Speech By

John-Paul Langbroek

MEMBER FOR SURFERS PARADISE

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MENTAL HEALTH AMENDMENT BILL

Mr LANGBROEK (Surfers Paradise—LNP) (2.51 pm): I rise to speak to the Mental Health Amendment Bill 2016. The Mental Health Act is due to commence on 5 March. With this bill, the opposition has expressed concern about the number of amendments to an act that was passed only relatively recently. We are very concerned that, in rushing to overshadow the previous LNP bill, Labor got it very wrong. In fact, they got it wrong 54 times, which is the number of amendments that we have seen prior to the amendments that the honourable minister mentioned he will bring in with very short notice today. The implementation committee that oversees the preparation for the new regime has, as I have said, proposed 54 amendments to the act before it has even commenced.

This bill presents us with some bolt-on fixes that do little to aid the function of the legislation. Forty-five per cent of Australians will be affected by a mental health disorder at some point in their lifetime. Twenty per cent of those people will experience mental health issues in a 12-month period. As such, it is integral that the government legislates to support people living with a mental illness, while ensuring that our courts are operating to meet community expectations.

Under Labor, what we have seen is a dysfunctional system. We have seen a cut-and-paste report being used by the Mental Health Review Tribunal that included inaccuracies. We have seen the Mental Health Review Tribunal allegedly under investigation for nepotism. As we have just heard from the minister, we have seen within the Mental Health Review Tribunal people who are apparently unqualified overseeing important cases. The list goes on.

I have been speaking with the families of victims who have been seriously assaulted or worse by people affected by mental health issues. It is disgraceful that hearings of this nature are held behind closed doors. It is not the same in New South Wales. Families of victims have expressed to me their concerns about the difference between what happens in similar tribunals in New South Wales compared to Queensland. Families who are locked out of hearings are encouraged to provide a written statement but receive little communication outside of that. The families that I have been speaking to tell me that, in their cases, murderers have been let out into the community once a week without supervision after six months of committing the offence and have been let out without supervision for seven days a week one year after committing the offence. Those families had no knowledge of what was happening at the tribunal, they were not advised and often privacy provisions are quoted to them when they seek more information.

There is a major discrepancy between community expectations and how our mental health courts are currently operating. The safety of our community is in jeopardy under the current system. Not only is the system itself flawed; the bill before us fails Queenslanders. Clauses 3, 4 and 8 of the bill prescribe a one-size-fits-all approach to both cities and rural and regional areas. Once again, we have seen this Brisbane-centric Labor government overlook people who reside in our rural and regional areas.

Clause 3 inserts maximum time frames for which a person may be detained for the purpose of an examination to decide whether the person should be further assessed. This proposed amendment would replace the current wording of 'the period reasonably necessary for the examination'. The proposed detention periods are up to six hours, with an extension of an additional six hours if required,

in an AMHS, authorised mental health service, or a PSHSF, public sector health service facility, or up to one hour in any other place. Clause 4 imposes a similar obligation by providing a maximum time frame that would apply to persons being detained for a mental health assessment conducted in an AMHS or PSHSF. In this case, the bill applies a maximum 24-hour period. A six-hour maximum time frame is proposed for a person to be detained at an authorised mental health service or public sector health service facility for a treatment authority review.

The Queensland branch of the Royal Australian and New Zealand College of Psychiatrists raised concerns about putting time limit on assessments. They stated that regional and remote health services will not be able to meet their legislative obligations, saying in their submission—

The clause does not take into account the difficulties experienced in rural and remote areas of Queensland where there is restricted access to health services and authorised doctors or authorised mental health practitioners, due to the lack of resources in these areas.

It is my view that the existing wording is insufficient unless the government can offer some alternative option or additional resources for regional Queensland, to ensure that they can meet the legislative requirements. Unlike Labor, the LNP knows that the last thing people living in regional and rural areas need is to create a strain on resources that are imposed by a regime modelled around cities. From the advice provided to date from the government, I am not confident that this will not be compromised with the placing of upper limits.

Under the Mental Health Act 2017, if a person is charged with a simple offence and a Magistrates Court is reasonably satisfied that the person was of unsound mind at the time of the offence or is unfit to stand trial, the Magistrates Court may dismiss the charge or adjourn the hearing of the charge. The Magistrates Court will be supported by the Court Liaison Service in Queensland Health in making those determinations.

There are two instances in which a magistrate can seek an examination order. If a Magistrates Court has dismissed a charge due to a finding of unsound mind or unfitness for trial or adjourned a hearing because the person is temporarily unfit for trial, the magistrate may make an examination order in relation to the person. Alternatively, the magistrate may make an examination order on the basis that it would benefit the person, even without dismissing or adjourning the charge. Currently, the section that dictates this, section 180, states that examination reports are admissible in proceedings against the person in which the examination order is made or any future proceeding against the person to which the examination report is relevant. This provision was intended to ensure that the examining doctor could provide the examination report to the Magistrates Court without breaching the confidentiality provisions detailed in the Hospital and Health Boards Act 2011. The report assists the Magistrates Court to decide whether to make another examination order or refer a matter to the Mental Health Court.

The bill before us proposes amendments to section 180 and 180A. The amendment states that any oral or written statements made by a person during an assessment regarding unsoundness of mind or fitness for trial are not admissible in evidence against the person in any criminal or civil proceeding and that, during an examination conducted pursuant to a Magistrates Court examination order, are not admissible in evidence against the person in any criminal or civil proceeding.

The proposed changes are said to have come about from legal stakeholders who claim that the section in its current form may allow statements by the person of the alleged offence to be introduced as evidence. There is a suggestion this may deter someone from being frank and forthright in the process and compromise the assessment. Under the previous mental health bill—introduced by the former shadow minister, the member for Caloundra, which we on this side of the House supported—the section contained no prescription as is being proposed in this change. Whilst I appreciate the statement from the minister that this was raised by the Chief Justice, it was not raised in either the 2014 consultation or in the rigorous consultation on both the LNP and Labor bills in 2015.

This may be what the lawyers think is best, but the question is: is this the right balance? This is particularly so when we consider that there is no uniformity on this issue across jurisdictions. Legislation in New South Wales and South Australia does not expressly limit the admissibility of statements made during a mental health assessment or examination in civil and criminal proceedings. Alternatively, these frameworks limit the decision-maker's ability to consider the statement. According to the explanatory notes, all other Australian states and territories have equivalent provisions which provide that statements made by a person during a mental health assessment or examination are not admissible in a way that is detrimental to the person's interests in relation to findings of criminal guilt.

This now brings me to the urgent amendments being rushed into parliament. It is my concern that the urgent amendments being rushed into the parliament—for all that we may have had some issues raised by committee members in their consideration of the bill—are now tainting the bill. As the amendments have not been subject to rigorous scrutiny and this issue has only arisen over the last week, we on this side of the House have major concerns with them being rushed through.

Most of the details I, like most other Queenslanders, read for the first time in Saturday's *Courier-Mail*. I do want to acknowledge that the minister rang me about this when I was in North Queensland on Friday. I express my concern that a briefing of five or 10 minutes about such a significant issue followed by a *Courier-Mail* story being printed on Saturday which failed to adequately explain all of the issues and the questions that have arisen from the announcements that we have had since Saturday and the rushed additional amendments to the bill mean that the LNP will not be supporting this bill.

Mr Dick: And you were briefed yesterday—say that.

Mr LANGBROEK: I am also prepared to acknowledge that I was briefed by departmental advisers about the content of the amendments, but it is this side of the House that has to make a judgement about amendments that are being brought to the House and whether they are ones that we are prepared to support.

Mr Bleijie interjected.

Mr LANGBROEK: We had no call in August 2016 when this issue apparently first came to light. We had no call from the minister in December or when he apparently referred these matters for further investigation in late December just before Christmas. It strikes me that the minister actually called me on Friday when it was obvious that the *Courier-Mail* was going to do a story on this on Saturday. That is why I got the call on Friday. In the spirit of goodwill, there was only a briefing to try to head off the trouble before the story in the paper.

The reason I and members on this side feel so concerned about this is that I have spoken to victims and family members who have been affected by the decisions of this tribunal. I know that these victims and family members have to deal with the tribunal every six months. They already harbour distrust and have no confidence in the process. They were disappointed that the minister chose to speak to the media over speaking to them.

Let us take the tragic murder of Bianca Girven. Her mother, Sonia Anderson, many in the House would know is a tireless supporter of victims of domestic violence following her daughter's murder. What many people do not know is that Sonia's daughter's killer and ex-partner had a forensic order revoked by the Mental Health Review Tribunal shortly before he killed her daughter. It was a decision that found he was of sound mind and free to go back unchecked into the community. It is families like this who have now had their lives thrown into disarray because of the issues that have been exposed over the last week.

The decision that was made at the tribunal at the time is believed to be one which Anne-Maree Roche is alleged to have sat on. Worse still is that after killing Bianca her ex-partner and killer was again found of unsound mind by the Mental Health Court and once again he was back before the Mental Health Review Tribunal every six months. He is back before the very same tribunal that let him walk free.

Sonia was horrified to have read in Saturday's paper the complete disaster in the tribunal. She, like many other families I have met, was left asking why the minister had chosen to brief the media instead of the people caught up in the process. What is worse still, as I am advised, is that the Queensland Health Victim Support Service, that supports the families of victims killed by people being reviewed by the tribunal, was only told yesterday of the legal bungle and only after families were contacting them wanting answers.

When I am briefed that there are no issues from the department and the minister's office or reassured that people will have a right to approach a special tribunal that I know is in this legislation, I am disappointed that families impacted by this have been ignored. Just this morning I received a letter from Sonia Anderson that outlines her concerns about the way this whole debacle has been handled. I will read some segments of the letter for the benefit of the parliament. The letter is dated today. It reads—

Since the violent and heinous murder of my daughter Bianca Faith Girven in 2010, I have had zero faith in the workings of the Mental Health Tribunal in Queensland with very good reason.

In August 2009 [the offender] had a Forensic Health Order revoked by the MHRT. [It was a hearing] of the MHRT where this order was revoked ... Not only was the FHO revoked by the Tribunal, but NO stipulations were placed on [him] to NOT use illicit drugs. It has been proven that [his] paranoid schizophrenia, and the likelihood of committing violent offences, were exacerbated by his ongoing use of illicit drugs, alcohol and his choice to not use prescribed medication.

The MHRT declared [him] to be of sound mind, free to be in our community with no orders in place to reduce his risk. 7 months later, my daughter was dead. The day after her murder [he was] assessed … and … he was of sound mind and was simply upset his girlfriend had died.

The MHRT exists under a veil of secrecy, and it would appear to be under the scrutiny of no-one. Case in point this new information that came to light in the Courier Mail on the weekend, Anne Maree Roche has sat on the Tribunal for many years and was involved in making these kinds of obviously unsound, unjust and in Bianca's case, death causing decisions.

In 2014, the Mental Health Court found [the perpetrator] to have been of unsound mind on 30th March 2010 (retrospectively). The Court made very strong statements about how dangerous [he] is, not only due to paranoid schizophrenia, but also his ... desire to kill people. Just 6 months later [he] is back before the MHRT, who are to make decisions to grant him LCT and allow him to enter back into our community; this is ongoing, every single 6 months. The strong decisions made by the Mental Health Court as to his dangerousness are no longer a factor. And here is the next veil of secrecy, I am not allowed to tell you any information I have on [his] Limited Community Treatment granted by the MHRT!!

She continues to speak about other offenders in the system who then found out about her other daughter through their contacts with the perpetrator and the frightening situation she then faced of other people who had been found to be of unsound mind and associates of the perpetrator then getting in contact with her other daughter. Sonia Anderson has through her very passionate letter expressed her concern that she has no faith in the current system.

She mentioned that she phoned the QHVSS, the victims support group, and they only knew of the issues as families had phoned them. They instructed her to write to the president with her concerns. She says that she does not accept any decisions being made by parliament with regard to Ms Roche's suitability to sit on the MHRT until her concerns have been addressed. That is a letter from the mother of a victim in a very tragic case.

This is a colossal legal mess. We are talking about more than 11,000 cases that need to be reviewed. I think it is important to review the time line of events to get this into some form of perspective. We are being asked to grandfather the invalid appointment of this member by the former Labor government in 2002 and the reappointment on at least three other occasions, including—I am prepared to acknowledge and unhappy to acknowledge—the reappointment in 2014 under the LNP government. What is most disturbing is that the president knew about this issue in October, raised it with the minister in December and we are only now hearing about it two months later with no consultation.

What is worse is that we know that the tribunal is in disarray. There are allegations of nepotism said to be being investigated. It is alleged that the wives of both the president and the CEO are employed. We know that when allegations levelled against this member came to light the minister did not tell the House that those allegations also included bias that saw a large amount of work being given to this unauthorised member. Furthermore, there is the broader community distrust of the secretive way in which the tribunal conducts its business.

As I have mentioned already, in New South Wales it is a different situation where victims are encouraged to participate in tribunal proceedings. Victims and families of victims in Queensland are forced to fill in repetitious forms every six months and be kept in the dark for weeks after any decision. In one of the recent cases where I met family members, they had not been advised that the person who had killed their mother was actually facing the tribunal. They did not receive any notification. It was that person who was subsequently given one-day-a-week release to the community, yet they had not been advised that he was coming before the tribunal at all. There is nothing in the current process that could give a mother and a father whose daughter or son was murdered any confidence in the tribunal when the killer is released onto the streets under limited community treatment which can be done as soon as six months after the Mental Health Court makes a determination to have them locked in a secure facility.

We on this side of the House share the same reservation about the mental health process. We need a balance between community safety and consumer rights. It was the Premier who would accuse the LNP when in government of rushing things through. This is a critical error that should have gone to a committee and been properly examined. Furthermore, allow the community to have a say on this issue and express their views. If we have to better accept and understand mental illness, we need to have confidence in the system designed to protect us.

There are other recent circumstances that are still before the courts, and I know that there are many people who are wondering about the progress of those particular cases, including the recent murder of a bus driver where the offender was under a mental health order. More information should be provided for people to have confidence in the system. Will the review as to how the mental health system failed be made public? This can be said for many other cases.

I know the minister is hanging his hat on the amendments before the House being supported by the Chief Magistrate. As I understand, that letter that I saw was from September. That is an endorsement for one change that was obtained in September 2016. I wonder what the Chief Magistrate would say about the rushing through of amendments to validate unsound decisions of the tribunal. Would the Chief Magistrate support the retrospective validation of an unlawful appointment being made by an alleged dishonest person who failed to disclose the error of their appointment, as proposed by the urgent amendments we will be asked to vote on?

In conclusion, I can say that, aside from the urgent amendment from the floor today, the LNP cannot support this bill. It is a patchwork policy which attempts to fix an already dysfunctional system. The bill lets down those with a mental illness. It lets down people in rural and regional areas. It lets

down the people of Queensland, who rightly expect to be safe in our community. What we heard this morning in the hollow explanation from the minister further reinforced what is wrong with the system. Not once did he mention victims or families who have been harmed by people released by the tribunal or who are regularly subjected to ongoing emotional harm at decisions of the tribunal. What is more is the fact that none of the questions raised have been adequately answered. For that reason the LNP will not be supporting the amendments before the House. I can flag now that we will not be supporting any rushed amendments that have not been properly investigated.