

CJ and V A Turnbull

8/3/19

Office of the Ombudsman

info@ombudsman.parliament.nz

Dear Sir

Please accept this letter as a formal complaint against Ruru Specialist School Board of Trustees for failing to notify/disclose/inform ERO that Police had commenced a Police investigation at Ruru into allegations of physical and emotional abuse of disabled children and young people, during 2016 ERO review of Ruru Specialist School

Please accept this letter as a formal complaint against the Ministry of Education for failing to inform or notify ERO that a Police Investigation, into allegations of physical and emotional abuse of disabled children and young people, had commenced at Ruru Specialist School.

In August 2016, ERO published a 'glowing' ERO Review Report of Ruru which did not refer to the ongoing Police Investigation into the use of seclusion and allegations of mistreatment of students by staff and management.

We refer to the Ruru Specialist School ERO Report 2016:

*Board assurance on legal requirements – Before the review, the board of trustees and Principal of the school completed the ERO Board Assurance Statement and Self-Audit Checklists. In these documents they attested that they had taken all reasonable steps to meet their legislative obligations related to*

- *Board administration*
- *Curriculum*
- *management of health, safety and welfare*
- *personnel management*
- *financial management*
- *asset management*

*During the review ERO checked the following items because they have potentially high impact of student achievement*

- *Emotional safety of students*
- *Physical safety of student*

This information was consistent with a statement made by Iona Holsted ERO CEO (at the time) during a media interview in 2016, when she said, "At the commencement of our review a board is to attest to certain things. Out of all the things we ask a board to attest to, child safety and wellbeing is what we always follow up on."

### ERO Findings

*The school's vision and values are highly evident.*

### ERO Conclusion

*The school's vision and values are highly evident.*

We refer to Ruru Specialist School Values: – *integrity through honesty, reliability, responsibility, accountability, and fairness.*

In October 2016 we wrote a formal complaint letter to ERO and expressed concern that the 2016 ERO Review Report made no mention of the Police Investigation which was still ongoing at that time. ERO replied that they were informed that no investigation was underway at the time of the review in April 2016. **This was untrue.**

Early in 2019, we met with Ministry management. During this meeting we discussed the 2016 ERO review of Ruru. Julie Anderson Ministry of Education Director of Education Otago-Southland, stated, "ERO certainly did know there was an investigation going on." This announcement was somewhat of a surprise to us, so we made further enquiries.

Under OIA we asked ERO to advise if or when ERO was first notified by Ruru or the Ministry of Education, of the Police Investigation. ERO have since responded, *ERO was not notified of the police investigation by the Ruru Special School Board of Trustees or the Ministry of Education.*

After previously having made several requests, we have finally been advised by Police under OIA that Principal Erin Cairns was contacted by Police and advised that Police had commenced an investigation, prior to the ERO review of the school early in April 2016.

We refer to your Provisional Opinion 221. and 222:

- *In response to my first provisional opinion, ERO notes that a school review process is not completed until a review report is confirmed. This means providing a board with the opportunity to respond to the findings in an unconfirmed report, considering the board's response, making any necessary changes, advising the board of the changes, and only then confirming the report.*
- *I appreciate that the process is intended to provide for any errors or omissions to be addressed before a review is confirmed.*

ERO have advised us recently under OIA request, *The date that the ERO Education Review report about Ruru Specialist School was confirmed by ERO was 8 August 2016.*

ERO confirmed under OIA request, *The date that the Ruru Special School Board of Trustees was given to respond to the above unconfirmed report was 30 May 2016.* It was prior to this date, that Police contacted Ministry of Education District Manager Christine Menzies advising Police were investigating Ruru. During communications with Christine Menzies, Detective Sergeant Cameron arranged and discussed an Interagency Meeting (Police, MoE, CYF, CoT) – Ruru School Allegations of Physical and Emotional Abuse, to be held at the offices of Ministry of Education.

Police records show D/Sgt Cameron and Christine Menzies communicated about secret witness XY and the allegations of staff punching and stabbing students. D/Sgt Cameron writes an email on the 26 May 2016, *I have been in correspondence with Christine Menzies of the Southland MoE and will*



*provide her details to the informant with a view to them establishing communication with the as yet unidentified witness XY.*

The interagency meeting was held at the Office of the Ministry of Education on the 31 May 2016.

It is important to mention that we also formally advised Ministry of Education Management prior to the ERO review in April, that Police had confirmed they were investigating the school, following our IPCA complaint.

As with the 2015 ERO review, Ruru once again failed the high-trust model, and withheld important information directly relating to child safety, welfare and wellbeing. Once again, the Ministry of Education did not effectively communicate with ERO in advance of, or during the ERO review process. ERO have confirmed this time around they were not informed before confirming and publishing the ERO Review Report, and therefore could not consider the serious nature of the allegations and Police Complaint, particularly in relation to the provision of a safe physical and emotional environment.

Ironically, when we advised the Ministry of Education that Ruru Board of Trustees had been untruthful when they advised the Ministry in 2015, *ERO have viewed the safe area as part of their reviews since it was built*, the Ministry used the 2016 ERO Review Report, quoting it, to affirm their stance which was, "The Ministry has confidence in the Board".

When media questioned Iona Holsted (then) ERO CEO about the 2016 ERO review of Ruru, the reporter asked, "Will you review your own ERO review report of Ruru School to include the information that there has been a complaint to Police, that there has been a Ministry report, there was a room that was dark and grimy and unpleasant that autistic children were being put in?"

Iona Holsted replied, "No. We will not be reviewing Ruru School in that way. We have reported what we found."

This statement by the ERO boss (at the time) may have been true but is only true because Principal Erin Cairns and Ruru board was once again not upfront and truthful. This is another clear example of how the high-trust model of self-managing schools fails New Zealand children, young people, and their families.

We have not raised this complaint again with ERO, as we are not confident that ERO was not aware of relevant information during their 2016 review, as was similarly the case in 2015, particularly given the comments made by Ministry representatives at the meeting recently.

We also consider ERO would most likely have been alerted to the Police Investigation through media coverage in January 2016. If the ERO reviewers were in any way thorough, the team reviewing the school in 2016 would have made enquiries when they looked at all documentation in relation to secluding students and sighted the refurbished room, that had previously been the seclusion room, especially given Ruru had withheld information in the previous review.

It is important for us to also note that ERO advised you during the Ombudsman Investigation that ERO had made changes. Following the 2015 review events it: *clarified with review officers its expectations in relation to the recording of how schools manage complaints; and formalised its schedule of regional liaison meetings with the Ministry and agreed to the timely exchange of information.*

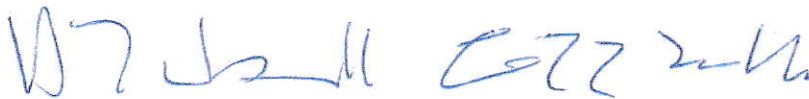
The attached timeline is provided for your information and although you will be familiar with details of the 2015 ERO review, which was set aside by ERO because of non-disclosure by Ruru of important

information about the Ministry of Education Investigation, we have included the details for your quick reference and to hi-light a pattern of cover-up and deception by Ruru and Ministry.

Lasting change will only come if people are held accountable for wrongdoing. In this case Ruru nearly got away with dishonesty during the 2015 ERO review, and when given a second chance in 2016, they took the same dishonest path. This time they successfully managed to deceive and delude everyone, within a system that allows for this. This system enables and protects people in power and protects reputations and careers over the safety, wellbeing and care of children.

The outcome we are seeking is accountability for dishonesty and cover-ups by Ruru and agencies. We would like the 2016 ERO Review Report of Ruru Specialist School withdrawn.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Callum and Victoria Turnbull', written in a cursive style.

Callum and Victoria Turnbull



## Timeline

### 8/8/16 ERO Review of RURU

- December 2014 - Turnbolls complain to MoE and the MoE commission an investigation by Terri Johnston.
- MoE contact ERO regarding Ms Johnstone investigating Ruru on behalf of the MoE. ERO overlook this.
- 4 March 2015 – MoE release the Johnstone Investigation Report to Turnbolls and Ruru.
- 11 March 2015 – Board of Trustee (Turnbull) emails ERO advising ERO of Turnbull complaint to MoE against Ruru and that the MoE had recently conducted an investigation.
- **9-12 March 2015 – ERO review Ruru – Ruru Board does not disclose to ERO they have the MoE Investigation Report.**
- April 2015 – Ruru send Turnbolls Unconfirmed ERO Report and express how delighted the Board was with the ERO Review. The Unconfirmed ERO Report was a stark contrast to the MoE Investigation Report release a month earlier. The same day, Ruru sent Turnbolls 93 comments made by the Board, in their response to the MoE regarding the MoE Investigation Report. Ruru Board of Trustees write and advise Ministry, *ERO have viewed the safe area since it was built. The Board quote comments from the Unconfirmed ERO Review, to reject the findings MoE Investigation Report.*
- The 2015 ERO Review was set aside and not published, after Turnbolls advised MoE they had been sent a copy of the Unconfirmed ERO Report.
- 15 October 2015 – Police reactivated file for review post an IPCA complaint by Turnbolls. Police file records that Senior Sargent Shona Low, Police investigating the IPCA complaint, spoke with Ministry of Education representatives that were involved with the school, during the IPCA Investigation.
- December 2015 – Turnbolls are formally advised of Police Investigation by Police.
- 23 January 2016 – Front page article The Southland Times - *A police spokesperson on Thursday confirmed they were investigating a complaint about the use of a seclusion room at the school but were unable to comment further. Also, Confirmation of the investigation comes as the Ministry of Education are preparing new guidelines...* It was reported also that the Board Chair *believed the matter was closed but would co-operate fully with any further investigations.*
- Detective Sergeant Greg Baird is assigned to investigate.
- 15 February 2016 – Police records show D/Sgt Greg Baird raises concerns about investigating a file that has already been reviewed by a number of his supervisors. Police records show, *He has commented that the matter was given to him to remove any conflict with DS CAIRN's family, 2 of whom are employed at the school. He was personally involved with the school on a regular basis when working at North Invercargill Police station and he knows Erin and Maree CAIRN's well. He feels that this may create a conflict of interest especially for the complaints in this matter.*
- 22 March 2016 – D/Sgt Greg Baird contacts Erin Cairns and advises her of the Police Investigation.
- 22 March 2016 – Murray Roberts Ministry of Education Regional Manager emails Callum Turnbull cc Ministry management Julie Anderson, David Wales, Andrew Buchanan, Christine Menzies, *This morning during a conversation we had, you disclosed to me that you have,*



*since the time of the release of the report related to Ruru School; collected evidence that would suggest a level of alleged abuse of children who attend Ruru Specialist School. Furthermore, you indicated that a teacher who had taught Rovin at Ruru School had approached you and had shared information of that nature with you. You indicated that you have a recording of that information. You also went on to say that the teacher has now left the country and resides in Australia. You also informed me that you had other people who have contacted you and have reported incidents to you that would suggest a level of alleged abuse of young people at the school that is concerning.*

*Having reflected on your conversation, I called you to advise that if you believe that you hold information regarding students being at risk who are attending the special school you should make an immediate notification to **Child Youth and Family (CYFs)** who have the statutory obligation to deal with such issues. CYFs will involve the Police if in their view they consider this level of intervention is required.*

- 23 March 2016 – Turnbolls send email to Murray Roberts Ministry of Education Regional Manager CC Ministry management Christine Menzies, Julie Anderson, David Wales, Andrew Buchanan stating, *In December 2015, after an IPCA Investigation into the Police handling of our complaint, we received confirmation that an investigation into the use of the seclusion room is pending.*
- **4-5 April 2016 - ERO review Ruru – Ruru does not disclose to ERO that Police have commenced an investigation.**
- 12 April 2016 – D/Sgt Baird contact Turnbolls to arrange a date and time to take a Police Statement. Turnbull's raised concerns about potential conflict of interest. Police file records show D/Sgt Baird wrote, *He (Callum Turnbull) pointed out that I was in a no-win situation investigating this matter as I was either going to be prosecuting a family member of a work associate or making adverse comments about senior colleagues. He also wrote, I did not alert him to my relationship with Erin CAIRNS.*
- 20 April 2016 – D/Sgt Baird reports in Police file, *Due to perceive conflict of interest it was decided that I will no longer be the investigating officer and the complainant has been updated on this I have also advised Erin CAIRNS the Principal of Ruru School of the update.*
- 6 May 2016 – Detective Sergeant Brian Cameron Police was re-assigned to investigate.
- 9 May 2016 – Ruru was sent 2016 Unconfirmed ERO Report to respond to.
- 25 May 2016 – D/Sgt Cameron notified MoE he was conducting the "reinvestigation".
- 26 May 2016 – D/Sgt Cameron communicates with Christine Menzies MoE and provides secret witness information and arranges an interagency meeting to be held at the office of the Ministry of Education.
- 30 May 2016 – Ruru Board was given until this date to respond to ERO about the Unconfirmed ERO Report.
- 31 May 2016 – Ruru School Allegations of Physical and Emotional Abuse Interagency Meeting - Police, CYF, Education Council, Ministry of Education.
- 30 June 2016 – D/Sgt Cameron first contacted Erin Cairns.
- 20 July 2016 – School lawyer emails D/Sgt Cameron, *send me a copy of the IPCA generated internal Police review of the matter that followed a complaint to that Authority by Mr and Mrs Turnbull.*



- Police records show D/Sgt Cameron emails Police R Bourne for guidance on what can be released to Ruru stating, *I would have thought Shona Low's Report as part of the BLUE TEAM investigation explained the matter to the extent required.*
- 8 August 2016 – ERO releases ERO Review Report. **The Review Report makes NO mention of the Police Investigation into allegations of physical and emotional abuse at Ruru.**
- 16 September 2016 – Turnbills write to ERO with concerns in relation to the ERO Report. *"It is very concerning to us that 2016 ERO Review of Ruru Specialist School makes no reference to the ongoing Police investigation into the use of the seclusion room at the school, which includes allegations of mistreatment of students by staff and management."*
- 21 September 2016 – ERO Solicitor Shan Pather writes to Police D/Sgt Cameron requesting information under OIA request and states, **ERO was not aware that the Police were carrying out an investigation of the school in relation to a complaint from parents of a child who was at the school.** Under OIA Shan Pather asks, 1. *The date the Police opened its investigation into the parental complaint at Ruru Special School.*
- 22 September 2016 - D/Sgt Brian Cameron replies by email, 1. *The initial investigation commenced 04 December 2014. It was filed on 18 June 2015 and reactivated 15 October for review post an IPCA complaint by the informants. It was subsequently assigned to me for reinvestigation on 06 May 2016.*
- 10 October 2016 – Jeremy France advises Turnbills by letter, *The Police have informed ERO that no investigation was underway at the time of the April 2016 review, and while it has since been reactivated, the investigation is into historic issues.*  
ERO also advises Under OIA, *ERO did not view/inspect the "seclusion room" in 2002, 2006, and 2009.*
- 12 October 2016 – Turnbills write to MoE with evidence that Ruru BoT and Principal lied to the MoE and parents when they advised MoE, *ERO have viewed the safe area as part of their reviews since it was built.*
- 27 October 2016 – Turnbills email D/Sgt Cameron and ask, *When was the school formally advised of the investigation by Police?*
- 28 October 2016 – Turnbills email S/S Shona Low IPCA, *Was Ruru Specialist School advised that there was a police investigation about the use of a seclusion room at the school...and if so when were they notified? S/S Low then contacted D/Sgt Cameron regarding this request and D/Sgt Cameron responded to S/S Low, I have answered this very question as follows on the 19<sup>th</sup> of October – "The school was advised at the commencement of my inquiry that an investigation was ongoing." It may be of course that they are wishing to know if YOU advised the school prior to my involvement and you are welcome to respond accordingly or otherwise advise that you have forwarded their enquiry on to me. S/S Low replied to D/Sgt Cameron by email, I think I will just reply to Victoria that I have forwarded it to you. My part was originally looking at our actions in respect of the alleged assault and not the use of the seclusion room.*
- 31 October 2016 – D/Sgt Cameron emails Turnbull, *I refer to my email dated 19 October. To be more specific my first recorded contact with the Principal was June 30 2016. As far as I am aware this is the date the School were advised that the use of seclusion room was subject to re investigation.*
- 1 November 2016 – Turnbills email D/Sgt Cameron, *Please send us formal confirmation of the first notification Police gave Ruru Specialist School and the Ministry of Education that there was going to be a Police Investigation. D/Sgt Cameron replies by email, I have done so in regard to the School about the reinvestigation undertaken once assigned to me. In regard*



the MoE being notified that I was conducting a reinvestigation, the first communication was on 25 May this year.

- 1 November 2016 – Ruru Principal Erin Cairns, declines to be interviewed by investigating Police.
- 2 November 2016 – Julie Anderson Director of Education Otago/Southland writes a response letter to Turnbulls stating, **The Ministry has confidence in the Board.** Julie Anderson quotes the 2016 ERO Review Report, to affirm the MoE stance. Once again, as with the 2015 Unconfirmed ERO Review, the 2016 ERO Report was flawed due to non-disclosure by Ruru.
- 5 December 2016 – School lawyer advises Police, *I am instructed by Erin Cairns that she has contacted all relevant staff and BoT members as per your request below. In relation to present staff, the people spoken to were current staff employed prior to December 2014. With respect to Board members, Erin has spoken to current Board members who were on the Board prior to December 2014. None of the people spoken to wish to be interviewed by the Police.*
- 16 January 2019 – Julie Anderson stated during a meeting with Turnbulls, **"ERO certainly did know there was an investigation going on"**, when questioned about the 2016 ERO Report.
- 4 February 2019 – After a formal request to the IPCA for information, an OIA request was made by Turnbulls to Police, *Pursuant to the Official Information Act please advise when Erin Cairns/Ruru School were first notified/formally or informally advised by DS Greg Baird that a Police investigation was going to be conducted/was pending.* Inspector Michael Woods responds, **Detective Sergeant Baird first contacted Erin Cairns on the 22 March 2016 and advised her of the inquiry.**
- 26 February 2019 – Under OIA request to ERO, Turnbulls ask:
  1. *Please advise if or when ERO was first notified by Ruru Specialist School Board of Trustees of the Police Investigation.*
  2. *Please advise if or when ERO was first notified by the Ministry of Education of the Police investigation at Ruru Specialist School.*

ERO respond, *In response to your request under bullet points one and two, ERO was not notified of the police investigation by the Ruru Specialist School Board of Trustees or the Ministry of Education.*



Our ref 479662/479666/407247  
Contact Anna Down  
21 May 2019



Callum and Victoria Turnbull

By email: [cj.turnbull@xtra.co.nz](mailto:cj.turnbull@xtra.co.nz)

Dear Mr and Mrs Turnbull

### **Complaints about Ministry of Education and Ruru Specialist School**

I write further to your recent contact with Anna Down, regarding your correspondence of 23 May 2018, 8 March 2019, and 29 March 2019.

#### **Official Information Act (OIA) complaints of 23 May 2018 and 29 March 2019 — Ministry's responses to requests for information about construction of 'safe area' or 'time-out room' at Ruru Specialist School**

On 17 October 2018, Mr Schutte wrote to you explaining why there did not appear to be a basis for investigating the concerns raised in your complaint of 23 May 2018, about the decisions of the Ministry of Education (the Ministry) on your requests of 24 January and 28 February 2018. In light of your response, additional enquiries were made with the Ministry about one item from your original request (item 6). The Ministry was asked to provide you with a further response, which it did on 12 December 2018. In response to this, you made a follow-up request to the Ministry for a further 10 items (letter dated 21 December 2018). The Ministry responded on 12 March 2019, and you have made a new complaint about that decision.

I have considered your response to Mr Schutte in respect of your complaint of 23 May 2018 and am not persuaded that a different decision is warranted. I do not intend to respond to each of the points you raise, but note your comments regarding the ability of an Ombudsman to investigate the way in which information is made available. This refers to the *mode* in which information is made available, under sections 16(1) and 16(1A) of the OIA.

Furthermore, it would appear that your request of 21 December 2018 and the Ministry's decision on that have effectively superseded the earlier request and decision. In these circumstances, further enquiries in respect of the Ministry decision on your requests of January and February 2018 are unnecessary, and no further action will be taken on that matter.

Your complaint about the Ministry's decision of 12 March 2019 is still under assessment. We will write to you about this in due course.

#### **Official Information Act complaint of 23 May 2018 — Ministry response to request for information about training in behaviour management/restraint**

Your second complaint of 23 May 2018 concerned the information provided to you by the Ministry about its position on the provision of training in behaviour management and restraint by

PACK Education. You are concerned that on the basis of information you obtained from Linwood North School, information provided by the Ministry was incorrect. Enquiries have been made with the Ministry, however it has been necessary to make some further enquiries. We will write to you again about this when we have received a response.

**Your letter of 8 March 2019**

In a letter dated 8 March 2019, you complained that the Ministry and Ruru had failed to inform the Education Review Office (ERO) during its 2016 review that a Police investigation had commenced into allegations of physical and emotional abuse of disabled children and young people.

I understand that since the conclusion in November 2017 of my investigation into your 2015 complaint, you have obtained further information from a number of the agencies involved. As a result, you have identified concerns in addition to those outlined in your original complaint or raised during the investigation. I am aware that these are new concerns and they relate to information that was available to ERO at the time of the 2016 review, rather than the 2015 review. However, they do concern events considered in the course of my previous investigation.

Having considered your concerns, I do not consider further investigation is warranted.

In short, given the findings of my previous investigation and changes made by the Ministry and ERO following your complaints to those agencies and my investigation, I do not see that there is anything to be gained by commencing an investigation into your new concerns. As you noted, these changes included ensuring ERO review teams check and record how schools manage challenging behaviour, and steps to ensure more effective communication between the Ministry and ERO in relation to complaints. In addition, at the conclusion of my investigation ERO agreed to amend its Compliance Checklist to ensure schools are asked *directly* about significant complaints and investigations. It also reviewed its Board Assurance Statement and Self Audit Checklist to ensure consistency with Ministry guidance.

I have noted your comments about the outcomes you are seeking. It seems to me that your decision to pursue these matters may, to some extent at least, be motivated by the wish you expressed when we met in 2017 for certain staff to be held to account to the point that they lose their jobs. As I explained at the time, an investigation by me will not achieve that outcome.

Yours sincerely



Peter Boshier  
Chief Ombudsman