HEALTH AND ENVIRONMENT COMMITTEE

Members present:
Mr AD Harper MP—Chair
Mr R Molhoek MP
Mr SSJ Andrew MP (virtual)
Ms AB King MP
Ms JE Pease MP
Mr ST O'Connor MP

Staff present:
Ms R Easten—Committee Secretary
Ms R Duncan—Assistant Committee Secretary

PUBLIC BRIEFING—INQUIRY INTO THE HEALTH AND OTHER LEGISLATION AMENDMENT BILL 2022

TRANSCRIPT OF PROCEEDINGS

TUESDAY, 31 JANUARY 2023

Brisbane

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The committee met at 12.59 pm.

CHAIR: Good afternoon. I declare open this public briefing of the Health and Environment Committee's inquiry into the Health and Other Legislation Amendment Bill 2022. I am Aaron Harper, the member for Thuringowa and chair of the committee. I want to start by respectfully acknowledging the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples whose lands, winds and waters we all now share.

Here with me today are Mr Rob Molhoek, member for Southport and deputy chair; via teleconference Stephen Andrew, member for Mirani; Ms Ali King, member for Pumicestone; Ms Joan Pease, member for Lytton; and Sam O'Connor, member for Bonney.

On 29 November 2022 the Hon. Yvette D'Ath, Minister for Health and Ambulance Services, introduced the Health and Other Legislation Amendment Bill 2022 into the Queensland parliament and referred it to this committee for detailed consideration and report. The briefing today by Queensland Health officials is to respond to issues raised in submissions and in the public hearing on the bill.

Today's proceedings are subject to the parliament's standing rules and orders and are being recorded and broadcast live on the parliament's website. I remind committee members that officers are here to provide factual or technical information. Questions seeking an opinion about policy should be directed to the minister or left to debate on the floor of the House.

BALDRY, Ms Hannah, Manager, Legislative Policy Unit, Queensland Health

HARMER, Mr David, Senior Director, System Policy Branch, Queensland Health

JOLDIĆ, Ms Jasmina PSM, Associate Director-General, Strategy, Policy and Reform Division, Queensland Health

MAHONEY, Ms Emily, Acting Director, Legislative Projects, Mental Health, Alcohol and Other Drugs Branch, Queensland Health

REILLY, Dr John, Chief Psychiatrist and Chief Mental Health Alcohol and Other Drugs Officer, Mental Health, Alcohol and Other Drugs Branch, Queensland Health

STRUBER, Ms Trudy, Principal Legal Officer, Strategic Policy and Legal Services, Department of Justice and Attorney General

CHAIR: I now welcome representatives from Queensland Health, of which there are many. Welcome, Ms Joldić. I invite you to make an opening statement before we move to questions.

Ms Joldić: Thank you. Chair and committee members, happy New Year and thank you for a further opportunity to brief you on the Health and Other Legislation Amendment Bill 2022. I would like to start by respectfully acknowledging the traditional custodians of the lands on which we are meeting today, the Turrbal and Jagera people, and pay my respects to their elders past, present and emerging.

I am Jasmina Joldić, Associate Director-General of the Strategy, Policy and Reform Division in Queensland Health. I am joined today by my Queensland Health colleagues who, as you say, are many: Ms Hannah Baldry, Manager of the Legislative Policy Unit; Mr David Harmer, Senior Director of the System Policy Branch; Dr John Reilly, Chief Psychiatrist and Chief Mental Health and Alcohol and Other Drugs Officer in the Mental Health, Alcohol and Other Drugs Branch; and Ms Emily Mahoney, Acting Director of Legislative Projects in the Mental Health, Alcohol and Other Drugs Branch. As the bill amends the Recording of Evidence Act 1962 and the Department of Attorney-General and Justice, or DJAG, administers that act, I am also joined today by Ms Trudy Struber, Principal Legal Officer of Strategic Policy and Legal Services from DJAG.

Thank you to the organisations and individuals that made submissions on the bill and appeared before the committee today. Queensland Health appreciates your input. Queensland Health consulted a wide range of stakeholders before the bill was introduced into parliament. We received

feedback from 68 stakeholders, including almost all of the stakeholders that have contributed to the committee's inquiry. Overall the feedback was very supportive. Some stakeholders had comments on how amendments should work, clarifying questions or suggestions for improvement. This input informed the drafting process and the level of detail provided in the explanatory notes for the bill. Thanks to that consultation process, I believe we have a workable bill that will effectively achieve what it is setting out to do. I do not consider that any amendments are required to the bill as a result of evidence that the committee has heard from stakeholders today.

I will go into the reasons for this shortly, but first I would like to acknowledge a concern the Australian Workers' Union raised today—that is, that the explanatory notes for the bill do not list them as one of the stakeholders consulted or reflect that they provided constructive feedback on the draft bill. The summary of consultation in the explanatory notes was not intended to be exhaustive, as we consulted very extensively. We contacted over 200 stakeholders about the bill. We did receive feedback from the union and other stakeholders, but the majority of stakeholders were supportive or did not raise major concerns with the bill. The explanatory notes are accurate. The union's and all of our stakeholders' contributions during our development of the bill and the committee process are sincerely appreciated. I am glad to have the opportunity to acknowledge this now and I note that it will be recorded in the *Hansard*. I will respond to the matters the union covered this morning soon.

As the chair is aware, there are a range of amendments in this bill. Some support important health initiatives and some are more technical amendments that keep the operation of health legislation up to date. I will now respond to the main evidence related to the bill that the committee has heard today. Following that, I would be pleased to answer questions or refer them to my colleagues.

The bill requires hospital and health boards and hospital and health services to proactively consider the health, safety and wellbeing of hospital and health service staff. I will call these the staff wellbeing obligations. Stakeholders support the staff wellbeing obligations as they demonstrate commitment from government to this important issue. The Queensland Nurses and Midwives' Union recommended having the bill include a requirement to develop and publish staff wellbeing plans with various elements and noted that this did not have to be a rigid requirement. The AMAQ suggested that there should be an independent evaluation of staff wellbeing measures to strengthen accountability. The amendments are really about the internal management of the health system. They will help us to ensure that staff wellbeing is prioritised in service delivery and systems planning. The amendments are about platforming our key values in health service delivery. They would enshrine in legislation that health services are about patients and staff.

It is possible that some individual HHSs or boards may wish to implement plans and internal reporting where this would be helpful for them to demonstrate a commitment to the health, safety and wellbeing of staff. However, the amendments are not intended to create specific new compliance measures. Compliance measures and specific accountability mechanisms are the remit of the work health and safety framework. Obligations and penalties under the work health and safety framework will continue to apply—for example, requirements to identify and manage psychosocial hazards. It is also important for the staff wellbeing obligations to be flexible so that hospital and health services and boards can meet their obligations in a way that is relevant to the diverse communities and contexts they work within.

As drafted, the amendments could support a range of activities such as continuing or introducing practical initiatives that support staff health, safety and wellbeing such as wellbeing check-ins, wellbeing monitoring programs, peer support programs, nutritional food options, flexible work arrangements and so on; providing interventions for prominent health risks like fatigue, vicarious trauma and occupational violence; designing healthy workplaces and promoting staff consultation and participation in the design process; and providing details of how staff wellbeing issues have been considered. These are just a few examples to provide a practical sense of the diverse staff wellbeing work that the amendments will encourage and support. The department will also be working closely with HHSs and boards to help them identify ways of complying with their obligations.

The Australian Workers' Union also made some recommendations this morning, mainly about how the staff wellbeing obligations in the bill should include some references and clarifications relating to work health and safety legislation. Its view is that if the bill does not explicitly refer to work health and safety legislation it is unclear how the staff wellbeing obligations will support proactive consideration of staff wellbeing and how the obligations will complement existing work health and safety requirements. Chair and committee, the wording of the bill clearly requires proactive consideration of staff wellbeing. Clauses 5 and 6 of the bill make staff wellbeing a mandatory consideration for HHSs and boards as they go about their functions. References to the work health

and safety framework are not required to ensure there is proactive consideration of staff wellbeing. The bill as drafted already does this and work health and safety references will not make the obligations any stronger.

The bill does not refer to the work health and safety framework because, as a matter of statutory interpretation and drafting practice, all aspects of that framework exist and apply independently of the bill. Cross-references are not required. The explanatory notes for the bill are very clear about this. The staff wellbeing obligations still complement work health and safety laws without specific reference to those laws because it is open for the obligations to be complied with through activities that are also relevant to work health and safety requirements. However, it is important to note that the staff wellbeing obligations are also broader than this and can be complied with in other ways, such as the ones I mentioned earlier.

Referring to work health and safety legislation may hamper innovative thinking about good staff wellbeing practices, which is certainly not what we want. Those are the key reasons why the bill will achieve what it is setting out to achieve in relation to staff wellbeing, why there are no specific references to work health and safety legislation and why that is not a concern. Queensland Health will be considering the union's feedback about the practices of work health and safety related committees and representatives separately to the bill as this relates to operational matters and approaches to work health and safety legislation on the ground.

I now want to discuss the amendment that clarifies the power of healthcare security officers to direct people to leave healthcare facilities. The bill provides that a person cannot be directed to leave if they require emergency medical treatment that is immediately necessary to save the person's life or to prevent serious impairment to the person. The purpose of this is to reflect in legislation existing practices about when a person could be asked to leave. The Australian Workers' Union overall supports clarification of the role of security officers but has raised some concerns about the interaction between security officers and clinical staff. It considers that it is not clear that security officers will not be responsible for making clinical decisions about the urgency and seriousness of health care and that this responsibility will remain with clinical staff. I understand that they believe the wording of the bill should be adjusted to clarify that this is the case.

The explanatory notes are very clear that security officers are not responsible for determining healthcare status. However, I can provide some further advice on this point. As the amendment was drafted, it was always front of mind that the amendment had to ensure clinical staff would continue to make determinations about health care, not security officers. The bill achieves this. The wording of the security officer amendment is perhaps deceptively simple, so I would like to explain how it applies. The bill is clear that if emergency medical treatment is required the person cannot be directed to leave. It is not relevant whether a security officer reasonably believes, or thinks in good faith, that a person does not need help. The question is objectively: does the person require emergency medical treatment? Security officers cannot answer this question, so the responsibility remains with clinical staff.

The bill also amends the Recording of Evidence Act 1962 and Mental Health Act 2016. The bill amends the Recording of Evidence Act to establish a new framework for recording the proceedings of prescribed tribunals and providing access to copies of records and transcriptions. It also amends the Mental Health Act to cover confidentiality matters that are specific to the Mental Health Review Tribunal and to restrict who the Mental Health Review Tribunal can give records to since its proceedings deal with highly sensitive and private information. If the bill is passed, the tribunal intends to make electronic recording its default recording method. Stakeholders strongly support the tribunal electronically recording its proceedings as this is good contemporary practice and will help patients and their support persons to better understand tribunal decisions.

Today the committee heard the Public Advocate and the Queensland Law Society put forward their position that the bill should make it mandatory for the tribunal to electronically record its proceedings. The Queensland Law Society also suggested that the bill could include an exception in that it could provide that electronic recording is mandatory unless there are exceptional circumstances to justify doing otherwise. These issues were raised because the bill allows the tribunal to electronically record proceedings but does not require it. Chair, I will explain the reasons the bill takes this approach.

Mr MOLHOEK: Chair, I feel like we are just getting a different version of the explanatory notes read to us and we are running out of time to ask questions, so I would—

CHAIR: With respect, I will let Ms Joldić continue and then we will move to questions.

Ms Joldić: I can try and speed up, but I think it is important just to get through the detail.

CHAIR: Yes, you are providing context on each of the things raised and I think we are towards the end of it.

Ms Joldić: I will explain why the bill takes this approach in relation to the amendments. I would like first to stress that, as mentioned earlier, electronic recording will be the tribunal's default position in practice. There will only be a small number of cases that are not electronically recorded. Other forms of recordings, such as written records, will be the exception and not the norm. The Law Society suggested that patient distress was too low a bar for electronic recording not to occur. It suggested significant distress was a more appropriate threshold. Another form of recording, such as written records, will only be used in compelling circumstances, for example, where there would be undesirable negative impacts for the person subject to proceedings such as if they are distressed about recording devices and are refusing to participate in important decisions about their healthcare.

We are not referring to distress in a general sense. If a person is distressed, the tribunal would be making inquiries to understand the level of the distress, the reason for this, and the consequences of proceeding with the hearing against a patient's wishes. If helpful, later on Dr Reilly can also talk about some of the complexities the tribunal faces when working with vulnerable people that make it important for this bill to have flexibility. I hope that once stakeholders see the tribunal's commitment to electronic recording as its default position it will allay their concerns about the bill not making electronic recording the mandatory way of recording proceedings. After electronic recording is in place, if stakeholders have any feedback we would, of course, be happy to hear from them.

Now that I have explained this practical context, I will speak to some technical reasons for the bill not making electronic recording mandatory. The Recording of Evidence Act already contains an obligation for courts and tribunals to record all of their proceedings, but does not prescribe how proceedings should be recorded. If the bill is passed this will continue to be the case.

The purpose of the amendments to the Recording of Evidence Act is to provide some flexibility as to how prescribed tribunals such as the Mental Health Review Tribunal can record and provide records. The amendments will not change the existing overarching obligations to record proceedings or the fact that the Recording of Evidence Act does not prescribe how proceedings should be recorded. It is therefore not considered necessary to specifically provide that the tribunal must electronically record proceedings. The Recording of Evidence Act does not do this for any other court or tribunal.

In addition, the new framework in the bill will apply to any prescribed tribunal, including other small tribunals that may be prescribed by regulation in the future. Any changes to the bill that are only relevant to the Mental Health Review Tribunal would be problematic as they might not be suitable for all tribunals that could be prescribed.

During the development of the bill many stakeholders supported the amendments relating to the recording of tribunal proceedings or did not raise concerns, including organisations with expertise in mental health such as Queensland Advocacy Incorporated and the Queensland Mental Health Commission. Legal Aid Queensland also advised Queensland Health that it supported the tribunal making electronic recording its default position in practice, without electronic recording being required by legislation. The Queensland Human Rights Commission has also recognised in its submission that it may be appropriate in exceptional circumstances for the tribunal to use a recording method other than electronic.

Chair, ultimately the big picture is that the tribunal wishes to and will roll out electronic recording once the framework in the Recording of Evidence Act and corresponding amendments to the Mental Health Act have commenced. However, a level of flexibility is required to meet the needs of the unique cohort it deals with. Can I please check with my mental health branch colleagues and Ms Struber from DJAG if they would like to add anything at this stage? No.

The Public Advocate raised during the hearing that a person should only be permitted to waive their right to representation in a Mental Health Review Tribunal if the person has capacity to do so and if they are permitted to waive their right verbally then the bill should require this to be recorded. Firstly, the Mental Health Act as it stands only allows the tribunal to accept waiver of the right to representation if the person seeking to waive the right has capacity to waive the right. This requires the tribunal to be satisfied that the person has the ability to understand the nature and effect of the decision to waive the right as well as the ability to freely and voluntarily make the decision to waive the right and the ability to communicate that decision. This will not change under the bill.

Secondly, if the tribunal is authorised to accept a verbal waiver because it would not cause injustice to the person, the waiver must be recorded in some way so the tribunal meets its obligations under the Recording of Evidence Act. The bill will not change this. If the bill is passed, a verbal waiver would almost always be recorded electronically. However, if this is not appropriate because of the

needs and circumstances of the person subject to proceedings then it would have to be recorded in another way such as by writing. Can I please check with Dr Reilly if he would like to add anything at this stage? Ms Struber? No.

Chair, I understand that the Public Advocate supports transcripts being provided to persons who request them. The bill will require a copy of a record or a transcription to be provided to entitled persons, who are set out in the explanatory notes. Whether an audio recording or a transcription is provided will depend on the circumstances of the requesting person and their access needs. For example, the tribunal may provide a transcription rather than an audio recording if a person is in prison or if they have hearing difficulties. The tribunal will be consulting key stakeholders on operationalisation of electronic recording if the bill is passed, including how recordings or transcriptions could be requested.

CHAIR: At this point, Ms Joldić, are we able to move to questions? I am cognisant of the deputy chair. Are there any other pressing comments?

Ms Joldić: I will wrap up in a second. I would also like to put on the record the radiation safety issue. I would like to briefly take the opportunity to clarify the point the Gold Coast HHS raised with the committee about the offence inserted in the Radiation Safety Act by the bill. This was a misunderstanding that the amendment would expand or create a new radiation safety offence. The Gold Coast HHS also requested clarity about whether the offence applies to the provision of medical radiation practice.

CHAIR: Ms Joldić, the committee has resolved to deal with that submission and it is removed from the website.

Ms Joldić: Thank you. I will conclude. Chair, there are two key points that I wanted to raise. There are a few more but I will conclude. The bill includes a range of amendments that may not seem significant in and of themselves and some, I admit, may not sound particularly exciting. However, the purpose of the amendments combined is to ensure that health legislation is effective and efficient. To provide some context, I would like to flag with the committee that Queensland Health periodically progresses general omnibus bills. These bills help us to keep health portfolio legislation contemporary and to make sure it is working as well as it can to support Queensland's health system. I would be happy to answer any questions or refer them to my colleagues.

CHAIR: Thank you very much. We appreciate that.

Mr MOLHOEK: Thank you, Ms Joldić. I would like to direct a question to Dr John Reilly initially. Earlier today we heard evidence from the Queensland Nurses and Midwives' Union. Jamie Shepherd, the team leader, made comparisons between the qualifications of Victorian and Queensland mental health workers. He suggested that one of the reasons we needed increased security staff and security provisions was because Queensland mental health workers were not trained to the same standards as required in Victoria and, if they were, we would have to shut down or mental health units. I would be interested in your comment because the suggestion was that we are not as rigorous in the requirements that we place on training and qualifications for mental health workers in Queensland.

CHAIR: Just for clarification, they said 'nurses' and not 'workers'.

Mr MOLHOEK: Yes, sorry—nurses.

Dr Reilly: I did not hear that particular comment. It is news to me. Obviously there are national standards in regard to such matters. There are sometimes some differences. Mr Shepherd may be referring back to perhaps some historical factors, I think, with regard to nursing and nurse training, but there is no formalised difference. I am not sure on what he is basing that. Obviously I am not here specifically as a nursing representative and, if you wanted, I could follow that up and clarify it.

Mr MOLHOEK: I suggest that perhaps you look at the transcript and his comments. Perhaps Queensland Health could provide a response. I felt it was a very concerning comment that was made.

Dr Reilly: It is indeed a concerning comment.

Mr MOLHOEK: I think it needs to be looked into further.

Dr Reilly: I am happy to consider it.

Mr O'CONNOR: The bill does not have any specific actions in it for the support of staff health, safety and wellbeing. How will the department ensure that hospital and health boards and HHSs measure whether they are achieving what it sets out to do?

Ms Joldić: As I mentioned in my opening remarks, the measures that we have put in place are very operational and are basically for the way we internally manage this. It was not intended to be a compliance measure, as mentioned. That is why we have the workplace health and safety act, to do that. We have other significant health and wellbeing programs for our staff.

In the 2022-23 financial year, there were 53 self-care wellbeing workshops in HHSs that we have delivered and over 500 participants attended. We have a whole range of other measures that we have in place to do that. In terms of working with the boards, we have now some months to make sure that we work with our HHSs and boards to ensure that they are compliant. It was never intended to be a compliance measure and, as such, we were not putting any of those measurements in place.

CHAIR: In the private sector, places like the Mater and so on, are you aware whether they do any of these types of things or is there something specific for our HHSs that has been developed?

Ms Joldić: Not that I am aware of but I can take that question away. It is designed for the public health sector obviously, but I am very happy to look at what is in place for the private sector.

CHAIR: I am interested in a comparison.

Mr O'CONNOR: Will there be some assessment in the future about whether or how the health and hospital boards—

Ms Joldić: We always review whether our legislation is effective. It is our normal process to review and see if the legislation is effective on the ground. We will be working from when the bill passes to when it becomes operational to make sure that it is effective and, obviously, we work very closely with the HHSs, the CEs and the boards to make sure it is. There is a strong learning and educational component here.

CHAIR: Member for Mirani?

Mr ANDREW: The bill documentation refers to the need for more collaboration between government, research universities and the private sector. I understand these collaborations can be hugely profitable commercial arrangements. Does the Queensland taxpayer benefit economically at all from those private collaborations, such as the one with CSIRO to modernise Queensland's Cancer Register?

Ms Joldić: I am not sure I understand the question.

CHAIR: You might want to rephrase the question.

Mr ANDREW: I will go to another one. The bill includes provisions requiring hospitals to better support the health and wellbeing of their staff. A number of health workers in my region have told me that they recently had their portable long service leave cancelled. I want to note that that is concerning. It does not seem to be transferrable, in some instances, through the department. In terms of the health and wellbeing of staff, does the department know why leave is not being transferred? It does affect our nursing staff at the moment. I have had a few people come to me with this.

CHAIR: Member, I understand where you are coming from. It is outside the scope of the bill but I will allow some latitude in the response.

Ms Joldić: I am happy to take that on notice, but it is outside the scope of the bill. Can I confirm what we are taking on notice? The transferability of leave across the system; is that the question?

CHAIR: It sounds like it.

Ms Joldić: I will have a look into that.

Mr MOLHOEK: I fully appreciate the need to have sound practices in place in terms of the health, safety and wellbeing of our staff. I think in any employment setting that is a given. If you are a general manager, a CEO or a board then those obligations are almost automatic or they should be. We heard from Barry Watson today, from the Australian Workers' Union. In a sense, he suggested, a lot of these provisions are already there. They are obligations that are covered through awards and through the Work Health and Safety Act 2011. Isn't this just another set of rules about rules? Shouldn't we just be getting on with looking after our staff?

Ms PEASE: That is an opinion.

Mr MOLHOEK: I will rephrase it. How will this legislation guarantee that Queensland Health will actually do a better job of what it should be doing anyway?

Ms Joldić: There are no guarantees in life. That is just a personal opinion, but what I would suggest is that, when people think about and look at the act, the amendments bring staff wellbeing to the forefront of decision-making by our boards and HHSs.

Mr MOLHOEK: They should be doing that anyway.

Ms Joldić: I am not saying they are not.

Mr MOLHOEK: Does the Health and Safety Act not already prescribe that?

Ms Joldić: Yes, but it also should be reflected in a bill that is actually solely responsible for how our HHSs are administered, so how the health system is administered. To achieve that is through the HHB Act.

Mr MOLHOEK: Are you suggesting that under the current Health and Hospital Services Act there are no provisions or requirements that the boards of those entities actually look out for the health and wellbeing of their staff?

Ms Joldić: No, that is not what I am suggesting. What I am suggesting is that it really highlights the fact that we will have health and wellbeing at the forefront of decision-making.

Ms KING: Thank you all for those very thorough responses to a lot of the evidence they we have had before us today. I, too, will refer to something that Mr Barry Watson raised in his evidence, the gentleman from the AWU. He noted the challenges that are created in our health system because we have independent statutory bodies as our HHSs. Can you comment on the value of these amendments in regard to staff wellbeing in the context of that devolved overall health service structure or have I just said it?

Ms Joldić: I think you have just said it. It absolutely assists in a decentralised and devolved system to have these amendments. As I mentioned earlier, it really highlights the need that wellbeing is at the forefront of decision-making.

Mr Harmer: I do think it is important to remember when introducing the amendment that the minister did comment on the need to reflect on and record lessons from COVID, and a focus on staff wellbeing was a key priority of government and is expressed in this bill. Really, the importance of this amendment is to express in health legislation the importance of health and wellbeing for health staff. It builds on and amplifies in a health context obligations that exist in other health workplace legislation. Ultimately, the answer to the question from the member is that it is a matter for government, but I think it does make clear the expectation in the health context that our boards will focus on the health and wellbeing of health staff.

Ms Joldić: I add to that that it does not mean they are currently are not considering that, but it is highlighting the fact in health legislation.

Mr MOLHOEK: It almost implies that they were not, though.

Ms KING: Oh, it does not, member.

Ms PEASE: I would like to ask a question relevant to the bill rather than an opinion. I would like to ask Trudy Struber from DJAG with regard to the recording of tribunals and what is currently taking place. Given there has been a lot of emphasis put on that today in our conversations, do you have any commentary on some of the feedback around those comments that are being made about the fact that currently there is no requirement to record it? Will it benefit and are there likely to be any other impediments? I know we have talked about it, but it would be good to hear from the department about it.

Ms Struber: My comments will be largely constrained to the legislative framework rather than what is happening in practice in the tribunals. The Recording of Evidence Act sets up the statutory obligations for all courts, tribunals, inquiries and examinations to record their proceedings. That includes all evidence, all directions, and all summings-up. Everything that happens in a legal proceeding, under the Recording of Evidence Act currently and under the bill, must be recorded. What the act does not do at the moment and is not proposed to be changed is to say how they must be recorded, so the mechanism by which the recording must take place. However, there is that obligation for the recordings to occur.

In relation to the comments that have been made by some submitters about making it a mandatory requirement to electronically record, we need to maintain flexibility within the legislation. The Recording of Evidence Act applies broadly to a large number of courts and tribunals. That requirement does not exist. It is standard practice within the courts and within QCAT to electronically provide, but it is about not making the overarching framework really rigid. The intention of the new framework that is proposed by the bill is to create some additional flexibility. While the Mental Health Review Tribunal will be one tribunal that utilises that flexibility, it is not necessarily restricted to just the Mental Health Review Tribunal.

Other small tribunals that need a little bit more flexibility in who is in the room, who can initiate the recording—that is where the flexibility of the new framework in the bill is being created. It is a combination of a model between the existing framework which exist for the courts and another framework in the bill at the moment for examinations and inquiries, things like commissions of inquiry. They have a little bit more flexibility in relation to who may initiate the proceeding and whether there

is both a recording and a transcript of the recording produced. The new framework proposed by the bill is an amalgamation of those two existing models to ensure that the relevant information is still recorded but that there is a little bit more leniency in how that occurs for the smaller tribunals that need a little bit more flexibility in how they undertake that.

Ms PEASE: That is really great to hear. I am not sure if you are in a position to answer this or Queensland Health with regard to how this is going to happen in practice. We heard from one of the organisations earlier that it is often difficult to set up the recordings so there are people taking handwritten notes. Do you imagine there will be any support to provide recording equipment so that these tribunals can be recorded in a better process?

Dr Reilly: The Mental Health Review Tribunal has given this a lot of consideration and has certainly discussed it with us. In some of the discussions earlier, there was provision, I think, from the Queensland Law Society about how it works. I think it is important to put it into context. As the chair is aware, working in Townsville over my extended period, we have had to move Mental Health Review Tribunal rooms on many occasions. The main rooms are at the hospital, but we have also had to have community rooms—one, two or more—in different community mental health sites in Townsville. Then, of course, you have Charters Towers, Ingham and the Burdekin.

There has to be a lot of flexibility and therefore the tribunal is taking it with them. They will have two recording devices, one as a backup. They have thought through how they need to do that. There is not going to be additional support because the Townsville example gives you an idea of what it must be like thinking about that across all of Queensland. The example given by the legal society, not surprisingly, is about the administrative tribunal going, but that would be quite a rare event for them to go to a hospital and they would take someone along to look after that. This is an everyday event for the Mental Health Review Tribunal and they need to do that. They have that arrangement.

Ms PEASE: It is in place already. Thank you very much.

CHAIR: There has been a fair bit of talk on supporting our health staff. I go back to a comment at the beginning of this bill where I identified that in my HHS—and I am not sure what happens in others—they have staff clinical excellence awards. It is not just clinical excellence; they go from maintenance through to every working part of the hospital. To see hundreds of staff recognised, acknowledged and supported in those arenas, I think, is a great example of looking after our health staff and rewarding them for the fantastic job that they do. I want to conclude with that remark. To all of you, I say thank you very much for your contributions here today, and we will see you again no doubt throughout the year. If answers to questions on notice be back by 7 February, we would be grateful for that. I declare this public hearing closed.

The committee adjourned at 1.39 pm.