



Ombudsman Investigation - Department for Education and Child Development

MEDIA RELEASE

26 September 2013

The Ombudsman today tabled in Parliament his report on a complaint made by Ms Danyse Soester about the department's handling of a child sex offence that occurred in a western suburbs school on 1 December 2010.

The Independent Education Inquiry (the Debelle report)

Ms Soester's complaint was made on 4 June 2012, but the Ombudsman's investigation was suspended from 1 November 2012 to 27 June 2013 whilst the Independent Education Inquiry (the IEI) completed its inquiries.

Whilst the IEI's terms of reference included some of the matters which were the subject of Ms Soester's complaint, the IEI extended to other matters which were not part of the complaint. These included the advice provided by the department to the then Minister for Education and Children's Services about the child sex offence.

The IEI also considered issues relating to the role of Ministers and their staff, and policy matters concerning the operation of the child protection system. These are not within the Ombudsman's jurisdiction.

The Ombudsman's findings

Ms Soester's complaint alleged:

- that the department provided misinformation to the school's governing council in relation to the existence of a suppression order, which resulted in the governing council voting not to inform parents of the Out of School Hours Care service (OSHC) about the conviction and sentence of an OSHC employee for a child sex offence
- that once the department discovered the error, it correctly informed the governing council that there was no suppression order in place, yet still advised it not to inform the parents of the OSHC because it was 'counter-productive to the safety of the community'
- that the school principal incorrectly determined not to inform parents of the school of the circumstances of the conviction.

In relation to Ms Soester's allegations, the Ombudsman found serious administrative errors by both the department and the governing council. Specifically, he found that:

- the department acted in a manner that was unreasonable within the meaning of section 25(1)(b) of the Ombudsman Act, by providing wrong advice to the governing council that there was a suppression order in place, when there was not; and by suggesting to the governing council that the parents of children attending the OSHC should not be informed about the sexual assault
- in deciding not to inform the users of the OSHC of the sexual assault committed on a child in its care by the OSHC employee, the governing council acted in a manner that was based wholly or in part on a mistake of law or fact within the meaning of section 25(1)(f) of the Ombudsman Act

- further investigation of the principal's handling of an allegation of sexual assault of a child by the OSHC employee was unnecessary or unjustifiable within the meaning of section 17(2)(d) of the Ombudsman Act, because this issue had been sufficiently canvassed by the IEI.

In making these findings, the Ombudsman accepted the facts as outlined in the IEI report.

Recommendations

The Ombudsman also adopted the recommendations made by the IEI report, insofar as they relate to matters within his jurisdiction. The Ombudsman Act permits the Ombudsman to report to Parliament if he considers that an agency has not taken appropriate steps to give effect to recommendations made in an Ombudsman report.

The department has been asked to respond to the recommendations by 31 December 2013.

FOI applications

In early 2013, several applicants requested FOI access to documents about the child sex offence and related issues, from the Department for Education and Child Development, the Minister for Education and Child Development, and the Premier.

These agencies determined to refuse access to the documents, and the Ombudsman subsequently received requests to review 21 determinations under the *Freedom of Information Act 1991*.

A summary of the issues considered in dealing with the applications is set out in the report, and the formal determinations have been published on the Ombudsman's website.

MEDIA NOTE: For further information contact the Ombudsman on 08 8226 8699.