



HEALTH CARE
COMPLAINTS
COMMISSION

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File no: 03/01056 & 07/00070

13 June 2008

Mr L Glanfield AM
The Director General
Attorney General's Department
Box 6 GPO
SYDNEY NSW 2001

By fax: 9228 8050

PRIVATE AND CONFIDENTIAL

Dear Mr Glanfield,

**RE: Dr John Philip Rolleston
Legal Determination – Briefing Senior Counsel**

The Health Care Complaints Commission seeks approval to brief Senior Counsel to prepare an advice as to whether proceedings should be commenced against Dr Rolleston by way of complaint to the Medical Tribunal. The Commission will seek to brief Mr Philip Strickland SC at the usual rate of \$250.00 per hour (plus GST).

Briefly, three male complainants allege that Dr Rolleston sexually assaulted them during patient consultations in the 1970's when all three were in their early teens. Two of the complainants are brothers, the other complainant is unrelated. One complainant also alleges that some years after the sexual assaults Dr Rolleston provided him with a backdated medical certificate for a condition not formally diagnosed so he could obtain sickness benefits from Centrelink.

At the relevant times Dr Rolleston carried on a practice as a general practitioner in St Ives. He was also engaged to work at Royal North Shore Hospital. He now works as a general practitioner.

Dr Rolleston has not made any submissions pursuant to s 40 and has denied any recollection of these three men as patients. A letter from the medical insurer on behalf of Dr Rolleston has indicated its position that proceeding with a complaint would be a breach of procedural fairness given the age of the complaint and the delay. They state that Dr Rolleston would not be able to defend the allegations.

It is for precisely this reason that the Commission wishes to brief Senior Counsel for advice as to the prospects of any complaint proceeding beyond a stay application. The advice of Counsel as to whether they are of the opinion that the complaints will be able to be heard together or whether separate hearings would be ordered will bear significantly on the question of a stay of proceedings and ultimately the prospects for success.

Whilst the Commission recognises that delay is a significant issue to the successful prosecution of any complaint brought against Dr Rolleston the matter also presents a significant issue of public protection in light of the serious allegations of sexual

assault of children by someone with the access and authority of a medical practitioner.

Should you require further information with respect to this matter, please contact Ms Rhonda Ianna on 9219 7533.

Yours faithfully

Karen Mobbs
Director of Proceedings