

**Sue Phelan**

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**From:** Sue Phelan  
**Sent:** Friday, 3 December 2010 09:54  
**To:** Bruce Barbour; Timothy Lowe  
**Cc:** Steve Kinmond; Katharine Ovenden  
**Subject:** TRIM: Knox matters (Adrian Nesbitt) C/2003/8367; C/2004/1462

**TRIM Record Number:** 2010/093318

Bruce

Steve suggested that I brief you on the latest developments regarding these cases.

These cases are old closed matters that we dealt with some time ago (2003 & 2004) pertaining to historical allegations against Adrian Nesbitt, a teacher at Knox Grammar. Subsequent to our involvement, Mr Nesbitt was charged with child sexual offences (in 2009).

In 2009 one of the victims (Adrian Steer) approached our office seeking copies of our records and asking a number of questions, including why police action had not been pursued as part of the investigation in 2004 (where as an adult he made disclosures of indecent assault by the SOA – these allegations were sustained in the agency investigation). In consultation with Tim and yourself, Anne Barwick provided a response to the victim indicating we could not provide him with our records and we were limited in what we could tell him, other than that we were satisfied with the school's investigation. The victim was not satisfied with this response, but we again indicated we had told him all we could and that it was possible that he may be able to make an FOI application to the school for records it held. We had no further contact with this victim.

In November 2010 we received a GIPA application for our records on this matter from solicitors who are representing a number of victims of this and other teachers at Knox in a civil claim, specifically requesting our records relating to Mr Nesbitt. This was assessed by Sanya Silver as an invalid application as the information requested is considered to be excluded information and we have informed the solicitors of this.

I conducted a review of our old files and whilst it would appear in the initial stages we discussed police referral with Knox Grammar regarding the 2004 matter (to what extent is unclear), it does not appear that we pursued a police referral when it became clear that some of these allegations amounted to indecent assaults, particularly the detailed disclosure by Adrian Steer (although he was an adult at the time he provided this evidence and could have contacted the police himself at that time – he sought to do this later).

The victim in the 2003 matter approached the school in 2007 and provided detailed information of sexual assault (by this time Mr Nesbitt had left the school as a result of the 2004 investigation) by Mr Nesbitt – we advised the school to provide this information to the police at that time, which it did. (It should be noted that the information we received at the time of the 2003 matter did not provide any indication that sexual or indecent assault had occurred).

I'm informing you this as its possible, although I think unlikely, that our decision making may come under some scrutiny if the solicitors do access material through Knox Grammar – particularly with regard to no police referral at the time in relation to the 2004 matter.

I've written up a detailed assessment of both matters and have attached it to the files for quick reference if the need arises in the future.

FYI

Sue