

22 June 2012

Our reference: C/2010/8999
Contact: Jan Coughlan
Telephone: (02) REDACTED

CHD

Head of Agency
Director

CEG

REDACTED

NSW REDACTED

FILE COPY

Dear CHD

Ombudsman notification concerning CDM (REDACTED)
Person, CEG

I refer to our telephone conversation between REDACTED and Reinhard Hitzegrad of this office on 29 May 2012 involving discussion of the next steps the CEG (the centre) will need to take to progress its investigation of this matter.

As you are aware, we decided to monitor this matter in accordance with section 25E of the *Ombudsman Act 1974* (the Act). Section 25F of the Act requires the head of the agency to provide the Ombudsman with such information to enable him to determine whether or not the allegations of reportable conduct against CDM were properly investigated and if appropriate action was taken at the conclusion of the investigation.

In previous discussions with you we noted the clear conflict of interest for you as Head of Agency in this matter. Given the complexities of this matter, we would like to arrange a meeting with you as head of agency to further discuss how to progress the centre's investigation of this matter in an independent manner.

I note REDACTED's advice that police advised the centre that the Director of the Department of Public Prosecution (DPP) has 'no billed' CDM's matters and therefore there will be no further criminal proceedings.

In previous correspondence and discussions, we had clarified the jurisdictional issues in relation to the centre's responsibilities in regards to Part 3A of the Act. We informed you that the 'head of agency' of the centre is responsible for notifying the Ombudsman of any reportable allegation made against an employee and that all reportable allegations whether or not they occurred in the workplace, require an investigation and risk management.

As discussed in our telephone conversation, it is crucial that the centre's investigation is objective and impartial and is to be seen as such. Given the sensitive nature of reportable allegations, and the serious potential outcomes for those involved, the need for objectivity and impartiality is particularly important.

In light of the special circumstances of [CDM]'s association with the centre, I strongly advise that the centre's investigation is undertaken by a suitably skilled and experienced contract investigator to ensure the integrity of the investigation process. I will discuss this further with you in our upcoming meeting with you.

Further information in relation to the issue of conflict of interests as they relate to the investigation of reportable allegations can be found at Part 5.2.4 of the NSW Ombudsman guidelines, *Child Protection in the Work place: Responding to allegations against employees*, which can be accessed via the 'publications' section of our website at www.ombo.nsw.gov.au. You may also refer to this publication for general information about reportable conduct and the investigation of reportable conduct allegations.

I will make contact shortly with you to arrange a mutually suitable time for us to meet. In the mean time, I would appreciate your prompt attention to the requirement of the following information which can be discussed in further detail when we meet with you.

Pursuant to section 25E (3) of the Act, I require the following information:

1. Advice about any requests to police for further information about the investigation of this matter and subsequent court proceedings. If applicable, please include details of information police have already provided in response to any previous contacts between the centre and police.
2. A copy of centre's updated risk assessment and risk management plan, taking into account further information received by police. I understand that at this stage the licensing restrictions remain in force and [CDM] will not attend the centre.
3. An investigation plan. Please include information whether or not the centre will engage a contract investigator. If not please provide the reasons for such a decision.

If you have any questions about this matter, please contact me on (02) [REDACTED]

Yours sincerely



Jan Coughlan
Senior Investigation Officer
for the Ombudsman