

20 July 2018

NSW Ombudsman's second response to questions concerning the 1985 complaint to the Ombudsman by Mrs Susan Strath (nee Browett)

This statement addresses a number of matters that were raised in the podcast series 'The Teacher's Pet' and the article 'From the archives a cry for justice' published by *The Australian* on 6 July 2018. It should be read in conjunction with my earlier statement of 4 July 2018.

Suggestions that access was granted to only part of the Ombudsman's complaint file

In response to *The Australian's* application to NSW State Archives and Records, the Ombudsman consented to NSW State Archives and Records providing public access to the entire complaint file. My staff have since compared the document appearing on *The Australian's* website with the original complaint file, and have confirmed that they are identical, and that the document on *The Australian's* website is the complete Ombudsman file.

In response to suggestions that only parts of the file were provided to the coronial inquests conducted into Mrs Dawson's disappearance, NSW State Archives and Records have advised my office that the file was transferred to them in February 1988.

'The Ombudsman's office had said no trace of the complaint could be found and that records would have been destroyed' - 'From the archives, friend's cry for justice' *The Australian*, 6 July 2018, p 7

The Ombudsman's complaint file was sent by the Ombudsman's office to NSW State Archives and Records in February 1988 in accordance with NSW archive legislation and practice.

The Ombudsman's office was contacted in December 2017 by a person requesting information about the file. The Ombudsman officer who received this request provided the following response by email dated 14 December 2017:

Thank you for your inquiry about documents relating to your 1985 complaint about the Police. I have searched our complaint management system and our document management system and could not locate any documents relating to your complaint. I have also spoken to our records officer who confirmed that records that old would not have been migrated onto our current system and would have been disposed of after a certain number of years of storage at the government records repository.

‘[A]fter archives staff located the file for *The Australian*, the Ombudsman’s office agreed to waive restrictions that would have prevented the documents being released for 90 years from when they were created’ - ‘From the archives, friend’s cry for justice’ *The Australian*, 6 July 2018, p 7

The Ombudsman’s file was never the subject of a 90 year access restriction.

I understand that NSW State Archives and Records believed that the file was subject to a 90 year access restriction. This information was provided before the file had been reviewed by my office. Once my office became aware of the access application, my staff obtained access to the file from State Archives, reviewed its contents and advised State Archives that it was not subject to a 90 year restriction.

It follows that, as the file was not subject to a 90 year restriction, and was more than 30 years old, it was in the ‘open access period’, and access was granted.

It was understandable, in the circumstances, that State Archives presumed that the file was subject to a 90 year access restriction. Some Ombudsman files, such as those relating to witness protection matters, telephone intercepts, child deaths and investigations about children, are subject to such a restriction. However, the file in question did not concern any of these matters.

More information about the Access Directions that relate to the Ombudsman records can be found at

<https://www.records.nsw.gov.au/archives/collections-and-research/register-of-access-directions/public-offices-o>

‘The sealed Ombudsman’s file includes correspondence about Ms Strath’s 1985 complaint, showing Lyn’s disappearance was brought to the attention of the highest levels of the NSW police force. Sue Thompson, an Ombudsman investigator, referred Ms Strath’s complaint directly to then-police commissioner John Avery. The commissioner was kept informed of the progress of inquiries.’ - ‘From the archives, friend’s cry for justice’ *The Australian*, 6 July 2018, p 7

All complaints made to the Ombudsman about police conduct were referred to the Commissioner of Police. This was required under the provisions of the *Police Regulation (Allegations of Misconduct) Act 1978* (NSW).