



July 2013

Ms Karen Toohey
Acting Commissioner
Victorian Equal Opportunity and Human Rights Commission
Level 3, 204 Lygon Street
Carlton VIC 3053

Dear Ms Toohey

Submission by the Victorian Ombudsman

I am writing to provide a submission to the Victorian Equal Opportunity and Human Rights Commission's (the Commission's) *Experiences of people with disabilities reporting crime project*.

In line with the aims of your project I have confined this submission to barriers observed by this office for people with disabilities in reporting crimes. These observations are based on the complaints received and investigations undertaken by this office.

The principal function of the Ombudsman's office, as defined under the *Ombudsman Act 1973* (the Act), is to review, investigate and resolve complaints about administrative actions taken by or on behalf of government departments, public statutory bodies, and officers and employees of municipal councils. The Act also enables the Ombudsman to investigate whether an administrative action is consistent with the *Charter of Human Rights and Responsibilities Act 2006*. The Ombudsman may also investigate protected disclosure complaints referred by the Independent Broad-based Anti-corruption Commission. As such, this office has jurisdiction over approximately 1,000 Victorian government agencies.

The Act enables this office to make enquiries or conduct formal investigations in relation to complaints received or on the Ombudsman's own motion. This includes complaints relating to the care of people with disabilities. In the last two years this office received 132 complaints relating to the Department of Human Services (the department's) Disability Services program. We also receive a number of other complaints regarding services provided to people with disabilities by other state and local government agencies.

In March 2011 the Ombudsman tabled a report in Parliament *Ombudsman Investigation - Assault of a Disability Services Client by Department of Human*

Services Staff detailing an investigation undertaken by this office following a complaint received from the Public Advocate, Ms Colleen Pearce. I have provided a copy for your reference.

This investigation detailed the assault of a disability client at a Community Residential Unit. The client who was non-verbal, was dragged along a carpeted hallway by two staff resulting in a second degree burn to his back. The resident did not receive medical treatment for over 24 hours for the injuries he suffered. The investigation also identified that officers from the department misled Community Visitors about the incident and fabricated documentation regarding the department's response to the assault.


However of relevance to your project, this investigation highlighted the important role of community visitors who independently visit and report on the quality and standard of disability care provided to residents who often cannot speak for themselves. In addition, accurate incident reporting of crimes involving people with disabilities is critical. In this investigation the dragging of the client down the hall was classified as a category two incident. The Ombudsman concluded that this classification was clearly incorrect and the incident should have been classified as a category one incident. Had the incident been correctly classified it would have been reported to the client's family and the police as well as the report being provided to the regional director within one day.

Other complaints received by this office have also identified concerns with incident classification. Many of these complaints have concerned people who are incapable of reporting crimes themselves. It has been our experience that, incorrect classification of incidents has been the greatest hindrance to the reporting of possible crimes against people who lack the capacity to act on their own behalf.

I trust that this submission is of assistance to the Commission in its project.

If your staff have any queries they may contact David Warner, Communications Adviser on (03) 9613 6235.

Yours sincerely


John R Taylor
Acting Ombudsman