

### 3. Comments made by other parties during the hearing on 30 June 2015

#### 3.1 Public Release of the Joyce Report

The Joyce Report was jointly commissioned by the Department of Health and Human Services (DHHS) and Yooralla. When commissioned the Joint Steering Committee decided that the Report would not be publicly released in order to protect the privacy of customers and staff named in the report and to encourage their participation.

A full copy of the Joyce Report Recommendations and Yooralla's response to the recommendation was published on the Yooralla website, with regular updates plotting the organisations achievement of actions underpinning the recommendations.

Mr Bonyhady's much later media release on the matter of the Joyce report, was not factually correct, in that it omitted the word 'recommendations' when stating that a full copy of the Joyce Report could be found on the Yooralla website.

Following a direct request from Ms Margaret Jackson and Mr Max Ryan for a copy of the full report, the Yooralla Board reviewed the earlier decision not to release the full report, and concluded that the previous reasons for not releasing the report were still valid.

#### 3.2 United Voice – Complaints

Mr Peter Cross raised the issue<sup>1</sup> of a prior complaint at Yooralla, stating "*We had a situation where a senior manager and a service manager had a meeting with one of their clients in which they tried to exploit him. He was psychologically abused. We lodged a formal complaint with Yooralla in relation to that matter. It was investigated. .... Yooralla absolutely assured us that they were going to deal with this openly and transparently, and we have not heard another word since.*"

Yooralla believes that this is a reference to an investigation conducted in June 2013 by JBSA, a respected investigations organisation.

The General Manager Residential and Respite Services personally provided feedback on the outcome of the investigation to the person who complained.

#### 3.3 Comments by Ms Sandy Guy that she is Persona non grata and does not receive communication from Yooralla

Ms Sandy Guy is listed on Yooralla's stakeholder database and receives Yooralla's external fortnightly newsletter. She has received 17 electronic newsletters about Yooralla, of which 88% have been opened, at least on one occasion. As a parent of a Yooralla customer Ms Guy is also in regular communication with staff at her son's residence. Ms Guy was included in the list of stakeholders who were invited to participate on the Yooralla's Community Partnership Advisory Committee (YCPAC).

In addition, Yooralla has documentation that would demonstrate numerous other attempts at communicating with Ms Sandy Guy.

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<sup>1</sup> Reference page 47 of Hansard Proof transcript of Senate Community Reference Committee, Violence, abuse and neglect against people with disability in institutional and residential settings

### 3.4 Safeguards Booklet comments

Yooralla provided the Senate Inquiry with a copy of the safeguarding booklet on 30 June 2015, in the documents tabled at the Public Hearing, which outlines how we are supporting customer safeguards across the organisation. This booklet, prepared for customers, provides an overview of the extensive program of change we have undertaken. We are happy to provide more detailed information on each initiative if the Senate requires.

### 3.5 Comments on Workcover for stress

Ms Sandy Guy asserted that a large number of Yooralla staff are on WorkCover for stress, due to burnout of permanent staff arising from large numbers of casual staff.

There are over 2000 people working at Yooralla and there have been 12 stress related WorkCover claims over the last 3 years

Yooralla's claims cost rate has reduced significantly from 3.6% in 2012/2013 to 2.1% for the 2015/16.

### 3.6 Ms Sandy Guy made a statement that a casual staff member could not get support from the Union because casuals could not join the Union

This is incorrect. Casual staff are eligible to become members of a relevant union but need to join and pay membership fees themselves. Unions are funded by membership contributions and can choose not to represent employees who are not members.

### 3.7 Ms Sandy Guy referred to use of 'so many Agency staff'

Yooralla has made significant reductions in agency use across Residential Services in the last 2 years bringing the percentage down to 2.4% in 2014/2015. At Ms Guy's son's residence, agency usage has declined from an average of 3.9% in 2013/2014 to 3.5% in 2014/2015.

### 3.8 Comments regarding staff fear of speaking up and that their jobs are on the line

Ms Sandy Guy stated that Yooralla staff are afraid of raising issues for fear of losing their jobs.

The introduction of the RiskMan Incident Reporting process means that staff can report incidents and have them escalated without screening or alteration by their manager. If an incident is reported in relation to a direct line manager, there is provision to "skip" that manager in the reporting process and report directly to their manager. We have regular evidence now that staff feel comfortable speaking up – whether it is about colleagues and / or direct line manager or a customer. Depending on the nature of the incident a suitable response has been swiftly undertaken

Yooralla has introduced a Whistleblower policy to enable people to report allegations of improper conduct anonymously, and ensure that they are protected from reprisals. The General Manager, People and Culture and the Chief Practitioner are the designated Whistleblower protection officers. The policy also provides contacts for external avenues of complaint.

### 3.9 Comments made regarding inter-resident abuse

In order to minimise customer incompatibility Yooralla's Intake Assessment Process is informed by a Service Profile, which is a tool that matches supports and customers to potential new customers who have been identified for vacancies.

Where issues of incompatibility exist or develop the actions taken include:

1. Targeted staff supports such as mediation, discussions and skills development;
2. Referrals for supports to the internal health and wellbeing team or the client rights and empowerment team for specialist supports and strategies;
3. Engagement of stakeholders including family and independent advocates to support the customers and service provision as compatibility issues are worked through;
4. Supporting relocation to a different residence.

These approaches have led to reductions in compatibility issues across Yooralla.

### 3.10 Low rate of convictions

It has been stated that the court conviction secured for a perpetrator at Yooralla was reported as a "landmark" decision owing to the fact that this is not the usual outcome. We wish to reconfirm that for the incidents at Yooralla all perpetrators have been convicted.

### 3.11 Comment made about a worker who was allowed to resign at another facility and then was employed by Yooralla

With the introduction of the Disability Worker Exclusion Scheme (DWES) in Victoria, the risk of re-employment of a worker within the disability sector is minimised providing employers consistently comply with the requirements to screen employees as part of the recruitment process, to report staff where allegations are made that relate to DWES criteria and to register staff on the DWES. Yooralla supports extending the DWES nationally to ensure that staff terminated for inappropriate behaviour or under investigation for an alleged offence in Victoria cannot move interstate, work with vulnerable people and reoffend.

### 3.12 A comment was made that strategies to protect customers may result in "prisons of care"

The following response has been written by Fran Vickary, a person with a disability and Yooralla's Director of the Independent Living Centre and the Assistive Technology Service. It addresses the potential conflict between creating a safe environment and limiting peoples' rights.

The disability sector struggles between safeguards, rights and freedoms are played out between people with disabilities, service providers, governments, legislation, parents, carers, advocates and unions.

People with disabilities speak freely and passionately about their rights to freedoms – of expression, choice, supports. There is often a slightly shrill tone to their comments as successive versions of Occupational Health and Safety and "protective" legislative

changes impacting upon how their supports are delivered, who can work with them and how/where/with whom they live their lives.

On another side of these struggles is the voice of parents who invest love, energy, time, money ... their lives, trying to meet the needs of their off-spring with disabilities, or seeking support from governments and service providers to have these needs met.

In this struggle, governments and service providers are sometimes in the 'squished' middle space as they try to facilitate independence, support and choice for people with disabilities – at the same time trying to ally the concerns of parents who are desperately seeking someone/anyone, government or service provider, advocate or judge to step up to the plate and be in loci parentis so they can know their off-spring will be safe.

There is a concept here that requires more exploration: independence. This term might seem out of place when we all know people with disabilities often require support with personal care and daily choices. However, in an empowering disability system this is what it should be, SUPPORT to have a life of their choosing, within reasonable resources - because no-one has a magic wand or silver bullet.

Independence, in terms of people with disabilities, is about being able to choose what time you get up; what you do and who assists you, so that the supports you receive are almost invisible.

This type of life cannot be supported by a system free of regulations or safeguards because vulnerable people with disabilities would be left behind and treated badly. Similarly, an over regulated, protective system would place many restrictions on people's lives as homes become 'workplaces' and 'institutions'.

The key questions that must be considered are:

- *How does the system protect people with disabilities who are vulnerable?*
- *How can parents and care-givers be in a space where they are assured that their family member with disability has a good life?*
- *How do we avoid a system that becomes more and more regulated so that people with disabilities are 'kept' in glass tubes and only supported by people pushing gloved hands through the glass?*

These are big questions that require the disability sector to collectively continue searching for the balance of protection and freedom delivering human rights. It truly is a multi-faceted, because no single combination is right for all and there must be constant questioning and mindfulness so people with disabilities are supported to be independent.