

4 October, 2012

Peter Dowling MP
Chair
Health and Community Services Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Dowling

Submission examining the Disability Services (Your Life Your Choice) Amendment Bill 2012.

This submission to the Health and Community Services Committee is provided by the Queensland Council of Social Service (QCOSS). QCOSS is a peak state-wide body for the health and community services sector in Queensland, with 600 members across the state.

QCOSS advocates for a fair, inclusive and sustainable Queensland. QCOSS provides a voice for Queenslanders affected by poverty and inequality; leads on issues of significance to the community services sector; and contributes to national issues through membership in the nation-wide COSS network.

This submission refers specifically to the Health and Community Services Committee's aim of examining:

- a) the contents of the Bill; and
- b) specific issues relating to the amendments to the Disability Services Act 2006 to enable people with a disability to receive funding to obtain disability services.

QCOSS supports the draft legislation however welcomes the opportunity to present a range of issues around subsequent implementation for consideration by the Committee.

Comments

QCOSS understands the intent of the Disability Services (Your Life Your Choice) Amendment Bill 2012 is to amend the *Disability Services Act 2006* to enable people with a disability to receive funding to obtain disability services. The following comments relate to the draft legislation as well as the structures that need to be in place to support the Your Life Your Choice trial.

Client Support:

Clause 4 Amendment of s 6 (Objects of Act) (2) Section 6 reads '(b) to ensure that people with a disability have choice and control in accessing relevant disability services'.

In determining access to appropriate services, clients with a disability, their families and carers will need to be provided with information and initial support on how to exercise their choice and control in accessing relevant disability services.

Existing clients who have not been processed through the Department's renewed Service Access System will require a review of their current support plans and guidance on how to incorporate this as a new option for their future goals.

As clients and/or their family/carers may not have the knowledge of, or resources available to enquire into relevant disability services, the services of a Service Access Team - Support Linker will be required. The Support Linker would have a role in providing the person with up-to-date information on availability, costs of service delivery, and responsiveness of services to the specific needs of the person. The Department of Communities states that a person may use part of their funding to purchase co-ordination services. This will reduce the funds available for direct service provision and may be a disincentive for people to access the assistance they need. QCOSS submits that further investigation is required about the need for paid co-ordination services including whether funds or resources for this purpose should be provided outside of, or in addition to, the self directed funding package.

Client Capacity to Self Direct:

Clause 5 Amendment of s 7 (How objects are mainly achieved) Section 7 reads '(c) regulating disability services funded by the department to enable consumer choice and ensure the quality, safety, responsiveness and accountability of the services. The following issues arise in regard to this clause:

A person may express a desire to exercise their own choice and control when assessed for specialised disability services. However, they or their family may have concerns about their capacity to do this effectively. Evidence from their assessment may include a level of intellectual impairment, a chronic mental illness or an acquired brain injury. Whilst the trial incorporates eligibility criteria related to capacity, future consideration needs to be given to how disability services can balance consumer choice with the need for capacity to self direct funding.

In her speech to Parliament to introduce the Bill on September 11, 2012 the Hon Tracy Davis spoke about the two ways a person will be able to have control over their funding, either by working with a host provider or by receiving their funding directly. The role of the host provider needs to be clarified in regard to new as well as existing clients and how they will support the person.

Alternatively, the person who elects to receive their funding directly may require links to relevant supports to assist them to understand budgets, WH&S requirements, public liability and other insurances.

There may need to be a provision for block funding of services to accommodate the needs of persons who do not have the capacity to exercise choice and control.

Accountability/Compliance:

Clause 7 Insertion of new pt 5A 'Part 5A Funding to people with a disability '43A Purpose of pt 5A states 'The purpose of this part is to enable people with a disability to receive funding to obtain relevant disability services', and, additionally, **'43D Individual funding agreement'**, (1) and (2). The following issues arise in regard to these provisions:

If the current Service Access process applies (intake, assessment and support linker), the client would presumably be given the opportunity to opt for self directed funding after initial assessment. A Support Linker will need to be involved to enable the person to "enter into an individual funding agreement under section 43D (2) in relation to the funding". There may be a need for ongoing or occasional support from the Support Linker to ensure that the person/nominee is meeting the requirements for accountability and compliance as dictated in the written agreement for the funding.

The person/nominee will need to access their own financial and/or legal adviser about matters pertaining to the written agreement to fully understand the terms and conditions the chief executive considers appropriate. It is also not clear whether the individual agreement is standard or tailored to suit the best interests of the individual or whether the individual will have an opportunity to negotiate the terms and conditions of the agreement.

The Hon Tracy Davis, in her speech to Parliament, also explained that the agreement will be set out in plain English outlining the types of services and supports that can be purchased. However, the person or their nominee will still need to obtain adequate data on available services, costs etc. within their own location to present to the chief executive to enable approval of the written agreement.

It is not clear whether funding for financial and legal advice will be incorporated in the funded package or provided through services such as Legal Aid, if eligible, and community based financial counselling services. Consultation with Legal Aid Queensland and financial counselling services needs to occur in regard to their capacity to undertake legal and financial support services.

If community legal and financial services are not an option, a departmental officer will need to be allocated responsibility to oversee/monitor or support the person to continue to act within their responsibilities and obligations. As the person may have a nominee to represent them in undertaking the funding agreement, there may need to be penalties if mismanagement or 'abuse' of the funding terms and conditions occurs. This will need to be systematically monitored.

Implications for the Health and Community Services Sector:

Clause 7 'Part 5A Funding to people with a disability '43C Approval for funding
'(1) (a) states "a person with a disability, to enable the person to obtain relevant disability services." The following issues arise:

The health and community services sector needs to be ready to accommodate a market driven approach. For example, the availability of "relevant disability services" currently in Queensland is an issue with many services reporting extremes of demand with waiting lists that have "blown out" and that they are experiencing difficulty with recruiting and maintaining quality staffing levels. In rural and remote regions, the range of services is particularly limited. The person/nominee may not be able to access their preferred service provider. In addition, niche services may be required which currently do not exist.

The Queensland Government needs to urgently consult with the health and community services sector to identify the implications of the trial on service providers across the state.

If you require further information, please do not hesitate to contact me directly.

Yours sincerely



Mark Henley
Chief Executive Officer