

# Ombudsman Notification Assessment

Form review August 2003

Ombudsman File No: CJ 2003/8367 Date of Assessment: 5/1/2004

SOA Name: Ash: an Nisbett SOA Position: teacher - Director of Student

Main Agency: Knox Grammar School Additional Agency: .....

Alleged Victim: ASA Age/DOB: REDACTED 86

Agency Contact Person: Peter Crawley I.O.: Kylie Symons

Class of matter:  Low risk/less serious allegation  Higher risk/serious allegation\*

If NJ at outset record this as the primary action (Issue 1 on Resolve)

NJ (do not record any other issues on Resolve for matters that are NJ at outset)

Initial most serious allegation (Only record the most serious abuse type on resolve and make sure it is marked as Issue 1 on resolve and is the first issue on the list)

- Physical
  - Hitting/Kicking
  - Indirect object use
  - Push/shove/grab/pinch/poke
  - Restraint/excess force
  - Shaking /throwing
- Emotional/psych
  - Exposure to violence
  - Hostility/rejection
  - Humiliation Belittling
  - Scapegoating
- Neglect
  - Clothing or food
  - Medical
  - Shelter
  - Supervision
  - Environment not supportive
- Sexual
  - Exploit - non physical
  - Harassment
  - Sexual Assault
  - Indecent touching/molestation
  - Penetration
- Misconduct/Child
  - Inappropriate comments
  - Inappropriate relationship
  - Inappropriate touching
  - Other ill-treatment
  - Pornography
  - Child pornography
  - Other pornography

\* If misconduct that may involve child abuse is sustained you will need to record the type of abuse actually sustained as an additional sustained matter.

Description of the most serious allegation: It is alleged that the SOA permitted a 9-10 student to go to his home where it is alleged he offered cigarettes, alcohol & hugged the student.

1 Additional Sustained Matters: (Only add to Resolve for each additional sustained matters)

- Physical
  - Hitting/Kicking
  - Indirect object use
  - Push/shove/grab/pinch/poke
  - Restraint/excess force
  - Shaking /throwing
- Emotional/psych
  - Exposure to violence
  - Hostility/rejection
  - Humiliation Belittling
  - Scapegoating
- Neglect
  - Clothing or food
  - Medical
  - Shelter
  - Supervision
  - Environment not supportive
- Sexual
  - Exploit - non-physical
  - Harassment
  - Sexual Assault
  - Indecent touching/molestation
  - Penetration

**General Comments / Notable Positives:**

Complaint to school 20/11/2003 - prompt action taken by the school to address risk v SOA given directions in writing to not have contact with children at his home. (see yellow tab).  
 - PSOA informed in writing of allegations on 25/11/2003  
 - Prompt investigative process.

**Additional notes:**

**Procedural Fairness:** BOA not invited to respond to preliminary finding, prior to final finding and actions being decided. → managerial issue, not a huge problem.

**Findings :** Allegation ① - Breach professional behaviour  
 - Support finding - Sustained.  
 (not notifiable to DCYP)  
 Allegation ② - misconduct  
 - Support Finding.

**Risk assessment :** Initial - appropriate action by school  
 Final - appropriate/adequate assessment.

**Information Gathering :-** A/V did not want to be interviewed v father of A/V did not give permission for his sons to be interviewed.  
 - No witnesses, apart from complaint evidence v circumstantial evidence from a/v's mother.  
 - PSOA disputes offering a/v alcohol/cigarettes but admits to having a/v in his premises v to other circumstances surrounding this incident.

**Finding** - note comment by investigator page 12 - (Allegation ①) which seems to sum up the motive of the PSOA.

**Comment**

\* "court report" - letter from school to SOA dated 8/12/03.

\* ~~Procedural Fairness - Preliminary Findings~~

**Assessment of the Agency's Investigative Process**

Ombudsman determination for additional mandatory issues

**Agency Related Issues:**

- Agency overall investigation:**  Satisfactory  Unsatisfactory  Follow up was required  Agency demonstrated good practice  
**Information Gathering:**  Satisfactory  Unsatisfactory  Follow up was required  Agency demonstrated good practice  
**Documentation:**  Satisfactory  Unsatisfactory  Follow up was required  Agency demonstrated good practice

(Only for higher risk allegations)

- Investigation Planning:**  Satisfactory  Unsatisfactory  Follow up was required  Agency demonstrated good practice  
**Risk Management:**  Satisfactory  Unsatisfactory  Follow up was required  Agency demonstrated good practice

(Other important processes to consider during assessment. Add to resolve if critical and determine as "not applicable")

- Initial Response:**  Satisfactory  Unsatisfactory .....  
**Natural Justice:**  Satisfactory  Unsatisfactory .....

**Notification to CCYP (Add this as an issue in Resolve)**

- Matter notified to CCYP  \*Notification to CCYP required (\*include CCYP paragraph in feedback letter to agency)

**Agency Findings and our assessment of agency finding**

\* When finalising NJ matters you will need to consider if the matter was NJ at the outset or if the agency investigation into the matter determined the matter was NJ. If we accepted the matter as within jurisdiction then we will need to record the agency's finding (including those matters where the agency found the matter to be NJ) and we will need to assess their finding. If we declined the matter at the outset then we should not record an agency finding or an ombudsman determination.

**Agency Finding (Final finding at closure)**

- False
- Vexatious
- Misconceived
- Allegation Sustained
- Not sustained insufficient evidence
- Misconduct sustained not child abuse
- Behaviour sustained not child abuse
- NJ child or employee (this should be the agency finding) \*

**Ombudsman Determination**

- Agency finding reasonable
- Agency finding unreasonable
- C or K process satisfactory

**Agency finding on additional sustained matters**

**Agency Finding**

- Sustained

**Ombudsman Determination**

- Agency finding reasonable
- Agency finding unreasonable

**Agency Action:**

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> ET refer back to school           | <input type="checkbox"/> Verbal caution warning             | <input type="checkbox"/> Dismissal                |
| <input type="checkbox"/> Performance monitoring            | <input type="checkbox"/> Detention                          | <input type="checkbox"/> Restrict/change duties   |
| <input type="checkbox"/> Management counselling            | <input checked="" type="checkbox"/> Written caution/warning | <input type="checkbox"/> Training                 |
| <input type="checkbox"/> Training                          | <input type="checkbox"/> Non Disciplinary transfer          | <input type="checkbox"/> DET clause 14(2) warning |
| <input type="checkbox"/> No action after investigation     | <input type="checkbox"/> Allowed to resign                  |   |
| <input type="checkbox"/> No action/conciliated-resolved    | <input type="checkbox"/> Other disciplinary action          |   |
| <input type="checkbox"/> No action/decline at outset       | <input type="checkbox"/> No action/discontinued             |   |
| <input type="checkbox"/> No action/conciliation failed     | <input type="checkbox"/> Not to be employed                 |   |
| <input type="checkbox"/> No action/decline after enquiries | <input type="checkbox"/> Counselling                        |   |

**Ombo Determination:**

- Agency action satisfactory
- Agency action unsatisfactory
- Agency action unable to assess

**Significant Outcome(s):** (Record agency compliance with investigation recommendations here and also compliance with other informal requests)

- |  |   |  |
|--|---|--|
| <input checked="" type="checkbox"/> No significant outcome   | <input type="checkbox"/> Agency initiated policy/procedure change | <input type="checkbox"/> Omb Initiated case review             |
| <input type="checkbox"/> Agency initiates apology            | <input type="checkbox"/> Agency initiates training                | <input type="checkbox"/> Omb initiated legislation change      |
| <input type="checkbox"/> Agency initiates case review        | <input type="checkbox"/> Further information provided             | <input type="checkbox"/> Omb initiated policy/procedure change |
| <input type="checkbox"/> Agency initiates legislation change | <input type="checkbox"/> Internal processes reviewed              | <input type="checkbox"/> Omb initiated remedy – other          |
| <input type="checkbox"/> Agency initiates other remedy       | <input type="checkbox"/> Omb currently monitoring compliance      | <input type="checkbox"/> Omb initiated training                |
| <input type="checkbox"/> Agency initiates change in finding  | <input type="checkbox"/> Omb reviews & changes procedure          | <input type="checkbox"/> Omb initiated change in finding       |
| <input type="checkbox"/> Special report to parliament        |   |  |

Outstanding issues requiring follow up  
 Compliance report required  
 Case for annual report

- Yes  No  
 Yes  No  
 Yes  No

Date for follow up: .....  
 Date for follow up: .....  
 Date case study completed: .....

| Feedback letter to agency  |  | Unsatisfactory points to include in unsatisfactory pro forma letter          |  |
|--|--|--|--|
| <input type="checkbox"/> Satisfactory Proforma   | <input type="checkbox"/> DET <input type="checkbox"/> CCER | <input type="checkbox"/> The initial response to the allegations             |  |
| <input type="checkbox"/> Unsatisfactory Proforma   | <input type="checkbox"/> DET <input type="checkbox"/> CCER | <input type="checkbox"/> The planning process                                |  |
| <input type="checkbox"/> Add additional sentence to unsatis proforma (see notes)             |  | <input type="checkbox"/> The information gathering process                   |  |
| <input checked="" type="checkbox"/> Detailed feedback letter                                 |  | <input type="checkbox"/> The record keeping and documentation of this matter |  |
|  |  | <input type="checkbox"/> The risk assessment                                 |  |
|  |  | <input type="checkbox"/> The findings made regarding the allegation/s.       |  |
|  |  | <input type="checkbox"/> The action taken as a result of the investigation   |  |
| Investigation Officer: <i>M. J. [Signature]</i> Date: <i>5.11.04</i> Date letter sent: ..... |  |  |  |

**Other Issues**

|  |   |  |  |   |
|--|---|--|--|---|
| <input type="checkbox"/> Agency related issues         | <input type="checkbox"/> Overall agency investigation<br><input type="checkbox"/> Information gathering<br><input type="checkbox"/> Documentation<br><br><input type="checkbox"/> Attitudes to treatment of children<br><input type="checkbox"/> Investigation Planning<br><input type="checkbox"/> Risk management<br><input type="checkbox"/> Delay notifying Omb | <input type="checkbox"/> Interagency issues  | <input type="checkbox"/> DoCS  | <input type="checkbox"/> Delays   |
|  | <input type="checkbox"/> Policies procedures<br><input type="checkbox"/> Quality control<br><input type="checkbox"/> Reporting abuse<br><input type="checkbox"/> Training recruiting staff<br><input type="checkbox"/> Understanding abuse  |  | <input type="checkbox"/> Non DoCS  | <input type="checkbox"/> Employee related risk<br><input type="checkbox"/> Failure to assist agency<br><input type="checkbox"/> Inadequate investigation<br><input type="checkbox"/> Information sharing<br><br><input type="checkbox"/> Lack of coordination<br><input type="checkbox"/> Delays<br><br><input type="checkbox"/> Information sharing<br><input type="checkbox"/> Jurisdiction legal issues<br><input type="checkbox"/> Lack of coordination |
| <input checked="" type="checkbox"/> Allegation related | <input type="checkbox"/> Behaviour manage<br><input type="checkbox"/> Child abuse conviction<br><input checked="" type="checkbox"/> Historic abuse  | <input type="checkbox"/> Procedures/Policy   | <input type="checkbox"/> Action delayed  |   |
|  | <input type="checkbox"/> Lawful chastisement<br><input type="checkbox"/> Multiple factors   | <input type="checkbox"/> Third party investigation   | <input type="checkbox"/> Factors not considered<br><input type="checkbox"/> Fail to act<br><input type="checkbox"/> Length of process<br><input type="checkbox"/> Not adhered to<br><br><input type="checkbox"/> Poor/ Inadequate/ flawed<br><input type="checkbox"/> Unfair<br><input type="checkbox"/> Witnesses not interviewed<br><input type="checkbox"/> Other |   |
| <input type="checkbox"/> Child vulnerability           | <input type="checkbox"/> ATSI<br><input type="checkbox"/> NESB<br><input type="checkbox"/> Disability   | <input type="checkbox"/> Other appeals   | <input type="checkbox"/> DoCS<br><input type="checkbox"/> JIRT<br><input type="checkbox"/> Ombudsman<br><input type="checkbox"/> Police<br><input checked="" type="checkbox"/> Other   |   |
|  | <input type="checkbox"/> State ward<br><input type="checkbox"/> Other   | <input type="checkbox"/> Investigator misconduct<br><br><input type="checkbox"/> Investigation | <input type="checkbox"/> Conflict of interest<br><br><input type="checkbox"/> Corruption<br><br><input type="checkbox"/> Bias/predjudice/ malicious<br><input type="checkbox"/> Not all info taken into account<br><input type="checkbox"/> Wrong findings facts   |   |

|   |  |  |  |
|---|--|--|--|
| <input type="checkbox"/> <b>Employee related</b>    | <input type="checkbox"/> Casual<br><input type="checkbox"/> Inexperienced<br><input type="checkbox"/> Person engaged<br><input type="checkbox"/> Prior child abuse allegation<br><input type="checkbox"/> Employee not engaged in sub res care<br><input type="checkbox"/> Work related stressor<br><input type="checkbox"/> Multiple employers<br><input type="checkbox"/> Clergy | <input type="checkbox"/> 0-2 years ago<br><input type="checkbox"/> 3-5 years ago<br><input type="checkbox"/> 6+ years ago<br><input type="checkbox"/> Dates unknown<br><input type="checkbox"/> Assaulted threatened<br><input type="checkbox"/> Victimised harassed<br><input type="checkbox"/> Other | <input type="checkbox"/> <b>Information</b><br><input type="checkbox"/> Fail to notify/give info<br><input type="checkbox"/> Improper disclosure<br><input type="checkbox"/> Inaccurate advice/info<br><input type="checkbox"/> Inappropriate access info<br><input type="checkbox"/> Inappropriate disclose info<br><input type="checkbox"/> Provide false info<br><input type="checkbox"/> Refusal to amend<br><input type="checkbox"/> Refusal to provide |
| <input type="checkbox"/> <b>Complainant</b>         | <input type="checkbox"/> Vexatious   |  | <input type="checkbox"/> <b>Child protection</b><br><input type="checkbox"/> Fail to notify parents<br><input type="checkbox"/> Fail to notify DoCS<br><input type="checkbox"/> Inadequate support<br><input type="checkbox"/> Fail to address risk<br><input type="checkbox"/> Otherwise inappropriate  |
| <input type="checkbox"/> <b>Natural justice</b>     | <input type="checkbox"/> Bias<br><input type="checkbox"/> Deny proc fairness<br><input type="checkbox"/> Fail to give reasons<br><input type="checkbox"/> No chance to respond<br><input type="checkbox"/> Other procedural  |  | <input type="checkbox"/> <b>Union related issues</b><br><input type="checkbox"/> Advise employee not to participate<br><input type="checkbox"/> Interfere in process<br><input type="checkbox"/> Misleading wrong advice<br><input type="checkbox"/> Pressure agency on finding  |
| <input type="checkbox"/> <b>Disciplinary action</b> | <input type="checkbox"/> Otherwise inappropriate<br><input type="checkbox"/> Too lenient<br><input type="checkbox"/> Too severe  |  | <input type="checkbox"/> <b>Local management (DET only)</b><br><input type="checkbox"/> <b>Training Education</b>  |
| <input type="checkbox"/> <b>Communication/info</b>  | <input type="checkbox"/> Calls corresp no response<br><input type="checkbox"/> Delay/fail to provide<br><input type="checkbox"/> Fail to give reasons<br><input type="checkbox"/> Improper disclosures<br><input type="checkbox"/> Refusal to alter<br><input type="checkbox"/> Refusal to disclose<br><input type="checkbox"/> Wrong inaccurate                                   |  | <input type="checkbox"/> <b>NJ</b>   |