



# Queensland Advocacy Incorporated

Systems and Legal Advocacy for vulnerable people with Disability

Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

17<sup>th</sup> January, 2014

Dear Members of the Committee,

**Re: Electoral Reform Amendment Bill 2013**

Please find below our submission in regard to the Electoral Reform Amendment Bill 2013.

We appreciate the opportunity to contribute to the consultation process and offer further discussion or clarification at our convenience.

Yours sincerely,

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Acting Director

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## 1. *About Queensland Advocacy Incorporated*

Queensland Advocacy Incorporated ('QAI') is an independent, community-based organization providing systemic, individual and legal advocacy to people with disabilities.

**Our mission** is to promote and protect the fundamental needs, rights and lives of the most vulnerable people with disability in Queensland. In addition our efforts extend beyond the defence of civil and political rights to the defence of rights without a legal foundation, including rights to belonging, respect and dignity.

We hold ourselves to account by including people with disability as paid staff, in our membership, and in key board positions. Board members have experience in advocacy, institutional living, community legal services, private legal practice, legal aid, accountancy and community work. QAI is a member of the national Disability Advocacy Network of Australia (DANA) and Combined Advocacy Groups Qld (CAGQ). We endorse and endeavour to uphold the UN *Convention on the Rights of Persons with Disabilities*.

QAI Values are the following:

- At QAI, we believe that all human beings are equally important, unique and of intrinsic value.
- Human beings are fundamentally social beings.
- The process of interaction between people with and without disability is a social exchange.
- We believe in **full citizenship for all members of society**, and in challenging practices which discriminate against, or persecute, particular individuals or groups.
- We are firmly committed to *self-determination* for people with disability.
- We believe that decisions and decision making processes on behalf of people with disability should be consistent with these principles of *self-determination*.
- Every human life is of value, and should be afforded dignity, respect and protection.
- As social beings, we all have the right to feel safe and accepted; we all need to love and be loved.
- Every individual human being is important: each deserves respect, to be treated with personal dignity, to be accepted for who they are and to have their differences appreciated.

People with disability have historically been excluded from engagement with or decision making about the systems that have greatest impact on their lives. As Queensland and indeed our nation have evolved into an emerging civil society that embraces its entire people, our most vulnerable hold fast to their hard won human rights.

In modern times the identity requirements to obtain basic amenities such as a bank account, a Medicare card, a phone, present bureaucratic difficulties for people with disability, particularly those with cognitive impairment. The trappings of our modern world are important to us all to facilitate our way of life, yet are of increased importance to the status of people who are often undervalued or overlooked. The right to vote is something that people with disability claim as their greatest opportunity to have some measure of control over their lives. Any impediment to this will add further burden and distress to people who have endured more than most would tolerate.

Part 1 Australia's Electoral Architecture Chapter 4 "The Franchise" of The Australian Government Electoral Reform Green Paper "Strengthening Australia's Democracy" sets out the electoral landscape of voters and the factors that inhibit eligible voters from exercising those rights.

4.3 Parliament's discretion to restrict the franchise is not unlimited. In the High Court of Australia decision *Roach v Electoral Commissioner (2007) 233 CLR 162*, then Chief Justice Gleeson made the following observations about the franchise in Australia: 'Because the franchise is critical to representative government, and lies at the centre of our concept of participation in the life of the community, and of citizenship, disenfranchisement of any group of adult citizens on a basis that does not constitute a substantial reason for exclusion from such participation would not be consistent with choice by the people.'<sup>62</sup><sup>1</sup>

There is no justification for the imposition of requiring voters to produce identification at the polling booths. While there has been some assertion that voter fraud has promoted this inquiry, there is no evidence to suggest that fraud has been perpetrated. In fact, in recent news article from the Information Daily in the UK quotes Jenny Watson, Chair of the Electoral Commission, said: "*Proven cases of electoral fraud are rare and when it is committed, the perpetrators tend to be candidates or their supporters.*" She went on to claim that tightening individual electoral registration would protect the victims of this rare fraud. This is akin to blaming victims for their plight and imposing sanctions in order to protect them from the fraudsters.

QAI is deeply dismayed by the increased burden that will be brought to bear on voters who have a disability, have mental illness, are homeless or face difficulty in exercising their right to vote.

The Australian Government Electoral Reform Green Paper provides data about estimable eligible voters who cast votes in 2004 and 2007 federal election. It then points out that there are a significant percentage of eligible voters who do not cast their votes. Information contained within "*Exercising the franchise*" explains some of the potential reasons that different groups do not exercise their voting rights, however, it fails to acknowledge that some people with disability are offered exemptions from voting without guarantee that this is their choice rather than an option for family members and or carers who struggle to support for the person with disability to exercise their right to vote.

In "*Persons of unsound mind*" discussion centres on the disparate views of capacity and we draw your attention to point 4.54 "...- the AEC advises that **4,812** people were removed from the Commonwealth electoral roll by objection on the ground of unsoundness of mind between 1 January 2007 and the 2007 federal election." QAI disagrees that this disqualification affected "*relatively few electors*" given the unsubstantiated assertion of electoral fraud. These people could well have exercised their right to vote if given the time, support and or education to understand their voting preferences.

People with disability face discrimination on a daily basis and while many of our laws state that we should begin with the presumption of capacity, it is this concept that is most often dismissed. Please consider point 4.56 "*that it could be argued that certain people of 'sound mind' do not have an understanding of 'the nature and significance of enrolment and voting', but the capacity of persons of 'sound mind' is never questioned; 152*"<sup>2</sup>

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<sup>1</sup> "Strengthening Australia's Democracy" Pt. 1 Australia's Electoral Architecture<sup>1</sup>" Australian Government Electoral Reform Green Paper

<sup>2</sup> People with Disability Australia, submission no. 68 to JSCEM, *Inquiry into the 2007 Federal Election*, p. 3,

We remind Committee members of our international obligations under the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and to which Queensland aspires to comply. Article 12 of the CRPD signatories *'shall recognise that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life'*.

In light of our progression in a civil society and the advent of the National Disability Insurance Scheme, the implications for bipartisan reinforcement of Supported Decision Making are paramount.

The Policy Objectives of the Bill as articulated in the Explanatory Notes imply a motivation to assist people with disability to cast their vote.

- facilitating electronically assisted voting, particularly to ensure access to secret and independent voting for blind and vision impaired voters; and voters who require assistance because of a disability, motor impairment or insufficient literacy;
- changing particular requirements in relation to postal voting to make it more convenient and accessible for voters;<sup>3</sup>

**Should the proposed amendments be adopted, many more people with disabilities, homeless people, itinerant workers and those who live in remote areas will become disenfranchised and removed from the electoral role.**

QAI is deeply concerned that the adoption of these proposed amendments will dent the optimism that people with disability are beginning to experience with their hopes and aspirations of the NDIS. The considerable financial investments required to record and collate data of people who are denied their chance to vote; monitoring the effectiveness of the changed voting laws; and capturing the costs to individuals (and the community) who lose their right to vote will far outweigh any perception of preventing suspected voting fraud.

**We recommend** the funds that would be directed towards this unnecessary venture be diverted to support for people with disabilities to vote, with larger roomier polling booths, access to ballot boxes that are accessible and private to enable supporters to assist with vote casting, and electoral officials who are available to support voters with ballot tickets and information.

In relation to the proposal to removing donation and expenditure limits we endorse the submission made by **Professor Graeme Orr**, Law School, University of Queensland.

We are concerned by the conflict of interest of any government that is potentially influenced by donors who have little to no interest in the rights, wants or needs of people who are vulnerable, disadvantaged or have a disability. Corporate pressure and power will no doubt further compound the inequities faced by those who have traditionally not been heard by government. In the last two decades, independent MP's have been the champion of the average member of the public. It is unfair that the major parties (and in particular the governing party of the time) will have significant advantage over independents who do not have the buying power of a larger party.

QAI strongly objects to these proposed amendments in all forms.

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<sup>3</sup> Electoral Reform Amendment Bill 2013 Explanatory Notes

