

Following this letter, a meeting was held at Victorian Ombudsman's office on August 23, 2012. Sandy Guy, Linda Wilson in attendance. [REDACTED] and another woman from Ombudsman's office in attendance.

I received no further correspondence until September 3, 2012.

On September 3, 2012, the then Ombudsman refused to investigate this complaint. Instead the Department of Human Services commissioned the "Joyce Report" by former DHS manager, [REDACTED].

Despite Yooralla's former chairman [REDACTED] statement on the ABC Four Corners website that the full Joyce report is available on the Yooralla website, it is not. Despite repeated requests Yooralla refuse to release the Joyce Report in its entirety.

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Victorian Ombudsman
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Dear Mr Brouwer

On Tuesday, June 26, 2012, I received a telephone call late in the afternoon from a woman who said her name was [REDACTED]. She said she was a former Yooralla regional manager. [REDACTED] told me that police officers were going to the home of my 31-year-old son, Liam Guy, who is severely disabled, including intellectually disabled. [REDACTED] said the officers were going to Liam's home to interview him and the other five disabled residents of [REDACTED] Ave, [REDACTED] which is run by Yooralla.

I asked her what was going on. She said that a Yooralla casual carer was in police custody charged with alleged abuse. I asked her when the police were going to my son's house. She said they were already there.

I live in Ballarat, a 1.5 hour drive to my son's home, so it was impossible for me to be at my son's home to support him during this ordeal.

I later learnt that a Yooralla employee was present at the police interview with my son and other residents of the house. This I believe is a conflict of interest,

because this is an employee of an organisation that is responsible for the care of my son. In my opinion the Yooralla employee's presence at the interview was absolutely inappropriate. I also understand that an Independent Third Person from the Office of the Public Advocate was not present. In a letter to Yooralla families dated July 4 2012, the Yooralla CEO said interviews were not formal. Formal or not, I believe that a family member and/or ITP should have been present, not a Yooralla employee.

I ask – whose responsibility was it that I, my son's next of kin, was contacted regarding the interview – Victoria Police or Yooralla?

No one knows how to communicate with my son better than me. He is largely non-verbal, and has severe communication difficulties. Over his lifetime I've learnt the subtle ways that means I can communicate with him and understand him better than anyone else. But I was denied access to my son at the time because Yooralla did not contact me in time to attend.

I have no idea what took place during the interview with my son. The following morning, 27 June, I telephoned Box Hill Police and spoke to a police officer, who seemed to be concerned that I was not contacted by Yooralla prior to the interviews. She said that Yooralla management had said they would make every effort to contact families prior to the interviews. In my case they did not.

During this telephone conversation the officer told me that a former Yooralla casual employee was in police custody charged with alleged abuse, and had worked at least 40 shifts at my son's home. She told me that charges had been laid in March, that the man had appeared in Court in June, that there was another hearing at the Melbourne Magistrate's Court on August 10, and that four Yooralla clients, both male and female, were involved. I was not only absolutely distressed by the allegations, but additionally horrified that I had not been previously informed of the allegations and the length of time police had been investigating them.

A major issue in my opinion is in the way this police investigation has been handled by both police and by Yooralla. I believe that in the first instance Yooralla management should have informed police that they were a disability service provider, not the family or legal guardian of Yooralla clients, and immediately given police contact details of families and legal guardians of clients living in houses they run where the alleged abuser worked. I believe it is families and legal guardians of Yooralla clients who should be working with police with regard to this matter, not the service provider for whom the alleged abuser worked.

The *Disability Act 2006* is clear on the role of people with disabilities and their families:

Section 5. Subsection 3:

(h) consider and respect the role of families and other persons who are significant in the life of the person with a disability;

- (i) acknowledge the important role families have in supporting persons with a disability;
- (j) acknowledge the important role families have in assisting their family member to realise their individual physical, social, emotional and intellectual capacities;
- (k) where possible strengthen and build capacity of families who are supporting persons with a disability;

Moreover, in relation to people with disabilities, in instances where residents living in supported accommodation have been victims of violence or abuse, where they have disclosed such incidents or where allegations have been made, a media release by the Office of the Public Advocate on March 3 2011, stated the following expectations:

- assurance of the person's immediate and ongoing safety
- notification to the police
- an independent investigation
- where staff are suspected of being the perpetrators, their removal from the facility pending the police and/or independent investigation
- notification to the family of the victim
- transparent preparation of an incident report
- the person to be supported to provide evidence.

With respect to a person with a disability being supported, Section 7 of the *Disability Act* states:

If a person does not appear to understand the information being given, the disability service provider must take reasonable steps to convey the information in a manner that the person is most likely to understand. To meet this requirement, a disability service provider may provide a copy of the advice, notice or information to a family member, guardian, advocate or other person chosen by the person with a disability.

If a person with a disability does not have a person to assist them understand the information being provided, the disability service provider can provide the information to another person who may assist the person with a disability to understand the information. **The person chosen cannot be employed by, or a representative of, the disability service provider.**

Families of people with intellectual disabilities are the primary and best advocates for their sons and daughters. Yooralla is *not* my son's parent or legal guardian. In my opinion the organisation should not be making decisions as to what their clients' families or legal guardians may or may not be informed of in relation to their intellectually disabled relative, including police investigations. However in this instance, this appears to be the case.

If police officers asked Yooralla management not to give them the names and contact details of family members or legal guardians of clients' who live in houses where the alleged offender worked, I ask why was this the case? Or were police officers under the impression that Yooralla the service provider has some sort of omnipresent *in loco parentis* over their clients, that clients have no families or legal guardians?

An apparent attitude of *in loco parentis* seems to me to be confirmed in a quote by Yooralla general manager [REDACTED] in the *Age* newspaper on June 29 2012, that Yooralla was working “very closely” with police.

This same *Age* article stated that: “Police charged him [the former Yooralla carer] with rape on March 21 and, several weeks later, charged him with six counts of indecent assault, unlawful imprisonment and attempted rape.” And “It is understood that detectives have so far identified up to four possible victims, all disabled people living at Yooralla residential units.”

Yet in a media statement to 3AW radio station on July 3, [REDACTED] stated that [Yooralla's] “priority has been to support *the* client and *their* family.” .. “providing our client [singular] and *the* family with ongoing support.” (*my italics*) implying there was one alleged victim.

More confusingly, a letter sent to Yooralla families by the Yooralla CEO dated the following day, July 4, summarised that a former employee had been charged with multiple offences, relating to four Yooralla clients, along the lines of what police told me on June 27.

This letter also states that matters were being dealt with in an open and transparent way in consultation with police, the Department of Human Services and Public Advocate. There was no mention of families and legal guardians of clients.

There seems to me to be a systemic procedural issue for police in dealing with families and legal guardians of people with intellectual disabilities. There seems to me to be a lack of clarity as to who police deal with in instances such as these.

As I was not informed of the alleged offences when the alleged offender was charged in March, I as his mother, next of kin, the best person to communicate with my son, and the person who knows him best, was unable to monitor any changes in my son's behaviour that may be indicators of abuse, such as lack of interest in usual activities; irritability, short-tempered behaviour; sleep disturbances and nightmares; withdrawal; eating and elimination disturbances; fear of particular people or situations. (Carmody, M 1990). But due to police and/or Yooralla management failing to inform me I was, critically, unable to do so. So I live with the trauma of not knowing what might have happened to my son during those 40 shifts.

My further concern regarding Yooralla management's apparent attitude of *in loco parentis* over its clients was a letter dated July 4 from the Yooralla CEO to Yooralla families. This letter was, curiously, marked “private and confidential,” and as such I am unable to provide a copy of same. However, the Yooralla CEO may give leave to if required by you.

In essence, families were advised that the police investigation would continue with Yooralla's cooperation and support. There was no mention of families or legal guardians.

It said that clients and their families would be advised when the investigation is complete; that families would be contacted immediately if we [perhaps Yooralla management, or perhaps police officers] learn there is any possibility a client has been directly involved in the matter.

If we means Yooralla, why is Yooralla management informing families and legal guardians they will be contacted if they – a service provider – learn there is any possibility a client has been directly involved in the matter, and not police? Why is Yooralla management, and not police, advising clients and their families and legal guardians when the investigation is complete?

I ask whether Victoria Police view service providers such as Yooralla as their sole point of contact in matters such as people with intellectual disabilities who may have been exposed to alleged abuse and, if so, under what legislation or protocol this is outlined.

If not, why have I, my son's next of kin – and many other families I am aware of – been excluded from information regarding their sons and daughters in this matter? Why are police "working closely," as Yooralla claim, with a private State Government-funded service provider, and not the families and legal guardians of people with intellectual disabilities.

To highlight my concerns regarding what I believe may constitute a conflict of interest I refer to an *Age* article dated July 16, 2012, "Abuse by carers 'covered-up'" which states: "Department [of Human Services] whistleblowers have accused managers of trying to conceal the extent of recent alleged abuse cases by failing to properly log information, altering staff diary notes and not promptly alerting police to serious incidents. Staff, speaking on the condition of anonymity, claim they have been pressured not to send emails about abuse cases and delete existing emails."

Further distressingly, it was reported in the *Age* on June 29 regarding International Police Checks: " - which the accused man had not been subject to - ... "

I understand that under various protocols and legislation families must be contacted immediately with regard to any allegations regarding abuse in other sectors, from child care to aged care. Why does this appear not to be the case in the disability sector? Or is it only in this instance?

I believe this is an issue of the greatest importance, involving a great many of our most vulnerable citizens: according to the *Age* newspaper, July 16, 2012: "The Department of Human Services recorded 112 cases of alleged "staff-to-client" abuse in 2011-2012 in government and community managed housing for the intellectually disabled across Melbourne." And: "Data provided to the *Age* by the department shows 48 cases of alleged staff-to-client abuse in the

Melbourne east region [which includes ██████████ last financial year. The department says all 48 incidents were reported to police but is unable to elaborate on how long it took police to be notified in some cases.”

The Department of Human Services is required to contact families when abuse is suspected, but what is the role of private government agencies in the same situation? In light of recent events as described here, there seems to me to be a distressing inconsistency in this important aspect of care in the disability sector, which could potentially cause crimes to go undetected.

There is also the trauma that has been faced by my son and his co-residents in coping with six police officers arriving at their home to ask questions, without having their families or legal guardians to support them, due to police and/or Yooralla failing to alert their families or legal guardians in time to be there.

There is the secondary trauma on families and legal guardians of those who may have been exposed to abuse, in constant and ongoing concern for their loved ones: in my case this has affected my physical and emotional health, with a constant cold, disturbed sleep, a profound sadness, and many tears, as I have tried to obtain information, written letters, contacted advocates, and attended a meeting with the organisation's Chairman and another board member, as I try my utmost to ensure that my son enjoys the safety, wellbeing and quality of life that I believe is his right, regardless of his disabilities. The added stress of trying to keep up with my work, as a single working mother, has taken its toll financially as well.

My concerns for my son's safety, wellbeing and quality of life were exacerbated by a major management restructure implemented by Yooralla in January this year, apparently without consultation, input nor feedback from clients or their families and legal guardians, which appears to be in conflict with Yooralla's own constitution (“1 (b) “providing and/or supporting services for people with disabilities, their families and carers which promote independence and choice”).

In this restructure, Yooralla apparently shed about two-thirds of its house managers. One “service manager” now works across several houses, meaning residents and staff are often left largely unsupervised. This, coupled with my long-term concerns regarding a high staff turnover and overuse of agency/casual staff, which I have been raising with Yooralla since 2009, I believe compromises my son's safety, and could potentially lead to abuse.

I hope that you may investigate the apparent anomalies between that which appears to be outlined in legislation and constitutions, but which is apparently not being adhered to by a State-Government funded service provider such as Yooralla.

Yours sincerely

Sandra Guy

13 August 2012