



ABN 76 325 886 267

Level 24, 580 George Street Sydney NSW 2000

T 02 9286 1000 | F 02 9283 2911

Tollfree 1800 451 524 | TTY 02 9264 8050

www.ombo.nsw.gov.au

3 September 2012

Ms Margaret Bowen
 Chief Executive Officer
 The Disability Trust
 PO Box 395
 FAIRYMEADOW NSW 2519

Our ref: C/2012/2731

Contact: REDACTED

Telephone: REDACTED

Attention: Ryan Kiddle, Manager, Sport and Recreation Services

Dear Ms Bowen

Ombudsman notification concerning Royce Comber (casual after school and vacation care worker)

Thank you for your investigation report in relation to the above matter, which we received on 21 June 2012. I refer also to my telephone discussions with Mr Kiddle during August 2012 and the further information he provided me on 22 August 2012.

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 agency to provide the Ombudsman with such information to enable him to determine whether or not the allegations of reportable conduct against Mr Comber were properly investigated and if appropriate action was taken at the conclusion of the investigation.

I have assessed the information provided, and decided that further information is required from The Disability Trust (TDT) in order to fulfil its reporting obligations to the NSW Ombudsman in regard to this matter.

On 3 May 2012 we wrote to TDT advising that it was important for TDT - given that at that time, it was aware that the NSW Police Force (the Police) were not proceeding with the matter, to submit a relevant request for information to the Police/Community Services under Chapter 16A of the *Children and Young Persons (Care and Protection) Act* - in relation to any holdings that these agencies had in regard to this matter.

At the conclusion of its investigation, TDT found the allegation that Mr Comber indecently assaulted CIE, 'not sustained-lack of evidence of weight'. TDT has indicated that the reason for this decision is that no formal charges were laid against Mr Comber. The absence of criminal prosecution by Police is not generally of sufficient grounds upon which to reach a conclusion of no evidence of weight. To come to this conclusion, an agency must determine that the evidence provided in support of the allegations by the alleged victim or any other witness holds such poor probative value to render it immaterial to determine the veracity of the allegations.

As per my discussions with Mr Kiddle, the finding of 'not sustained-lack of evidence of weight' was made without any request for, or analysis of, investigation material generated by any of the



external bodies involved in the matter. Mr Kiddle advised that following the investigation, Mr Comber is currently engaged in group programs at TDT.

On 22 August 2012, Mr Kiddle advised me that he has now formally requested information (under Chapter 16A) from JIRT /Police.

Under Section 25F (3) of the Act, I require the following further information:

1. a) The outcome, including the rationale of a review of finding in this matter, based on all the information pertaining to this investigation, including relevant investigation material obtained from the Police/JIRT. Please provide copies of any further documentation/information obtained from these agencies.

b) If after review of all information available to TDT, it determines not to review the finding in this matter, please provide a rationale for that decision.
2. Copies of a notification to the Commission for Children and Young People, if relevant.
3. Advice whether, after review of all information available to TDT, an updated risk assessment has been undertaken in regards to Mr Comber's ongoing employment with TDT and if so, the outcome of the risk assessment.

Please provide the above information by **Monday 1 October 2012**. If the information cannot be provided by that date, I would appreciate an update on the status of the matter at that time.

If you have any questions about this matter please contact me on **REDACTED**

Yours sincerely

REDACTED

Investigation Officer
for the Ombudsman