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CDN  
 REDACTED

**Our ref:** C/2013/6776  
**Contact:** Steve Kinmond  
**Telephone:** REDACTED

By email: REDACTED  
 REDACTED

24 January 2014

Dear CDP, CDN, CEX and CEZ

### Your complaint

Thank you for your letter of 21 November 2013. I have considered this letter, together with your correspondence of 6 September and 21 November 2013.

Our office has progressed a number of the agreed actions outlined in our letter of 6 November 2013.

1. I have reviewed Ms Kylie Starling's final investigation report and attached documentation relating to the allegations made against CDM. In reviewing the investigation report, I considered the issues raised in your letters of 21 November 2013 and 6 September 2013, and during our meeting of 1 November 2013.

I can confirm that the focus of Ms Starling's investigation was on the allegations of sexual abuse that were made against CDM. In relation to this issue, it was understandable that Ms Starling relied heavily on the Police brief of evidence in conducting her investigation and making her findings.

However, our sexual misconduct guidelines - attached - include the issue of "crossing professional boundaries". In my opinion, there was certainly scope for Ms Starling to have pursued issues relating to this issue. I note that this is consistent with your view that a broader approach, which examined the centres' policies, procedures, supervision arrangements and messages communicated after the allegations were raised, would have been more appropriate.

In deciding whether to reopen this aspect of the matter, I have taken into account the scope for, and utility of, exploring this issue further at this time. Particularly given that CHD is no longer operating a child care centre and that there is already material suggesting a failure to ensure appropriate professional boundaries, I have decided that, on balance, there would be little utility in seeking to obtain further information pertaining to this issue.

2. We made contact with REDACTED in response to your advice that she holds further information relevant to the management practices and supervision arrangements in place at CEG

We put to REDACTED the two statements she had given in relation to this matter - her Police statement from November 2010, and the statement that she gave verbally to REDACTED

CDN [redacted] and others during a meeting in July 2013. Whilst we are unable to provide details of the advice REDACTED provided, we can confirm that she indicated these statements accurately reflect her concerns. She advised that she did not have any further concerns in this regard.

We note that statements REDACTED has provided are somewhat inconsistent. However, there would appear limited benefit in seeking further evidence from her, given that REDACTED REDACTED has made it clear that she is unable to shed any further light on the information she has provided.

However, as previously discussed with you, we will now refer relevant information that we hold pertaining to this issue to the Early Childhood Education and Care Directorate of the Department of Education (DEC). This will enable DEC to take this information into account if it is considering future licensing – or other regulatory – issues relating to REDACTED

CHD [redacted]

3. We have made enquiries with DEC in relation to your advice that CDN [redacted] made telephone contact with the DEC earlier in the year and was advised that they had no record of the matter relating to CDM [redacted]. We can advise that the Directorate *does* hold information relevant to the reportable conduct investigation into CDM [redacted]'s conduct at CEG [redacted].

DEC has advised that in cases where charges have been laid, details of reportable conduct matters may be secured, resulting in telephone operators not having access to all relevant information that they had about such cases. DEC has advised that this is likely what happened when CDN [redacted] called DEC.

4. We are in the process of finalising correspondence to DEC in relation to your advice that your correspondence of 24 October 2012, addressed to Ms Karen Gleeson of FaCS Licensing, was not acknowledged or referred to the appropriate department. We will ask that DEC responds directly to CDN [redacted] in relation to this issue, and will advise you once this correspondence is sent.
5. We are in the process of drafting correspondence to the Royal Commission into Institutional Responses to Child Sexual Abuse raising your concerns about the limited information that, under the current legislative scheme, victims and their families can be provided in relation to reportable conduct investigations. We will advise you once this correspondence is sent.

6. As per our discussion with CDP [redacted] of 24 December 2013, we are in the process of ensuring the Office of the Children's Guardian is apprised of information relating to any risks relevant individuals may pose to children.

Should you wish to discuss this matter, please do not hesitate to contact myself on REDACTED or in my absence, Ms Bridey Maguire, Senior Investigation Officer, on REDACTED

Yours sincerely



Steve Kinmond  
Deputy Ombudsman,  
Disability Services Commissioner