman told us she had seen the seclusion room at Ruru. We later saw in the Police notes that she advised them the carpet in the room had been removed due to faeces being smeared on it.
- 3.32. We felt Detective Sergeant Cameron's investigation was controlled by the principal Erin Cairns because he made all requests to talk to school staff and board members through her. When she finally allowed him to come to the school to view the room, he was warned prior, she would not allow him to take a photo.
- 3.33. The Police investigation was completed in March 2017. The Police stated that there was no evidence to support any criminal charges.
- 3.34. In April 2017, we complained again to the IPCA about the Police's re-investigation. We were told that the IPCA would consider the information we provided and would make enquiries with the Ombudsman and other agencies to determine whether there were any issues with the way in which the Police conducted the re-investigation. [WITN1266007]
- 3.35. In May 2018, we received a response from the IPCA. They were satisfied that Police had undertaken a thorough investigation into the criminal allegations of assault and unlawful use of a seclusion room at Ruru School. They described the investigation by Detective Cameron, of very high standard, impartial and compliant with law and policy. Their finding was that there was insufficient evidence to pursue prosecution.
- 3.36. We were really disappointed and dismayed with the decision. We felt like they disregarded all of our specific concerns about the handling of the Police investigation and instead made an overall finding. We felt like we were being ignored again because all of the evidence we provided seemed to mean nothing. There was nowhere to go after that. We believe Police, and the Police watchdog, let us and the students at Ruru down.

Complaint to the Ministry of Education (MOE)

- 3.37. On 8 December 2014, we phoned the Ministry and spoke to their South Island Manager, Murray Roberts, who told us to immediately formally complain to the Ministry. We put in our formal complaint over the weekend.
- 3.38. Murray Roberts said an investigation would be underway. We instructed a lawyer to act for us – Jonathan Eaton QC.
- 3.39. Before the MOE investigation started, we tried to recall everything. One thing that came up was Victoria's parents had met a former Ruru School teacher aide at a dinner party. The teacher aide had given them an indication that she didn't like what was going on at the school.
- 3.40. Victoria's mother contacted the former teacher aide in February 2015 before the MOE investigation began. She told Victoria's mother that she had seen the room being used all the time and had seen Rovin being dragged into the room in front of the other children fighting for his life and shouting and crying. When he was let out, he was very distressed. She said she would go home crying after work because of what she used to see happening. She said the room was being used daily.
- 3.41. She had left the school because she witnessed a teacher punching and stabbing a student with a pencil. When she raised this incident with the principal, her hours were reduced and other teachers wouldn't talk to her, so she left the school.
- 3.42. She was reluctant to come forward because she was still trying to get a job in the education sector, and Invercargill is a small place.
- 3.43. This person was interviewed by our lawyer and notes were taken. A summary of the interview was written up by Jonathan Eaton QC.

Ministry of Education investigation

- 3.44. The Ministry of Education (MOE) appointed a woman named Terri Johnstone to investigate the Board of Trustees' handling of our complaint. We were concerned about Ms Johnstone's appointment because she did not have legal training and she was supposed to determine the lawfulness of the room. Her background was in mediation.
- 3.45. The investigator went to the school and conducted various meetings between 11 and 12 February 2015. She issued a report to MOE on her findings.

Terri Johnstone report

- 3.46. We received the Terri Johnstone report (**the Johnstone Report**) [WITN1266008] from the MOE on 4 March 2015 and we discovered that our initial concerns were well founded.

- 3.47. Overall, we considered that the report was lacklustre. Her investigation didn't determine lawfulness – she wrote that she was surprised about what she saw and what was happening, but that she didn't know whether this was lawful. She identified that the room was “dark and grimy”, and that the children put in the room would feel that it was for punishment.
- 3.48. The report looked at the room itself which was located in the corner of a classroom. It had a door which opened into a tiny 1.3 x 1.8 metre space, that had a 3.3 metre high ceiling with high internal windows and a rough concrete floor. There was no electric light. Ms Johnstone reported that the atmosphere of the room was not pleasant. She recommended that the room should be closed.
- 3.49. On 10 February 2015, before we met with Terri Johnstone, we asked Rovin if he had been in the room. He said no. Rovin named other children who had been put in there.
- 3.50. Through Ms Johnstone's investigation, the school said Rovin had been put in the seclusion room three times. The report noted that the school's documentation showed that the room had been used for four students on multiple occasions between 2011 and 2014.
- 3.51. It was alarming to read Terri Johnstone's report that: “Victoria Turnbull understood from talking with her son that he may have been put in there 10 to 30 times.” This was untrue and fabricated. During the investigation we told Terri Johnstone we had talked to Rovin about being put in the room. However, we did not share with her what he told us – which was, he had *not* been put in the room.
- 3.52. Ruru School claimed that the room hadn't been used at all in 2013, but Ms Johnstone doubted this was accurate. The school also renovated the room after our complaint, but before the MOE investigation, adding in carpet and other minor changes. The room that Ms Johnstone saw, and is described and photographed in her report, was different to the room we were initially shown.
- 3.53. Ms Johnstone looked at the school's “Safe Area Procedure” document for use of the room and found this was lacking in many respects. She had a number of questions regarding the room's use, the answers to which were unknown and not documented. This means that the school were using the room without guidance on these factors having been documented.

These included:

- Whether there was a time limit on the use of the room;
- How robust were the room's usage records;
- Was a psychologist involved in decisions around use of the room;
- Were parents informed and required to consent to the room's use;
- How does the school guard against misuse of the room; and
- How does the use of the room keep the integrity of the young person intact?

- 3.54. We thought that these were all pertinent questions that were raised by Ms Johnstone. However, they were unanswered in the report.
- 3.55. The Johnstone Report specifically found the room to be a purpose-built time out room and was not a converted storeroom. Curiously, plans we later obtained from the Invercargill City Council had it labelled as a storeroom. The plans submitted by MOE were quite detailed and showed the room labelled as a storeroom.
- 3.56. MOE later sent us a letter on 30 June 2016 admitting that the room was incorrectly labelled as a storeroom and was in fact designed and built to be used as a seclusion room [WITN1162009]. The letter from the Katrina Casey Deputy Secretary of MOE stated: "I am satisfied that the room's incorrect labelling on the construction and building consent drawings was a small error without lasting consequences."
- 3.57. There were conflicting accounts from MOE and the Invercargill City Council about whether they knew it would be used as a time out room. MOE even fabricated evidence of a phone call to show that the Council knew it was a time out room.
- 3.58. The MOE and school claimed the plans were drawn by a junior draftsman who made the mistake, and this was what the school later told the Ombudsman.
- 3.59. Much later we contacted the person referred to as the junior draftsman. He told us he remembered the storeroom project at Ruru, but had no recollection of being told it was a timeout room.
- 3.60. Ruru School and MOE both tried not to take responsibility for the decision to build a seclusion room. Ruru School claimed it was MOE's responsibility since they funded and contracted the builders, but Ruru School worked directly with the contractors on what they wanted.
- 3.61. One of the big findings of the Johnstone Report was that there were no guidelines on seclusion for the school to follow, so it had done its best in the circumstances. Ms Johnstone had contacted MOE and the New Zealand School Trustees Association but both were unable to locate any guidelines on the use of seclusion. We later learnt through the Ombudsman's investigation that there were in fact relevant MOE guidelines in existence from 1998.
- 3.62. At the Royal Commission's public State Institutional Response Hearing held in August 2022, senior MOE officials were asked why the MOE couldn't locate its own guidelines to provide to the investigator. The response from David Wales National Director Learning Support was: "I'm sorry, I can't tell you that." It therefore still remains unknown why the MOE could not locate its own guidelines on the use of seclusion.
- 3.63. In conclusion, the Johnstone Report was critical of the school's handling of the complaint and concluded that the Board had potentially failed the school community.

- 3.64. After the Johnstone Report was released Murray Roberts told Callum during a phone call in April 2015 that the room was rarely used, referring to the Johnstone Report. This made no sense to us considering the room was built brand new in 1999. If it was rarely used, we wondered why, by 2014, when we saw it, it was dark, grimy, ragged and worn out.
- 3.65. Mr Roberts said the Ministry did know about it in terms of it being a space on the floor plans of the school, but he stated that he had visited the school many, many times and he never knew the room existed.
- 3.66. As discussed in more detail below, following the Johnstone Report, the MOE spent 16 months producing new draft guidelines, with a working group made up of teachers and principals.
- 3.67. The group included Terri Johnstone also, and at least one representative from a school that later, through a MOE survey, was identified as having a seclusion room. We feel that there was a level of corruptness with the forming and make-up of this group.
- 3.68. The working group's draft guidelines intended to make seclusion rooms acceptable. But the working group guidelines were never issued because the then Minister of Education, Hekia Parata, directed in October 2016 that the MOE instead turn to work on ending the use of seclusion in schools.

August 2016 MOE Draft Guidelines

- 3.69. The August 2016 Draft Guidelines "Transitional guidance for NZ Schools as we work towards the elimination of seclusion" [WITN1126010] are the product of an MOE advisory group which took 16 months to produce. These guidelines were not finalised or published. The draft guidelines stated that they were a step on the path to eliminating the use of seclusion over three years. The draft guidelines proposed to permit the use of seclusion in some situations.
- 3.70. The advisory group was led by Brian Coffee, Group Manager Special Education and Strategy. Interestingly, he was contacted by Police investigating for the IPCA in December 2015. They were seeking clarification regarding the Ministry of Education guidelines. He told Police: "There are some national guidelines being developed as we speak and they should be out in early 2016." He did not advise Police there were already existing 1998 Guidelines.
- 3.71. The advisory group's draft guidelines intended to make seclusion rooms acceptable and were used for the Police re-investigation into the use of seclusion at Ruru and the draft guidelines were also used by Terri Johnstone when she was again contracted by the Ministry of Education in 2016 to investigate another school found using seclusion.
- 3.72. In Ms Johnstone's investigation of 'Parent Complaint at Miramar Central School Wellington', she referenced the draft guidelines: "These guidelines can provide future tools of reflection and guidance for Miramar Central School in their use of timeout. However, it is unfair to judge Miramar in relation to these guidelines as they are not yet published."

This means that Miramar Central School, along with all New Zealand schools, would have been unable to reference these guidelines and therefore would have had few parameters from which to draw their timeout room processes and policies."

- 3.73. Terri Johnstone knew of the 1998 Guidelines through her involvement with the advisory group, if not before.
- 3.74. The Ombudsman investigation, which is detailed below, found that MOE guidelines did exist from 1998. We received copies of these guidelines in 2018 via an Official Information Act (OIA) request. The guidelines "Managing Extreme Behaviour in Schools" (**1998 Guidelines**) were in place at the time of our complaint and remained in place until October 2016. [WITN1162011]

1998 Guidelines

- 3.75. The 1998 Guidelines state that they were created as a resource for classroom teachers but were also intended to provide parents with useful information. They stated: "In the past it was believed that the punitive measures such as corporal punishment and exclusion were essential tools for behaviour change. These and other aversive methods are not necessary and have a dehumanising effect on staff and students."
- 3.76. The 1998 Guidelines further stated: "Time out is when a student is removed from other students for a specified period of time. Sometimes special time out rooms are used. Time out is often misused and misunderstood. Time out rooms should not be used. They are not necessary and can result in teachers and schools being accused of using inhumane and cruel punishments."
- 3.77. The Ombudsman later reported that he had received no evidence that the guidelines were provided to schools. However, following his investigation when we requested the 1998 guidelines from the Ministry via an Official Information Act request (OIA) we asked who they were made available to, how were they distributed, and in what format. Under OIA the Ministry advised "...the 1998 version of the document was sent to all schools, and that the updated 2005 version, which is the version you have, was also sent to all schools in hard copy. Hard-copies of the publication were also available to Ministry behaviour practitioners, who provided additional copies to schools and others when Ministry staff were working with a school to support a student."
- 3.78. At the Royal Commission's public State Institutional Response Hearing, senior MOE officials were asked for information about how MOE provided these guidelines to schools. David Wales responded: "No, I'm sorry I don't; it was before my time." Chief Executive Officer Iona Holsted added, "The volume of material that a school would receive from the Department of Education or the Ministry of Education in any given week would have been huge."
- 3.79. The Ministry's answers to these questions are not satisfactory. The room at Ruru School was built in 1999, one year after the 1998 Guidelines were published stating that time out rooms should not be used.

2007 MOE Internal Guidelines

- 3.80. We also obtained a copy of the MOE's 2007 internal guidelines via an OIA request. The guidelines called "Time Out and Physical Intervention" (**2007 Internal Guidelines**) were issued for the Ministry's special education staff only, and were not for external distribution [WITN1126012]. The 2007 Internal Guidelines stated: "The Ministry of Education, Special Education does not recommend any form of time-out procedure in an Early Childhood / School setting, which involved a child / young person being shut in a room, or screened area, by him or herself without any way of getting out unless someone comes to release them. This is a form of isolation (seclusion) and is not an appropriate practice in an Early Childhood / School setting."

October 2016 MOE Guidelines

- 3.81. In October 2016, the then Minister of Education, Hekia Parata, directed MOE to end the use of seclusion in schools. The Ministry then issued guidelines in October 2016: "Guidance for New Zealand Schools on Behaviour Management to Minimise Physical Restraint" (**2016 Guidelines**). The 2016 Guidelines stated simply that: "Seclusion should no longer be used in New Zealand schools" [WITN1162013]. The 2016 Guidelines went on to state: "Seclusion is an extremely serious intervention. It is potentially traumatic and can harm a student's wellbeing. It is an inappropriate response to a child's behaviour and it must be eliminated."
- 3.82. On the 3 November 2016 principal Erin Cairns wrote in a letter to the Ruru school community: "We are pleased to see that the Ministry of Education has today released updated guidelines to schools on behaviour management. What's heartening for us is Ruru's policies and procedures to ensure the safety of our students and staff were entirely in accordance with the old and new guidelines. Ruru never operated a 'seclusion' room like the ones described in recent media coverage and we note that the Minister of Education is now planning to change the law to prohibit their use in the future." Further, she wrote: "The school co-operated fully with an investigation by the MOE and had input into the review published today." [WITN1162014]
- 3.83. It was distressing to see the principal mislead the school community this way. It was also disappointing to find out the school had been involved with creating the new guidance. We wrote to Julie Anderson, Director of Education, Otago / Southland around this time. She advised us that she was working closely with the board chairperson of the school and principal. In response to our letters, she wrote: "The Ministry has confidence in the Board." It was their understanding that the Board had the confidence of its parent community. On the 15 November 2016 she wrote: "The Ministry does not have a role in approving correspondence or newsletters between schools and their parent communities. Boards of Trustee are responsible through the delegations to the principal to issue such documents in accordance with agreed Board Policies."

- 3.84. If the Ministry had ensured that all schools had followed the 1998 Guidelines, creating new guidelines in 2016 that restated the same point that seclusion rooms should not be used, would not have been necessary.

MOE survey of schools

- 3.85. After making an OIA request to ERO in September 2016, which was then transferred to the MOE, "How many NZ schools operate a seclusion room?" we learnt that in October and November 2016, MOE conducted an urgent nationwide survey of all schools (numbering 2,529) asking them to self-identify if they were using seclusion in 2016. WITN1162015]
- 3.86. It is notable that the survey's scope was limited to use of seclusion only in the year 2016. For example, if a school had been using seclusion every day prior to 2016, this would not have been captured by the survey. This indicated to us that MOE was not truly interested in properly investigating the use of seclusion in schools in New Zealand but rather just wanted to put out the immediate political fire caused by recent complaints about seclusion use in schools.
- 3.87. The survey found that 36 schools self-reported as potentially using seclusion in 2016. Of those 36, MOE determined that 17 of these schools were using seclusion in the 2016 year. Of these 17, five were special schools.
- 3.88. The Ombudsman in his final report noted his concern about survey results showing the disproportionate response of special schools using seclusion.

Safe Crisis Management

- 3.89. Ruru adopted Safe Crisis Management (**SCM**), which was a specialized programme focused on preventing and managing crisis events. It was developed in the United States and adapted for use in New Zealand by Paul Kennedy, a former Police officer. He was also the former principal of Halswell Residential College. A school that had adopted the SCM programme and was identified as using seclusion in the Ministry of Education survey. SCM included restraint techniques that were often physical and potentially dangerous for students.
- 3.90. We approached the MOE to find out about the legality of the use of SCM and they told us they give schools discretionary power to undertake training as they see fit. It seemed like they were trying to wash their hands clean of the whole issue. Furthermore, around the time the Ombudsman was to begin his investigation into our complaint, Paul Kennedy and his SCM organization shut down. This seemed suspicious to us. We learnt later that Paul Kennedy started operating again and we understand he is still called as an expert in Teaching Council hearings around restraint practices.
- 3.91. We know that the MOE have their own programmes which support schools to deal with challenging behavior. This is called Understanding Behaviour and Responding Safely (**UBRS**) and is available on the MOE website. It focuses on prevention of and

understanding of why situations escalate, rather than physical de-escalation techniques once a situation has already escalated. We think this is a much better model, however currently, schools are able to choose which approach to use. We think that the MOE should have greater oversight of the SCM programmes because we know that schools are currently adopting its practices and this is hugely concerning for us in terms of the safety of children. Especially children with disabilities as they are much more likely to be restrained than mainstream students.

Education Review Office investigation

- 3.92. Between 9 and 12 March 2015, a month after Terri Johnstone's visit, the Education Review Office (ERO) commenced its scheduled review of Ruru School. Ourselves, Ruru, and the Ministry of Education had all received the Johnstone Investigation Report. The ERO review team was not provided with a copy of the report, either by the School Board or MOE, during its review or when drafting its review report for the school. However, Victoria as parent / Board of Trustee had written to ERO reviewer Russell Wallace on 11 March 2015 during ERO's review and advised him of the serious complaints and that the Ministry had recently conducted an investigation at Ruru.
- 3.93. ERO didn't receive a copy of the Johnstone Report until just before it was due to release its 2015 review report. Before its report was released, in August 2015, ERO suspended the review. No ERO report was published for 2015. We obtained a copy of the unpublished ERO report which casts the school in a positive light and makes no mention of the use of seclusion at the school. [WITN1266016]
- 3.94. Ruru School had already used the unpublished ERO report to defend itself against findings in the Johnstone Report. On 10 April 2015, we were sent the unconfirmed ERO Report by the school's lawyer who expressed that the school was delighted with the report. The school's lawyer wrote to our lawyer: "We thought it may assist in reassuring your client, notwithstanding their perception of their experience."
- 3.95. At the same time, the school's lawyer also sent us a copy of a letter written by Erin Cairns to the Ministry of Education with the Board's response and comments on the Terri Johnstone Report. Throughout their comments to the Ministry, the Board quoted from the unconfirmed ERO Report to reject findings made in the Johnstone Report. For example, on page 3 of the Johnstone Report she wrote: "Throughout the investigation process I collected documentation, some of which supported Ruru Schools Policies and Procedures but which also in several instances, was a breach of the school's Policies and Procedures." Ruru Board commented to the MOE: "The BOT disagree and request evidence of this. Systems, processes and procedures for all aspects of school operations and for governance in particular are comprehensive."
- 3.96. ERO delayed its review of the school for a year to 2016. By that point the Police were investigating the school. However, ERO have advised it was not informed of the Police investigation by either the school or the Ministry of Education during the 2016 review. In effect, the school were given a second chance review, after they failed to provide ERO the MOE Report in 2015. Then in 2016, during the second chance review, they did not

disclose to ERO that the Police had commenced an investigation - *Allegations of Physical and Emotional Abuse of Students*.

- 3.97. When ERO went on to release their report on 8 August 2016 [WITN1266017], there was no mention of the Police investigation, which was still ongoing at the time, or the school's use of a seclusion room. ERO explained to us in later correspondence that they considered that to be in the past – they said they only make findings on current events.
- 3.98. The 2016 ERO report vaguely states: "In 2014 [the Ministry] commissioned a report in relation to how the school was providing a safe emotional and physical environment for students. The [Ministry] has informed ERO that the board has responded to the recommendations in the report and has made changes to policies, procedures and practices. The changes have improved the quality of relevant documentation, follow up and reporting about behaviour management and student safety."
- 3.99. A parent reading the 2016 ERO report would have no idea that seclusion had been used at Ruru School. The report was not transparent. That concerned us.
- 3.100. The Ombudsman later stated in his final report: "I consider it to be problematic if ERO is able to commence and all but complete the review of a school, identifying no safety issues when, just a month prior, a Ministry-appointed investigator identified significant concerns relevant to student safety and well-being."
- 3.101. On 21 August 2019, we wrote to ERO requesting that they withdraw their 2016 report for inaccuracy [WITN1266018]. ERO refused to withdraw its 2016 report and was prepared to wait for its 2020 report to effectively replace the 2016 report [WITN1266019]. We question how ERO could leave an inaccurate report on Ruru School in the public domain for four years.
- 3.102. We made a complaint to ERO, but they claimed they had no knowledge about the use of seclusion in schools. In response to the Johnstone Report, Ruru School Board said that ERO viewed the room every time they came to the school, which ERO denies.
- 3.103. We think ERO have played a big role in the cover up because almost 40 schools had seclusion rooms, but ERO have never mentioned it in their reports. It is particularly disappointing because part of ERO's core function is the health and safety of children in schools.

Ombudsman investigation

- 3.104. We made a formal complaint to the Office of the Ombudsman on 22 July 2015.
- 3.105. On 14 October 2016, the Chief Ombudsman, Peter Boshier, confirmed his intention to investigate the use of seclusion in schools. The Ombudsman investigated our complaint and released his final report into Ruru School on 7 November 2017. [WITN1162020]

- 3.106. The Chief Ombudsman, Peter Boshier, interviewed us in our home in April 2017, then went to the school. He gave us a list of people he was going to interview and invited us to listen to what the school had to say. Our invitation was conditional on us only speaking through our lawyer.
- 3.107. In June 2017, part of the Ombudsman's investigation was run like a mock court. The experience was upsetting to us because we just had to listen to the school's lies. We didn't feel like the Ombudsman wanted to hear us out, instead he wanted us to hear the school's view and for that to change our mind. Staff members spoke one by one, with the principal sitting next to them. We flagged this as an issue, because we believed staff would be intimidated by her, and we were right. Some staff cried, and Peter Boshier asked if they were feeling intimidated. One staff member said yes.
- 3.108. The staff provided prepared statements that had been written by their lawyers. These were not shared under oath, otherwise they wouldn't have spoken. We could not get a copy of these statements. The staff also didn't have to talk to the Police, and the Police said they wouldn't draw any negative inference if they didn't want to talk.
- 3.109. It cost us thousands of dollars to have a lawyer from Wellington come and work for us during this time. It felt like this money was a waste because nothing came from this. The Ombudsman had the power to require witnesses to attend the hearing but he didn't use this power to require all relevant witnesses to attend the hearing. We were told that some of our key witnesses weren't relevant. On the other hand, late in his investigation, he included a statement made by teacher aide Bev Jukes. It was outrageous and fabricated in suggesting that Callum was involved in taking Rovin to the seclusion room at the school on one occasion. The whole thing was disturbing and disappointing.
- 3.110. Staff claimed during the Ombudsman investigation, they would leave the door open when Rovin was in the room. However, this contradicted a statement previously given to Police by an ex-teacher aide, Shayna Jolly. She said she was aware of the room being used about 20 times and was involved on several occasions. Her Police statement said: "I don't recall a door handle on the inside but can't say for sure that there wasn't one – it strikes me that if there had been a handle the kids would try to get out and you would end up holding it closed. My experience was that the door was closed when a child was in the room."
- 3.111. Three incident reports for Rovin's seclusion were eventually produced. The reports showed that Rovin was first restrained in the room after his first month at Ruru School. The first report stated at 9.15am: "Incident type – A major disruption – Rovin was unsettled on arrival this morning after his parents dropped him off." The next report, which was 9.45am the following day, stated he was put in the room again for being 'A major disruption' shortly after we had dropped him off at school.
- 3.112. One person we really wanted to speak to the Ombudsman was the former deputy principal of Ruru School. Paul Anderson-Kereti had been in this temporary role in 2013. As deputy, part of his role was overseeing the crisis team at the satellite school – if there

was a crisis, they would collect the child and bring them to the base school, to be put in seclusion.

- 3.113. On 25 February 2015, after the temporary deputy principal had left the school, we rang him. He admitted to putting Rovin in seclusion at least twice, and other children. This contradicted what Ruru School told Terri Johnstone– that the room hadn't been used at all in 2013.
- 3.114. The former deputy said he would put the student in the room and jam his foot against the door. Sometimes he would sit with his foot holding the door shut. He would peek in the room every now and then. The door would only be open about six inches.
- 3.115. The next morning, he called us back to say he couldn't recollect the conversation we'd had. He said he couldn't recollect if Rovin had been put in the room and directed us to talk to the school if we wanted more information. He refused to talk to the Police but was involved in the Ombudsman investigation – he said aside from one time, he never put Rovin, or any other child in the room.
- 3.116. We learned through the Ombudsman investigation that the deputy principal Hera Fisher was the port of call for the crisis team. Every phone call from the satellite schools went through her, and she made all decisions regarding seclusion. She said that over his four years, Rovin was the subject of the call eight or nine times. We noticed that all the staff claimed Rovin was transported back to the base school by the crisis management team six to nine times, never more than 10.
- 3.117. Rovin's teacher of three years was in Australia, but she had kept her job, so we assumed the school had told her to leave until the investigations were over. Peter Boshier asked to call her during the mock hearing, and the school's lawyers eventually agreed.
- 3.118. He asked her how many times she had called Ruru to ask for the safe crisis management intervention because of Rovin's behaviour – after some pressing, she admitted that in his first two years, she called quite regularly, at least twice a week, and that three-quarters of those times he was taken back to Ruru by the team.
- 3.119. When we had spoken to the teacher in December 2015, she said she had been pressured by her superiors to call more often. She was not there to manage students' behaviour, she was to call the crisis management team. The principal told her she was letting the students get away with too much bad behaviour.
- 3.120. The next day, Peter Boshier brought the deputy principal Hera Fisher back. He asked why there was a difference between what she said and what Rovin's teacher had said regarding the times she was called for crisis management. The deputy principal tried to say it was because of the teacher's good relationship with us. She started crying, and claimed she wasn't trying to deceive him. He said he believed her.

- 3.121. The principal Erin Cairns, who had been at the school for over 40 years, claimed she had only ever seen the room used once. We recall she said she was positioned outside the classroom, where the room was located, and looked in through a window to watch.
- 3.122. When the Ombudsman report came out, the principal released a statement to the community saying: "While we strongly disagree with a number of the Ombudsman's conclusions, we are thankful he has clarified that the safe area built by the Ministry of Education in 1999 never existed as described in the media."
- 3.123. One of the things that we found extremely difficult to hear about was that Rovin was physically restrained by staff and frequently transported back to the base school in a van. On one occasion, 4 staff members were needed to physically carry Rovin to the van.
- 3.124. In his final report, the Ombudsman was critical of the school's use of restraint and transport to get Rovin into seclusion: "It is accepted that when a student's behaviour is extremely challenging, the staff dealing with the situation must take into account the safety of that student, other students, themselves, other staff, and possibly other people who may be nearby. However, on those occasions when N's behaviour was the most challenging, the process of returning him to Ruru base involved the use of physical interventions to get him into the van, while in the van, and to take him from the van to Room A. I agree with Ms O that the practice of transporting students from a satellite class to Ruru base was likely to place additional and unnecessary stress on the student and staff, and was unsafe."

Ombudsman's report

- 3.125. The Ombudsman viewed the seclusion room at Ruru School during his investigation in 2017. By then, the door to the room had been removed and the room made into a 'sensory space.' We found this highly inappropriate. Even then, the Ombudsman reported: "For any child or young person, let alone someone with particular disability related needs, sensitivities, and vulnerabilities, I consider that it would have been an uninviting and unpleasant place in which to spend even a short amount of time involuntarily."
- 3.126. In summary, the Ombudsman found that the school had acted unreasonably in using the room to manage the child's behaviour in relation to failing to consult and inform us about use of the room for Rovin, failing to properly record Rovin's transportation to the room, and the unsuitable location and form of the room.
- 3.127. In relation to MOE, the Ombudsman found that it had failed to provide schools with clear and unambiguous up-to-date guidance in relation to the use of seclusion and that this was an unreasonable omission. The Ombudsman stated: "As I have said, acceptable practice in relation to the management of students exhibiting difficult behaviour has evolved over time. However, it would seem that by 1998 if not before, the Ministry was of the view that seclusion should not be used. I consider that it should have done more, sooner, to provide schools with clear and unambiguous guidance, and its failure to do so was unreasonable."

3.128. The Ombudsman also commented on the Ministry's awareness and oversight of the use of seclusion in schools. In summary, the Ombudsman noted that the Ministry had its own staff and teams working directly with schools dealing with students exhibiting challenging behaviour. It therefore had the means and opportunity to observe the use of time-out rooms. The Ministry's role in approving the construction of rooms such as that relating to the complaint in question was also noted. Complaints about seclusion were not centrally held and instead dealt with in regional offices.

3.129. When the Ombudsman's findings above were put to senior MOE officials at the Royal Commission's public State Institutional Response Hearing in August 2022 they accepted that MOE had failed to adequately monitor the use of seclusion in schools.

Lack of accountability from various agencies

3.130. It was heartening for us when the law changed in May 2017 to ban the use of seclusion in schools, and elevating complaints of seclusion to the top level of the Ministry. However, in 2020, Ruru School was accused by four parents of using seclusion again. The complaint was left with the school to manage for two months, but they couldn't find a resolution and it was taken over by MOE. The Ministry didn't investigate the complaint or how the school handled the complaint. Instead, it contracted a facilitator who came to a secret arrangement with the parents. The complaint was eventually dropped.

3.131. We were really disappointed. The law change hadn't prevented children from being put into seclusion, nor had it created a proper complaints and investigation process. We tried to make a complaint to the Ombudsman but were told in a letter that we didn't have sufficient "personal interest" in the matter because we were not the parents of the students affected. It seems ridiculous to us that you have to be a parent for an agency to investigate child abuse. What about teachers who might see something? Such an approach is not child-centered and sets a really dangerous precedent for investigating future complaints of abuse. [WITN1162021]

3.132. When we complained to Independent Police Conduct Authority (IPCA) in 2015 about the poor investigation, the IPCA said it sounded like a matter for the Children's Commissioner. They put the referral through.

Children's Commissioner

3.133. The Children's Commissioner looked at CYFS role and found that CYFS had acted appropriately. In their response to us of 4 November 2015, the Children's Commissioner stated that Rovin "was safe and well cared for", and it was appropriate for CYFS not to get involved. [WITN1162022]

3.134. However, CYFS had come to the same conclusion as the Police, which the IPCA had overruled and said was done poorly.

- 3.135. Before the IPCA referral, Callum had already contacted the Office of the Children's Commissioner. A staff member at the Commissioner's office told Callum: "What do you want us to do about it, we are only a small office." Callum said children are at risk and you are responsible for children's welfare. They didn't really seem interested at all.
- 3.136. We wrote to Judge Andrew Becroft, the Children's Commissioner at the time, multiple times, pleading with him to hear our voice and better protect children in schools. We listed many reasons as to why and how the law change was unsatisfactory. However, no one from the Children's Commission helped us in any substantial way.
- 3.137. In 2019, we wrote a letter to Prime Minister Jacinda Ardern about our concerns, and she advised us that a representative from the Office of the Children's Commissioner had been included in the reconvened Physical Restraint Advisory Group. However, we were the people that had written to the Commissioner urging him to join the conversation and be involved. Like the previous Advisory Group that created the 2016 guidance, the reconvened group had no parent representatives initially. It was only after a huge amount of letter writing and a hard push that there are now two parent representatives on the Advisory Group. Having two parents on the Advisory Group does not hold any real power to make decisions because they are vastly outnumbered by teacher and principal representatives. It doesn't feel like a genuine partnership, or a genuine effort to consider the views of parents. Given our previous interactions with this body, and the one-sided make up of the Advisory Group, we were not hopeful that this would lead to any positive change.

4. Impact

Impact on Rovin

- 4.1. As a result of this, Rovin has missed almost all of his schooling. He spent one year at Arrowtown, and four years at Ruru School, but four years of abuse is hardly good schooling.
- 4.2. The night before Terri Johnstone, Investigator for the Ministry of Education, interviewed us as part of her investigation, we asked Rovin about the little room. He denied he had been put in there but named other children that were put in there. He called it "a bad kids' place". "Doom" is what he said. Rovin was not a bad kid. None of the kids were.
- 4.3. He has since told Victoria that he was shut in there - again and again.
- 4.4. As soon as we pulled Rovin out of school, we were able to take him off all his medication, and he has been off medication ever since. We can count on one hand the number of meltdowns he's had since. Once the abuse stopped, his behaviour stopped. That's what made us think that Ruru staff didn't understand autism.

Impact on family

- 4.5. Being out of Ruru's environment changed Rovin dramatically. It's gut wrenching for us to reflect on this – we actually shifted our lives to put him in an abusive school. And if there's no accountability, then what have we done?
- 4.6. We've removed our son, so he was safe. But what about all the other students still there? What about the boy that was getting shut in a broom cupboard by his teacher and the students, the Down Syndrome kids, that had been getting squirted in the face with cold water? What about the students that knew about that and watched that happen? Nobody, no agency cared. What about all the other children that were forced into the dark and grimy storeroom? What about the students who had to watch that happening? Nobody, no agency talked to the students.
- 4.7. There hasn't been real change because the system relies on self-reporting. Child safety and wellbeing relies on a high trust model and the Board, management and staff at Ruru cannot be trusted. We know first-hand the system is not child-centered.
- 4.8. This entire experience has had a life-long impact on our entire family. We are much less trusting, especially of agencies and authorities, which has and will continue to have a major effect on our lives.
- 4.9. It has been heart-breaking, stressful and brought us overwhelming anxiety at times. It has dominated our waking moments and disrupts our sleep to this day. But this pales in comparison to the trauma and abuse Ruru students have endured. Rovin's experience is common, and as hard as it is to tell our story, people, the system, can learn from our story.
- 4.10. That is our hope.

Impact - reflections on society

- 4.11. The problem is that everyone wants to believe the world is a good place, especially children. So, when something cruel and inhumane happens in front of us, people make up a story in their head about the disabled person doing something wrong, then others see disabled people as bad or dangerous.
- 4.12. This is reinforced time and time again when we hear disabled people being painted in this light, being denigrated, to justify or warrant mistreatment. Alienation occurs and society switches off.

Our reaction to evidence given at the Commission's State Institutional Response hearing

- 4.13. We listened to the evidence given by senior officials from the MOE and ERO at the Royal Commission's public State Institutional Response Hearing held in August 2022.
- 4.14. During their evidence, the MOE explicitly accepted that they had failed to adequately monitor the use of seclusion in schools. The CEO of MOE gave evidence that they can't currently ensure that seclusion is not used in schools even though it is unlawful. Essentially, the MOE said it would expect ERO to cover this in their reviews of schools and they would also rely on complaints to raise any issues.

- 4.15. The CEO of ERO gave evidence that since 2016 ERO has included in their school review attestation process a question that specifically asks schools whether they have a seclusion room. However, any room at a school can be used as a seclusion room.
- 4.16. It appears to us that ERO are largely reliant on schools self-reporting their use of seclusion. This is consistent with ERO's written response to the Royal Commission's notice to produce which was read out at the hearing whereby ERO stated that it does not have the powers to directly monitor the use of seclusion, restraint and punishment in education institutions.
- 4.17. From our experience of these agencies, and the evidence given by the agencies at the Commission's hearing, we still have serious concerns about the capability of these agencies to monitor the use of restraint and seclusion. It is not good enough for the CEO of MOE to say that they can't ensure that schools are not using seclusion. They need to come up with a way that they can ensure this. From our own experience, you cannot trust ERO to monitor or even report on the use of seclusion in schools.

5. Looking forward

- 5.1. When the Ministry create working groups to discuss seclusion and restraint, they are always made up of teachers and principals, who are very one-sided. Where are the children's voices? Where are parent's voices? And even if there is a group like IHC involved, they are only one voice amongst 12 or 15. It's an uphill battle, because teachers and principals don't want to lose rights – they want to be able to manhandle children. Probably the only gain we've made is it would be difficult to build a seclusion room now.
- 5.2. Families need an independent body with teeth to review school board decisions, and no school board or principal should be investigating abuse allegations.
- 5.3. Rovin's abuse and our experience in advocating for him and all other children with additional needs in New Zealand has unfortunately been a cover up from every angle. We feel sorry for the children who will never have a say. Most of their parents probably don't even know their children have been restrained in these rooms – those children will never have a voice.
- 5.4. We wouldn't have any of this information if we hadn't continued asking questions. We did it for Rovin and other children. If we don't do it, who will? If we don't write the OIA about seclusion, no one else will write about it. If it isn't us, there's no one else behind us, willing to find out the information about seclusion in New Zealand schools. We've got all this information, but nobody has wanted to hear it.
- 5.5. With no monitoring, oversight and no surveillance – there is no proof. There is no way to determine what happened. A school board, school management, teachers and staff can refuse to talk to Police investigating abuse – Ruru Specialist School in Invercargill set this precedent.
- 5.6. Changes must be made, and attitudes must change for us to be reassured that what happened to Rovin cannot be repeated.

5.7. Our hopes are that Rovin will continue to flourish and lead a happy, fulfilled life.

Statement of Truth

This statement is true to the best of my knowledge and belief and was made by me knowing that it may be used as evidence by the Royal Commission of Inquiry into Abuse in Care.

Signed

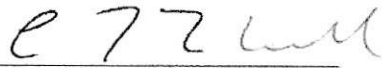


Victoria Turnbull

Dated:

9 / 11 / 22

Signed



Callum Turnbull

Dated:

9 / 11 / 22