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REDACTED

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19 August 2013

Ms Isabella Cosenza
Director Legal Services
Royal Commission into Institutional Responses to Child Sexual Abuse
GPO Box 5283
Sydney NSW 2001

Attention: Mr Roderick Best, General Counsel

Dear Ms Cosenza

Matters pertaining to the child protection screening of Mr Steven Larkins

I refer to your letter of 12 August 2013 requesting advice in relation to our investigation into the adequacy of Community Services' child protection screening of Mr Steven Larkins.

In response to your request for advice in relation to the circumstances in which our investigation did not extend to consideration of the actions of the Commission for Children and Young People (CCYP) in withdrawing Mr Larkins' Working With Children Check (WWCC), I can advise that we considered making the CCYP the subject of investigation in relation to this matter. However, we determined that, while there were apparent shortcomings in the CCYP's practice in relation to their handling of Mr Larkins' WWCC, an investigation into the CCYP's conduct was potentially problematic, as it would have required us to deal with evidence which we were aware, from discussions with members of the NSW Police Force, was to be the subject of related criminal proceedings. In particular, there was compelling evidence that documentation which had been submitted to the CCYP, and which the CCYP had relied on, had been fabricated by Mr Larkins.

Given the difficulties associated with divorcing the CCYP's actions from the criminal conduct of Mr Larkins, together with the related problem we were likely to face if we were to traverse untested evidence material to the criminal proceedings against Mr Larkins, we made a decision not to pursue an investigation into the actions of the CCYP in relation to this matter.

Other factors which informed our decision not to investigate the CCYP included the fact we were aware that Community Services had notice of the CCYP's shortcomings, and also that the Police Officer investigating Mr Larkins - Detective Nathan Abbott - had advised our



office that he proposed to directly raise his concerns about the CCYP's handling of Larkins' WWCC with relevant authorities.

In making this decision, we also took into account that an Ombudsman investigation into the CCYP's actions had the potential to undermine the CCYP's authority in relation to the exercise of its regulatory functions. Furthermore, our ability to raise concerns about the CCYP's exercise of its functions through other avenues informed our decision not to make the CCYP's actions the subject of investigation.

In relation to the second matter you raised, we did not form any view on whether the distinction between parental responsibility and care responsibility was relevant to the problems which arose in this case. However, given the potential risks to children, we were of the view that in light of his role, he should have been checked. In relation to this issue, I note that in 2007, the Children's Guardian recommended that all Principal Officers be subject to WWCCs. Notwithstanding the merit in this suggestion, the CCYP did not support this recommendation. Common sense ultimately prevailed when legislation was enacted in 2009 following a recommendation from the Special Commission of Inquiry into Child Protection Services in NSW which in effect endorsed the Children's Guardian's view.

I trust the above advice is of assistance. Should you require further advice in this regard, please do not hesitate to contact Steve Kinmond, Deputy Ombudsman and Community and Disability Services Commissioner on REDACT.

Yours sincerely



Bruce Barbour
NSW Ombudsman