

A submission to the Victorian Parliamentary Inquiry into Abuse in Disability Services.

Submitted by Sandra Guy

Why abuse is not reported or acted upon

“Collusion, cover-ups and conspiracies are usually the domain of Hollywood writers, the naive and the slightly nutty. Except, that is, when they are true,” wrote journalist John Silvester in *The Age* on June 7, 2015.

Silvester was writing about police involved in cover-ups of child abuse by priests. But the same can be said of the disability sector.

In Victoria, if you love your child and care about their safety, well-being and quality of life, you may be, as I have been, ignored, patronised and threatened.

The brick-walling of families who have loved ones with disability, particularly those who do not effectively communicate, has in my experience become par for the course despite the principles of the Disability Act 2006 s.5 (3) (h) (i) (j) (k).

My personal experiences over recent years have led me to believe the disability sector has a culture of cover-up and victimising direct care workers and family members who make notifications on behalf of people who lack the capacity to notify abuse and neglect themselves.

Personal experiences over recent years has also revealed to me that a deeply entrenched “clubby” atmosphere across the sector obsessed with self-protection continues to flourish.

I refer to, and fully agree with, Max Jackson's article “What has changed since disability care scandal of the 1980s and '90s,” published in *The Age* (21 April, 2015) in relation to this travesty.

<http://www.theage.com.au/comment/what-has-changed-since-disability-care-scandal-of-the-1980s-and-90s-20150420-1mom6y.html>

The ABC Four Corners program “In Our Care”, broadcast on November 24, 2014, gave the wider community an insight into the levels of incompetence, mismanagement, cover-ups, and victimisation of whistle-blowers in relation to the rape and abuse of Yooralla clients.

Four Corners “In Our Care”

<http://www.abc.net.au/4corners/stories/2014/11/24/4132812.htm>

What the wider community is not aware of is that it took more than two years of persistence by investigative journalists, and the bravery of people who were abused and whistle-blowers to reveal the lengths Yooralla went to to protect its brand, and its senior managers and board their positions. I know, because my son and I appeared on the program.

What is telling about the revelations on the Four Corners program is that it was not the so-called “protective mechanisms” in place in Victoria that exposed the levels of abuse, incompetence, mismanagement, cover-ups and victimisation at Yooralla, but the media.

It is because of this that violence, abuse and neglect in the disability sector is rampant.

Some will argue that reporting of abuse and suspected abuse is enshrined in legislation – the *Disability Act 2006* - not to mention reams and reams of policies, standards and requirements that supposedly must be met.

However in my experience the *Disability Act* is largely ignored. I say this because over the past three years I have quoted sections of the Act and Yooralla's failures to adhere to its requirements on innumerable occasions to so-called protective mechanisms such as Victoria's Office of the Disability Services Commissioner, the public advocate and Victoria's Department of Human Services.

On not one occasion have any of these so-called protective mechanisms done anything in relation to Yooralla's breaches of the Act. Which is why Yooralla, and I read in the media other service providers, act with impunity. They have the confidence of knowing nothing will come of complaints.

Background

My son was born in 1980. He has cerebral palsy, intellectual disability, visual impairment, epilepsy, and uses a wheelchair.

In 1998 he moved into a Yooralla-run supported accommodation house with five other adults with severe disabilities.

Initially the house was well run. Committed long-term staff worked there, and families were made to feel welcome.

Standards of care at my son's house began to deteriorate in 2008. This coincided with the appointment of the immediate former CEO, who was appointed when the now chairman of NDIA was chairman of the Yooralla board.

Extraordinarily, the position of CEO of Australia's largest disability services provider was appointed by the Yooralla board to a person who was found to have lied in an sworn affidavit to the Metropolitan Ambulance Service royal commission in 2001.

“Police hire public servant who lied”

<http://www.theage.com.au/articles/2002/11/01/1036027036101.html>)

By 2009 most of the permanent staff at my son's house had left and staff were mostly comprised of agency/casual staff who were strangers to the residents. This causes them enormous stress. No one, not residents or families, knew who would be at the house from one day to the next.

On many occasions two barely trained agency/casual staff who had never worked at the house before were on shift together with six adults with extremely complex support needs, including one resident with the complexities of being fed with a Percutaneous Endoscopic Gastrostomy (PEG) feeding tube.

The high levels of anxiety to residents of being constantly confronted by complete strangers was evident. Given the constant strangers in the house we families were additionally extremely concerned about abuse and neglect.

In 2009 myself and another mother were so concerned we wrote to the Yooralla Board. Issues at our sons' house had become appalling by this stage.

The result of this letter was that the then CEO and then Yooralla general manager hurried to have a meeting with me and the other mother, buying us an expensive lunch.

At the meeting/luncheon they made promises about the poor staffing situation being fixed; about better communication with families, and about transport issues (lack of) resolved.

Nothing from the meeting was followed-up in writing in relation to the promises made – at that point we were naively unaware that Yooralla prefer verbal encounters - and nothing occurred to improve the standards of care at my son's house. We had been condescendingly patted on the head, fed an expensive lunch, and expected to shut up.

Despite what turned out to be empty promises and the other mother and I raising the same, on-going issues over the next couple of years with Yooralla, nothing changed: the situation of overuse of poor quality agency/casual staff continued, and our concerns for our sons' safety and well-being continued unabated.

In February 2012 Yooralla announced a major management restructure. There was no consultation with clients or their families/guardians in relation to this. The

Disability Act 2006 states that people with disability must have a say in changes that affect their lives. But this did not occur.

Overnight around 70 Yooralla supported accommodation houses lost their individual house supervisors. The only thing that had been keeping my son's house functioning in some sort of way up to this point was the house manager. But pretty much overnight he was gone.

Yooralla announced that a single "service manager" would henceforth work across three houses. The issue of overuse of poor quality agency/casual staff continued.

For the first time, the other mother and I lodged complaints with Victoria's Disability Services Commissioner (DSC) about the restructure. Prior to this we had tried to resolve concerns within Yooralla. But because we were continually met with a condescending attitude and we saw no change to the poor standards of care being provided at our sons' house, nor the issue of lack of transport resolved, we lodged complaints with the DSC.

At the time we believed the DSC would actually address our concerns. We had no idea then that the DSC is nothing more than an elaborate and expensive masquerade. I say this given my personal experience and given the commissioner has not conducted a single investigation since 2010. While at the same time incident after incident of violence, abuse and neglect have been exposed in the media, and while at the same time Victoria's public advocate stated the abuse exposed was the "tip of the iceberg."

In lodging complaints with the DSC what we had naively and unwittingly stepped onto was what so many people with disability and their families describe as the "meeting treadmill." There are meetings, meetings and more meetings. They appear to spend much of their work time in meeting after meeting. What you don't see is any action.

The DSC insist on "conciliation" with the service provider you are complaining about, regardless of the nature of the complaint. Incredibly, they even refer some complaints back to the organisation a person is complaining about.

The DSC staff member given my case bullied me: he would telephone me late in the day and fire questions at me, as if I had committed some sort of crime by lodging a complaint with the DSC.

He treated others I am aware of in exactly the same way, they have told me. The other mother and I separately requested that the staff member be removed from our respective cases. He was. However I understand he still works at DSC. At no time did this person make any attempt to conceal his bias towards Yooralla.

In July 2012 I lodged a second complaint with the DSC in relation to my not being contacted when police went to my son's house to interview residents (some of whom, like my son, are largely non-verbal) around alleged abuse, about not being informed by Yooralla that the then alleged rapist Vinod Kumar had worked at my son's house, and about not being informed of police charges against Kumar for a period of 10 weeks after he was remanded in police custody.

On June 29, 2012 the first article in relation to a Yooralla carer on sex charges appeared in The Age newspaper.

“Yooralla Carer on sex charges”

<http://www.theage.com.au/victoria/yooralla-carer-on-sex-charges-20120628-215ge.html>

I was interviewed for that article. I said: "I am absolutely disgusted that the [Kumar] court hearing has been and gone weeks ago but I knew absolutely nothing of it." I said "police were yet to determine if [my] son might have been abused." This remains the case.

In the same article the then Yooralla general manager stated that Yooralla was working "very closely" with police. At this time - the beginnings of the Yooralla expose - no-one appeared to consider or be concerned this as a conflict of interest – given the alleged rapist had been employed by Yooralla.

On July 2, 2012, an article I wrote in relation to this was published in Fairfax Media.

“My son and others are owed an inquiry into Yooralla”

<http://www.smh.com.au/federal-politics/political-opinion/my-son-and-others-are-owed-an-inquiry-into-yooralla-20120701-21awb.html>

Following the publication of this article I was contacted by many people not touched by disability. All were appalled that the parent and next of kin of a severely disabled man was not informed by Yooralla, nor Victoria Police, for 10 weeks that an alleged rapist in police custody had worked at her intellectually disabled son's house.

If families were not contacted in relation to a similar situation in, say, a nursing home, hospital, kindergarten or school, there would be widespread outrage. Why is it different in the disability sector? I contend this inquiry must consider why this is so, and who and why is responsible.

To date despite multitudes of letters I have sent to so-called watchdogs, government departments, funded advocates and Victoria Police over a three year period, no-one has explained to me why I and other families were not informed

that an alleged rapist who worked at the house had been in police custody for 10 weeks.

This is one of the many bizarre anomalies that lies at the crux of what is so wrong with the disability sector, and why the abuse and neglect reported is, according to Victoria's public advocate, the "tip of the iceberg."

Because Yooralla and/or Victoria Police failed to inform me for 10 weeks that the alleged rapist, Vinod Kumar - who was sentenced to 18 years in prison on November 20, 2013 for the rape and sexual assault of disabled Yooralla clients - worked at my son's house, we will never know if my son was abused. We needed to monitor any changes in his behaviour that indicated abuse as early as possible. But this could not occur.

"Yooralla worker Vinod Kumar jailed for raping disabled women"
<http://www.heraldsun.com.au/news/law-order/ooralla-worker-vinod-kumar-jailed-for-raping-disabled-women/story-fni0fee2-1226764241943>

The glaring lack of communication between relevant departments, the failure to adhere to legislated requirements, the self-protective nature of the sector, the brick-walling of families, and victimisation of those who speak out and have nowhere to turn, means that abuse and neglect has continued unabated.

In no other sector is the shutting-out of families acceptable. This inquiry must be concerned about, and establish, why families are ignored, brick-walled, and unheeded in relation to their loved ones; why this is and has been permitted to occur; who continues to encourage this, and why they do so.

This inquiry must be concerned about, and establish, why a body such as Victoria Police was apparently not aware that Yooralla is nothing more than a service provider, that it is not the next of kin or guardian to its fee-paying clients, and as such is in no position to be making decisions on behalf of clients who cannot speak for themselves, and in no position to be refusing information to their families and guardians.

If investigating police officers asked Yooralla management not to give them the names and contact details of family members or legal guardians of clients' who lived in houses where the rapist Kumar worked, clients who cannot effectively communicate for themselves, why was this the case?

Or did Yooralla conveniently forget to inform Victoria Police that it is nothing more than a service provider, that it is not the next of kin or guardian to its fee-paying clients, and as such is in no position to be making decisions on behalf of clients who cannot speak for themselves, and in no position to be refusing information to their families and guardians.

Were police officers under the impression that Yooralla the service provider, has some sort of omnipresent *in loco parentis* over its disabled clients, that clients have no families or guardians?

This inquiry must be concerned about, and establish why families were not informed.

The responses to violence, abuse and neglect against people with disability, as well as to whistleblowers

Following publication of my article “My son and others are owed an inquiry into Yooralla” in The Age on July 2, 2012, whistle-blowers – who included Yooralla clients, families and direct care staff, as well as people with disability, families and staff from other service providers – also started to contact me.

On November 21, 2012, another article I wrote another I wrote was published in The Age, and even more people contacted me.

“Heinous crime against the disabled must be included in child abuse probe”
<http://www.theage.com.au/it-pro/heinous-crime-against-the-disabled-must-be-included-in-child-abuse-probe-20121120-29o10.html>

To date dozens of people have contacted me. They have told me about abuse, neglect, victimisation, intimidation, financial misappropriation, threats and bullying.

All told me they had contacted me because I am a mother who writes and speaks publicly about disability issues, and because I am not connected with a service provider, government agency, or so-called protective mechanism.

The overriding factor in relation to every single person who contacted me is fear: fear of retribution, fear of losing accommodation, fear of losing a job.

This inquiry must be concerned about and look at why fear is so pervasive across the disability sector in the 21st century; who or what promotes this fear; and why despite reams of rhetoric, claims of adhering to human rights, supposed protections and standards of care, and legislative requirements, this fear proliferates across the sector.

On July 5 2012 I wrote to the then Yooralla chairman, copied to all Yooralla board members and stakeholders such as the then state Minister for disability services.

After receiving my letter the then Yooralla chairman telephoned me to organise a meeting. No letter or email.

The other mother and I consequently met with him and another Yooralla board member. The other mother and I recorded our summary of the meeting. The majority of our questions were unanswered.

Soon after this meeting the then chairman of the Yooralla board resigned after being appointed chairman of NDIA.

On August 17, 2012, I was the unwitting recipient of internal Yooralla emails around alleged sexual abuse and handling of alleged sexual abuse. I was subsequently threatened with civil action by Yooralla's lawyers.

As I have been threatened by Yooralla's lawyers in relation to unwittingly receiving the documents, I am unable to elaborate their contents. The lawyer I was forced to engage holds the documents

My complaints with the DSC dragged on for almost three years, with no resolution.

Initially the DSC insisted I "conciliate" with the then Yooralla general manager and a then regional manager. But after reading the leaked internal Yooralla documents I unwittingly received, I would not. I told the DSC I was unable to sit in the same room as them.

After I unwittingly received the documents, the commissioner wanted to have a meeting with me. This meeting took place. A funded advocate also attended. Over more than two hours I was grilled as to what I knew. It could not have made it plainer to me that they were attempting to discover what I might have done/might do with the documents. It was apparent to me they worked in tandem.

Throughout my dealings with the DSC I have insisted that Yooralla respond to my questions in writing. However the so-called protective mechanism announced that Yooralla was reluctant to respond in writing. The DSC have meetings - where conveniently everything said is confidential.

In 2013 the DSC took the opportunity while I was overseas for a month to close my complaints file.

The funded advocate, who was supposed to be advocating for my son and me, demanded that I enter into "conciliation" with the DSC and Yooralla. I would not because my questions to Yooralla had not been answered in writing.

I requested that the funded advocate inform the DSC that I would be overseas for a month. He said he would do so. However the DSC claim they received no such information from him. Apparently the funded advocate "forgot" to inform them.

Curiously, after so little action from the DSC over around two years at this point, the commissioner swiftly posted two concurrent letters to my home address, closing my file. Unlike other correspondences from the DSC, whereby hard copies posted to me were also emailed to me, on these two occasions they were not. Had I received emails of this correspondence as well I could have responded from overseas. But because I did not, I was unable to reply. As such my complaints file was closed by the DSC by the time I returned to Australia.

The DSC claimed their reason for closing my file was that Yooralla *intended* to address the many, long-term and ongoing issues at my son's house. This because they had employed a consultancy firm, SAL Consulting, to undertake a review of the house.

Two Yooralla houses were apparently "reviewed" by SAL Consulting – my son's house, and another Yooralla-run house that was the subject of an article on poor levels of care in an article in The Age newspaper on July 29, 2013.

"Host of problems at home in crisis"

<http://www.theage.com.au/victoria/host-of-problems-at-home-in-crisis-20130728-2qsmq.html>

Rumour has it – and unfortunately rumours abound in the sector, I say due to a lack of financial transparency - the cost of the reviews across the two houses exceeded \$150,000.

In relation to Yooralla's financial accountability, I believe this inquiry must be concerned about and review the organisation's financial management practices. Over recent years there have been a string of consultations, internal investigations, reviews, audits and reports, and they continue, the latest being KPMG.

I believe this inquiry must question - where does the money come to pay for them all? In an organisation that recently cut 33.5 staffing hours per fortnight at my son's house, and apparently has cut staffing hours at facilities across the organisation? An organisation that claims it cannot provide appropriate permanent transport at my son's house?

An organisation where - again rumour has it – the former CEO's salary was apparently in the vicinity of \$450,000 per annum?

This is government funding that is supposed to be for the care of our most vulnerable citizens.

On December 9, 2014, a disability advocacy group called on Victoria's new premier Daniel Andrews to sack the board of Yooralla, claiming misappropriation of taxpayer funds. United Voices for People with Disabilities distributed an "Open

Letter to Premier Andrews" to the media. The letter alleged excessive payments of up to \$1.6 million were made to eight Yooralla senior managers, over four years, on top of their salaries.

"Group calls for Yooralla board sacking"

<http://www.news.com.au/national/breaking-news/group-calls-for-yooralla-board-sacking/story-e6frfku9-1227150442892>

Is this the case? If not, why has the premier not publicly refuted the claim?

Yooralla did not have to demonstrate to the DSC that they had actually addressed any of the issues I raised, they simply had to inform the DSC they were conducting a review, and that's all the DSC required. No actual outcomes were required.

There have been no resolutions to date from the SAL review at my son's house, which has now been dragging on for some two years. It was initially requested I sit on a committee in relation to the SAL Consulting review, however I would not as the former general manager and a former regional manager sat on the same committee.

The only discernible outcome from this particular and apparently hugely expensive review to date is that 33.5 staffing hours per fortnight have recently been cut from my son's house.

These staff cuts are so close to the bone that staff change-over has been cut from half an hour to 15 minutes. This means that if a staff member is 10 or 15 minutes late for work there is no change-over at all, which is downright dangerous, particularly if that staff member is agency/casual and a stranger to residents.

Due to the staffing cuts there are periods of time that one staff member is alone with six residents with high support needs, a staff member who is potentially agency/casual and a stranger to them. To me this in itself constitutes abuse.

[I add that despite its recent claims of "transparency" and "transformational change" Yooralla management remains the master of non-answers. To illustrate this below is email correspondence between myself and the service manager of my son's house on May 18, 2015:

My question: Re the roster changes you're working on, will this mean the 33.5 staffing hours cut will be reinstated, the change-over time back from 15 minutes to half an hour, and staff no longer alone with six residents for periods of time?

Service manager's response: Re the rosters, adjusting them needs to be very well planned, any hours used should to be for the benefit of the residents and

fulfill their needs. I have had a number of discussions with staff members to work out what doesn't work at the current time and how this can be improved from a resident needs point of view. I have also requested as much input as possible from the residents themselves as to how aspects of the roster impact on them. There have been several suggestions of ways to help with the bus runs and to promote community access at weekends so I am hopeful of coming up with some improvements.]

Yooralla's latest glossy brochure "How we're upholding safeguards" talks about self-advocacy, more staff training, improved recruitment requests, building a reporting culture, supporting government inquiries and creating advisory committees.

What it does not talk about is why savage cuts to staffing hours have occurred, why the organisation seems incapable of recruiting and retaining permanent staff, why agency/casual staff are constantly used, why board, management and staff who failed in their duty of care continue to work for the organisation, why the former CEO was apparently receiving such an obscenely high salary, and why, as illustrated above, they continue to treat families in a condescending manner – to name but a few.

In its initial report SAL Consulting omitted my son's family as an important part of his life, when all other families were included.

I wrote to SAL Consulting and insisted this untruth be rectified and re-distributed to all who were originally sent copies of the document (DHS, DSC - even Victoria's public advocate appears to have been sent it, although I don't know why). It is exhausting trying to get these well-paid "professionals" to do their jobs.

Given my personal experiences over recent years, I fully understand why so many families, exhausted, exasperated, tired of being patronised and brick-walled, either remove their loved ones from supported accommodation and take them home, or walk away from their loved ones.

It took eight months and many letters from me to DSC and DHS before the Yooralla general manager did anything to rectify this. Yooralla, and the DSC, seem to ignore matters such as these and hope they will simply go away, regardless of how many times you write in relation to them.

Upon my return to Australia in October 2013 I quoted the *Disability Act 2006* and insisted the DSC re-open my complaints file. They did. Soon afterwards, at a meeting with the commissioner and DSC staff also attended by our new advocate, from United Voices for People with Disabilities (UVPD), I told the commissioner that it appeared to me that Yooralla was as concerned about the DSC as they would a wet blanket, and asked him why this was the case. The commissioner did not answer my question.

Over the past three years I have sent 191 emails to the DSC in relation to my complaints. Trying to get Yooralla, DHS, DSC and funded advocates to do their jobs has not only been emotionally exhausting but pretty much sent me broke.

In mid 2014, pre the Four Corners program "In Our Care", it was reported in the draft SAL Report, that my relationship with Yooralla was "fractured beyond repair." It was implied that the best thing would be that my son move to another service provider.

I informed the DSC that to imply that Yooralla's by that time widely-reported issues around rape, abuse, neglect, mismanagement and cover-ups was somehow my fault, as was implied with the "fractured beyond repair" comment, is unacceptable; that around 2000 staff work for Yooralla and to imply that my relationship with all of them was "fractured beyond repair" offensive and insulting. I have always enjoyed good relationships with house staff.

Victoria's public advocate is the only one of the so-called protective mechanisms that appeared to be aware of Yooralla's sub-standard service delivery. I say this because in August 2014 the public advocate offered to personally advocate to move my son to another disability service provider.

I say rather than move a vulnerable person who has intellectual disability and sensory impairments to new lodgings, it is clearly and obviously far better to address and rectify the problems and issues that I and other clients and families have been raising in relation to my son's house for six long years, and that this would be positive for all six high support needs residents.

However I reiterate all we have seen to date is 33.5 staff hours slashed from the roster per fortnight and, while what is assumed to be huge sums of money spent on a string of consultations, internal investigations, reviews, audits and reports, there is still no appropriate permanent transport at my son's house.

I reiterate that a review of the financial management practices of government-funded organisations such as Yooralla must surely be a major part of this inquiry.

As usual, there was nil consultation with clients and families in relation to Yooralla's recent "roster review" and cuts to staffing hours.

What should be done to eliminate barriers for responding to violence, abuse and neglect perpetrated against people with disability

In my view there continues to exist at Yooralla a culture where clients, families and staff are not confident to raise issues of concern and, despite glossy brochures such as "How we're upholding safeguards," issues of concern continue to be glossed over, and not listened to nor acted upon.

This does not surprise me given my experiences, and given the organisation's board and current senior management.

I say this because four of Yooralla's current board members were board members when the rapes and abuse became public in mid-2012. If those board members knew of the abuse, neglect, poor quality care, culture of fear, cover-up attempts and bullying as exposed in multiple media reports and in the Four Corners program, then they failed in their duty of care in relation to governance.

If on the other hand they did not know of the abuse, neglect, poor quality care, culture of fear, cover-up attempts and bullying exposed to the wider public, then they failed in their duty of care in relation to governance.

Many senior management who continue to work at Yooralla, worked at Yooralla in a climate of abuse, neglect, poor quality care, culture of fear, cover-ups and bullying.

Any argument that the current CEO and chairman are any different than the previous management and governance regime is in my view unreasonable. I say this as, upon the resignation of the former CEO, both the current CEO and current board chairman publicly voiced glowing accolades in relation to the former CEO such as "he leaves the organisation in good shape."

Both made such statements on the eve of the Four Corners program on November 24, 2014. That night several million Australians learnt of the shocking levels of mismanagement, abuse and neglect that had proliferated for years. Yet to date they have not retracted their gushing accolades. As such I believe that they are unfit to govern and manage the organisation.

In my view clients, families and staff can have no confidence in raising concerns when so many Yooralla managers who failed to do their jobs – I refer again to the Four Corners program as well as media reports over the past three years – continue to work for Yooralla.

Many Yooralla clients, staff and families are aware that many caring and competent staff members, such as Gerard Butler who appeared on the Four Corners program, were stood down or felt they had no option but to resign after speaking up about their concerns about vulnerable clients.

Yooralla's culture of standing down and sacking caring competent staff, protecting managers who did not do their jobs, and moving bullies into plum roles – to name a few – does not inspire any confidence at all. This will not take place until the board is removed.

In the meantime, I am aware, as an unwitting repository for whistle-blowers, due to articles I have published, and my and my son's inclusion on the Four Corners program, that for Yooralla direct care staff jobs are "on the line" if anyone speaks out about issues or concerns.

I say this as over recent weeks I have been told by a number of staff that under no uncertain circumstances they will be sacked if they discuss the cuts to staffing hours across the organisation, and the effects of those staffing cuts to clients, to myself or to the media.

Right now, despite all Yooralla's rhetoric, claims of "transformational change" and glossy publications, the gulf between staff and management appears to be as wide as ever.

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In my view this means that the safety, well-being and quality of life of my son and other residents remains as precarious as it has ever been.

Lack of transparency

A lack of transparency in the disability sector continues to be rife. By way of example, I was recently informed by a senior DHS bureaucrat that my request for the terms of reference for the latest review of Yooralla's services, this one by KPMG, which is being funded by DHS, was refused, citing "confidentiality."

While this is nonsensical, in my experience it is the norm in this cosy, self-protecting sector, and reminiscent of revelations aired in the media recently around the Royal Commission into Institutional Responses into Child Sexual Abuse.

A further example is the widely-known attempt by consultants Max Jackson and Margaret Ryan to obtain a full copy of the "Joyce Report" - which was commissioned by DHS in 2012 following revelations of abuse at Yooralla, and subsequently undertaken by a former DHS manager.

Jackson Ryan's request was made after the former Yooralla board chairman, who is now chairman of NDIA/NDIS, made a public statement to the ABC, following the Four Corners program, that a full copy of the Joyce Report was available on the Yooralla website.

However Jackson Ryan say this proved not to be the case. Instead, after more than two months of road-blocking by Yooralla representatives, Jackson Ryan state they were told they could not have a copy of the report.

This type of brick-walling is the norm in this self-protecting sector, and again reminiscent of revelations publicly aired in the media recently in the Royal Commission into Institutional Responses into Child Sexual Abuse.

That The Age newspaper on April 11, 2015, revealed a 20-year cover-up of abuse in a Mornington Peninsula home for people with disability run by the Department of Human Services, is no surprise to those involved in the disability sector, and is yet again reminiscent of revelations publicly aired in the media recently in the Royal Commission into Institutional Responses into Child Sexual Abuse.

“Disabled were abused in house of horrors”

<http://www.theage.com.au/victoria/disabled-were-abused-in-house-of-horrors-and-governments-covered-it-up-20150410-1mgq13.html>

What needs to be done to protect people with disability from violence, abuse and neglect

Despite rapes, deaths and neglect in care, the disability sector remains obsessed with self-protection. This became apparent to me from the onset of the public revelations of abuse at Yooralla, and from my experiences, and is reminiscent of revelations publicly aired in the media recently in the Royal Commission into Institutional Responses into Child Sexual Abuse.

Despite the proliferation of policies, procedures and rhetoric about rights and protection, the systemic issues of powerlessness of people with disabilities and their families, pressure on staff and whistle-blowers to remain quiet, cover up by senior bureaucrats, secrecy and lack of transparency continues.

While those in power in Victoria's disability sector remain in power, I predict there will be no change or reform. How can there be when senior bureaucrats and board members who failed in their duty of care to people with disability either retain their positions, or been merely moved sideways? Again reminiscent of revelations publicly aired in the media recently in the Royal Commission into Institutional Responses into Child Sexual Abuse.

How can there be any change when the Yooralla board and senior management have yet to be taken to task after it failed its clients for years? Again reminiscent of revelations publicly aired in the media recently in the Royal Commission into Institutional Responses into Child Sexual Abuse.

How can there be any change when the DHS public servant responsible for disability and wards of the state was found by a court to have breached her duty to care for some of Victoria's most vulnerable children, yet when this occurred the then minister publicly stated she had confidence in her?

“Public servant found to have breached duty of care to children”

<http://www.abc.net.au/news/2014-07-23/public-servant-found-to-have-breached-duty-of-care-to-children/5618722>

How can there be any change when the same DHS public servant, also responsible for disability from 2009 – 2014 when abuse of people with disability was regularly reported in the media, was in 2014 appointed by Victoria's incoming state government as Secretary of the Department of Education and Early Childhood Development?

During this public servant's DHS tenure, DHS refused to provide figures on deaths in departmental supported accommodation, and failed to properly supervise government-funded service providers such as Yooralla.

How can there be any change when, despite media reports around rape and abuse of Yooralla clients, the former Yooralla CEO was invited by another of his former employers, Victoria Police, to become a member of its newly-formed Disability Portfolio Reference Group.

Many were astonished by this appointment. In response to a November 17, 2014, complaint from United Voices for People with Disabilities, Victoria Police's director of corporate strategy wrote that after investigating concerns about Yooralla and Yooralla's former CEO "Victoria Police is satisfied for Yooralla to remain a member of the Disability Portfolio Reference Group and for their chief executive officer to act as the representative".

http://www.uvpd.org.au/uploads/3/2/1/5/3215917/victoria_police_to_uvpd_17_no_v_2014.pdf

However, Victoria Police reconsidered its position following revelations by Fairfax Media and the ABC's Four Corners on November 24, 2014, of three serious sex abuse cases within Yooralla and alleged management failures.

“Victoria Police Suspend Yooralla from Advisory Group”

<http://www.theage.com.au/victoria/police-suspend-yooralla-from-advisory-group-following-sex-abuse-revelations-20141207-121zar.html>

Why no change?

I submit - why have successive DHS secretaries failed to take to task managers and staff in departmental managed facilities?

Why have boards and chief executives of funded agencies failed to take to task managers and staff who failed to do their jobs?

Why does this remain unchanged, despite more than three years of media reports of abuse, neglect, cover-ups and lack of transparency, and the revelations on the Four Corners program on November 24, 2015?

Why have successive Victorian public advocates since the inception of that position in 1986, although self-satisfied by reporting on abuse in disability care, not been proactive by, for example, urging the government of the day undertake inquiries into abuse in the disability sector?

For example, the 2014 Annual Report of the Community Visitors, who operate under the guidance of Victoria's Public Advocate, expressed *"... real concerns that abuse and neglect of people with disabilities, including neglect of health care, is systemic in group homes."*

In the same report the Public Advocate stated that *"Community Visitors have continued their focus on abuse and violence because the protection of those they visit is central to their role. Unfortunately, the pattern indentified over recent years continues with the number of these incidents reported increasing. I am aware that what Community Visitors see is only the tip of the iceberg"*.

Despite such reports the volunteer Community Visitors, who are no doubt well-intentioned, have clearly been ineffectual in actually preventing violence, abuse, neglect and exploitation of people with disability.

Apparently Community Visitors are only funded to visit a residential facility once a year. As such people with disability are open to violence, abuse and neglect for the other 364 days of the years.

Families like mine who have sought to represent their sons and daughters to Community Visitors, because their family members do not have the necessary communication skills to represent themselves, have hit a brick wall.

Community Visitors refuse to communicate with families who are speaking on behalf of loved ones who cannot effectively communicate. The public advocate maintains this is reasonable, citing "privacy laws."

I asked the public advocate the question: in ignoring families, who then speaks for my son when Community Visitors go to my son's house? Might it be a staff member such as the Yooralla rapist Vinod Kumar, who worked at my son's house?

The public advocate told me that Community Visitors "observe". I asked the public advocate if they were "observing" while Yooralla clients were being raped? The public advocate did not answer my question.

I asked the public advocate why Community Visitors refused to communicate with families. The public advocate replied it was because of "privacy laws." I asked the public advocate to advise which particular legislation this referred to.

The public advocate replied that: "section 36 of the *Disability Act 2006* details the secrecy provisions Community Visitors must adhere to, and section 132 describes the service provider's responsibility to keep a record of Community Visitors visit reports."

I replied to the public advocate that my reading of s.132 of the *Disability Act 2006* simply relates to record keeping by residential services in relation to visits by Community Visitors. I stated that, therefore, I cannot see the import this reference has to my original query. I added that with reference to s. 36, I believe that this section does allow for information to be provided to any person, "to the extent necessary for the person". This therefore suggests that just so long as identifying information is deleted from the report there is no reason why it cannot be provided.

The public advocate's interpretation of these sections of the *Disability Act* means that the rights of all people with disability to be heard are being compromised.

What can be done to prevent abuse?

That The Age newspaper on April 11, 2015, revealed a 20-year cover-up of abuse in a Mornington Peninsula home for people with disability run by the Department of Human services, is no surprise to those involved in the disability sector.

Despite rapes, deaths and neglect in care, the disability sector is obsessed with self-protection. This became apparent to me from the onset of the public revelations of abuse at Yooralla; the scramble was swift and obvious.

Families like mine remain baffled as to why the former Victorian Ombudsman nor Disability Services Commissioner would not act on requests to investigate Yooralla. In the case of the DSC, this still applies.

Abuse in the disability sector will continue unabated while self-protection, and such a "clubby" atmosphere, continues. To illustrate this "cosiness" I refer to an article in The Age newspaper on September 20, 2012:

The article, "Department goes in pursuit of whistleblowers" was about the Victorian government spending thousands of dollars hunting whistleblowers behind leaks about the abuse of disabled people in state care, and alleged cover-ups. It stated the Department of Human Services had engaged a forensic investigatory firm, McGrathNicol, to trace the source of leaks to The Age.

"Department goes in pursuit of whistleblowers"

<http://www.theage.com.au/victoria/departement-goes-in-pursuit-of-whistleblowers-20120919-26712.html>

At the time the article was published, a professional practice consultant at McGrathNicol was at the same time on the board of the Disability Services Commissioner, which is funded by the Department of Human Services.

Again reminiscent of revelations publicly aired in the media recently in the Royal Commission into Institutional Responses into Child Sexual Abuse.

While such conflicts of interest such are permitted to continue to occur, nothing will change in the disability sector.

Despite the proliferation of policies, procedures and rhetoric about rights and protection, the systemic issues of powerlessness of people with disabilities and their families, pressure on staff and whistle-blowers to remain quiet, cover up by senior bureaucrats, secrecy and lack of transparency, will continue.

While those in power in Victoria's disability sector remain in power, there will be no reforms.

How can there be when the Yooralla board and senior management have yet to be taken to task after it failed its clients for years?

Again reminiscent of revelations publicly aired in the media recently in the Royal Commission into Institutional Responses into Child Sexual Abuse.

I ask this inquiry to consider:

Why has Victoria's Disability Services Commissioner, a former DHS manager, not undertaken a single investigation since 2010, while at the same time abuse and neglect has obviously proliferated – and they only the incidents reported in the media?

Why have successive public advocates since the inception of that position in 1986, although self-satisfied by reporting on abuse in disability care, and claiming it is the "tip of the iceberg", not been proactive in actually doing anything about it?

Are the obvious failures of the DSC and the Community Visitors to be forthright in their criticism of either the Department of Human Services or the government of the day due to their funding?

Why have so many people with disability, families and staff contacted me with their shocking revelations and concerns, a mother who happens to advocate for and speak publicly about my concerns for my son's safety, well-being and quality of life?

I say so many have contacted me because they have nowhere else to go, despite legislative requirements and the so-called protective mechanisms in place without fear of retribution or of being patronised or ignored.

I say so many have contacted me because they have nowhere else to go, despite funded advocates, who appear to have achieved little in decades - otherwise this, and other inquiries, would not be taking place.

I reiterate it was the media that exposed the abuse at Yooralla, not the so-called protective mechanisms or funded advocates.

Clearly the current “protective” system does not work.

I contend it is essential that for desperately needed reforms to occur a separate entity be urgently established – a disability compliance authority – so that people can report violence, abuse, neglect, exploitation, bullying and cover-ups without fear.

What is required is a robust disability compliance authority where people can go with any complaint, regardless of the agency involved.

What is required is a robust disability compliance authority where no staff or management are employed from the ranks of DHS, DCS, the Office of the Public Advocate, or service providers such as Yooralla.

I say abuse and neglect will likely continue across the disability sector while the high casualisation of staff, high part-time work and low rates of pay, which has led to the de-professionalisation of the sector, continues.

I say abuse and neglect will likely continue across the disability sector while organisations like Yooralla slash staffing hours with impunity, and while those dishing out taxpayer funding to them, such as DHS, do nothing about it.

I say abuse and neglect will likely continue across the disability sector while funded advocates who, despite almost three decades of existence have, given the levels of violence, abuse, neglect, mismanagement and cover-ups exposed in the media over recent years, clearly achieved little. There was almost

complete silence from funded advocates following the expose of the rapes and abuse at Yooralla in the media.

I say abuse and neglect will likely continue across the disability sector while the rights of those with disability who can speak for themselves are not listened to by the handful so-called "professionals" who direct policy in the disability sector.

I say abuse and neglect will likely continue across the disability sector while people with disability who can speak for themselves are not represented at all levels, from policy to planning to boards of management to the NDIS.

I say abuse and neglect will likely continue across the disability sector while the rights of those who cannot speak for themselves are compromised, their families ignored.

I say abuse and neglect will likely continue across the disability sector while those in positions of power continue to fail to understand that there are people with disabilities who, despite whatever supports are provided, will never reach the capacity level to be able to articulate in any form concerns about violence and abuse that may be perpetrated against them.

I say abuse and neglect will likely continue across the disability sector while the principles and requirements of the Disability and Human Rights Acts continue to be ignored.

I say abuse and neglect will likely continue across the disability sector while the Disability Services Commissioner continues to refuse to investigate complaints. I contend the Office of the Disability Services Commissioner is untenable.

I say abuse and neglect will likely continue across the disability sector while Victoria's public advocate, through the volunteer Community Visitors program, continues to refuse that families represent a son or daughter who does not have the capacity to speak for themselves.

This means that the reporting of service deficits, including incidents of abuse and neglect, by a family member on behalf of a person who does not have the capacity to communicate, is negated. I contend the volunteer Community Visitors program is untenable, and must be replaced by paid disability inspectors.

I contend that families must be permitted to represent and advocate for their loved one, and be no longer brick-walled by the public advocate's interpretation of legislation.

I say abuse and neglect will likely continue across the disability sector while a secretary of DHS fails to ensure that funded agencies meet their contractual

obligations, such as the case of Yooralla and its widely-reported failures of duty of care obligations.

I say abuse and neglect will likely continue across the disability sector while there are no enforceable penalties placed on people and organisations that fail in their duty of care.

I say abuse and neglect will likely continue across the disability sector while the same people in the positions of power and influence they currently enjoy remain in those positions of power and influence: if they didn't previously effect the changes necessary to combat violence, abuse and neglect, they are unlikely to alter their ways. Leopards do not change their spots.

What is happening right now

Despite Yooralla's recent claims of "transparency" and "transformational change" and the printing of glossy brochures such as "How we're upholding safeguards" and dashing about running NDIS seminars, and advertising for a director of its board, this week my son and his co-residents were once again at risk.

This is because a resident apparently became enraged and verbally abused staff and clients while careering around dangerously in a heavy electric wheelchair. This is not the first time this has occurred. I understand police have attended in relation to previous outbursts of rage by the same person on at least three occasions.

This same resident often tells me of the stress and indignities he experiences coping with agency/casual staff, and tells me of the neglect of my son by some agency/casual staff, often with tears in his eyes. While a good person the resident clearly has a violent temper, and appears to need help, and a reassessment of his placement. But nothing ever happens.

Another mother told me she was picking up her son on Monday evening, June 8, 2015, when the other resident's latest explosion of rage occurred. She said all the residents were in tears. Because she witnessed this outburst she said she wrote to the regional manager about the incident the following morning, June 9. She said she received a reply from the regional manager telling her nothing more than that he would get back to her. By Thursday evening, June 12, she had received no further response.

As usual I, and I assume other families, have not been informed by Yooralla of this latest outburst and subsequent enormous upset and risk to residents.

Despite six long years of Yooralla claiming it is "working hard" to employ permanent staff, on Thursday evening, June 12, 2015, there were two casual staff working together on shift at my son's house. Both told me they had only

previously worked at the house on a couple of previous occasions. Meaning the vulnerable residents were yet again faced with strangers.

Concerns

On December 2, 2014, it was reported in the media that Victoria's newly elected Labor Government would "move quickly to undertake a thorough Parliamentary Inquiry into the systemic failures in Victoria's disability care system." It was reported that the new Minister "hoped the parliamentary inquiry would shed light on the 'abhorrent' culture of abuse."

Yet it was not until May 5, 2015, that the inquiry was announced. Precedence was given to the Lost Dogs Home and greyhounds. This is of no surprise to those involved in the disability sector.

That a time-frame that allowed a ridiculously short amount of time for people to make submissions to the first part of the inquiry, with submissions closing June 10, is of no surprise to those involved in the disability sector.

That the Ombudsman's investigation into abuse in the disability sector commenced in December 2014, but the terms of reference were not published until March 2, 2015, despite submissions having taken place since 2014, is of no surprise to those involved in the disability sector.

That the announcement of the Parliamentary Inquiry included in the published statement advice to the Family and Community Development Committee of the Victorian Parliament (FCDC) that - *'In undertaking the inquiry, the Committee should: (i) seek not to prejudice any investigations being undertaken by the Ombudsman or any Victorian Government agencies or any legal proceeding, and (ii) work cooperatively with the Ombudsman to avoid unnecessary duplication. Further, that the 'Committee should have regard to any preliminary findings, recommendations or advice from the Ombudsman's investigation ...'* is of no surprise to those involved in the disability sector.

That it appears the FCDC has been forced into a position subservient to the Ombudsman's investigation, is of no surprise to those involved in the disability sector.

That the FCDC is largely restricted in making any findings, recommendations or advice that are independent of either of the Ombudsman's reports, meaning the independence of the FCDC is totally compromised, is of no surprise to those involved in the disability sector.

The Federal Senate Inquiry into the disability sector, on the other hand, has had no such restrictions imposed on its work, responsibilities and authorities. The

Senate Inquiry is not required to take into account work being undertaken by other bodies, either in the Federal jurisdictions or other jurisdictions.

In closing

Many families anticipate that little will come out of this inquiry, nor the Ombudsman's investigation, and each will be merely more expensive and time-consuming exercises whereby nothing happens, except some more reports to gather dust with all the other reports.

The question is – is this committee up to the challenge of ensuring this does not occur?

**Note – The Department of Human Services (DHS) recently became known as the Department of Health and Human Services (DHHS). However, I have used the term DHS throughout this text.*