

24 March 2016

Dear parents and carers (disability organisations and human rights advocates)

On 22 March 2016, parents of children at Bendigo Special Developmental School received a letter from Acting Deputy Secretary, Bruce Armstrong in relation to the recent investigation into Bendigo SDS.

The letter appeared to be designed to calm and placate parents of students with disabilities who attend Bendigo SDS and give them confidence that the recent investigation was appropriate and its outcomes positive.

Here are the actual facts about the conduct of the investigation. It is up to individuals to decide at the end as to whether the Department of Education and Training (DET) are corrupt at every level, and whether violence, abuse and neglect against students with disabilities in Victorian schools is so ingrained in all DET employees that it is impossible for them to ever condemn a practice against students with disabilities, regardless of how inhumane, violent or degrading.

Reluctance of Minister Merlino to conduct an investigation

On 24 May 2015, Disability Advocate Julie Phillips (the writer) wrote to Minister Merlino requesting an urgent investigation into Bendigo SDS. Numerous attachments and evidence of long-standing reports of caging children, restraint and seclusion were attached (20 attachments).

On 5 June 2015 the writer again emails Minister Merlino advising him of a deterioration in treatment of children and families and requests a response to the original letter. Minister Merlino claims not to have received the covering letter - only the attachments. Despite receiving the attachments, his office had not contacted the writer to enquire as to why they were being sent.

On 2 July 2015, the writer again emails Minister Merlino referring to the letters dated 24 May 2015 and 5 June 2015 expressing concern that there has been no response.

On 6 July 2015, Minister Merlino responds to the writer and says he is making enquiries.

Only 16 July 2015 the writer contacts Minister Merlino questioning why no action is occurring and stating the importance of the transaction.

On 18 August 2015, the writer contacts Minister Merlino and says there has been no contact. She advises Minister Merlino that she has attempted over a number of months to engage constructively with him, and if he does not act she will be publicly releasing numerous documents in relation to Bendigo SDS and DET.

On 5 September 2015, the writer contacts Acting Deputy Secretary Bruce Armstrong stating that two months previous, Minister Merlino had advised that he would contact her and she had heard nothing. The writer suggests a lawyer and ex Human Rights Commissioner to undertake the investigation into Bendigo SDS.

On 9 September 2015, Acting Deputy Secretary Bruce Armstrong, after three months of sustained pressure, agrees that there will be an investigation.

How DET ensured that the least amount of people possible would contribute to the inquiry

In her letter to Minister Merlino dated 24 May 2015, the writer requested that any investigation reports directly to the Ministry and not DET. The reasons given were:

- DET had been advised in writing since the end of 2010 that cages were being used at Bendigo SDS and had not even responded to the informant
- DET have been advised in writing since the end of 2010 that inhumane and degrading practices were in place at Bendigo SDS and had not even responded to the informant
- the current Regional Director had lost confidence amongst many parents in the region and had endorsed the use of any restrictive practices reported to her in the last few years.
- Deputy Secretary Nicholas Pole had been advised of numerous criminal acts and restraint and seclusion at Marnebek School and had refused an independent inquiry.
- Deputy Secretaries Nicholas Pole and Monique Dawson had been advised of restraint and seclusion in Ballarat schools and had failed to respond.
- Current senior staff at DET had failed to prohibit seclusion despite the Victorian Equal Opportunity and Human Rights Commission and the Office of the Public Advocate recommending it do so.
- Deputy Secretary Monique Dawson had engaged in victimisation of the writer.
- The DET Legal Department had been involved in covering up inhumane and degrading treatment of students with disabilities in Victorian schools for years.

Request refused - investigation allocated to DET itself. Not only is it allocated to DET, but it is allocated to the actual Region which had previously ignored the allegations of abuse – North West Region.

On 6 September 2015, the writer contacted Minister Merlino and asked him what protections he would give those contributing to the inquiry. Specifically:

- How he would protect parents and their children from further victimisation.
- How he would protect present and past Bendigo SDS teachers who decided they wished to be included in the inquiry

On 24 September 2015, the writer wrote to the chosen investigators and asked:

- If current staff were going to be able to provide information confidentially, because unless they knew that was the case, they would not contribute to the inquiry.
- If parents of current students were going to be able to provide information confidentially.
- If others who wish to contribute to the inquiry could have their names withheld from DET staff due to current personal attacks by supporters of Bendigo SDS through social media.

On 29 September 2015, the investigator wrote that all witnesses would be given the option to put their name to their statement and remain anonymous. They confirmed that even anonymous witnesses could make allegations that would be put to an individual for a response.

On 29 October 2015, the Acting Deputy Regional Director emailed staff to invite them to participate in the investigation. In his email he does not offer confidentiality.

October 2015 – DET changes investigators.

The former investigators already have an initial list of the people who wish to give evidence to the investigation. Rather than direct the former investigators to pass the list on directly to the new investigators, DET at the regional level collect the list of names in **direct breach of the confidentiality and anonymity they had promised individuals**. Mr Chris Thompson contacts individually each contributor which includes current DET employees and parents. Contributors are shocked at the breach and discussions in the community ensue about the fact that there is no confidentiality and anonymity in the investigation.

The writer on 15 November 2015, the writer emails Deputy Secretary Bruce Armstrong and Justitia Lawyers to advise that all names of those contributing to the investigation to date have been given to the very region that has known about allegations of abuse at Bendigo SDS and failed to act. She advises them that the promises made about how the investigation would be conducted confidentiality had been broken, and confidentiality and anonymity has been breached. The writer requests information as to how those people are going to be protected. It is never received.

On 16 November 2015, a member of the public requests that Mr Chris Thompson be removed from any involvement in the investigation. **Request refused.**

On 29 November 2015, the writer again emails Deputy Secretary Bruce Armstrong about the breach of confidentiality in leaking of names to DET. She confirms that:

- contributors to the investigation were guaranteed their contributions could be anonymous and confidential
- the fact that the leaking of the names was directly to Region where teachers were directly employed was worse than if their names have been provided without their permission to Head Office
- the former investigators could have contacted each participant and provided their names to the new investigators but they were not directed to do so by DET

- the investigation had now lost credibility and lost numerous possible contributors who now knew that they would not be protected.

On 6 December 2015, the writer emails Minister Merlino and states the investigation is corrupt and those that had volunteered to be involved in the investigation were shocked and betrayed when they found their names had been given to DET. The writer confirmed that if contributors had been advised that their names were going to be provided to DET some of them would have withdrawn, but they were not given that option. The writer advises Minister Merlino that the provision of the names to the same staff member supporting accused Bendigo SDS staff was a measure that in her opinion, was designed to frighten those who had not yet made up their mind about giving evidence. She stated that the only reason people were persevering with the investigation was in order that they could take the conduct of the investigation to the Ombudsman and Independent Broad-Based Anticorruption Commission. The writer advised Mr Merlino that many contributors already understood that there would be no findings against the Principal or the region.

Towards the end of 2015, the complainants were advised that their allegations would now be put to those they were complaining about and *“that this process would mean that **they would be identified** to the respondents as the relevant complainant in respect of the allegations.”* (Justitia report dated 18 March 2016 p2 para 8). This was despite the complainants previously being told they could make anonymous and confidential complaints. More complainants withdrew. Current teachers withdrew.

In summary, the conduct of the investigation process was designed to ensure that all contributors knew that their details would be provided to DET and no teachers would be able to contribute without their employer being aware. All promises of confidentiality, a farce.

How DET restricted the number of allegations that could be investigated.

Justitia investigated 43 allegations and five lines of enquiry (Justitia Report p 3 para 12).

DET restricted the number of allegations made by ensuring that the minimum amount of people possible would contribute to the inquiry (see directly above).

DET restricted the number of allegations made by tailoring the terms of reference to be so narrow as to cut out individual complaints of abuse. The Terms of Reference were as follows:

- to determine whether there is some risk of danger to students attending the school; and
- to identify whether the school’s operations and organisational culture creates a risk of inappropriate treatment of students attending Bendigo Special Developmental School.

Despite confirming that past abuses would be looked at, many of them were not. On 18 December 2015, Deputy Secretary Bruce Armstrong confirmed in writing that the investigation would necessarily involve investigations of past practices at the school.

At least two people out of the few who were left, made formal complaints of cages being in classrooms for many years and evidence was provided that they were used for behaviour management. Evidence provided included meeting minutes, reports to region and eyewitness reports. Justitia chose not to investigate.

Despite eyewitness accounts of abusive practices, many of them were not investigated, despite being reported to Justitia. There is no explanation as to why.



Allegations against Bendigo SDS provided to Minister Merlino and Justitia Lawyers that were not investigated. Minister Merlino holds a number of documents substantiating some of these allegations.

1. Some students were consistently subjected to restraint including prone restraint.
2. Multiple students were locked up for significant periods of time from 2007 onwards.
3. There were numerous cages in classrooms, made out of pool fence and fitted with locks.
4. Some children spent 50% of their time in a cage in the classroom.
5. External pens were locked.
6. A student teacher made a complaint to the Department of Education in relation to the locking up of children in inhumane structures at Bendigo SDS.
7. At least two students were tied to chairs.
8. One child was restrained in a pusher and was strapped when travelling into a vehicle in something akin to a straitjacket.
9. Students would be “dropped” to the ground by teaching staff kneeling them in the back of the leg.

The allegations above only constitute part of one person’s allegations. Multiple other allegations placed by persons who withdrew from the investigation once they knew their name would be given to the DET included:

10. The multiple use of pressure points against students by staff after staff being trained in pressure points.
11. Staff member grabbing a student around the throat and throwing him out of the building, observed by the Principal.
12. Staff member throwing a shoe at a student.
13. Staff members sitting on children pulling their arms behind their backs.
14. Staff member bragging how easily she can “drop” students.
15. Staff members “marching” students so their feet barely touched the ground.
16. Multiple seclusion of children in locked areas.
17. Staff member slapping a child around the head.
18. Victimisation of staff who complain.
19. Fraud.
20. Bruising on children.

Minister Merlino has failed to respond to allegations from the writer of:

-  Victimisation by senior personnel at DET
-  Covering up of abuse by senior personnel at DET

✚ Some of the practices above.

Results of investigation

From the limited number of allegations that made it through to the investigation, allegations of cages and seclusion rooms were found to be substantiated. Allegations that were found to be unsubstantiated were those that evidence did not support, or there was insufficient evidence to support. Therefore, unsubstantiated allegations should not be celebrated, rather many of them simply relied on one person's word against another person therefore it was impossible to find either way. *"Eleven of the 20 allegations against Ms Hommelhoff were not substantiated."* Justitia Report p6 para 19 b. Other allegations were substantiated or partially substantiated.

Bendigo SDS, Minister Merlino, Secretary Gill Callister and the Deputy Secretary Bruce Armstrong endorsement of violence and restrictive practices against children with disabilities

The use of cages in classrooms and locked seclusion areas, no matter how barbaric, have all been endorsed by the above personnel. DET staff have convinced Justitia that such practices are completely appropriate and reasonable. Despite the Federal Senate Community Affairs Reference Committee labelling such restrictive practices, including seclusion of distressed students with disabilities a "national shame" 4.141 p115 in their 2015 report on the abuse of people with disabilities, Victorian DET staff up to and including the Minister believe that such practices are completely appropriate.

The "Safe Room" at Bendigo SDS was found so horrific by the Senate Committee that they included the photograph in their report. I attach it as a reminder. DET are completely comfortable with its use as their glowing testimonies to Bendigo SDS reveal.

As for the excuse that current cages are to put children who have seizures in so visually impaired students do not trip over them - it is barely able to be believed that any adult could accept such an outrageous excuse. We can only assume that every special school and special developmental school with children who have epilepsy have cages in their classrooms.

Coincidentally, after human rights organisations made formal recommendations to prohibit seclusion, Minister Merlino has done the opposite. In October 2015, DET endorsed seclusion as a behaviour management tool. Just in time for the findings of the investigation.

The writer advised DET that if it didn't deal with these allegations in an honest, and transparent manner, she would. The documents that indicate violence, abuse, neglect and exploitation will be released to the public.

Julie Phillips
24 March 2016