

4 October 2012

Mr Peter Dowling MP  
Chair Health and Community Services Committee  
Via email: [sue.cawcutt@parliament.qld.gov.au](mailto:sue.cawcutt@parliament.qld.gov.au)

## Submission 009

11.1.6

Received 4-10-12

Health and Community Services Committee

Dear Mr Dowling,

### Disability Services (Your Life Your Choice) Amendment Bill 2012

I would like to thank you for the opportunity to make a submission on the above. Endeavour Foundation currently receives funding from both the Commonwealth and State to provide a comprehensive range of approved disability services across Queensland.

Endeavour Foundation plays a proactive and supportive role in working with government to implement recent initiatives as evidenced in its involvement and execution of activities related to service improvement including; Implementation of Quality Assurance, Restrictive Practices Legislation and Endeavour Foundation was the first funded service provider to transition to an Output Based Service Agreement. Endeavour routinely supports the sharing of experience and knowledge across the sector and seeks to fully support all stakeholders in opportunities for participation in consultation and policy formation for the reform of funded disability service programmes in the interests of improving the potential for Queenslanders with a disability to live and ordinary life and realise their full potential as community citizens.

While Endeavour supports the principles of Self-Directed Funding and the intent of proposed legislative amendment we are keen to ensure that the process and instruments for implementation take into account the need for all stakeholders affected by the changes to have access to credible information and support to inform decisions about participation in *Your Life Your Choice Self-Directed Support Framework*.

This submission provides commentary regarding the proposed amendments to the *Disability Services Act 2006* and Endeavour Foundation's consideration of the need for inclusion of processes and consideration of issues for the administrative guidelines that will support the implementation of the proposed changes.

Further Endeavour Foundation would welcome any future opportunity to be involved in further consultation regarding this and other matters related to the ongoing reform of the disability sector.

Yours sincerely

David Barbagallo  
Chief Executive Officer  
[d.barbagallo@endeavour.com.au](mailto:d.barbagallo@endeavour.com.au)  
(07) 3908 7201 / 0411 404 182



**HEAD OFFICE** Endeavour House, 50 Southgate Avenue Cannon Hill QLD 4170 • PO Box 3555 Tingalpa DC QLD 4173 • Phone: 07 3908 7100 • Fax: 07 3908 7101

Endeavour Foundation was established in 1951 and supports over 3,500 Australians with a disability in over 200 locations. Endeavour has services in the following regional areas:  
**QLD** • Cairns • Mareeba • Innisfail • Ingham • Townsville • Ayr • Home Hill • Biloela • Bowen • Mackay • Rockhampton • Gladstone • Bundaberg • Hervey Bay • Maryborough • Gympie  
• Sunshine Coast • Metropolitan Brisbane • Gold Coast • Ipswich • Gatton • Toowoomba • Kingaroy • Roma • Stanthorpe • Warwick **NSW** • Castle Hill • Mt Druitt • Seven Hills • Penrith

## **Disability Services (Your Life Your Choice) Amendment Bill 2012 – Submission from Endeavour Foundation 4 October 2012**

### **Clause 4 Amendment of s 6 (Objects of Act)**

*Endeavour Foundation supports the amendment as proposed and the intent to ensure that people with a disability are supported to have:*

- *genuine choice and control in accessing relevant disability services,*
- *to the extent that it is reasonable and practicable.*

While Endeavour Foundation provides services to people with a range of disabilities by far the largest number of people supported are those with intellectual and cognitive impairment. We would ask for recognition of the fact that there are a number of complexities associated with supporting people with such disabilities to fully realise autonomy over choice and control and that without access to appropriately skilled personnel and supportive cost effective processes the impacts on all stakeholders could adversely influence the cost of service and subsequently the volume of service that a person will be able to purchase.

To date the ability of people with a disability who have approved individual funding to exercise provisions for portability are often limited to circumstances where there is expressed dissatisfaction, irreconcilable differences or a desire by the funding body to achieve a transfer of auspice for funding so as to address another funded providers viability and or service capacity issues. These factors frequently result in a negative experience for all stakeholders and potential for disruption to service for individuals involved and unwarranted damage to the reputation of the service providers involved. For these reasons Endeavour would like to see appropriate and streamlined processes for portability of self-directed funding that upholds the rights and responsibilities of all stakeholders.

### **Clause 5 Amendment of s 7 (How objects are mainly achieved)**

*Endeavour Foundation supports the amendment as proposed but is not without concern regarding the potential for consequential impact of additional administrative imposts and related timeframes that will be necessary to change the current regulation of approved disability service providers. Every effort should be made to ensure that such imposts are minimised so that the intended benefits for people with a disability can be realised in terms of timely implementation and without additional costs to service providers and that provisions are made for corresponding undertakings from the funding body with regard to service viability and affordability.*

Current processes for accountability and quality provide significant obligation and opportunity for people with a disability and people from their support network to experience meaningful involvement in the activities and decision making about the services that they receive and the monitoring of service performance. Frequently the cost of additional investment of human resources and direct expenses to enable this to occur through both internal and external audit, consultation and overall governance activities is carried by the service provider.

**Clause 6            Amendment of s 19 (Principle that people with a disability have the same human rights as others)**

*Endeavour Foundation fully supports the amendment as proposed.*

**Clause 7            Insertion of new pt 5A Funding to people with a disability**

**'43A                Purpose of pt 5A**

*Endeavour Foundation supports the amendment as proposed.*

**'43B                Definitions for pt 5A**

In this part –

**Individual funding agreement.**

*Parent*, of a child with a disability, includes –

*Endeavour Foundation supports the amendment as proposed.*

**Relevant disability service,**

*Endeavour Foundation supports the amendment as proposed.*

**Relevant person**

*Endeavour Foundation supports the need for an amendment as proposed but considers that the following matters need to be taken into account:*

- RESOLUTION OF CONFLICT – presently conflicts arise between a person with a disability and members of their support network (as defined in the *Guardianship and Administration Act 2000*) over decision making matters. These matters are often the result of conflicting opinions about a person's capacity to exercise decision making over different aspects of their lives at different times and under different circumstances and a presumption on the part of an interested party that they have a right to fulfil the role of a substitute decision maker. Without administrative provisions for appropriate resolution of conflicts of this nature in the interest of a person with a disability and particularly their family member/s in the capacity of informal substitute decision makers these issues have the potential to manifest as additional vulnerabilities for the person with a disability and potentially create harm to critical relationships.
- Currently the Guardianship and Administrative Tribunal (GAAT) recognise the right of a competent family member to exercise the right of informal substitute decision making for a person with impaired capacity for some decision making matters and while Endeavour supports this position, as a result GAAT in practice provide a ruling for every adult with impaired capacity to have a guardian formally appointed.
- DISPUTE RESOLUTION – Endeavour Foundation would like to see robust provision for dispute resolution within the administrative guidelines in support of the interests of all stakeholders.

### '43C Approval for funding

*Endeavour Foundation supports the amendment as proposed on the basis that:*

- Matters of capacity related to decision making are addressed in other proposed amendments and resultant administrative guidelines.*
- Endeavour Foundation believes that people who currently have individual funding approved should also be afforded the same opportunity to access Self-Directed funding as those who may be approved for funding in the future.*
- People who are approved for access to services under existing block or capacity funding grants should also be afforded the same opportunity to access Self-Directed funding.*
- There is adequate recognition and provision for the treatment of viability issues that will arise for service providers as a result of the changes to Self-Directed funding, and the potential for disruption and risk to service for other individuals with a disability where the continuance of the service arrangements is dependent upon shared funding of co-tenant arrangements, funded group support and sharing of other funded resources.*

Currently the majority of people with a disability who are approved for access to funded services could not receive the level of support that they do without the opportunity to 'pool' funds with other people who are also approved for funding and by participating in small group programmes and co-tenant or congregate living (shared) arrangements for accommodation. This is particularly true for people who require accommodation support and a constant presence of paid staff support to meet their needs on a daily basis and overnight. For example an existing Community Access Package of funding under Post School Services is generally sufficient to enable a person to have up to 10-12 hours of one on one individual paid staff support per week. Within Endeavour Foundation the same funding will currently enable the same person to have access to up to approximately 32 hours of access to a Community Access Service with a mix of some one on one support and small group support with a ratio of around one to 3-4 people with a disability. The later option is often preferred by families of people with intellectual disability as it enables parents to work and attend to the needs of other family members with the confidence of knowing that their family member with a disability is not only safe but receiving support to develop their skills and lifestyle choices within a social environment and in their own community.

In an accommodation support co-tenant arrangement it generally requires a minimum of three people with approved individual funding up to a maximum level to enable a base level of paid staff support for 7 days a week with a sleep over staff member on site. A similar arrangement under current block funding may require up to 6-8 people to co-tenant so as to achieve the same level of service.

These circumstances are based on currently levels of approved funding within the co-contribution arrangements between the State and Endeavour Foundation where Endeavour's contribution can be as high as 37% of the total cost of service.

Further under an output based service agreement service providers currently have the opportunity to negotiate the use of under utilised outputs for short periods of time in response to the emergent or episodic needs of people who are already approved by the Department for funding, eg: chronic health matters, aging or dual diagnosis. This goes some way towards reducing the administrative costs for the State and service provider while most importantly enabling an appropriate short term response to be applied to a person's circumstances of changed need while other alternatives are sourced.

#### **'43D Individual funding agreement**

*Endeavour Foundation supports the amendment as proposed.*

#### **Clause 8 Amendment of s 12E (Definitions for pt 10A)**

*Endeavour Foundation supports the amendment as proposed.*

#### **Clause 9 Amendment of sch 7 (Dictionary)**

*Endeavour Foundation supports the amendment as proposed with reference to commentary provided in response to the proposed clauses where the definitions are used.*

*Katie Eagles*

*Senior Advisor Policy, Research, Planning & Strategy*

*On behalf of Endeavour Foundation*

[k.eagles@endeavour.com.au](mailto:k.eagles@endeavour.com.au)

*Phone: 0419739259*

