



Your ref. Case study 51
Our ref. 13028466

10 March 2017

Mr Tony Giugni
Solicitor Assisting the Royal Commission
Into Institutional Responses to Child Sexual Abuse

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BY EMAIL

Dear Tony

Case study 51 – reportable conduct and immigration

During the hearing on 6 March 2016, a question arose about reportable conduct reports to the NSW Ombudsman in relation to immigration matters (see transcript at p 26189).

The *Ombudsman Act 1974* (NSW) imposes an obligation on the head of a 'designated government agency' or 'designated non-government agency' to report any reportable allegation or reportable conviction, against an employee of the agency of which the head of the agency becomes aware.

The Department of Immigration and Border Protection (the Department) is not a 'designated government agency' under s 25A of the Ombudsman Act. The Department therefore is not required by s 25C of the Ombudsman Act to notify the Ombudsman of a reportable allegation or reportable conviction within the meaning of that Act.

The Department can also confirm that to the best of its knowledge its service providers are not 'designated non-government agencies' under s 25A of the Ombudsman Act. The departmental service providers are therefore also not required by s 25C of the Ombudsman Act to notify the Ombudsman of a reportable allegation or a conviction within the meaning of that Act. Nevertheless, the Department does require its service providers to report child related incidents to the relevant state child protection authorities.

We trust this clarifies the position. If you have further questions my contact details are below.

Yours sincerely

Justin Davidson
Senior Executive Lawyer

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