VCAT or, NO VCAT : That is the legal question!

"DHS argue, VCAT cannot hear the case!"

Determined to retain its traditional power over the very people it is intended to serve, the Department of Human Services, Victoria, used its very extensive and very heavy legal artillery, at Ballarat, to argue that VCAT does not have jurisdiction to hear the case of the department's gross and unjustified cost increase which they are attempting to impose on the residents of their group homes throughout the state.

Whereas, at a VCAT directions hearing in Melbourne on 11 July 2013, they were buying-for-time to consolidate their argument to keep VCAT out – convincing the VCAT judge to set down times and dates for them to write a submission on the jurisdiction argument which seems to focus on sections 72(a) and (b) of the *Disability Act 2006* and the regulations.

Their argument seems to be that as they have not raised the residential charge above the 75% of DSP described in the regulations as 'not being excessive', then the decision to implement a take of 75% of the DSP for the "residential charge", now to be called "B&L", cannot be reviewed by VCAT.

Whereas, VCAT has the power under section 51 of the VCAT Act to review the decision and decide if the decision of DHS is a 'correct and proper' decision. A correct and proper decision would be that that the department not expect to be paid for what they are not providing the said residents. So far they have not justified the proposed 50% increase in the "residential charge".

The department has bought a heap of time to prepare its case for presentation to VCAT at the end of August, when VCAT will hear their refined jurisdictional argument.
(See link to Act and Regs.)

All this in an attempt to justify the department charging its group home residents for something they are not providing the said residents!

When the residents of DHS group homes have been paying their way, paying actual living costs from their DSP, through the very accountable and transparent CERS for many years, the obvious question is, "Why has the sneaky department seen a need to have a *back-stop regulation* apparently allowing them to move the *residential charge* from 'actual cost' to 'fixed fee' laying in waiting?"

Actions of this sneaky nature prove beyond reasonable doubt the department, supported by its minister in government, speaks with forked tongue. Its care policies standards and values speak one language, its actions speak another!

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