

Disability Services (Your Life Your Choice) Amendment Bill 2012

Report No. 10

Health and Community Services Committee

25 October 2012

Health and Community Services Committee

Chair	Mr Peter Dowling MP, Member for Redlands
Deputy Chair	Mrs Jo-Ann Miller MP, Member for Bundamba
Members	Mr Steve Davies MP, Member for Capalaba Mr Aaron Dillaway MP, Member for Bulimba Mr John Hathaway MP, Member for Townsville Mrs Desley Scott MP, Member for Woodridge Mr Dale Shuttleworth MP, Member for Ferny Grove Mr Michael Trout MP, Member for Barron River
Staff	Ms Sue Cawcutt, Research Director Ms Lee Archinal, Principal Research Officer (part-time) Ms Kathleen Dalladay, Principal Research Officer (part-time) Ms Dianne Christian, Executive Assistant
Technical Scrutiny Secretariat	Ms Renee Easten, Research Director Ms Marissa Ker, Principal Research Officer Ms Tamara Vitale, Executive Assistant
Contact details	Health and Community Services Committee Parliament House George Street Brisbane Qld 4000
Telephone	+61 7 3406 7688
Fax	+61 7 3406 7070
Email	hcsc@parliament.qld.gov.au
Web	www.parliament.qld.gov.au/hcsc

Contents

Abbreviations	vi
Recommendation	vii
1 Introduction	1
1.1 Role of the committee	1
1.2 The committee's process	1
1.2.1 Referral	1
1.2.2 Submissions	1
1.2.3 Public briefing and public hearing	1
2 Examination of the Disability Services (Your Life Your Choice) Amendment Bill 2012	2
2.1 Should the Bill be passed?	2
2.2 Policy context - Your Life Your Choice Self-Directed Support Framework	2
2.3 The Disability Services (Your Life Your Choice) Amendment Bill 2012	3
2.4 Objects of the Bill, choice and self-directed funding	3
2.5 Who may receive funding	4
2.5.1 Formal and informal advocates	4
2.5.2 When an administrator is appointed for a person	4
2.5.3 Parent of a child	5
2.5.4 What services may be obtained with self-directed funding – definition of relevant disability services	6
2.5.5 Committee comment	7
2.6 Individual funding agreement	7
2.6.1 Terms of funding agreements	7
2.6.2 Financial accountability arrangements	8
2.7 Other policy and implementation issues	8
2.7.1 Training information and support	8
2.7.2 Funding and coordination of services	9
2.7.3 Portability of services	9
2.7.4 Service standards and price, transparency and safeguards	9
3 Fundamental legislative principles	11
3.1 Fundamental legislative principles	11
3.2 Explanatory notes	11
Appendices	12
Appendix 1 – List of Submissions	12
Appendix 2 – Officers at public briefing 8 October 2012	13
Appendix 3 – Witnesses at public hearing 8 October 2012	14
Statement of Reservation	15

Chair's foreword

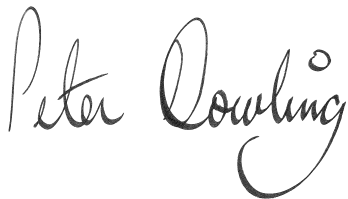
This report presents a summary of the committee's examination of the Disability Services (Your Life Your Choice) Amendment Bill 2012.

The committee's task was to consider the policy outcomes to be achieved by the legislation, and whether the Bill has sufficient regard to the fundamental legislative principles, including the rights and liberties of individuals and the institution of Parliament.

Examination of a Bill by a portfolio committee allows the Parliament to hear views from the public and stakeholders on legislation and its impact. The examination of Bills is intended to contribute to better policy and legislation in Queensland.

On behalf of the committee I thank the organisations that made a written submission on this Bill, and others who have informed the committee's deliberations: the committee's secretariat, the Technical Scrutiny of Legislation secretariat and officials from the Department of Communities, Child Safety and Disability Services.

I commend the report to the House.

A handwritten signature in black ink that reads "Peter Dowling". The signature is written in a cursive, flowing style.

Mr Peter Dowling MP
Chair

25 October 2012

Abbreviations

NDS	National Disability Services
QAI	Queensland Advocacy Inc
QATSIHS	Queensland Aboriginal and Torres Strait Islander Human Services Coalition
QCOSS	Queensland Council of Social Service
QDN	Queenslanders with Disability Network

Recommendation

Recommendation 1 2

The committee recommends that the Disability Services (Your Life Your Choice) Amendment Bill 2012 should be passed.

Recommendation 2 5

The committee recommends that clause 7 of the Disability Services (Your Life Your Choice) Amendment Bill 2012 should be amended to include in the definition of *relevant person* an administrator appointed for an adult.

Recommendation 3 5

The committee recommends that the Minister inform the Legislative Assembly during the second reading debate of the arrangements that will be in place to ensure that a person with a disability for whom the Public Trustee is administrator for financial matters has choices about services and service providers

Recommendation 4 7

The committee recommends that during the second reading debate the Minister clarify that under Your Life Your Choice a person with a disability may choose to purchase services such as those listed in the Your Life Your Choice Framework and other services of choice.

Recommendation 5 9

The committee recommends that the Minister inform the Legislative Assembly during the second reading debate about:

- the training and information that will be available to consumers and their carers when the legislation is implemented, and
- what measures will be implemented to ensure that consumers have access to information about services in their locality.

Recommendation 6 10

The committee recommends that the Minister inform the Legislative Assembly of the measures that will be put in place to maximise transparency of prices and ensure adequate standards of services purchased by people with a disability who receive self-directed funding.

1 Introduction

1.1 Role of the committee

The Health and Community Services Committee (the committee) was established by resolution of the Legislative Assembly on 17 May 2012, and consists of government and non-government members.

Section 93 of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for considering:

- the policy to be given effect by the Bill, and
- the application of fundamental legislative principles to the Bill.

1.2 The committee's process

1.2.1 Referral

The Disability Services (Your Life Your Choice) Amendment Bill 2012 was referred to the committee on 11 September 2012. The committee was required to report to the Legislative Assembly by 25 October 2012.

1.2.2 Submissions

The committee wrote to stakeholder organisations on 19 September 2012 inviting written submissions about the Bill by 4 October 2012. The committee also advertised its call for submissions on its website. Eleven submissions were received and accepted, and ten submissions are published on the committee's website.¹ One submission was accepted by the committee but not published. Submissions are listed in Appendix 1.

1.2.3 Public briefing and public hearing

Officers from the Department of Communities, Child Safety and Disability Services (the Department) briefed the committee on the Bill on 8 October 2012. On the same day the committee held a public hearing at which it heard from three organisations which made submissions on the Bill. Transcripts of both the Departmental briefing and the public hearing are published on the committee's website.

¹<http://www.parliament.qld.gov.au/work-of-committees/committees/HCSC/inquiries/current-inquiries/DisabServLYCAmtBill2012>

2 Examination of the Disability Services (Your Life Your Choice) Amendment Bill 2012

2.1 Should the Bill be passed?

Standing Order 132(1) requires the committee to recommend whether the Bill should be passed. After examination of the Bill and consideration of the evidence available, the committee determined that the Bill should be passed/not passed.

Recommendation 1

The committee recommends that the Disability Services (Your Life Your Choice) Amendment Bill 2012 should be passed.

2.2 Policy context - Your Life Your Choice Self-Directed Support Framework

Direct receipt of government funding by a person with a disability (or another person on their behalf) is a component of the *Your Life Your Choice Self-Directed Support Framework* ('Your Life Your Choice').² Your Life Your Choice is described by the Department of Communities, Child Safety and Disability Services (the Department) as:

*..... a self-directed support initiative that enables people with a disability and/or their families to have choice and control over their disability supports and services. By using funding and other resources to plan, purchase and select supports and services that suit individual needs, people with a disability and/or their families become active participants in the design and delivery of their disability support.*³

The Minister and Premier announced Your Life Your Choice on 4 September 2012. The media announcement stated that a trial of self-directed funding will commence by the end of 2012. The trial was described as a landmark change which supports Queensland's transition to the NDIS (National Disability Insurance Scheme) by 2018. Information about the Your Life Your Choice is published on the Department of Communities Child Safety and Disability Services website at <http://www.communities.qld.gov.au/resources/disability/key-projects/your-life-your-choice/ylyc-self-directed-support-framework.pdf>.

Your Life Your Choice will be established in two phases. The first phase is a host provider model, which will be a regime of providers who can assist people with a disability with the purchase of services. The host provider model can be implemented under the Act, before Parliament considers the amendments to the *Disability Services Act 2006* in the Disability Services (Your Life Your Choice) Amendment Bill 2012 Act.⁴ While funding cannot currently be provided under the Act to an individual, an organisation such as an incorporated association can receive funding to assist a person to purchase services. As noted, a trial is proposed to commence before the end of 2012.

The second phase, subject to passage of the amendments contained in the Bill, will be direct funding to a person with a disability, and expansion of the host provider model. Implementation is planned for 2013 if the Bill is passed.⁵

² Disability Services (Your Life Your Choice) Amendment Bill 2012, Explanatory Notes p.1

³ Department of Communities Child Safety and Disability Services, *Your Life Your Choice Self-Directed Support Framework*, <http://www.communities.qld.gov.au/disability/key-projects/your-life-your-choice/> last accessed 10 October 2012

⁴ Public briefing transcript p.2

⁵ ibid

2.3 The Disability Services (Your Life Your Choice) Amendment Bill 2012

The Disability Services (Your Life Your Choice) Amendment Bill 2012 would amend the *Disability Services Act 2006* (the Act) to allow funding to be provided directly to a person with a disability, as part of the self-directed funding framework. Currently the Act allows funding to be provided to a corporation (e.g. an incorporated association), but not to an individual. The Bill provides for funding arrangements which are intended to increase the choice a person with a disability has about the services they may obtain.

Clause 7 of the Bill inserts a new Part 5A in the *Disability Services Act 2006* (the Act). The purpose of Part 5a is to enable people with a disability to receive funding to obtain *relevant disability services*. Proposed section 43B defines terms for the new Part 5A, including *relevant person*, *relevant disability service* and *parent*.

If funding is approved, an *individual funding agreement* is entered into with the chief executive of the Department. The agreement must include the terms and conditions of funding and state the *relevant disability services* to be obtained with the funding (proposed section 43D).

The Bill also includes amendments to make the objects and principles of the Act consistent with the Bill's policy objective of improving choice in access to disability services. Clauses 4 to 6 amend section 6 (Objects of Act), section 7 (How objects are mainly achieved) and section 19 (Principle that people with a disability have the same human rights as others).

2.4 Objects of the Bill, choice and self-directed funding

The object of the Bill is "to ensure that people with a disability have choice and control in accessing relevant disability services...".⁶ The Department noted that the objectives encompass the importance of self-directed funding and advised the committee that it has been shown that service systems that centre on control and choice have good outcomes for clients.⁷

The Department advised the committee that all jurisdictions other than Victoria and Queensland have legislation for funding to be provided directly to a person with a disability. Recent disability reforms in Australia and overseas were described as focused on control and choice, and ensuring that people with disabilities are treated as equal citizens.⁸

Submissions to the inquiry and the stakeholders who gave evidence at the committee's public hearing supported the objectives of consumer choice and control, and the concept of self-directed funding. For example, the Endeavour Foundation supports the principles of self-directed funding, QAI is encouraged by the proposed amendments, and QATSIHS supports the choice of service provider for people with a disability. The Cerebral Palsy League sees self-directed funding as:

*a key foundation in empowering people with a disability and their families to live the life they want to live. This, in turn means that these same individuals and families will have greater opportunity (to) make more significant contributions to their communities than would have otherwise been possible.*⁹

Carers Queensland's said "... implementation of truly person-centred planning and flexible service delivery options will see carers as genuine partners in the delivery of disability services and will

⁶ clause 4, Disability Services (Your Life Your Choice) Amendment Bill 2012

⁷ Public briefing transcript, 8 October 2012 p.1

⁸ Public briefing transcript, 8 October 2012 p.2

⁹ Cerebral Palsy League, Submission p.2

restore control with the carer and the person they care for and support.” A recent survey by Carers Queensland found that nearly 90% of carers who responded would be interested in participating in consumer directed care.¹⁰

A number of submitters and witnesses raised issues about the policy to be given effect by the Bill, which the committee considered. A range of implementation issues were also raised. Some implementation issues are discussed below under the heading of the relevant clause of the Bill. Other issues that do not fall under a specific clause of the bill are discussed in section 2.8 of this report.

2.5 Who may receive funding

Clause 7 of the Bill inserts new section 43C which states that the Minister may approve funding to a person with a disability or a *relevant person*. A *relevant person* is defined in proposed section 43B as:

- a person nominated by an adult with a disability
- an appointed guardian
- an attorney appointed under an enduring power of attorney (under the *Powers of Attorney Act 1998*)
- a member of an adult’s support network, other than a paid carer for the adult within the meaning of the *Guardian and Administration Act 2000*
- a parent of a child with a disability, which includes:
 - a person who exercises parental responsibility (other than on a temporary basis)
 - a person who is regarded as a parent under Aboriginal tradition or Torres Strait Islander custom.

2.5.1 Formal and informal advocates

Three submissions¹¹ emphasised that an advocate chosen by a person with a disability can be recognised as a *relevant person* for the purpose of self-directed funding. The committee notes that the definition of *relevant person* in proposed section 43B of the Bill includes “a person nominated by the adult to deal with matters under this part on behalf of the adult...”. This would enable a person with a disability to nominate an advocate. The committee notes the importance of recognising a person nominated by a person with a disability.

2.5.2 When an administrator is appointed for a person

In its submission and in evidence at the public hearing, Micah Projects suggested that an amendment to proposed section 43C is required to deal with circumstances where an administrator is appointed for financial matters under the *Guardianship and Administration Act 2000* (GA Act). The Bill provides for funding to be received by a guardian who has been appointed under the GA Act. The Bill does not address the situation where the Queensland Civil and Administrative Tribunal (QCAT) appoints an administrator (for financial matters) and no guardian, or where both an administrator and a guardian are appointed.

The committee notes that the Department’s briefing included advice that it had recently consulted with the new Adult Guardian about clarification of the role of both guardians and administrators in the Your Life Your Choice framework.¹² The committee further notes that the Bill does not include administrators in the definition of *relevant person*.

¹⁰ Submission, Carers Queensland p.5

¹¹ Submissions from: Queensland Advocacy Inc, Community Safeguards Coalition and Queenslanders with Disability Network

¹² Public briefing transcript p.2

The whole of the committee considers that the definition of *relevant person* in clause 7 of the Bill should be amended to ensure that an administrator appointed under the GA Act is able to receive funding on behalf of an adult with a disability.

Recommendation 2

The committee recommends that clause 7 of the Disability Services (Your Life Your Choice) Amendment Bill 2012 be amended to include in the definition of *relevant person* an administrator appointed for an adult.

The GA Act provides that an administrator appointed for a person may include the Public Trustee. At the public hearing Micah Projects highlighted the circumstances of some people for whom QCAT appoints the Public Trustee as administrator (for financial matters) under the GA Act and the person has capacity to make other non-financial decisions. Micah Projects supports the role of the Public Trustee however it is concerned that a person with a disability may prefer a particular service provider, while the Public Trustee will have the power to direct the funding to the less costly service, even if the cost differences are minor.

The ability of the Public Trustee to change decisions without regard for the person is concerning, whereas the Adult Guardian has a very different focus. They will consent to what they believe is in the best interests of the person. The Public Trustee looks strictly at dollars.¹³

The committee understands that, in relation to an adult for whom the Public Trustee is appointed as administrator for financial matters under the GA Act, there may at times be a tension between the Public Trustee's financial duties and the adult's preferences and needs for services that are funded under the proposed Your Life Your Choice arrangements. The committee seeks the Minister's explanation of what arrangements will be in place to ensure that the policy intent of increasing choices for people with a disability will be implemented in such circumstances.

Recommendation 3

The committee recommends that the Minister inform the Legislative Assembly during the second reading debate of the arrangements that will be in place to ensure that a person with a disability for whom the Public Trustee is administrator for financial matters has choices about services and service providers.

2.5.3 Parent of a child

The Queensland Aboriginal and Torres Strait Islander Human Services Coalition (QATIHS) submission supports the definition of *parent* in proposed section 43B of the Bill and its recognition of Aboriginal tradition and *ailan kastom*¹⁴ parenting roles. The QATIHS submission suggests additional support may be required to implement self-directed funding for an Indigenous child who is in the care of the chief executive of the department responsible for the *Child Protection Act 1999*, or in the care of a foster or kinship carer.

¹³ Public Hearing Transcript, Ms Richards p.5

¹⁴ *ailan kastom* means the customs, traditions, observances and beliefs of some or all Torres Strait Islanders

The committee notes QATIHS recommendation that support be available to child safety officers, foster carers and kinship carers to ensure that a child is assisted in decision making about services under Your Life Your Choice. The committee invites the Minister to inform the Legislative Assembly during the second reading debate about the support that will be available to Indigenous children.

2.5.4 *What services may be obtained with self-directed funding – definition of relevant disability services*

Proposed new section 43C (inserted by clause 7) provides that funding may be approved to enable a person to obtain *relevant disability services*. Relevant disability services are defined in new section 43B as:

...for a person with a disability, means disability services, and care and support associated with the person's disability.

Submissions and evidence to the committee raised concerns or sought clarification about the range of services that a person may be able to purchase with self-directed funding under Your Life Your Choice.

The Community Safeguards Coalition was concerned that the definition of *relevant disability services* implies that only services provided by funded disability agencies would be available under Your Life Your Choice.¹⁵ For QDN, such a restriction on choice of services would be antithetical to the intention

of the amendments to allow choice and greater participation in society by people with a disability.¹⁶ As QAI noted, many people with a disability will want to purchase in-home cleaning and gardening services that may be provided by generic services.¹⁷

It was evident from the Department's briefing to the committee that the policy intent of self-directed funding includes purchase of services from sources other than disability organisations, for example, for the purchase of domestic assistance.¹⁸

Both in its submission and evidence at the public hearing, National Disability Services (NDS) raised concerns that the definition of *relevant disability services* for proposed Part 5 may be limited by the definition of *disability services* in section 12 of the Act. The definition in the Act states:

12 What are disability services

Disability services, for people with a disability, means 1 or more of the following –

- a) accommodation support services;*
- b) respite services;*
- c) community support services;*
- d) community access;*
- e) advocacy or information services or services that provide alternative forms of communication;*
- f) research, training or development services.*

The committee acknowledges the concerns raised by NDS and other stakeholders. Your Life Your Choice seeks to increase choices about services for a person with a disability, and it would be inconsistent with the policy intent if the *relevant disability services* for proposed Part 5A were narrowed by the definition of *disability services* in the Act.

¹⁵ CSC Submission p.1

¹⁶ QDN Submission p.2

¹⁷ QAI Submission p.5

¹⁸ Public briefing transcript, for example p.3

Further, NDS pointed to the terminology used in the *Your Life Your Choice Framework* to describe services. The Framework states that “disability services and supports refer to funded supports that are specific to the nature and impact of the disability on the person”.¹⁹ At the public hearing NDS suggested that there needs to be some clarity between the definitions in the Framework and in the legislation.

2.5.5 Committee comment

The committee notes that the definition of *relevant disability services* includes “... care and support associated with the person’s disability”. The Explanatory Notes merely re-state the wording of the definition of *relevant disability services*. The committee considers the definition is broader than *disability services* as defined in s.12 of the Act and believes that services purchased under the legislative arrangements proposed for Your Life Your Choice would not be restricted to those services listed in s.12 of the Act, nor those provided only by organisations funded to provide disability services.

The committee notes that some confusion may arise because of the publicly available material about the Your Life Your Choice Self-Directed Support Framework published on the Department’s website. That material lists a broad range of “Disability services/disability supports”. The absence of clear material about the two phases of Your Life Your Choice may have contributed to some of the legitimate stakeholder concerns about the definition of *relevant disability services*.

The committee however seeks the Minister’s clarification that the services available under the Your Life Your Choice legislation will include those listed in the Your Life Your Choice Framework and other services of choice to enhance quality of life and lifestyle choices for people with a disability. The committee notes the concerns of stakeholders that services may be limited to services as defined in s.12 of the Act.

Recommendation 4

The committee recommends that during the second reading debate the Minister clarify that under Your Life Your Choice a person with a disability may choose to purchase services such as those listed in the Your Life Your Choice Framework, along with other services of choice.

2.6 Individual funding agreement

Proposed section 43D, inserted by clause 7, provides that if the Minister approves funding to a person, the person may enter into an individual funding agreement with the chief executive (of the department). The individual funding agreement must include terms and conditions the chief executive considers appropriate and must state the relevant disability services to be obtained with the funding.

2.6.1 Terms of funding agreements

Three submissions expressed concern that a person entering an individual funding agreement would have little scope to negotiate about individual funding agreement, and suggested that there should be room to negotiate the terms of the agreement and the conditions of funding. Those submissions also suggested there be an avenue for appeal and a process for review of funding agreements when there is a change in the circumstances of a person with a disability.²⁰

¹⁹ *Your Life Your Choice – Self-Directed Support Framework* op cit p. 4

²⁰ CSC, QAI and QDN Submissions

In its submission QCOSS suggested that some people would need ongoing or occasional support services to enter an individual funding agreement and to meet the terms and conditions of funding.²¹ Transparency of funding agreements was raised by several stakeholders, including Cerebral Palsy League (CPL) and Micah Projects. Clear guidelines are needed about what services are outside the scope of self-directed funding, and red tape must be kept to a minimum.

While the need for financial accountability was recognised, the CPL submission stated that people do not want to spend such time on financial accountability that it outweighs the worth of having self-directed funding.

2.6.2 Financial accountability arrangements

The committee considered the financial accountability arrangements that would be required for an individual funding agreement, and noted the Department's advice that it was working through financial reporting and accountability arrangements such as audit requirements. Detailed reporting requirements would be set out in the funding agreements and in policy and supporting documentation.²²

The CPL submission suggested that the *Financial Accountability Act 2009* (FA Act) may be an obstacle to the effectiveness of self-directed funding and asked whether individuals would be deemed to be a statutory body in order to receive funding. The committee notes that the purpose of the Bill is to enable an individual to receive funding, and its examination of the FA Act does not indicate that there is any barrier to implementation of the Bill's purpose.

The Department advised the committee that in the first tranche of invitations to participate (in host provider arrangements) a five per cent loading could be used for administrative purposes, including for financial acquittals and reporting.²³ Financial acquittal arrangements will be subject to the same regimes as for current brokerage models, where individuals and the brokers provide acquittals for the funds.²⁴

2.7 Other policy and implementation issues

A number of other policy and implementation matters were raised in submissions and during the committee's public briefing and public hearing. The Department advised the committee that it is working actively on a range of policy and procedural issues in preparation for implementation of Your Life Your Choice, and that policies, guidelines and funding agreements are being developed.²⁵

2.7.1 Training information and support

A number of stakeholders suggested that people with a disability and their families will need information about the nature of the proposed self-directed funding arrangements, robust information about the services that are available in their area. In addition, training and support may be needed about funding agreements and how to manage self-directed funding.

The Department advised that some training is currently available that is focussed on choice and control and that further training is proposed from early 2013 for organisations, parents, families and people with a disability. The focus will include ".... skill development, information, the requirements,

²¹ QCOSS Submission p.2

²² Public briefing transcript p.2

²³ Public briefing transcript pp.2-3

²⁴ Public briefing transcript p.3

²⁵ ibid

what they need to do and also information about where else to go. we want to develop user handbooks”²⁶

Micah Projects recommended the establishment of a specialist education and information unit to support vulnerable people with understanding and negotiating funding agreements, service selection and ongoing financial reporting.²⁷

The committee considers that clear and accessible information should be available to consumers about the services in their location, and seeks the Minister’s advice on what information and training will be delivered to consumers and their carers, and how up-to-date information about services will be made available.

Recommendation 5

The committee recommends that the Minister inform the Legislative Assembly during the second reading debate about:

- the training and information that will be available to consumers and their carers when the legislation is implemented, and
- what measures will be implemented to ensure that consumers have access to information about services in their locality.

2.7.2 Funding and coordination of services

Several stakeholders were concerned that the funds available for direct disability services may be reduced if it is necessary to pay for coordination of services for an individual who received self-directed funding. This in turn may be a disincentive to individuals accessing services they need. In its submission QCOSS suggests that the need for paid coordination services for people with a disability requires further investigation.

2.7.3 Portability of services

Endeavour suggests that streamlined processes are needed for portability of self-directed funding. Currently, Endeavour argues, portability of approved individual funding is often limited to circumstances of client dissatisfaction, or to address another funded service provider’s viability or service capacity – this frequently results in negative experiences for all, potential disruption in service for individuals, and damage to service providers reputations.

The submission from QAI also raised portability and its concern that the Your Life Your Choice Self-Directed Framework states that transfer to self-directed funding and a host provider can occur only at the end of a quarter and that host providers may be brokered in the interim. The submission suggests that people should be able to transfer at any time as needed, and not incur brokerage costs.

2.7.4 Service standards and price, transparency and safeguards

The committee considered what assurances would be in place to ensure that people with a disability who have self-directed funding will receive services of an appropriate standard and price.

The Department’s briefing indicated that when services are purchased from an agency funded under the Act, safeguards and standards under the Act will apply. When mainstream private sector services are purchased, consumer protection laws would apply. The Department’s advice included that careful management of risks and a framework that enables people to exercise choice and control

²⁶ Public briefing transcript p.3

²⁷ Micah Projects, Submission p.6

would be considered in the policy work that will be undertaken before the amendments can be implemented. On some matters, ensuring enough information may be suitable to manage risks. The Department also noted that some people with a disability and their families are very capable of purchasing from the private market.²⁸

Several stakeholders canvassed the importance of transparency in pricing of services, to ensure that people who receive self-directed funding receive value for money. The committee recognises that the price of services purchased in the private market is not within the Minister's control. Nevertheless the committee requests that the Minister examine mechanisms to maximise pricing transparency of services purchased by people who obtain self-directed funding, along with other mechanisms to ensure that services are of adequate standards and reasonable price.

Recommendation 6

The committee recommends that the Minister inform the Legislative Assembly of the measures that will be put in place to maximise transparency of prices and ensure adequate standards of services purchased by people with a disability who receive self-directed funding.

²⁸ Public briefing transcript p.4

3 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* states that ‘fundamental legislative principles’ are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of parliament.

3.1 Fundamental legislative principles

The committee considered the application of fundamental legislative principles to the Bill and did not identify any issues of concern.

3.2 Explanatory notes

The Explanatory Notes generally conform to the requirements of section 23 of the *Legislative Standards Act 1992*. However, the committee notes that stakeholders’ concerns about what services could be accessed under the proposed Your Life Your Choices arrangements could have been avoided if some detail or examples were provided to explain the definition of *relevant disability services* in the Explanatory Notes.

Appendices

Appendix 1 – List of Submissions

Sub #	Submitter Name
1	Confidential
2	Carers Queensland Inc.
3	Micah Projects Inc
4	National Disability Services (Qld) (NDS)
5	Community Safeguards Coalition (CSC)
6	Queensland Council of Social Service (QCOSS)
7	Cerebral Palsy League (CPL)
8	Queensland Advocacy Inc (QAI)
9	Endeavour Foundation
10	Queensland Aboriginal and Torres Strait Islander Human Services Coalition (QATSIHS)
11	Queenslanders with Disability Network (QDN)

Appendix 2 – Officers at public briefing 8 October 2012

Department of Communities, Child Safety and Disability Services

Ms Clare O'Connor, Executive Director, Disability Services

Ms Kim Chandler, Director, Strategic Policy and Intergovernmental Relations, Disability Services

Ms Lynette Robertson, Director, Client Service Innovation and Reform, Disability Services

Appendix 3 – Witnesses at public hearing 8 October 2012

Mr Len Airey, State Manager, National Disability Services

Ms Jo Richards, Team Leader Social Inclusion Program, Micah Projects

Mr Peter Mewett, General Manager Services, Cerebral Palsy League

Statement of Reservation

DESLEY SCOTT MP

SHADOW MINISTER FOR COMMUNITIES, CHILD SAFETY, DISABILITY SERVICES AND MENTAL HEALTH

MEMBER FOR WOODRIDGE

HEALTH AND COMMUNITY SERVICES COMMITTEE

DISABILITY SERVICES (YOUR LIFE YOUR CHOICE) AMENDMENT BILL 2012

23 October 2012

Statement of Reservation

- The Disability Services (Your Life Your Choice) Amendment Bill 2012 (the Bill) was introduced into the Legislative Assembly by the Hon Tracy Davis MP, Minister for Communities, Child Safety and Disability Services on 11 September 2012, and referred to the Health and Community Services Committee in accordance with Standing Order 131. It was resolved by the Parliament that the committee is required to report on the Bill by 25 October 2012.
- The Bill seeks to:
 - broaden the objects and principles of the *Disability Services Act 2006* to encompass the importance of the individual choice and control;
 - enable funding to be provided directly to individuals or to another person on behalf of an individual (e.g. a person nominated by the person with a disability, a appointed guardian, or a parent of a child with a disability); and
 - require an agreement to be prepared for the funding to be provided.
- Submissions to the Committee closed on 4 October 2012, and a public briefing on the Bill for the Department of Communities Child Safety and Disability Services was held on Monday 8 October 2012.
- A number of submissions made to the Committee expressed some concerns about the financial accountability requirements of the Bill. Some of these are complex, and will place a considerable burden on people with a disability and their carers in respect of compliance with red tape. Training and assistance will need to be provided to ensure this does not become so onerous as to outweigh the benefits of the Bill. The Committee makes no recommendations in respect of red tape reduction, nor of training in relation to the financial requirements.
- I also note concerns of stakeholders, including Community Safeguards Coalition and National Disability Services, that the services available to people with a disability might be restricted to those included in the definition of *disability services* in section 12 of the Act. If it is the intention of the legislation that the definition of '*relevant disability services*' for proposed Part 5A of the Bill is to include those listed in the Your Life Your Choice Framework and other services of choice to enhance quality of life and lifestyle choices for people with a disability, to avoid any confusion on the part of people with a disability and their carers, and also the providers of services, the better

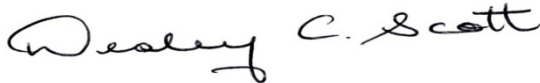
option would be for the definition in Part 5A of the Bill to include those services. The legislation should clearly set out what services are available in order that people with a disability and their carers have clear parameters within which they can purchase services.

- Knowledge of the available services in an area, and the types of services that will be able to be accessed, will be pivotal to the success of any scheme to enable people with a disability and their families to take control of the planning, purchase and review of their specialist disability support. The Bill fails to provide any mechanism for this to occur.
- The Bill does not make any provision to ensure that the prices charged by service providers are not so high that the services received by a disabled person are significantly reduced under this trial. Nor is there any assurance that price increases will be monitored to ensure they remain in line with the CPI. The Committee recommends, in recommendation 5 of the report, that 'the Minister inform the Legislative Assembly of the measures that will be put in place to maximize transparency of prices and ensure adequate standard of services purchased by people with a disability who receive self-directed funding'.
- Even if the Minister so informs the House, there is nothing that compels service providers to keep within the price parameters, and nothing to protect people with a disability as consumers of these services. A review process for costs and charges, such as an ombudsman or Departmental mediator, should be built into the legislation to afford this level of protection.
- The Minister, in her explanatory speech, advised the House that 'The government has developed a strategy to strengthen Queensland's disability front-line services that focuses on: streamlining and improving service access; increasing choice and control; promoting early intervention and prevention; providing better value for money; and reducing red tape for service providers so they can get on with the job of providing services to people with a disability. The strategy aligns Queensland with reforms nationally and in other jurisdictions, and ensures we are well positioned for any future National Disability Insurance Scheme' (NDIS).
- Minister Davis has said that funding for the NDIS 'is not one of my priorities' and made a submission to the Federal Government in respect of participating in the Federal trial that lacked any substance and did not commit any funding to the scheme.
- A number of newspaper articles, particularly the News Mail and the Sunshine Coast daily dated 5 September 2012, stated that '*Qld Gov finds \$20M for NDIS trial*'. These articles are misleading and it is disappointing that in fact, no additional funding has been allocated by the Newman Government to participate in the NDIS trial being conducted by the Federal Government.
- At the Health and Community Services Committee's consideration of the 2012/2013 Portfolio Budget Estimates held on 17 October 2012, Minister Davis refused to commit any funding in the future for a trial site for the NDIS.

Conclusion

- The Bill in its current form fails to address a number of issues that has caused concern to stakeholders including:

- Increased red tape;
 - Difficulty in accessing information about available services;
 - Transparency of prices; and
 - Failure to participate in the Federal Government's NDIS trial.
- On behalf of the non-government members of the Health and Community Services Committee, I advise that we have some concerns about the Bill in its current form unless the protections referred to above are addressed, and as such we tender this statement of reservation on that basis.



Desley Scott MP
Member for Woodridge
23 October 2012