

Continuing to abuse children for a living

Protecting children from abuse by professionals again

PART THREE

Chris Goddard

*A number of people have contacted me about the interview published in the last two issues of **Children Australia** (Goddard 1993a; 1993b). The mother's courage and persistence have clearly impressed many readers. In the latest development, the Victorian Ombudsman has reported on the case (Annual Report, 1992-1993, *The Ombudsman Victoria*, pp 40-42). I quote at length from his report:*

Sexual Abuse Allegations Against Teachers

There has been considerable public awareness of the subject of sexual abuse of children. In previous reports I have described the difficulty of assessing protective interventions by the Department of Health and Community Service. I have also had complaints brought to me about the actions of the Directorate of School Education (DSE) when allegations of sexual abuse are made by students against staff members.

One parent advised me of a matter where charges have only recently been heard, but the initial incidents occurred in 1986. Three young primary school children made allegations of indecent assault against a teacher. Police investigated and took statements from the children but did not lay charges. The department therefore did not hold a disciplinary enquiry but transferred the teacher to another school and instructed the Principal to monitor future behaviour. When further allegations emerged in recent years, Police prosecuted for the 1986 incident but, in part because of the circumstances of the Hearing, where each charge was heard separately, he was acquitted. The teacher resigned prior to a Hearing process by the DSE.

An examination of files convinced me that the department should have initiated a formal disciplinary enquiry when the incidents were reported. The level of evidence needed for Police charges to succeed is

'beyond reasonable doubt'. The statements of the children at the time, on the lesser requirement of 'balance of probability' would most likely have led to dismissal. The parents and child victims would have had the satisfaction of seeing the allegations treated with appropriate seriousness and other children would not have been placed in danger of abuse.

Another complaint followed the conviction of a teacher on a number of counts of sexual abuse of intellectually disabled students over a period of ten years. The complainant questioned whether the administration had suspicions of the staff member's activities and ignored earlier complaints. An examination of files confirmed the DSE's response that there had been no previous allegations against the teacher and no recorded grounds for suspicion. The Police investigation at the time established that there were no complaints against current staff, although a staff member against whom allegations had been made some years previously, had left. Some organisational changes followed the investigation.

The complainant also alleged that the Principal delayed taking action to remove the teacher from the school. Enquiries showed that the Principal was requested by police to take no action which would alert the teacher to the criminal investigation. The teacher was in the school for a week while investigation ensued prior to interview by police. On the day of the Police interview he was moved to non-teaching duties. While his presence in the school for that week is not satisfactory, the Principal was required to leave the conduct of the investigation to Police.

Both complainants raised very strongly the apparent lack of empathy by administration and staff with the suffering of the victim and the parents and the inadequacy of counselling for victims. Both referred to closing of ranks by staff to protect colleagues, and failure by administration to respond to early warning signs such as comments

from students or from colleagues.

In defence, the DSE refers to its protocol with the Department of Health and Community Services and the guidelines for staff provided in the School Operations Manual. The nature of the parents' observations suggest staff guidelines by themselves, are not sufficient to promote parent confidence in the DSE's response to such serious allegations. Greater emphasis may need to be put on providing counselling for children and parents.

It is important that parents do not perceive the DSE to be solving the complaint privately and informally or transferring the problem to another school. Whether formal disciplinary action is taken should not depend on whether Police proceed with charges. The level of evidence might not support prosecution for criminal charges but may support disciplinary action including dismissal. The parents of the victim should be made aware of the steps taken by the DSE to consider the evidence if a formal enquiry does not proceed and, as far as confidentiality allows, given reasons for the decision.

I am aware of the need for enquiry processes to preserve the accused person's right to be assumed innocent until proven guilty and to natural justice, but the Enquiry and Hearing processes also need to reflect the difficulties for children or young persons in giving evidence against an adult in a position of authority. Research has been undertaken by the Community Police and the Department of Health and Community Services to introduce investigation and Court procedures which are sensitive to the need for support of children and disabled witnesses. This research may be of use to the DSE.

***The Ombudsman Victoria
Annual Report 1992-93
pp 40-42***