

**PRIVATE AND CONFIDENTIAL
OFFICE OF THE HEALTH CARE COMPLAINTS COMMISSION
INVESTIGATION REPORT**

Complainant: Mr AWH
Respondent: Dr John Philip Rolleston
File No: 03/01056
Date: 19 September 2006

Background

1. On 09/05/2003, Mr AWH sent an email to the Health Care Complaints Commission alleging Dr Rolleston, who at the time had a practice in St Ives, New South Wales, sexually abused him and his brother. According to Mr AWH, the alleged abuse occurred in the 1970s.
2. Mr AWH had expressed concerns that Dr Rolleston may still be practicing medicine and may still be sexually assaulting children.
3. The only details of the alleged sexual abuse concerned Mr AWH who stated whenever he attended for a consultation; Dr Rolleston would "masturbate me". Mr AWH stated he recalled one occasion in particular when he had attended Dr Rolleston's rooms in relation to a chest cold. Mr AWH said Dr Rolleston "dropped his (Mr AWH's) pants and masturbated me, but I was real young and trusted our doctor to know what he was doing".
4. The investigation was discontinued pursuant to s.27(1)(g) of the *Health Care Complaints Act, 1993* (the Act) on 10/12/2003 as Mr AWH failed to provide further and better particulars about his complaint and the Commission was unable to obtain a statutory declaration to verify his complaint.
5. On 10/07/2006 Mr AWH again complained to the Commission that Dr Rolleston had sexually assaulted Mr AWH and his brother (not named) during the 1970s. In terms of providing particulars of his complaint against Dr Rolleston, Mr AWH attached the emails between himself and the Commission from May 2003. As noted in paragraph 3 of this report, the particulars of the alleged sexual abuse lack detailed information. Mr AWH also stated in this email, "Since 2003, I suffered a nervous breakdown over many things, this incident just one part of it. However I'm a bit better health wise now and want to again pursue this matter..".
6. On 11/08/2006, the Commission wrote to Mr AWH to request further information about the alleged sexual abuse. This included a request for detailed information concerning at least three incidents that Mr AWH could recall clearly. He was also asked to provide any information he had available or could recall that would assist the Commission in corroborating the alleged sexual abuse.
7. Dr Rolleston was provided with a copy of Mr AWH's email dated 09/05/2003 and invited to provide a response to the allegations whilst the Commission was awaiting further particulars from Mr AWH. Dr Rolleston did not provide a written response to this complaint.

8. On 22/09/2006, Dr Rolleston was contacted by the Commission to discuss the allegations. During this conversation, he provided the following information:
- He categorically denied Mr AWH's allegations of misconduct.
 - He confirmed that he had a practice in St Ives between 1969 – 1979, but the practice had since changed hands several times since he sold it.
 - He had no particular recollection of Mr AWH or his siblings as patients of his St Ives practice and he no longer held any clinical records from this period of time.
9. On 30/08/2006, Mr AWH emailed the Commission with the following information:
- The first time Mr AWH recalled being sexually abused occurred when his grandmother¹ took him to Dr Rolleston's rooms in St Ives for "flu like symptoms"². Mr AWH went into the consulting room by himself (no age stated). His grandmother never accompanied the children into the consultation room because Dr Rolleston was the family GP and was "trusted"³. After asking a few questions about his illness, Dr Rolleston is alleged to have moved around to where Mr AWH was sitting. He asked him to undo his zipper and then started masturbating AWH. The masturbation allegedly occurred until Mr AWH "came"⁴. He recalls this incident because it was the first time he had an orgasm.
 - The other two occasions that Mr AWH recalls occurred during visits by Dr Rolleston to his grandparents' Pymble home to review his grandfather who was ill at the time. Dr Rolleston allegedly told the grandmother that he would check on Mr AWH. They went into Mr AWH's bedroom and Dr Rolleston "masturbated (sic) me each time"⁵.
10. Mr AWH has not provided an estimate of his age when these alleged incidents occurred, though he notes that he was "just so young".
11. Mr AWH acknowledges he does not have evidence to available to support his allegations and has expressed his frustration with this.
12. Given the length of time that has lapsed since the alleged sexual abuse occurred and the young age of Mr AWH at the time, there are insufficient particulars to enable Dr Rolleston to provide an informed response to this complaint other than his bare denial of any impropriety.

Recommendation

13. The complaint against Dr Rolleston should be terminated pursuant to s.39(1)(e) of the Act for the following reasons:

¹ The grandmother is not named and there is no indication as to whether she is alive or deceased.

² Mr AWH's email dated 30/08/2006.

³ Id.

⁴ Id.

⁵ Id.

- a. There have been significant delays in making this complaint against Dr Rolleston. These delays place Dr Rolleston in a prejudicial position of having to defend allegations, which occurred some 30 years ago. There has been an amount of jurisprudence in the last 15 years in relation to the prejudice that befalls an accused in historical sexual assault allegations. A 'Longman direction' (as reinforced in Crampton and Doggett) is routinely given to criminal juries in matters where there has been substantial delay between the alleged sexual impropriety and the accused being asked to provide a response. The direction effectively is that by reason of delay, it would be "unsafe or dangerous" to convict an accused on the uncorroborated evidence of the complainant alone, unless the jury scrutinizing the evidence with great care, considering the circumstances relevant to its evaluation and paying heed to the warning, were satisfied of its truth and accuracy. As noted in paragraph 5 of this report the complainant has indicated he has suffered some personal difficulties in the more recent past that would in all likelihood cause further difficulties on top of the delay factor.
- b. There is a strong possibility that any disciplinary action taken against Dr Rolleston would be permanently stayed given the lapse of time since the alleged conduct occurred.
- c. There is a lack of corroborative evidence available that would assist the Commission in proving a complaint of professional misconduct against Dr Rolleston to the high standard required.



Angela O'Gorman
Investigation Officer