



9 January 2014

Health and Community Services Committee
Parliament House
George St
Brisbane QLD 4000

By email hcsc@parliament.qld.gov.au

Dear Health and Community Services Committee,

Re: Disability Services (Restrictive Practices) and Other Legislation Amendment Bill 2013

Centacare Community Services wishes to thank you for this opportunity to provide a submission on the Disability Services (Restrictive Practices) and Other Legislation Amendment Bill 2013. Centacare has been involved throughout 2013 in providing feedback to Disability Services regarding the practical application of the relevant legislation.

Centacare acknowledges the fundamental need to protect the rights of adults with an intellectual or cognitive disability as outlined in section 123A and is in full support of this.

Centacare wishes to provide feedback regarding the legislation as per below-

- Clause 6 outlines that the legislation applies to funded individuals who may transfer to a self-directed model. Consideration needs to be given to the cost associated with this, in that, if an individual commences using a self-directed model of support, funding will need to be allocated within their package for the cost of the development of a positive behaviour support plan and staff training regarding the positive behaviour support plan and use of restrictive practices. Presently, some providers have been allocated a portion of funding that contributes towards the development of the positive behaviour support plan and the cost is not able to be sourced from the individuals support package. Therefore careful resourcing implications need to be considered to ensure that both aspects of support are resourced and funded.
- Clause 8 refers to the model positive behaviour support plan. Centacare does support the notion of having minimum standards of what constitutes a quality and effective positive behaviour support plan. Centacare would like clarity on what the interpretation of Clause 18 'regard' for this plan means. Centacare would not support a plan that omits contextual, historical and environmental information in the assessment that is pertinent to the person's support and individual needs. It is our experience that when this information is reviewed, a more whole of life approach is taken and can directly result in the cessation and elimination of the use of restrictive

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practices and challenging behaviour. Centacare believe that by removing this information, there is a risk that significant environmental considerations may be omitted which may therefore negatively impact a person's support. For example, if there is a history of inappropriate co-tenancy arrangements, then this information is pertinent to the persons current support needs.

- In addition to this, the intensity of resources and therefore funding required in rewriting positive behaviour support plans in a different format is of concern. Centacare Behaviour Support Specialists - plan writers have significant case loads. This means the longitudinal involvement of the plan writer in each case can be minimal and the current allocation of resources and funding would be exceeded. Centacare has introduced non-funded roles of Positive Futures Coordinators within services, who provide training, coaching and mentoring to support staff to assist with the implementation of plans. We are striving to increase involvement of plan writers in individual cases which is also directly dependent on funding and resourcing.
- Centacare also welcomes the clarity clause 8 provides in the definition of a restrictive practice. However, we believe there is still an element of ambiguity in the interpretation of some practices, specifically those that may fall under restricted access or duty of care, therefore Centacare would like to see further shared guidelines from the department of what constitutes a restrictive practice. This will provide clarity to multiple parties such as service providers, the Queensland Civil Administration Tribunal, the Office of the Adult Guardian, Disability Services, families, the adult and any other relevant stakeholders. In addition to this, Centacare acknowledges the removal of the requirement of a short term plan and believes this is a positive step towards the reduction of red tape.
- Clause 12 outlines the omission of the requirement of providers to keep and implement a policy. However, clause 32 outlines the requirement to keep and implement a procedure. Therefore, this in fact is not reducing the red tape and work for providers, but increasing the resourcing requirements. When the amended Bill was first introduced, the Department developed policies and procedures due to their accessibility to the relevant expertise. These policies and procedures were made available to service providers for use. Clause 32 indicates the need for the preparation and review of a procedure that must be kept at the "premises where the restrictive practice is used". There is very minimal difference in the previous requirement of keeping and implementing a policy. Therefore Centacare believes this must be given further consideration, given the limited resources service providers face and the extra resourcing costs associated with the development of procedures and re-training of staff in the new procedures.
- Clause 17 outlines the requirements for containing or secluding an adult before a decision on short term approval. Section (1) (c) makes mention that "a positive behaviour support plan or a respite/community access plan for the adult is being implemented." It is of our experience that in a number of situations the use of any restrictive practice maybe new to the individual (even containment and seclusion) and therefore a positive behaviour support plan or respite/community access plan may have not been developed, hence the need for a short term approval. Therefore

Centacare would like further legal consideration to be made to section 123OA, sub section (1) (C).

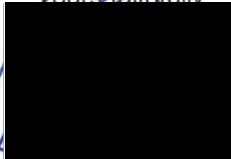
- Clause 22 outlines under specific conditions when a service provider can use a restrictive practice once the existing consent ends, Centacare is in full support of this and the conditions associated with this. Given the risks associated with possible delays in approvals and service providers having no legal immunity when the existing consent has expired, this provides a safeguard for providers, specifically where the practice has previously been approved and any delay in approval is beyond the service provider's control.
- Clause 24 outlines the requirements for using chemical, mechanical or physical restraint, or restricting access, before a decision on short term approval. In 123ZDA, part 1; sub section C outlines the requirement of "a positive behaviour support plan or a respite/community access plan for the adult is being implemented". In a number of scenarios, for example, a person turning 18, changes to their support requirements, etc., it may be the first time that they have ever become subject to the lawful use of restrictive practices, therefore a positive behaviour support plan or respite/community access plan is not in place, hence the need for a short term approval, to allow the necessary time for a full functional assessment in order to develop the plan. Therefore Centacare would like further clarification and consideration to be made regarding the legal implications of this.
- Clause 31, section 123ZZCA refers to the "requirement to give statement about the use of restrictive practices". Whilst Centacare supports the fundamental need for this to occur, this places further onus on the service provider to develop individualised statements and therefore places further resourcing issues on providers.
- Clause 36 outlines reporting requirements around the use of restrictive practices. Centacare welcomes and supports the notion of reporting requirements for the use of restrictive practices and the need for transparency. However, it must be dually noted that this is an additional resourcing requirement placed on services providers, potentially resulting in increased red tape overall with no additional funding resources noted that will be provided to assist with the increase in resources required to implement the amended Bill.

In conclusion, Centacare continues to be very supportive of the Positive Futures Initiative and all that it has achieved. We have seen significant positive results as a direct outcome of thorough medical assessments through the introduction of the Comprehensive Health Assessment Plan (CHAPs) and the associated Medicare funding for this, as well as, the significant increase to specialist mental health treatment. The development of positive behaviour support plans or rather the implementation of these plans have also been a contributing factor to the improvement in the quality of life of a number of individuals we support and has also been a significant contributing factor in the reduction and elimination of the use of restrictive practices. As previously discussed, we are concerned about the ongoing resourcing required to develop positive behaviour support plans and more importantly the coordination, training, coaching and mentoring required in order to achieve the positive results we have seen to date. Therefore, we would strongly recommend that the

resourcing and funding implications of the changes to legislation be considered, as it is our belief that the amended Bill in fact increases the resourcing requirements for service providers. Centacare supports the legislation in relation to the use of restrictive practices and the necessity to ensure that these practices are regulated to safeguard the human rights of the people we support, as well as the safety and protection of our staff.

Thank you for this opportunity to provide feedback and please do not hesitate to contact me if you require any further clarification.

Yours faithfully

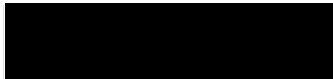


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