

**Report of an Inquiry by
The Commissioner for Children**

MAHURANGI COLLEGE

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PREFACE

I acknowledge the young women who were the victims of Mr Leigh's offending. Although this report does not directly address their suffering, it must not be forgotten when considering the findings and recommendations of my inquiry. The inquiry is an attempt to learn from what has happened in order that others are not harmed as they were.

In particular, I would like to formally acknowledge the bravery of the young woman who made the complaint that resulted in the offending coming to light. She did the right thing in circumstances that were often difficult. As Commissioner for Children, I thank her for the contribution she has made to the safety of children and young people in New Zealand schools.

SECTION ONE

BACKGROUND TO THE INQUIRY

In November 1995 the Commissioner for Children was approached by Mahurangi College, Warkworth to review their policies and practices to ensure that students were kept safe. This request followed the arrest and conviction of Tom Leigh a teacher at the College for sexual abuse of a number of College students dating back 20 years.

In November 1995 the Commissioner for Children was also approached by the parent of a former student who raised a number of concerns in relation to the manner in which her daughter's complaint to the school in March 1995 about the behaviour of the teacher in question, had been dealt with. This student was not the first student to complain of this teacher's behaviour but she was the first (with the support of her parents) to persist with her complaint despite what the family perceived as official discouragement and personal disadvantage. It was largely the result of her courage and tenacity that the full picture of this teacher's abusive behaviour emerged.

The Commissioner for Children has the power under section 411(1)(e) of the Children, Young Persons and Their Families Act 1989, "to inquire generally into, and report on, any matter, including any enactment or law, or any practice or procedure, relating to the welfare of children and young persons". Pursuant to this section the former Commissioner for Children, Laurie O'Reilly decided to carry out an inquiry into the manner in which this student's complaint had been handled by the school. This was with a view to making recommendations which might assist Mahurangi College and other schools in developing policies and safeguards to avoid similar problems in the future.

It was intended that the Report on this inquiry would be released in early 1997 but Laurie O'Reilly's ill health and his untimely death resulted in delays. Laurie O'Reilly was still working on this Report in the weeks before his death in January this year.

The Mahurangi case raised fundamental issues about the safety of children and young people in New Zealand schools. It highlighted the degree to which schools and communities are equipped to deal with these issues; the nature and conduct of the procedures in place to handle the situation and the paramount importance of dealing with the situation in ways that fully supports and affirms the students concerned.

UNDERLYING PRINCIPLES FOR THIS REPORT

Two sources of children's rights have provided the basis for this report.

(a) The Education Act 1989 and School Charters

The Education Act 1989 provides that every New Zealand child and young person is entitled to a free education. The Act also requires schools to have a written charter of aims, purposes and objectives. Deemed to form part of these aims, purposes and objectives is a requirement that Boards of Trustees **provide a safe physical and emotional environment for students.**

School charters are undertakings by the Boards of Trustees to the Minister of Education to take all reasonable steps to ensure that the school is managed, organised, conducted, and administered for the purposes set out or deemed to be contained in the charter and that the school's students or community, achieve the aims and objectives set out or deemed to be contained in the charter.

(b) The United Nations Convention on the Rights of the Child

New Zealand ratified the United Nations Convention on the Rights of the Child in March 1993 and so agreed to abide by its principles. The principles provide a touchstone that enable individuals and organisations, when dealing with issues affecting children, to check that they are indeed meeting the rights of the child and therefore furthering his or her best interests. As such the Convention is an effective tool in guarding against inadvertant harm to children. In my opinion schools, as state institutions are obliged to take the Convention's principles into account when formulating policy and making decisions about children.

Articles 2, 3, 5, 12, 19, 28 and 29 provide particular guidance to this review. (Copies of these articles are attached as appendix 1). Article 2 provides for the respect of the child's rights under the Convention without discrimination. Article 5 recognises the responsibility of a child's parents and family to guide the child in the exercise of his or her rights. Article 12 recognises the right of the child to have a say in matters affecting him or her. Article 19 sets out the child's right to be protected from all forms of violence and abuse and requires protective measures to be undertaken including the establishment of procedures for prevention, identification, reporting, referral, investigation, treatment, and follow up of instance of child maltreatment. Articles 28 and 29 recognise the right of the child to education.

Article 3 is particularly important to this review. It reads as follows:

Article 3

- 1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*
- 2. States Parties undertake to ensure the child such protection and care duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.*
- 3. States Parties shall ensure that the institutions, services and facilities responsible for the care and protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.*

AIMS AND OBJECTIVES OF THE INQUIRY

The Commissioner for Children conducted this inquiry with a view to identifying the policies and procedures that were in place at Mahurangi during the period of the offending and any ways in which they could be, or have subsequently been, improved. It also sought to explore the conflicts of interest arising from the school's responsibility on the one hand to keep students safe and its responsibility on the other hand to act as a good employer.

The inquiry also offers the opportunity to examine the broader issues of awareness, knowledge and responsibility for the safety of students and the roles of communities, caregivers, schools and other state agencies in maintaining and supporting this safety.

The investigation examined the constellation of factors which made the abuse both possible and ongoing. An analysis of this information has been used to provide advice on how the possibility of such abuse happening again can be minimised, at Mahurangi College or in any other school in New Zealand.

PROCESS OF THE INQUIRY

Several processes were used to gather information pertinent to the inquiry:

- Interviews with the past and present Principal of Mahurangi College
- Interviews with past and present members of the staff, Board of Trustees and the former school Board
- Questionnaires were distributed to each student in the school and to their parents
- Questionnaires were distributed to members of the local community
- A public meeting was held in May 1996
- Face to face or phone interviews were held with 54 local people
- Examination of available documentation in relation to school policies and procedures
- A review of literature relating to dealing with complaints of sexual abuse and harassment in schools
- Consultation with Homebuilders Family/Whanau Support Scheme Wellsford/Warkworth.

SECTION TWO

POLICIES AND PROCEDURES

Information gathered and documentation considered as part of this inquiry highlighted two issues:

- *the effective procedures for the detection, investigation, reporting and handling of a case of sexual harassment or sexual abuse were not in place;*
- *there was a general lack of knowledge about what to do in these situations.*

Policies regarding the selection, appraisal and development of staff (June 1994)

While these policies appeared to be thorough in terms of the teaching standards and tasks required, they were lacking in any equivalent level of attention to either the requirement for principled and safe behaviour with regard to students, or of any generalised responsibility for the promotion and maintenance of an emotionally and physically safe learning environment.

The inclusion of specific selection or performance criteria on these safety issues would allow for a more in-depth discussion and examination of teacher's behaviour and proactive initiatives.

Sexual Harassment Policy

The policy was fairly broad in scope in that it covers issues of raising awareness, training and the establishment of procedures. It may have had more impact if it was more specifically aimed at the school environment and directly mentioned the possibility of harassment occurring between teachers and students.

Policies Encouraging Closer Links With The Community

There were a number of policies or programmes developed after 1993 which are orientated towards improving access to the school for the community, the communication processes between the school and the community, the inclusion of a diversity of parents, enhancing the self image of the students and creating a safe learning environment. This would seem to represent a change in orientation of the school towards a broader view of itself in relation to the community and to its role as a learning institution.

These policies and programmes include:

- "Entry Survey" (July 1993) - examined the attitudes of students, staff and parents. The resulting recommendation covered such issues as improved communication with parents, the development of policies on the handling of student's personal and social problems and the investigation of whether the needs of minority group parents are being met by the school.

It is unknown whether these recommendations have been implemented fully.

- A Safe School Initiative (1994)- promoting respect for the safety and rights of individual students in the school. It takes a broad view of violence which will not be tolerated to include victimisation, verbal abuse and the inappropriate treatment of females.
- A reorganisation of pastoral care (1994) aiming to promote a positive self image for students
- The “image survey” to examine the different perceptions of the school of staff and parents and to identify any areas of concern
- A discipline policy which aimed to promote the concept of self discipline

Equity Policy (1993)

This policy states “No person or group in the College should be disadvantaged because of their gender, religion, ethnicity, ability or disability, socio-economic status or physical appearance”. The policy is one page in length and contains some very generalised statements of intent. To be effective or useful, it is the kind of policy that would need to be supported by an action plan

EDUCATION REVIEW OFFICE (ERO) REPORT

In April 1995, the ERO “Confirmed Assurance Audit Report for Mahurangi College” stated that, “The strengthening of the pastoral care and discipline systems has contributed to making the school environment a safe place for all.” In a situation where some staff and parents were uncomfortable with aspects of Tom Leigh’s behaviour, the ERO report may have further eroded their belief that there was either anything wrong or that action needed to be taken. The report went on to say, “ The school has strong student support systems which aim to provide a safe physical and emotional environment. The whanau system in the pastoral care network gives students and staff a clear and effective systems for producing a supportive environment and allows for excellent liaison between the school and parents and caregivers.”

It did however note that, “To improve its service to students, the school should establish a student complaints policy and procedures which outline the steps to be taken in the event of a complaint”. As at April 1997, this policy was in draft form waiting to be ratified.

BARRIERS TO IDENTIFICATION AND ACTION

While Mahurangi College is bound to (and has to) reflect on its role in the abuse of its female pupils, it was not the only source of inaction.

The likelihood of complaints about Tom Leigh’s behaviour being taken seriously and stopped was limited by a number of factors and the interaction of these factors.

1. Tom Leigh’s standing and methods.
2. Structural issues at the school.
3. Community issues.

1. Tom Leigh's Standing and Methods

Tom Leigh was a paedophile. He was sexually attracted to adolescent female students and had developed a range of techniques to secure their compliance and to avoid suspicion or detection.

It is possible to identify some of the factors and techniques which enabled him to abuse and harass students over a long period of time:

- As a senior teacher of long standing in the school he was highly regarded by many of his fellow teachers, and by some parents and members of the local community.
- He established himself as a popular figure with many of the students and gained a reputation as being someone who really understood how teenagers thought and felt.
- As a hockey coach he had opportunities to take a close personal interest in some students and was able to develop a personal relationship with female students.
- As a person who had or claimed to have skills in sports medicine and as a masseur he was able to cross normal boundaries between male and female and teacher and student.
- He was a very plausible 'nice' man who was extremely adept at playing people off against each other and of providing convincing rationales or explanations when his behaviour would otherwise have been called into question.
- He took a special interest in certain students, flattering them and presenting as their confidante and friend
- He would initiate talk about sex, menstruation and relationships thus encouraging students to open up to him about personal matters. In crossing normal boundaries he gave the impression that he had no hang ups about such matters and if students showed reluctance they gained the impression that it was they who had hang ups.
- He would indulge in grooming behaviours with female students with a blurring of boundaries between acceptable touching and sexual harassment.
- He formed friendships with the parents of some of the students being eventually accepted as a family friend and gaining their trust to the extent that he was given much greater freedom than would otherwise be the case.
- He created and exploited ambiguous situations cloaking his sexual intentions with seemingly 'acceptable' behaviours. Physical touching was explained in terms of 'sports coaching', 'massage', 'medical advice'. Emotional intimacy was created by praise and flattery, raising and discussing taboo subjects, speaking disparagingly of students, teachers or parents who questioned his behaviour, demanding that students show their loyalty by covering up for him.
- He had access to private spaces in the school where he could pursue relationships with students away from the gaze of other students and teachers.
- As students became more closely involved with him he was able to manage the risk of their disclosing the relationship to other teachers, parents or other students. His victims were aware that any disclosure was likely to lead to acute personal embarrassment and humiliation, possible criticism from other members of the school community for not resisting his advances or for not reporting the matter earlier, family shame and disapproval and campus gossip among fellow students.

- Students were also aware that if a complaint was made it would be a question of his word against that of the student and the experience of many students is that where there are conflicting accounts the teacher tends to be believed.

"I believe there was not/is not a system in place for individuals to share information received, either verbal or written. Too many people had only 'part of the jigsaw' ". (Parent of student and member of the community.)

What follows are quotes from the Final Report into the New South Wales Police Service - the Paedophile Inquiry:

'the paedophile can present in almost any guise. He may come from any background or walk of life. It is a mistake to assume, in any investigation, that the holding of a particular position of responsibility or eminence automatically disqualifies a person from being a suspect. Sad to say, it can be a trait of a paedophile that he seeks and attains positions where he can be in contact with, or have influence over, children. Also sad but true is the fact that the paedophile may be extremely plausible, devious in the exploitation of children, and capable of gulling those caring for them and of covering up his activities'. *Paedophile Inquiry Report p561*

once a person engages in an act of paedophilia, there is a great likelihood that he will reoffend, whether with the same person or another young person. There is no guaranteed treatment or management regime to redirect a paedophile's sexual preference into more acceptable practices. The probability of recidivism is accordingly an important factor in the balancing exercise that underlies a fair and responsible approach to the problem...*Paedophile Inquiry Report p561*

the problem (of paedophilia) has been compounded by the past approaches, attitudes, and conduct of important institutions. Within these institutions, paedophilia was generally a subject best not spoken about, and if forced to be confronted, it was dealt with in a way that was based upon denial and protection of institutional reputation rather than regard for the welfare of children. *Paedophile Inquiry Report p562*

2. Structural Issues at the College

There were several factors which intersected to mean that the school did not deal effectively with the complaints that were received or to take proactive and preventative steps.

Concern for the School's Reputation

Throughout the inquiry it has been hard to avoid the impression that the very pride that Mahurangi took in its achievements and in its reputation was some of the source of their tardiness in more fully investigating the strands of behaviour and information that came to light about Tom Leigh.

A pupil-centred culture in which the exposure of such behaviour is seen positively and with validation would have served the young women who were the victims of Leigh's abuse much better in the short and long term.

Experience and Training

It needs to be acknowledged that dealing with sexual harassment and sexual abuse issues is difficult in any organisational environment. The lack of experience and training of the staff of the college increased that difficulty. Fear of making a false “accusation” or a difficulty in believing that this could actually be happening in a school such as Mahurangi, led to an unwillingness to recognise the abuse/problem and prevented prompt and effective action. Experience or training in harassment and abuse issues brings the knowledge that it is seldom one clear cut incident that needs to be dealt with. It is often several and (sometimes) apparently “minor” events that need to be analysed together and appropriate action taken.

It is likely that Mahurangi College staff were no less equipped to deal with these issues than many other schools throughout New Zealand.

“All college personnel need to be educated as how to deal with problems that arise and know where to get help” (Parent of student)

Established and Documented Procedures

Even in the absence of experience or training in harassment or abuse issues, staff can rely on activating procedures which provide for the safety of the victim and the alleged harasser. At Mahurangi, these procedures were lacking and even when action was taken (as in the situation where Mr Leigh was told not to coach the hockey team), it was not monitored or supported.

Complaints Procedures

Throughout the interviews it was clear that several interviewees had raised concerns about Mr Leigh's behaviour. These resulted in either Mr Leigh being reprimanded or banned from coaching, or the school felt no action could be taken. The following incidents were reported to the inquiry:

- 1978 - a parent was told by her daughter of Mr Leigh walking into the girl's showers at a hockey tournament in Hamilton. She felt that as she had not been there she could not take the matter any further.
- 1983 or 1984 - a parent called a past principal with her concerns about Mr Leigh's behaviour when coaching her daughter for swimming and rumours that he was having affairs with seventh formers. She was told that they were only rumours and to keep her concerns at home.
- 1983 - a parent complained to a past principal about Mr Leigh's behaviour while at a hockey tournament. She was told there was not much the school could do as Mr Leigh was a friend of the family of the girl involved. The parent felt powerless but believed the school had done all it could. The first XI hockey trip to Australia later that year was cancelled.
- 1984 - a parent raised concerns with a teacher about comments Mr Leigh had made about her daughter. She was called by the past principal and thanked for not going public.

- 1987 - a parent contacted the school with concerns about Mr Leigh starting to coach hockey again when he was not supposed to be.
- 1987 - the School Board informed, informally, that students had warned visiting American students to be careful of Mr Leigh.
- 1992 - a parent raised concerns about Mr Leigh's involvement in hockey.
- 1994 - a student complained about harassment and was removed from Mr Leigh's class.
- 1995 - a formal complaint about Mr Leigh's behaviour was made by a student and disciplinary procedures were instigated.
- Date uncertain - a student was reprimanded for placing information about sexual harassment in Mr Leigh's pigeonhole.
- Date uncertain - a student wrote on a blackboard that Mr Leigh was having an affair with a student.

There is a vast amount of evidence that men who regularly sexually abuse children are often able to escape detection, exposure and punishment for lengthy periods. When the man's conduct is exposed it often transpires that a number of people had doubts, suspicions and concerns but, for a variety of reasons, these were not taken further. It may be that the individuals were reluctant to believe that a respected colleague or community figure can have behaved in such a way, it may be that they feel they must support a friend or colleague who is under attack, it may be that the seriousness of the suspected misconduct is so great that they back off taking the matter further, they may fear recriminations or damage to their reputation or career if they blow the whistle (*Paedophile Inquiry Report*). From the information gathered throughout the inquiry, this would appear to be the case with Mr Leigh at Mahurangi College.

There is also a widespread belief that children and young people are inclined to invent or exaggerate allegations of impropriety and that their stories have to be treated with great caution. There is also a huge power imbalance between students and teachers and abusers are able to turn this to their own advantage.

Added to this is a phenomenon that might be described as the 'disappearing complaint' phenomenon. A number of people, as was the case at Mahurangi College, may have made complaints or comments about an individual at different times yet these have been overlooked, have not been followed up or cross-checked with other sources of information, have received only cursory attention or have been not recorded, misfiled or the record destroyed.

For all of these reasons it is important that every school have a clearly defined procedure for receiving, investigating, recording and filing serious complaints about teachers. Nearly all other institutions with responsibility for children now have detailed complaints procedures (eg s29 - 31 and Schedule Children, Young Persons and their Families (Residential Care) Regulations 1996) (See Appendix 2).

The essential elements of these procedures are:

- There be designated trained persons (support person) to whom the student may go to discuss the complaint knowing that this person will support her and preserve her confidence. From the list of support persons the student should have some choice which allows for gender, race, cultural and personal preferences. Support persons may be school counsellors, teachers or other suitable people who are not part of the school community. Support persons should be chosen for their suitability and their ability to communicate with children and young people. They should be trained. There are now independent trainers specialising in this area. The Human Rights Commission can recommend suitable people to undertake training.
- There be a climate within the school that it is OK to talk to a complaints person about inappropriate behaviour, sexual harassment or sexual abuse by a teacher.
- Every complaint will be listened to without interruption, taken seriously and full details will be recorded by the support person in a private interview which may take place away from the school if the student so wishes. The student should be encouraged to have a parent, friend or support person present at the interview. Notes should be made of any witnesses or corroborating evidence.
- The support person will discuss with the student the possible actions available to protect the student, stop the abuse or harassment, or punish or make accountable the perpetrator. In some cases a mediation process may be appropriate with clear conditions agreed by student and teacher to ensure the safety of the student. No pressure should be put on the student to keep the matter within the school and not to notify the Police, the Children and Young Persons Service, the Human Rights Commission, the Commissioner for Children or any other official agency.
- If the student chooses to deal with the matter within the school, the support person will support the student in bringing the matter to the attention of the School Principal or the Board of Trustees and will continue to support the student through the process.

Follow up of Complaints or Conditions

Where a student makes a complaint to the Principal or the Board of Trustees it is important that the complaint be investigated promptly and thoroughly and that the student be informed of progress and the final outcome. If the complaint is not upheld the student should be advised of what further actions she can take.

If, as the result of a complaint, a teacher is warned or disciplined great care should be taken to ensure that the student who made the complaint is not under the control of the teacher complained about and is not victimised by that teacher or other members of the school community for making the complaint. The complainant should know that in the event of any victimisation she can turn to the support person for assistance.

There were a number of aspects of Mr Leigh's behaviour that should have raised questions and been dealt with by the school at an early stage. For example:

- It is unacceptable for a teacher or school sports coach to massage a student without another teacher or other adult being present
- There should be limits placed on teachers driving individual students to and from sports events
- Teachers should not hold themselves out to be competent to give medical advice or treatment to students except in emergency situations
- There should be well defined and well understood rules regulating emotional and sexual relationships between students and teachers e.g. NZ PPTA "Advice to Members; Guidance for teachers in their relationships with students" (1995).
- There should be a prohibition on male teachers entering female showers and locker rooms
- There should be restrictions placed on teachers' ability to make modifications to their rooms so they are no longer able to be observed by others passing by.

Conflicts of Interest and Roles

Perhaps one of the most important structural impediments for the Board of Trustees in dealing with Mr Leigh's abuse was due to a confusion between taking due care as an employer and the responsibility to provide a safe learning environment for the pupils. Sexual harassment and sexual abuse of pupils by staff exemplifies this dual role.

It is my opinion however that the Principal and the Board exercised their responsibility as an employer to the detriment of the victim of the abuse. This situation was not helped by the orientation of NZPPTA who state that in these situations their responsibility is to the staff member.

In many ways, the disciplinary process exacerbated the abuse for the complainant as the Board acted as both judge and jury. This is an unacceptable outcome for a complaint of this nature.

The Principal of a school and the Board of Trustees have two separate areas of responsibility which may sometimes come into conflict. The Principal has to work closely with the teaching staff and deal with day to day problems that arise and the Board of Trustees has a responsibility to be a good employer. The Principal and the Board have separate responsibilities towards the students and are required to provide a safe learning environment for all students.

Where a student complains of sexual harassment or sexual abuse by a teacher the two roles are likely to come into conflict.

One way of avoiding such a conflict is to encourage the student making the complaint to notify the Police, the Children, Young Persons and their Families Service or the Human Rights Commission. Each of these bodies has the power and responsibility to investigate complaints of sexual abuse and the Human Rights Commission has a special role in relation to complaints of sexual harassment. There are real advantages for the school in having the matter investigated by a neutral statutory body.

In this case the school Board of Trustees conducted a disciplinary hearing at which students were involved as witnesses. The student who approached the Commissioner for Children and her parents had serious misgivings about the manner in which this hearing was conducted. The student felt that she was the person who was on trial - not the alleged abuser. She felt those involved in the hearing went out of their way to protect the interests of the teacher but left her feeling put down and shut up.

Her concerns were:

- She was not fully informed of the nature and purpose of the hearing and the procedures which would be adopted and she had not realised that it would be a formal hearing which would take up most of the day.
- She had wished to add more detail to the written statement which formed the basis of her complaint months earlier but she was not permitted to do so.
- The room in which she was asked to wait until she gave evidence was cold with inadequate heating and little effort was made to make her feel welcome. She comments that the personnel supporting the teacher were given 'royal' treatment.
- Her father, mother and her Homebuilders support worker came to support her in this process. Neither parent was allowed to be present at the hearing as her mother was a witness. The Homebuilders support worker was allowed to remain to support the student after she had given her evidence. However, the support worker was prevented from entering into any form of dialogue or advocacy on the students behalf.
- Although a makeshift screen was erected during the hearing, this was not adequate as the student felt intimidated by being in such close proximity to Mr Leigh.
- The teacher had two PPTA representatives present at the disciplinary hearing . It appears that the school had not appointed anyone to prosecute the complaint on behalf

of the student. She had organised her own representation by a lawyer from Youth Law Project.

- There was a great deal of technical legal argument at the hearing as to correct procedures and the admissibility of evidence.
- The student's lawyer first saw the written statement from the teacher just before the hearing commenced and the student only had a hurried opportunity to consider it and discuss it with her father and her lawyer at lunch time . The student's lawyer was advised of this process three days prior to the hearing and we can only assume her client was not appraised of the process.
- The school principal gave evidence as a character witness for the teacher. The school refutes this by saying that the principal was asked to give an opinion on penalties or outcomes of the hearing. These comments were interpreted by the student as supporting Mr Leigh's character.
- The student understood that she had to be present for the whole of the hearing although she was visibly distressed.

The student came away from that hearing feeling she had been put down by the school and by the people present at the hearing and that her complaints were being disbelieved.

Had she been properly prepared for the hearing she would have understood that it was the teacher who was on trial and care had to be taken to ensure that the correct procedures were followed to ensure that the teacher had a fair hearing.

The student was under no obligation to attend the hearing in person and could have given her evidence in the form of a written statement. There was no need for her to have been present at the hearing nor to have stayed for the whole of the proceedings.

The distress caused to the student by her attendance at the disciplinary hearing exemplifies the problems likely to emerge if a student's complaint and the teachers disciplinary process are not kept separate.

This need for separation of the different processes is recognised by the Children Young Persons and their Families Service in its policy guidelines for grievance procedures in Departmental residences. There is no doubt that the school should have been aware of the conflicting interests and should have encouraged the student to make a complaint to some outside body such as the Human Rights Commission which would carry out an independent investigation. The student did later make a complaint with the Human Rights Commission and was very satisfied with the manner in which her complaint was handled by them.

3. Community Issues

Warkworth is a small community. Most people know each other, work together or socialise together. Tom Leigh posed a very difficult problem for this community.

There was an inexplicable fragmentation of information. It appears that even friends and neighbours did not feel that it was appropriate to share and pool information and to develop the obvious analysis. Much of this was to do with the skill with which Tom Leigh exercised his abuse. However, the picture is also of a community who found it hard to come to terms with the possibility that “one of their own” might be guilty of such horrendous behaviour and who were somewhat naive and inexperienced in the issue in general.

“In a small town community such abuse was inconceivable, but most damning was that no-one took responsibility and had enough guts to go further when they knew or suspected impropriety. Also, once a “rumour” stays around it becomes “tacit” and accepted as idiosyncrasy rather than crime.” (Parent of student)

As in many other communities, it also seems that the school and its staff commanded such awe and respect that parents and members of the community found it hard to criticise or suggest the possibility of wrong doing. It also appears that there were few (if any) mechanisms for formal complaint or for the support of students making a complaint against a teacher. As a result, parents and community members lacked the wherewithall to ensure complaints and concerns were recognized and acted upon promptly.

Warkworth also shares with many other communities in New Zealand a sense of not being sure who is responsible for what. However, the unease of many of the victims' parents and other members of the community should have been sufficient to act to ensure that the young women were indeed safe.

“No-one must ignore student safety. If students are aware of abuse they must feel comfortable advising staff or their parents. Parents must not feel shy in coming to the school to express their concerns. If they don’t feel that their complaints are dealt with seriously, then the police or another authority must be advised.” (Former staff member)

COMMUNITY CONSULTATION

The questionnaire and interviews

A questionnaire was developed with the assistance of Top Draw Consultants Ltd. These were distributed to each student in the school and two copies sent home to each family. In addition the questionnaire was made available to the public through the Warkworth Public Library, the Waitemata Health Centre, Homebuilders, the Mahurangi College Office and the New Zealand Post in Warkworth. The co-operation of these agencies was much appreciated. Of these, 300 people completed and returned the questionnaires:

- 70 students
- 30 former students
- 127 parents of students
- 55 parents of former students
- 23 as family or whanau members
- 13 staff
- 55 members of the community

Note: 18 people identified themselves as belonging to more than one category

The questionnaire is attached as Appendix 3.

54 people were interviewed - 24 in person and 30 by telephone.

In general, the issues raised by the people interviewed were similar to those raised in the questionnaires. The information has been combined for the purposes of this analysis although where there are specific comments from one group of informants, this has been noted.

Key Themes

Why the abuse occurred and continued for so long:

- The way Tom Leigh set up and conducted the abuse made detection difficult.
- There was a general view that when concerns or complaints were expressed “people” (including the school) did not act or respond although half of the respondents who said they had complained felt they had been listened to and the complaint taken seriously.
- There was a sense that there was insufficient “proof” to take the concerns to the police.
- An acknowledgment that it would have been difficult for any student to complain and that this difficulty was exacerbated by the lack of clear processes and policies for making complaints of this nature.
- The fragmented nature of the information available on Mr Leigh’s abuse of the students was made worse by the lack of records kept of complaints. The incidents always seemed to be dealt with in isolation from the previous ones.

- School staff and the community had a generally low level of knowledge about these issues and there was no one who had sufficient training and experience to provide the appropriate advice and action

Safety at School

- There was consensus on the ingredients of safety. All the issues listed (such as protection from violence, fair discipline, respect for culture and good communication) were highly rated. Other responses included the respect for individual students, drug and alcohol safety and good supervision at school.
- Respondents judged the school as performing differently on these issues. Most people thought that protection from violence, fair discipline and respect for culture was well handled. Less well handled were being able to tell someone about things that were unsafe, respect for students, fostering the self esteem of students and the meeting of diverse needs.
- In the case of a student with a problem at school, the majority of people felt that they could approach the school. These people described a variety of avenues they would follow in this approach.
- The views of those people who did not feel they could approach the school tended to be informed either by their past experience of trying to raise a concern or because of the experience of the young woman who did make a complaint about Tom Leigh.
- Approximately a sixth of questionnaire respondents had made a complaint about student safety. Just under half of this group felt that they were satisfied with the outcome. The main reasons for a lack of satisfaction with the outcome involved a sense of not being taken seriously or not being well treated in the course of the complaint.
- Respondents highlighted some initiatives which would assist safety in the school and reinforce the objectives of the School Charter. These included the availability of an independent school counsellor who would assist the school to solve the issues of harassment and abuse; the development of a complaints process which was documented, publicised and which provided feedback to the complainant.
- There was an acknowledgment that everyone had responsibility to ensure that this sort of abuse did not happen. This included the community, parents, students, the Board of Trustees, the staff and the principal. However, the school was seen as having more responsibility than the other players because of their day to day contact with the students and the school environment.

Training

- The respondents (and in particular the people who were interviewed) felt that there needed to be a broad approach to the issue of training which involves increasing awareness in the community, the education of all staff (including new staff) and Boards, training for parents on how to keep their children safe, educating pupils on their rights, education on how to recognise "Tom Leigh's".

Dealing with Complaints

- there were a variety of suggestions of ways in which complaints should be handled. All of them involve structure, clarity, independence, a focus on the needs of the complainant and prompt action.

School Culture

- respondents drew attention to some attitudinal issues which they believe impact on safety. These included a basic respect for the students of the college and a culture where they are affirmed in the right to be safe.
- the need for a more open relationship between staff and students and one in which there is confidence that the teachers like and respect the students.

"I think that students only need the confidence to be able to approach any teacher and know they would be listened to, and not be put down even if it seems trivial or even stupid." (Student)

SECTION THREE

KEY FINDINGS OF THE INQUIRY

Separate Processes for Staff Grievance

The inquiry has highlighted the fact that it is essential that when an allegation of abuse is made by a student against a staff member that there is a clear demarcation between the child abuse investigation process and the process for dealing with staff disciplinary matters. The complaint process at the College in fact created further risks to the young person concerned and contributed to her overwhelming feelings of victimisation.

It is difficult to maintain this demarcation where the decision makers at any step in either process have a dual responsibility to the staff member and the child or children involved. The factors that normally restrain individuals from taking action, such as fear of being wrong, fear of repercussions, minimisation, confidentiality, and uncertainty about what constitutes abuse can influence the decision maker to concentrate more on the employment issue rather than the welfare of the child or young person involved. This is especially true where organisations may face financial penalties for mishandling a suspension or the dismissal of an employee. **It is essential that the two processes are clearly separate in policy and in practice.** Preferably no one person should have responsibility for investigating both child abuse and employment issues. Where there is dual responsibility, for instance in the case of Boards of Trustees, there should be a clear commitment to the welfare of the child being the paramount concern, as is directed in the Mahurangi College's charter.

For a child-centred anti-abuse process to be successful in the College (or any other school), it would also require a similar commitment to that process by the PPTA (or NZEI) and the School Trustees Association. Industrial support for teachers should not be given at the expense of the student who is complaining of abuse.

Abuse as an Expert Area

The case highlights the difficulty experienced by college staff and Board members who were inadequately equipped to deal with the suspicion and complaint of abuse. Training in the appropriate action for each of these roles would assist the provision of prompt and appropriate services for the young people concerned.

Conversely, the community agency Homebuilders, referred appropriately to statutory agencies such as CYPFS and Police and continued their support with the family. They also attended, facilitated and provided input at key meetings in relation to achieving outcomes for this case. The preventative and proactive role of agencies such as theirs in dealing with the abuse of children and young people need to be recognised and acknowledged (Appendix 4).

The Responsibility of Parents and Caregivers

While there is ample justification to be critical of Mahurangi College's handling of the Leigh case, the reality of the situation was that from 1978 onwards many parents were also aware of the concerns and of some of Mr Leigh's behaviours. As previously stated, these included:

- Mr Leigh walking into girl's showers;
- inappropriate behaviour while coaching swimming;
- concerns about comments made by Mr Leigh about female students;
- female students being asked to try on sports uniforms in front of Mr Leigh;
- complaints of sexual harassment.

Parents and other community members had concerns about the teacher's behaviour but often failed to raise their concerns with the school and did not approach the statutory agencies. It is acknowledged that previously some parents had felt unheard and consequently many felt intimidated and confused about the "right" thing to do. However, the question must be asked whether it is reasonable to expect schools to have a greater level of responsibility than parents themselves.

Overall, there was a high level of awareness amongst staff members, school administration staff and amongst adults in the wider community that there were suspicions about Tom Leigh's relationships with female students. The fact that no individual or group acted on these suspicions is a sad fact to be noted and which has implications for schools, communities and adults in providing safety for children. There appeared to be a clear expectation that the school was charged with the responsibility of ensuring students' safety.

Formal Policies and Procedures

The lack of clear, documented and well publicised policies and procedures for dealing with harassment or abuse in the college was a major impediment to the protection of the students. It created confusion and reticence to act because of a fear of not getting "it right". Policies and procedures need to be available to students, caregivers, staff and the Board of Trustees. These need to be user-friendly, show clear lines of accountability and responsibility and be rigorously reviewed regularly to ensure that they are being adhered to.

SECTION FOUR

CHANGES TO SCHOOL POLICIES TO MINIMISE RISKS TO STUDENT SAFETY

In the 12 months to April 1997, the Board of Trustees have reviewed and approved formal policies which could reduce the possibility of abuse in the college.

Fundamental to all the safety policies that have been developed is the Mahurangi College Safety Network which aims to “ensure that all policies and procedures that relate to safety are not only coordinated, but implemented.” A series of “safety teams” have been set up to cover specific safety issues such as cultural safety and traumatic incidents.

Specific policies include:

- An updated sexual harassment policy
- Student behaviour policy
- Protecting children from abuse
- Reporting child abuse and neglect
- Dealing with child abuse allegations against employees

A Sexual Harassment Awareness training programme for all staff and students took place in the first term of 1997. Staff and student sexual harassment contact people have been nominated.

A complaints policy is in draft form waiting for ratification.

A second (female) guidance counsellor was appointed at the beginning of 1997.

Structural changes have been made to the school which have included the fitting of glass panels in the doors of offices and classrooms, allowing casual observation.

The college has also entered into a protocol for dealing with abuse with the Children, Young Persons and their Families Service.

Overall, the school appears to have made substantial progress in developing and maintaining safety processes for students at the school. Of particular note has been the processes which have been developed to deal with complaints about abuse of students by staff which have as their primary focus the safety of the young person and which separate out the industrial rights of the teacher from the needs of the students.

What needs to happen to make sure the policies and interventions remain effective?

- Regular and formal review of the College culture. These reviews to include student feedback.
- Re-developing trust between the school, its students and the community.
- Regular and structured review of the policies and their implementation.

- Maintaining and strengthening the concept of a school safety network to ensure a coherent approach to safety in the school.
- Ongoing training of parents and staff in recognising and dealing with issues of student safety.
- Training students in making complaints and using the procedures.
- On-going communication with other schools focussing on ideas/issues of best practice.

RECOMMENDATIONS

The experience of Mahurangi College has highlighted principles which need to be adopted by all schools to meet their responsibility for keeping students safe. This inquiry therefore recommends that:

1. All schools accept responsibility for the safety of students and work in partnership with parents and community.
2. All schools should have a user-friendly documented complaints procedures with easy access to specially selected and trained support people.
3. These procedures should be regularly audited and reviewed. This would include structured input from parents, carers and students.
4. Complaint procedures should also include access to an external, independent advocate or organisation.
5. Consideration should always be given to suspension of the alleged abuser during the investigation and there should be no pressure on the student to leave the school during the investigation. Special support should be in place to ensure that the student making the complaint is not disadvantaged or victimised.
6. All schools should have separate and independent procedures for dealing with employment related issues with staff.
7. All schools should be thoroughly familiar with disciplinary and other processes and procedures for dealing with care and protection issues and their relationship with other agencies.

FINAL COMMENTS

"I feel very sad about what has happened at the college. I have always had and still do hold Mahurangi in high regard. I feel the school was to blame for not acknowledging the problem. I also feel that most of us thought that this would never happen in our country school. But it did! And it has hurt many people directly and indirectly. This must never happen again." (Parent of student)

The issues that have come up during the course of my inquiry are really issues about how we value children and young people in New Zealand society. The sustained abuse by Tom Leigh at Mahurangi College has shown us that the interests of young people will not be met by good intentions.

Mahurangi College has made a strenuous attempt to replace good intentions with active and appropriate policies and procedures. The challenge then is for all schools to implement the

recommendations outlined in this report. What happened to the student who complained, to Mr Leigh's other victims, the school and the Warkworth community has had a significant detrimental and negative impact. This needs to be acknowledged. The healing can only truly take place in an environment where all work together to ensure that abuse of children and young people is never able to happen again.

I wish them all well for the future.

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