



Disability Support
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9 January 2014

Mr Trevor Ruthenberg, MP
Chair
Health and Community Services Committee
Parliament House
George Street
Brisbane Qld 4000

Dear Mr Ruthenberg

Thank you for providing UnitingCare Community with the opportunity to provide a submission on the Disability Services (Restrictive Practices) and Other Legislation Amendment Bill 2013.

UnitingCare Community is part of the UnitingCare Queensland group of community service organisations and offers a wide range of disability support services to adults, children and young people and their families through its Disability Division. We support people with a wide range of individual needs and abilities, including people with very high and complex support needs. UnitingCare Community Disability operates in regional centres throughout South East Queensland and also in Townsville. Our services continue to expand as the demand for quality support services grows. As one of the larger disability service providers in Queensland, UnitingCare Community supports several people with disability who have the use of restrictive practices approved within the regulatory framework in the *Disability Services Act 2006* (the Act).

Along with a number of other disability service providers, UnitingCare Community has for some time been raising concerns regarding the lack of clarity, prescriptive nature and resource intensiveness of the current regulatory framework for the use of restrictive practices and the resultant focus on compliance as opposed to implementation of positive behaviour support which was clearly the intent of the reforms proposed by the Hon. W.J. Carter in his 2006 report *Challenging Behaviour and Disability: A Targeted Response*. This compliance focus has had the effect of diverting resources into meeting legislative and procedural requirements to the detriment of more effective planning and implementation of positive behaviour support aimed at increasing the quality of life for people with intellectual or cognitive disability and challenging behaviour.

UnitingCare Community is committed to providing quality services to our clients and remain fully supportive of the reforms proposed by Justice Carter aimed at improving the lives of the people we support and working towards eliminating the use of restrictive practices. As a result, it is pleasing to see that a number of our previous concerns have been addressed within the current proposed amendments to the legislation providing greater opportunity for people with intellectual or cognitive disability and challenging behaviour to experience more fully the true intention of this significant reform. The change in name of Part 10A to more strongly focus on positive behaviour support and to include the requirement for all people

with intellectual or cognitive disability and challenging behaviour, not just those subject to the use of restrictive practices, to receive positive behaviour support is a positive step forward.

UnitingCare Community is particularly supportive of the inclusion of principles outlining the way that disability services are to be provided to this cohort as well as the rewording of the legislation relating to the requirements of a positive behaviour support plan. Both these inclusions appear to more clearly meet the original intention of the disability reform proposed by Justice Carter by providing a stronger emphasis on planning and implementing evidence based positive behaviour support as opposed to the current legislation which places an intense focus on restrictive practices. Clause 13, which replaces section 123L, provides a more informative outline of what is to be included in such a plan with a far stronger emphasis on the individual's behaviour, its function, identification of the triggers and warning signs and the strategies to be used to meet the full range of the individual's needs, develop their skills and improve their quality of life. The continued need to undertake appropriate assessments but not to include the clinical detail of this in the plan is supported. These proposed amendments will provide a more informative, yet succinct and user friendly document to provide more appropriate and focussed guidance for support workers to assist them in making a difference in the lives of people in this cohort.

The proposed amendment to provide greater flexibility for the Queensland Civil and Administrative Tribunal to appoint a guardian for restrictive practices matters for up to two years is supported. The current situation where guardian appointments are for only one year has created an administratively resource intensive process diverting scarce resources away from the delivery of quality services to our clients. However, it will be essential for this flexibility to be translated into practice and the full increase in appointment time utilised wherever possible, for the full benefits of reduced administrative burden to be achieved and resources directed more appropriately to the care of clients.

In addition, it is clear that some effort has been taken to alleviate confusion and improve clarity for people who will be implementing positive behaviour support for this group of people. However, while in some instances examples are provided within the legislation, in the main the detail around these explanations are currently contained within the bills' explanatory notes or elaborated on by Minister Davies, in her speech on 20 November 2013 introducing the bill to Parliament. It is essential that full and clear guidance is provided to service providers, families, and others regarding what is required as well as evidence based advice around strategies that have been proven to be effective in increasing the quality of life for individuals and reducing the use of restrictive practices. As context to support this view, the bill in clause 8 includes an example of a restrictive practice of restricting access to cupboards or the fridge for an adult with Prader-Willi syndrome. While there is some evidence that strategies can be implemented to address the eating behaviour of individuals with Prader-Willi, without a full explanation of the evidence supporting this some people may want to mount an argument that this is a health matter and should be treated as such rather than as a restrictive practice. Examples such as this need to be supported by more extensive explanations and the provision of the supporting evidence in order to alleviate unnecessary debate. If it is to be included in the amendment to the Act it is essential that the reasoning behind its inclusion is detailed in a practice guide or some other advice provided by the department.

Whilst the provision of robust information and advice was supposed to be the case in the roll out of the current legislation, in practice the guidance and advice delivered by departmental regional staff was often found to be limited and inconsistent. We look forward to improvements in this area through the Minister's commitment to enhance guidance, education and training.

Clause 6 within the bill purports to remove any doubt that Part 10A applies to funded service providers providing disability services to adults with intellectual or cognitive disability and

challenging behaviour, however even with this amendment the application remains unclear in certain circumstances. Specifically there remains a lack of clarity around the requirements of disability service providers who are fulfilling the role of a host provider for families and individuals who are self-directing their funding. Under the government's Your Life Your Choice self-directed support framework individuals can utilise the services of a host provider for a range of services, which may be as limited in scope as the provision of financial management services. In these cases the employment of staff and all other aspects of managing the sourcing and provision of services is undertaken by the individual, their family members or relevant others. Currently the advice being provided by staff of the Department of Communities, Child Safety and Disability Services is that even in these cases of non-disability service provision the funded disability service provider is covered by Part 10A and as such is required to develop a positive behaviour support plan for the individual even though the service being provided does not clearly fit within the definition of disability services as per section 12 of the Act.

In addition, despite the proposed rewording to section 123B we feel that there is still some degree of uncertainty as to who is ultimately responsible for the development of a positive behaviour support plan for consumers accessing self-directed funding. As an example, an individual or their family member may choose to purchase x hours of support from us, y hours from another service provider and z hours from another service provider again. Clearly all service providers will be responsible for implementing the plan in their delivery of services but it is unclear as to which service provider has the lead responsibility for developing that plan.

This needs to be clarified either through greater specificity in the amendments to the Act, through education of departmental staff, the provision of clear guidelines for service providers and/or through the provision of additional funding within the individual's grant to purchase the development of a positive behaviour support plan from the host agency or relevant another service provider.

Minister Davies, in her speech introducing the bill to Parliament, indicated that the Queensland Government will be supporting the introduction of the amended legislation with a range of changes to policy, practice, education and training. While this is commended and strongly supported by UnitingCare Community, we would be keen to have a commitment from government that this work will be appropriately resourced and delivered in a timely way for the benefit of the sector and the individuals that we support. This would involve the timely delivery of the model positive behaviour support plan, a format for the statement to be provided by service providers to families and others regarding the use of restrictive practices (new section 123ZZCA) and the development of evidence based guidelines. We would also be keen to receive early advice as to the timelines for transitioning from the current positive behaviour plan formats to the new model format as well as any advice around requirements for new plan approvals.

UnitingCare Community looks forward to the expansion of training opportunities for service providers and family members as indicated by the Minister in her speech. This will assist us in meeting the requirements of the new section 123ZZDA whereby service providers will be required to ensure that our staff have the necessary skills and knowledge to use restrictive practices appropriately. We do bring to your attention however, that there are additional costs to service providers in releasing staff to attend training. In the past the department has made funding available to service providers to backfill staff attending training delivered by the former Centre of Excellence for Behaviour Support. We would be keen for this to continue and would submit that this was a key commitment of government in delivering the Carter reform and should continue to be so. At the same time, in the recent past the bureaucratic process for accessing these funds has been challenging and we would anticipate that in the interests of providing better services and increasing the quality of life for

individuals subject to restrictive practices that the department will develop a less bureaucratic approach to building the capacity of the disability service workforce.

It is also apparent that it is not just the non-government sector and families who would benefit from enhanced training opportunities offered by the new Centre of Excellence for Clinical Innovation and Behaviour Support. As mentioned previously the experience of this organisation with the services offered by the clinicians within the department has been varied and at times less than would be expected in terms of professional support. Given that the onus remains with the Chief Executive of the department for the development of positive behaviour support plans for those individuals with intellectual or cognitive disability and challenging behaviour and subject to containment and seclusion, it is essential that the clinicians tasked with developing these plans are appropriately up to date with the evidence base around positive behaviour support and suitably equipped to provide appropriate advice and support to workers on the ground delivering support to this group of people. To date our experience has been that the provision of hands on support and modelling by departmental clinicians has been varied and generally limited in scope. It may be beneficial to include in the amended legislation a similar clause as to that provided for service providers (clause 32) for clinicians supporting disability service providers to be required to have the skills and knowledge to appropriately support people in the appropriate use of restrictive practices and in effectively and practically delivering strategies which will over time reduce the use of those practices.

UnitingCare Community supports of the monitoring and reporting of the use of restrictive practices as good practice in ensuring that we know our clients, how we are delivering our services and as a way of identifying what we could do better. As such we are supportive of Clause 36 and the requirement for service providers to provide information to the Chief Executive. We would however, expect to be consulted in the development of the regulation regarding this. In addition, we would encourage the department to examine options for reporting systems that are of the least burden to service providers, such as the web-based system operating in Victoria.

We have a long history of supporting people with intellectual and cognitive disability and challenging behaviour in Queensland and continually strive to provide quality services that meet the full spectrum of needs for these individuals. We support the introduction of legislation and guidelines aimed at protecting the rights of people with disability by regulating, limiting and monitoring the use of restrictive practices.

In providing this submission we are providing our support for the move within the amended legislation towards a stronger focus on the planning and implementation of positive behaviour support and the reduction of some of the administrative burden for service providers generated by the current legislation. At the same time we offer some suggestions for improvement or enhancements that will assist in delivering on this significant reform process. We are committed to working towards the reduction and elimination of restrictive practices and look forward to the legislation and the associated support from the department, in assisting us to achieve this for our clients.

Yours sincerely



Lorna Sullivan
Director Disability Services
UnitingCare Community