




Speech By  
**Hon. Yvette D'Ath**

**MEMBER FOR REDCLIFFE**

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Record of Proceedings, 26 March 2019

**GUARDIAN AND ADMINISTRATION AND OTHER LEGISLATION AMENDMENT  
BILL**

 **Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice) (4.36 pm), in reply: I thank all members for their contributions in relation to this important bill and acknowledge the opposition's support for the bill. In the time remaining, I want to touch on some of the issues that have been raised.

Firstly, it is nice that the bill is being supported or not opposed by those opposite. I have to take issue with the criticisms about the length of time this has taken and why when Labor was last in government, according to those opposite, it did not do anything about this and yet the LNP allegedly implemented half of the recommendations. The QLRC report came out in 2010. The then government released a government response in 2011. As we know, there was an election early in 2012. It was in 2014 that the LNP released their government response. Their government response was to do this in stages as we have agreed to do.

There was just a government response. There was not a raft of legislation coming out of the QLRC report and the recommendations. We have heard the shadow Attorney-General say that when they were in government they legislated around the Public Advocate. That is right, but that was not in line with these recommendations. In fact, the recommendations were to abolish the Public Advocate and transfer its powers over to the Public Guardian. There was a lot of community backlash to that and so the LNP chose not to proceed with that transfer of powers. There were certainly legislative changes around the Public Advocate, but they were not necessarily in line with or as a consequence of the recommendations of the QLRC report. I thought that was important to put on the record.

In relation to fluctuating capacity, I acknowledge the contributions of honourable members and some stakeholders in this regard. Section 5 of the Guardianship and Administration Act has been amended to recognise that the capacity of an individual may vary based on the types of decision to be made, including, for example, the complexity of the decision to be made and the support available for members of the adult's existing support network. However, we recognise variable capacity.

We do not think it is appropriate to transition to a fluctuating capacity model in our guardianship legislation at this time. That is largely because, despite in principle support for such an approach, stakeholders have expressed concern as to how such a model would practically manifest itself. On that basis, further consideration would be required before there is any implementation on that.

The member for Maroochydore asked about what we were doing outside of the legislation. We are redesigning the enduring power of attorney and advance health directive forms. We are developing explanatory guides to accompany the redesigned forms. We are developing guidelines to assist capacity and assessment as well.

There are some recommendations that have not been progressed and that is because a lot has happened since 2010 in terms of changes. There has been a focus on elder abuse and aged care, and, of course, the NDIS. Whatever we choose to do around guardianship going forward has to take all of that into account. That is what we will seek to do in ongoing reform in this area to ensure that those most vulnerable in our community remain protected and safe. I commend the bill to the House.