



HEALTH, COMMUNITIES, DISABILITY SERVICES AND DOMESTIC AND FAMILY VIOLENCE PREVENTION COMMITTEE

Members present:

Mr AD Harper MP (Chair)
Mr MC Berkman MP
Mr MA Hunt MP
Mr MF McArdle MP
Mr BL O'Rourke MP
Ms JE Pease MP

Staff present:

Mr R Hansen (Committee Secretary)
Mr J Gilchrist (Assistant Committee Secretary)

PUBLIC HEARING—EXAMINATION OF THE DISABILITY SERVICES AND OTHER LEGISLATION (WORKER SCREENING) AMENDMENT BILL 2018

TRANSCRIPT OF PROCEEDINGS

MONDAY, 16 APRIL 2018

Brisbane

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The committee met at 10.02 am.

CHAIR: I would like to start today by acknowledging the traditional owners of the land upon which we are meeting today. I am Aaron Harper, the chair of the committee and the member for Thuringowa. The other members of the committee with me today are Mark McArdle, the deputy chair and member for Caloundra; Michael Berkman, the member for Maiwar; Marty Hunt, the member for Nicklin; Barry O'Rourke, the member for Rockhampton; and Joan Pease, the member for Lytton.

Today's hearing is part of the committee's examination of the Disability Services and Other Legislation (Worker Screening) Amendment Bill 2018. The bill was introduced on 20 March by the Hon. Coralee O'Rourke MP, Minister for Communities and Minister for Disability Services and Seniors. The committee is required to report on the bill by 8 May 2018.

A few procedural matters before we start: the committee is a statutory committee of the Queensland parliament and as such represents the parliament. It is an all-party committee that takes a non-partisan approach to inquiries. This hearing is a formal proceeding of the parliament and is subject to the Legislative Assembly's standing rules and orders. The committee will not require evidence to be given under oath, but I remind you that intentionally misleading the committee is a serious offence. Witnesses have been provided with a copy of the instructions for witnesses so we will take those as read. Hansard will record the proceedings and you will be provided with a copy of the transcript. This hearing will also be broadcast live on the parliament's website.

For any media present, I ask that you adhere to the directions of the chair at all times. The media rules are endorsed by the committee and are available from committee staff if required. I remind all those in attendance today that the proceedings are similar to parliament to the extent that the public cannot participate and I remind members of the public that they may be admitted to or excluded from the hearing at the committee's discretion. Please note that this is a public hearing and you may be filmed or photographed.

HARRINGTON, Ms Anna, Policy Officer, Age and Disability Advocacy Australia

ROWE, Mr Geoff, Chief Executive Officer, Age and Disability Advocacy Australia

CHAIR: Would you like to make a brief opening statement before we start questions?

Mr Rowe: Thank you for the opportunity to speak to the committee this morning. I too would like to acknowledge the traditional owners of the land on which we meet, their elders past, present and emerging. I will give you a little bit of an overview of who ADA Australia is, given that we are a little bit different to the mainstream disability advocacy agency.

If I go back two steps, ADAA has been around for about 25 years and we deliver individual advocacy support to older people who access or are seeking to access the aged care system as well as users of the Community Care Services system. That is the Queensland Community Care Services program in which there is a significant population of people who have a disability and who will be transitioning to the NDIS. We also operate a guardianship advocacy service which supports people with a cognitive impairment, both under and over the age of 65, to access the QCAT system where their capacity is being questioned or they are trying to make a change regarding their enduring power of attorney or advanced health directive. We also host the Aboriginal and Torres Strait Islander Disability Network of Queensland.

While we are a small agency we have regional offices across Queensland. We have a physical presence in Cairns, Townsville, Rockhampton, Bundaberg, Sunshine Coast, Gold Coast and Toowoomba. Our head office is in Geebung and we have an office in Woolloongabba as well. We have a total staff of about 35, 25 of those advocates working with people one-on-one. That one-on-one contact with people is helping them where they have issues with their either aged-care or disability provider. We support people to have their voice heard. 'Giving you a voice' has been one of our tag lines over time.

In terms of size and impact, last year we provided individual advocacy support and information to about 3,000 people across Queensland. We delivered about 1,140 education sessions to service providers and consumers of services and we had about 44,000 people attend those. We also do a range of things to help people understand their rights.

Last week we launched My Rights Queensland, a disability rights guide, which is a web based guide providing information to people with a disability, their families and carers about what their rights are: what their rights are as a user, for example, of housing and public housing and how they can make a complaint and all the contact details for those. We are about supporting people who are nervous about having their say, but we are also about supporting people to feel confident in representing themselves in their dealings with service providers and others.

In terms of the bill, we are broadly supportive of the changes that are being proposed. As you will see from our submission, more particularly myself, I have a long-term passion around ensuring that our systems are not too wrapped up in red tape or are not duplication. If I take another perspective, when you work across disability and aged care you see two systems that provide very similar services to vulnerable Queenslanders.

Each of those systems have their own requirements in terms of criminal history screening, in terms of quality assurance, in terms of complaints mechanisms and neither system seems to want to acknowledge each other's systems. When you are working in a place like Queensland, particularly in rural and remote Queensland, there may be one service provider in town and I am really quite concerned with the NDIS potentially opening up the system to an additional 46,000 Queenslanders.

If you are in a rural and remote community and there is not an approved disability provider in town but there might be an approved aged-care provider, it seems bizarre that we set up systems that require, for someone to get a service in their local town, them to ask that provider to become accredited under the disability system and have a whole lot of systems that largely duplicate or replicate the existing ones that they have. My concern is that those requirements will preclude providers, particularly in rural and remote communities, from providing a service that they are able to provide because it is just too expensive to go through a second system, a second arrangement, for the number of hours of support that they might be providing to an individual.

My plea to the committee is that as you are looking at this and certainly as you go forward as a committee and look at the other aspects of the NDIS that are coming in to be consistent nationally with the disability system, please also look at it through a lens that acknowledges that there are already a number of systems out there that are seeking to do the same things.

I have been involved in community services, human services and disability systems for more years than I care to remember, but certainly back to the late seventies, early eighties. I have seen lots of change and I am absolutely supportive of putting in mechanisms to protect vulnerable people. When criminal history screening was first brought in in disability, the department at the time spent \$5 million reviewing all of the employment arrangements that existed within funded services. I think at that stage there were 1,600 employees in the community sector who were screened, as I said, at a cost of \$5 million. There were four staff identified who did not meet the criteria. It was quite a large spend for a small number of people.

I understand the needs within the working with children system where we have the blue card and the blue card is about providing, and we have a yellow card for disability and I guess I have been banging on for ages and saying why can't we have a green card—blue and yellow together gives you green. We are talking about vulnerable people. I have been a bit like a cracked record and saying this for a very long time, but in the last review there were some concessions in that you no longer had to have a blue card and a yellow card you could seek an exemption, but it missed the mark because again it is a whole other bureaucratic process that people have to go through to get that outcome. You might as well have kept them separately.

My plea to the committee: you are on the right track; national consistency is really important but consistency within Queensland is equally important. When you are now dealing with people, as in staff, who work across multiple agencies and multiple sectors, it is even more important that we have a very robust but simple system. Thank you.

CHAIR: I thank you and those 35 staff throughout Queensland for the work you do with the tyranny of distance. I come from Thuringowa which is in Townsville but my previous role was as an ambulance officer throughout the region. I know the challenges of delivering services in rural and remote areas and you touched on that. I think that is important. Do you have any members with an Aboriginal and Torres Strait Islander background?

Mr Rowe: When I am trying to give a five-minute overview of who we are and what we do I do miss that from time to time. Two of our advocate positions are designated Aboriginal and Torres Strait Islander. We have an Indigenous advocate based in Cairns and one based in Brisbane. Our project officer for the Aboriginal and Torres Strait Islander Network is an Aboriginal woman and another member of our staff is a member of the Indigenous community. I guess it is four staff out of 35 who are Indigenous.

We are about to launch our reconciliation plan next month, so the organisation has a strong commitment to working with Indigenous Queenslanders and Indigenous communities more broadly. As you touched on, and I probably did not touch on, when you are working with vulnerable people you do not expect them to come into your office; we do a lot of work by going out to people's houses or services. We really go from the Torres Strait to the border to the border.

CHAIR: Thank you for your broad support of the bill. There are safeguards in place through this process. You are not the only submitters who have touched on the other processes for the blue card and working with children. I note your concern in regards to a green card. It would be a wonderful thing and in time no doubt there will be a review upon the yellow card process. That is something that we got back from the departmental briefing. I hope that you gives you some solace.

Mr HUNT: Thanks for coming along today. Having come from a community organisation and myself been through the blue card system, I understand your frustration with that process in terms of people who were exempt, such as teachers and police officers, but who still have to fill in an exemption form and go through that process regardless. Do you have any suggestions about how we might reduce the duplication of exemptions? Do you have suggestions as to how to improve that?

Mr Rowe: In years gone by, I used to be a committee member on the physiotherapy registration board of Queensland. At that stage there was a system called mutual recognition whereby, if someone was a registered physiotherapist in New Zealand, their qualifications and registration were automatically accepted in Queensland, so they did not have to go through a whole range of hoops. For me, that is really the easy starting point: if someone has a similar registration or a similar police check in place, that it is recognised.

Touching on your point about the exemptions, I do not think there is a sufficient understanding of the exemptions. People are still questioning the need by saying, 'Why don't you have this?' without fully understanding the fact that, as a registered therapist, you do not have to have the blue card, as I understand it, if I am getting that right. People are continually asking, 'Where is the card?', rather than understanding 'Where is your exemption?', which is a far better and more appropriate way of responding.

One of my frustrations is this: while the intent of the criminal history screening is absolutely important and spot-on, I am concerned that it really only picks up the people who have been previously caught. We also need to look at the safeguards in place to provide a safe environment for a vulnerable person, and I will use that term rather than a person with a disability or a child. It is only the people who have been caught who are excluded. People may have committed a crime and we see it across-the-board where people cross the line, but sometimes it is not sufficient to get charged or the charges do not translate to a conviction. We still need to have a way whereby, for people who should not be working with vulnerable people, there is some sort of flagging mechanism that excludes them from doing that.

Particularly with aged care, we see people move from one agency to another. They have been sacked, but they get reemployed elsewhere. That happens in disability. There has been a discussion within disability land for many years, as well, about whether we can have a register or if there is some way that we can say that there is a red flag on this person and they are not really appropriate in the way that they work with people. I do not know that I have an answer, but I certainly know what the issue is and I certainly know that there is a need for an additional safeguard mechanism to be available.

Mr HUNT: Are you aware of any differences in the criminal history or offences requirements between, say, ability to work in aged care, ability to work in disability services and ability to work with children? Is there a difference between what is required? Is it something that we could bring together?

Mr Rowe: I am not a lawyer, so I am not going to profess to know what the extent of the difference is. Certainly my memory of the difference between a blue card and yellow card in years gone by was—what is the word—effectively, if you worked with someone with a disability you could not have committed a financial crime against the child, because they did not have money or were not responsible for money, so there was not the same requirement.

In the world that I come from, a vulnerable person is a vulnerable person. If someone is not appropriate to work with one cohort, they are not appropriate to work with the other. We have to effectively harden up and perhaps bring up the line. Rather than going down to the lowest common denominator, go up to the highest denominator and say that that is the standard we are setting if we are asking you to work with vulnerable people.

More and more in disability land, the model of care is going from large institutions to smaller accommodation facilities and to day services. The move is very much to one-on-one support of people accessing the community and living in their own homes. There might have been some safeguards in the larger setting where there were other staff working on-site who kept an eye out, but more and more we are seeing—and in aged care it is the same—that of the 1.3 million Australians receiving aged care, more than one million receive it outside of the traditional residential nursing home model. If we are putting people in an environment where they are more one-on-one with someone and where there are not those daily checks and safeguards, perhaps that is a sufficient argument that the threshold should be raised.

Ms Harrington: There is a lot happening in the aged-care sector at the moment, looking at and reviewing the current processes. At the moment, it is just a national police check. I think the main thing that rules you out from working in aged care is a conviction of murder or sexual assault or assault that has led to imprisonment—it is quite narrow—and referee checks. The Australian Law Reform Commission has made recommendations around broadening the checks or the screening process and looking at serious incidents that have been reported and also workplace misconduct that has been reported. I think that is quite similar to what the NDIS quality framework is proposing for the NDIS quality systems, as well.

With the reforms taking place, they are both moving towards a similar system, so it makes sense to try to look at how they can be aligned and talk to each other. As Geoff said the two sectors are both facing workforce issues and they are going to be sharing workforces most likely, particularly in the rural and remote areas. If they can talk to each other and share that information, that is really going to be a good outcome.

Mr O'ROURKE: In your views, how important to your members is the enhanced workers screening system that we are seeking to implement here in Queensland?

Ms Harrington: As Geoff was saying before, you are inviting people into your home in a lot of these types of services, both under NDIS and in aged care. It is a big move into the community. I think it is very important for people to know that all processes have been put in place to ensure that the person they welcome into their home is someone who can be trusted.

Mr BERKMAN: We have touched briefly already on specific issues around Aboriginal and Torres Strait Islander communities accessing disability services. You may be aware that recently some concerns have been raised about the role that Indigenous communities themselves might play in the assessment of blue cards to be issued in circumstances where carers might otherwise not be available within the community and the view being put that these communities are themselves best positioned to consider any issues of past criminal histories, particularly where they are long distant. Are there any similar concerns around the provision of disability services? Is this something that you have given consideration to, within your organisation?

Mr Rowe: I suspect we have not given it the consideration that we should have. Certainly the message we get from, say, the members of the network—and there are about 800 members of the Aboriginal and Torres Strait Islander Disability Network at the moment—is that we need to be flexible in how we provide services within Indigenous communities. That said, I think we also need to be aware that the rural and remote Indigenous community is a smaller population cohort of Indigenous Queenslanders. I did know the number a few weeks ago, but it has escaped my mind. Certainly, the bulk of Indigenous Australians live in metropolitan city environments rather than the traditional communities.

Coming up with a model that is one size fits all is a bit naive. I think we have to be flexible when we are looking at that. The issues in remote Queensland are not dissimilar for Indigenous and non-Indigenous Queenslanders, so that flexibility is something that we have to look at. I probably would want to give that some more thought. It is complex. For the one size fits all, particularly in the rural and remote and Indigenous setting, if you look at somewhere like Palm Island where having a worker come in from another community, it is not a reality. Your workers will be drawn from that local community. It is a separate consideration.

Also looking through the lens of Indigenous Australians being—how do you put it politely? I suppose you do not put it politely. We know that Indigenous Queenslanders are overrepresented in the criminal justice system. Is it because they are offending more than others or is it because the way Brisbane

that the judicial system has treated them is different? I think history would suggest that an Indigenous teenager is far more likely to get locked up for a similar offence than a white teenager. If you look at that background, we are going to find a far higher incidence of people with criminal histories that might preclude them. On the question around the blue card or yellow card, maybe the threshold will have to be a bit higher in those communities, but I am not sure. I really have not given it sufficient consideration.

Ms Harrington: If it is a topic that you are interested in, I am sure the network would be interested in exploring that with their members and get a member's perspective, because they run yarnning groups all around the state and try to have local champions to lead that and be the voices for their communities. If there is a channel to explore that further, I think the network would probably welcome that opportunity.

Mr BERKMAN: I would find that really valuable, if that is something that we are able to arrange as a question on notice, effectively.

CHAIR: Yes.

Mr Rowe: What is your time frame? It is short, obviously.

CHAIR: The reporting date is 8 May.

Mr Rowe: We will get something out to people in the next week and try to get some feedback back to the committee.

CHAIR: Thank you very much. We appreciate that.

Ms PEASE: Thank you for the great work that you do, providing advocacy and advice to people with aged-care and disability issues. Can you advise how community members access your services?

Mr Rowe: We have a 1800 number, which is our primary point of contact. We also try to use any opportunity that we can to publicise and promote the availability of our service. We have Indigenous specific resources, we have CALD specific resources in—how many languages at the moment? I was going to say 24. I know we have recently rewritten them, so do not quote me on the number.

We also try to take every opportunity to have a stall at a community event. Our advocates are also linked into local networks right across the state. If people are aware of someone who needs our services within another community organisation they are able to provide a referral.

We have tried in the past to annually—and I am looking at the committee feeling slightly embarrassed because I have not since the recent election—write to all MPs across the state giving them a copy of our DLs, saying who we are and saying if you have someone walk into your electorate office who needs support give them one of these we can help and support them. I will use the visit this morning as a prompt to get the next round of them out.

Ms PEASE: Thank you for that. I am always on the lookout for any assistance I can offer people in my electorate.

Mr Rowe: I think that is always one of the challenges with people knowing who you are and how to find you. We also do a fair amount of media. That is not critical media. It is positive and about reminding people that if they do need support there is a 1800 number they can ring.

Ms PEASE: You mentioned that you have a presence regionally. Does that mean that you have workers based regionally? Would you provide assistance one on one with clients?

Mr Rowe: Absolutely.

Ms PEASE: Excuse my naivety, are your workers required to have any police blue cards or yellow cards?

Mr Rowe: They are subject to the normal requirements because they are working with vulnerable people.

Ms PEASE: Thank you very much. I know you do a great job in the community.

Mr McARDLE: Thank you very much for your time today and for your submission, which is greatly appreciated. I note you make the comment that there is a disparity in relation to departments within Queensland sharing information and there not being quite clear guidelines about what can be shared and what cannot be shared. That was picked up by the Family & Child Commission in their report in September of last year. In fact they referred to the royal commission and make the comment that there is fragmentation as to what can be shared and more importantly to what people think can be shared and of that what portion can be shared.

The process we are going to have in place post transition to the NDIS will be an application, as I understand it, going to each jurisdiction seeking clarification of the body supplying the service. Do you have a concern that without a national database of information, the information that you will get back from an application could be fragmented because of the inconsistencies between the departments or at least due to their understanding of the knowledge they can provide?

Mr Rowe: The short answer is probably yes. I guess my comment around that fragmentation probably was not just limited to government. I think it applies to the sector as well. There is some sharing. There is not sharing. There are concerns about the privacy legislation. You only had to watch what happened with the changes that occurred to the privacy legislation about two years ago. There are various levels of sophisticated, for want of a better word, across service providers. Some have a very clear understanding and some do not. It is even more so now where you are dealing with more and more sole traders coming into the marketplace.

In recent years I have worked for large providers in the disability sector and have always said that I do not know how the small providers do it. They are flat out providing services and the complexities of running a non-government organisation are huge. I think there is a lot that is done by the seat of the pants.

When you are talking about sharing across government, absolutely that is an issue. While privacy is a concern for the sector it is also a concern across government agencies. The sharing of information between state agencies should be good, but when it is talking across different levels of government it seems to go to a whole new level where it does not seem to work at all.

Mr McARDLE: You make the comment at the bottom of page 1 of your submission that a nationally consistent workers' screening process would be important.

Mr Rowe: Absolutely.

Mr McARDLE: How would that work? I am trying to look at the practicalities of that. All the information you are seeking is spread across the jurisdictions in this nation. How would that work on the ground? How would that overcome the concern you have just raised about relying upon information from a state body or state instrumentalities?

Mr Rowe: Wherever you have the sharing of information you have to have someone who takes the lead on that and who is responsible. If you say that the various states and territories are all responsible well effectively no-one is. A model I go back to because of my involvement in a previous life with the physiotherapy board and more recently as a community member on the Queensland board of the Medical Board of Australia, is that of AHPRA, the Australian Health Practitioner Regulation Agency. I watch how they deal with that.

I think there are some learnings that potentially the committee or the bureaucrats who are taking the lead on developing this can learn from. You are talking about an industry where there are complaints made, where there are restrictions made on people's practice or indeed that their ability to practice is revoked. How are those safeguards put in place? They have a system that has been operating and been developing over a number of years. I guess I would refer the committee and the policymakers to that as a possible model that might be able to bring together that information nationally in a coordinated way.

AHPRA uses websites to inform the public about who is registered and who is not registered. You can look that up online. When you have someone apply for a job with you do you know whether or not their criminal history is up to date? You require them to present you with something at the point of employment. Is it still valid? Has it been revoked? You do not really know because of the process where they are renewed every two years or three years depending on the model. That is one of the safeguards, but you might find yourselves with someone who has had their criminal history screening revoked and it is 12 months down the line before they have to renew that and you will not know.

In terms of how it happens in practice, I guess I am not big on detail, but I am saying that there are models out there that I think we can learn from. We do not have to start from scratch. It is the same with driver's licences, dare I say it. When I talk about mutual recognition, there is not a point at Coolangatta where you have to stop and get a new licence so you can continue driving in New South Wales. Do they know in New South Wales whether or not your licence is valid? Absolutely; with technology we can do that.

Mr McARDLE: At the start of your oral submission you drew a distinction between disability services and aged care and providing for that. You would argue, I suspect, that you would see that one could cover both—that is, the green card. How big a problem is that in relation to rural and remote Queensland? Is it a major problem? I am trying to get some idea of the breadth of the issue we are talking about?

Mr Rowe: The comment I made was that with the NDIS rollout we are talking about another 46,000 Queenslanders getting access to a service who do not currently have access. We are going to have a whole lot of new people who have in the past not had access to funding to try to buy a service who will now. I guess I am saying that there will be pressure put on the system because of that.

We know within aged care that the move now is more and more about people having support to live in their own home and own community rather than moving out of that. Wearing our aged-care advocate hat, we are seeing a number of smaller residential accommodation services for older people close in rural and remote Queensland because of the viability of trying to run a small facility. There is going to be more pressure on services being delivered locally.

Going back 12 or 18 months I was at a particular aged-care function and I ran into someone from Cootharinga. I said, 'What are you doing here?' They said, 'We are now providing services in Normanton and in the gulf.' I said, 'How long have you been doing that for?' Their answer was, 'We have only just started delivering it.' It has taken them—and I cannot remember exactly—six or nine months to go through the various approval processes so that they, as an approved disability provider, could deliver aged-care services. My expectation is that it will be similar the other way.

My concern is more when you are talking particularly about rural and remote services. If an aged-care provider is being asked to provide services for one person with a disability, at the end of the day people talk about it being financially viable to do it. The new NDIS model has gone totally to a new financial model of operation. If it is not worth you spending the money to get the various accreditation requirements you are not going to do it just for one person. I guess that is my concern.

It should not be that people either cannot get a service locally or have to leave their community or go to another community to get access to a service. That is my concern. We are seeing enough instances where people in rural and remote communities have to leave their community for health services and one-off things. When you are talking about people permanently leaving a community we are going back to where we were in the 1950s.

If you look at the number of people with a disability in Ipswich, the per capita representation of those with disability is way out of whack with the rest of the state. Why is that? In the 1950s if you wanted a service for your son or daughter who had a significant disability you had to move down to South-East Queensland—whether you were in Townsville, Cairns or Cunnamulla—because there were no services locally.

By default, we have an opportunity at the moment to make sure we do not repeat that. It will not be that everyone is coming down to Ipswich because that was back in the big congruent model days, but it will be people going to the larger towns. We will end up killing off those smaller communities or making it less viable for people who live there. We should not do that. The NDIS is fabulous in terms of the number of employment opportunities it is creating. We should be absolutely embracing that and encouraging the continuation of that local employment if we can do it not putting barriers in place.

CHAIR: There being no further questions, I point out that there was one question taken on notice. The secretariat will be in contact to confirm the question taken and when the response is due. We will now conclude this public hearing. If members require any further information we will contact you. I thank our witnesses for appearing today. You are very experienced, Mr Rowe. You obviously have years of experience in this sector. I was not going to ask how many. My apologies for not introducing the secretariat, Mr Rob Hansen and Mr James Gilchrist. I also thank Hansard. Thank you very much for your attendance today.

The committee adjourned at 10.42 am.