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3 December 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 the further information provided to us in relation to this matter, which we received on 20 September 2012 and 8 and 19 October 2012. I refer also to my telephone discussions with Mr Kiddle during September and October 2012.

As previously advised, 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.

On 19 October 2012, The Disability Trust (TDT) advised us that it had reconsidered its previous 'not sustained-lack of evidence of weight' finding in relation to the allegations against Mr Comber, and sustained the allegation of sexual misconduct against him. We note that TDT notified Mr Comber's details to the Commission for Children and Young People (the Commission) as a Category One notification. Whilst I appreciate that the NSW Police Force (the Police) /Joint Investigation Team (JIRT) provided some information to TDT about its investigation, we are still unable to assess the adequacy of TDT's finding in relation to this matter. As stated in our letter dated 3 September 2012, TDT's finding needs to be based on all investigation holdings available to it.

In order to assist TDT to fulfil its reporting obligations to the NSW Ombudsman in regard to this matter, we provide the following advice. I refer also to the specific advice we provided on 3 September 2012 in relation to obtaining all available evidence from the Police/JIRT and Community Services under Chapter 16A of the *Children and Young Persons (Care and Protection) Act*.



#### TDT's Chapter 16A requests to the Police

TDT's 16A requests to the Police dated 22 August 2012 and 24 September 2012 were inadequate because they did not seek to obtain all Police holdings in this matter. TDT does not appear to have made any request to Community Services for its holdings.

In order for our office to be satisfied that TDT has made an adequate assessment of all available evidence in relation to the allegations against Mr Comber, it should make a further request to the Police/JIRT for all documents held in relation to this matter and make a similar request to Community Services for its holdings. These requests are to fulfill TDT's legislative responsibilities under the Ombudsman Act. They are not (as stated in TDT's 16A request to Police dated 22 August 2012) made in order for the Ombudsman 'to complete their investigation into the matter'. Rather, the Ombudsman's role is to monitor your agency's investigation of those allegations.

#### Making a finding

Once TDT has received all available investigation material from the Police/JIRT and CS it needs to:

- Demonstrate that it has reviewed all the available evidence (e.g. TDT's own holdings and all documents held by the Police and CS).
- Weigh the evidence on the balance of probabilities.
- Make a finding based on the available evidence.
- Consider whether the finding supports a notification to the Commission.
- Provide an adequate analysis to support its finding and any action taken in relation to the finding.

#### Advice to Mr Comber at conclusion of TDT's investigation

It is also unclear from the documentation provided to us, whether Mr Comber has been advised of TDT's findings in relation to the allegations against him. If no advice has been provided to him to date, we suggest that TDT awaits our final assessment of the matter prior to any advice being given to him about the outcome of the matter. Please advise us if Mr Comber has already been provided with advice about the outcome of this matter.

Accordingly, under Section 25F (3) of the Act, and in light of my comments above, I require the following further information:

1. Copies of additional Chapter 16A requests to NSW Police and Community Services, including copies of all documentation provided in response to these requests.
2. A comprehensive analysis based on all the available information pertaining to this investigation, including all investigation material obtained from the Police/JIRT/Community Services. Please provide copies of any further documentation/information obtained from these agencies.
3. Copies of a notification to the Commission for Children and Young People, if relevant, and/or advice as to whether the current notification has been amended or withdrawn.

Please provide the above information by **Monday 7 January 2013**.

*Please advise us, after receipt of this letter, if it would be helpful to meet with myself and the Principal Investigator to discuss your agency's obligation regarding this matter.*

- *Also please note that our office will be closed from midday Friday 21 December 2012 and will reopen on Monday 7 January 2013.*

If you have any questions about this matter please contact me at your earliest convenience on (02)

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Yours sincerely

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Investigation Officer  
for the Ombudsman