

SUBMISSION BY MULTICAP REGARDING THE DISABILITY SERVICES (RESTRICTIVE PRACTICES) AND OTHER LEGISLATION AMENDMENT BILL 2013.

December 2013

OVERVIEW

Multicap is a Queensland based specialist disability service provider, and has been supporting individuals with high support needs and complex behaviours for over 50 years. Multicap has been involved with supporting individuals subject to the restrictive practices legislative requirements of the Disability Services Act since the amendments were introduced in 2006.

Multicap is one of five organisations (including Endeavour Foundation, Centacare, Life without Barriers, Uniting Care Community) who have supported a significant percentage of individuals subject to this legislation and is therefore well placed to provide comment on the draft Bill.

Multicap currently has 51 individuals who are subject to these legislative requirements, and we have approximately 33 individuals who are no longer subject to the legislation due to improvements in behaviours of concern or because they have moved services. Multicap supports individuals who are subject to all defined types of restrictive practices in the legislation including seclusion, containment, physical, chemical and mechanical restraint, restricted access to objects and locked gates, doors and windows. Multicap currently supports three individuals who are subject to seclusion or containment, the lowest number for our organisation since the restrictive practice legislation was introduced, and evidence of the improvements for individuals that have resulted from an increased focus on inappropriate practices. In line with our organisational values around quality of life Multicap also current has 5 individuals who have PBSP's who are not subject to the legislation.

Multicap fully supports the intent of the original legislation, bringing a focus on causes and triggers of behaviours and developing new ways of improving people's lives by introducing strategies to reduce incidences of challenging behaviour. By way of an example, a young lady we support in Mackay originally in 2006 had approval for seclusion, chemical restraint, physical restraint and restricted access to objects. In her most recent review her physical restraint was been made least restrictive, her chemical restraint has been reassessed and is for the proper treatment of a mental health issue and she has not been under seclusion for some time. She clearly has an improved quality of life.

Multicap has however advocated from 2006 that the compliance requirements of the current legislation are unreasonably burdensome for service providers and that a shift in focus from compliance to demonstrated outcomes would be much more beneficial for individuals and service providers. Multicap has actively participated in the Red Tape Reduction Working Party, as well as all forums and consultation regarding both legislative amendments and also policy and practice improvements to ensure the best possible outcomes for the individuals we support.

We are generally supportive of the amendments outlined in the draft Bill however make the point that the improvements in people's lives has come from increased awareness, increased investment in resources into the sector, and increased access to expertise and evidence based practice for service providers and families as well as the legislative framework and compliance requirements.

SPECIFIC DRAFT BILL COMMENTS

LINK WITH HEALTH CARE SERVICES

We are disappointed that the opportunity to improve the nexus with health by taking a “whole of life” approach for individuals with disabilities has not been taken in this amendment. Our view is that items restricted due to defined and documented medical diagnoses (e.g. water for someone with polydipsia and food for Prader-Willi) should be part of a documented healthcare plan and not considered a restrictive practice.

Chemical restraint is also an area where there is ongoing disagreement and confusion, with different medical practitioners and specialists, members of QCAT, Adult Guardian, and families often having differing views. The draft Bill is silent on the requirements of other agencies and Multicap would like to see an increased emphasis on the requirement for medical practitioners to understand and support the legislation, and actively participate in the reduction of inappropriate practices. The clarification of a single dose for medical procedures is a pragmatic approach to assisting individuals to access health care while still acknowledging their human rights.

SHORT TERM APPROVALS

The amendments regarding 30 day immunity for short term approvals and where plans have been submitted to the Office of the Adult Guardian are essential; service providers are currently consistently placed in situations where they are without immunity due to other external parties not meeting timelines, and with no ability to influence approvals.

The Bill provides for 30 day periods of extension of immunity if a provider has submitted the relevant information prior to 30 days before existing plan expiry to Office of the Adult Guardian. Practically this extension will allow for a 60 day decision making period for the Office of the Adult Guardian and should allow them to manage fluctuations in work load and ensure approvals are received in a timely manner.

Removal of the requirement for a short term plan after a short term approval is positive.

DATA AND MONITORING

Evidence of positive outcomes is important, and organisations like Multicap have been collecting data for our own use, as well as providing data to the Department since this legislation commenced. We are concerned about the additional requirements for data reporting without associated funding for administration costs. The sector has a My eRecord project (person controlled electronic record) that could easily be adapted to provide the data required rather than a significant investment in a new system for Queensland.

The Community Visitor Program (via Justice Dept) and the external quality audits under the Human Services Quality framework already provide a level of mandatory external review for individuals subject to this legislation. Multicap supports external review as a method of improving practice, however would prefer to see activities such as peer review of plans implemented through policy by the Centre of Excellence rather than via legislation.

We believe the Centre of Excellence has a role in providing trends, improvements, changes in numbers of individuals moving between bands and out of the restrictive practice regime all together, reduction in incidents and frequencies etc. This data would be easy to access if all providers utilized the “My eRecord” shared electronic record for individuals subject to restrictive practice.

Multicap strongly advocates that the Positive Behaviour Support Plan is written for the individual (one plan – one person) and not for staff ease of implementation. Multicap would like to see the development of strategy pathways (similar to clinical pathways in health) where standard approaches, utilizing access to specialist services and resources, are developed and used to up skill the workforce and provide consistency in approach across service providers.

DECISION MAKERS

Multicap notes that inconsistencies continue to arise from QCAT decisions, we believe this is the result of interpretation and individual views. Multicap would like to see the development of guidelines and precedence rulings to assist in improving the consistency of decisions from QCAT. These precedence rulings should be publically available. The Bill is silent on any requirement for guidelines or precedent rulings from QCAT to be published or made available via the Chief Executive.

The extension of appointments to a maximum of 2 years is a positive move.

TRANSITIONING TO A NEW SERVICE PROVIDER

Clause 123ZK has been amended to allow for a short term approval where an existing client elects to change a service provider which is positive. Multicap is an advocate for “one plan – one person”. We believe the plan should follow the individual on their life journey. This would easily be achievable by utilizing the “My eRecord” shared electronic record currently available.

OTHER

New clause 123ZZCA has good intent, but requires clarification regarding if it is a generic statement or if it contains personal information about an individual. If it is the latter then a sub clause should be added stating the individual or their decision maker must consent before the statement is provided to “persons with sufficient and continuing interest in the adult”.

The addition of sub clause 3 in clause s123B requires clarification. It appears that the intent is that individuals who receive specialist disability funding from the Queensland Government, irrespective of whether the funding is self managed (YLYC) or by traditional individual or block grant means, are subject to the legislation when accessing services from an approved service provider. Multicap’s view is that the current wording could unintentionally include fee for service individuals and supported employees who are funding via federal or personal means.

Clause 44 section 80ZE adds additional requirements for general guardians and may have an unintended consequence of further discouraging family members to undertake the role of guardian, thus placing more stress on resources in the Office of the Adult Guardian. The extension to a maximum of 2 years is positive.

The Bill refers to having ‘regard’ for the model plan and we would welcome further clarification around what this would mean practically; providers may wish to continue to use templates that have been developed since the legislation was introduced. We also raise a concern regarding an increasing focus on reducing the size of the PBSP rather than on ensuring the plan has appropriate strategies for the individual. Generally Multicap has a view that the majority of current plans offer a good ‘whole of life’ assessment/commentary and we would not support a model plan that focus on purely on intervention to the detriment of historical, environmental and contextual information that is equally important in improving quality of life.

What is My eRecord?

My eRecord is a shared electronic record which lets you share information with people and organisations you trust to help them make the best possible decisions about the support you need.

It's Your Life... Your choice...
Your control.

You can:

- ✓ store and share health and other information in My eRecord;
- ✓ have full control over what information is shared, and with whom;
- ✓ invite any person, including service providers, health professionals, or allied health workers to securely access your information;
- ✓ access your information securely from anywhere in Queensland, Australia or the world;
- ✓ link My eRecord to the Federal Government's Personally Controlled Electronic Health Record System if you chose to;
- ✓ Use the electronic CHAP tool (Comprehensive Health Assessment Program) in My eRecord which will make it easier for your doctor to view your information.



My eRecord is supported by



cerebral palsy league



Powered by



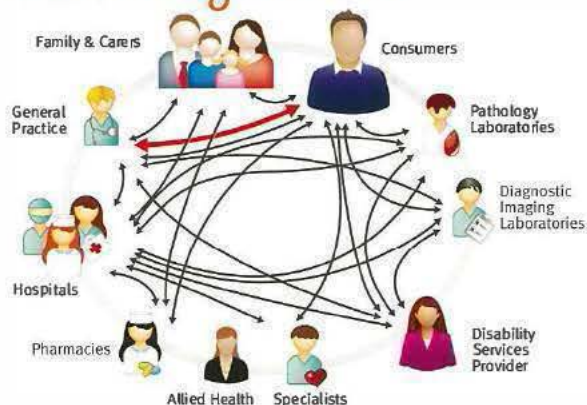
Enhancing lives
through better
co-ordination

<http://provider.myerecord.com.au/videos>

My eRecord

By using My eRecord you won't have to remember or keep repeating the same information to different people or organisations.

How information is currently shared



Will my information be secure?

Yes. You will have a password and login to access My eRecord. Strict security measures and regulations are in place to protect your privacy. My eRecord uses Public Key Infrastructure to ensure that the people accessing your record, and their locations, are verified before they see your information. This protects your information while making it available to the people with whom you choose to share it.

How My eRecord easily shares information with people you choose



Using My eRecord

For more information and to set up your own My eRecord you simply need to register. Contact the My eRecord Registration Officer at your service provider.

Cerebral Palsy League	07 3358 8011
Centacare	07 3324 3100
Endeavour Foundation	07 3908 7100
FSG Australia	07 5564 0655
Life Without Barriers	07 3440 6300
Multicap	07 3340 9000
Spinal Injuries Association	07 3391 2044
UnitingCare Community	07 3363 2200

Email: myerecord@myerecord.com.au

You can also view a video on My eRecord at this link:
<http://provider.myerecord.com.au/videos>

"It's the best idea that anyone's come up with because... you can get confused... my doctor was really impressed"

- Client from another community using this shared electronic record