



Speech by

Andrew Cripps

MEMBER FOR HINCHINBROOK

Hansard Wednesday, 30 April 2008

DISABILITY SERVICES AND OTHER LEGISLATION AMENDMENT BILL

Mr CRIPPS (Hinchinbrook—NPA) (9.24 pm): I rise to make a contribution to the debate on the Disability Services and Other Legislation Amendment Bill. The bill amends the Disability Services Act 2006 and the Guardianship and Administration Act 2000 to create a legislative scheme designed to safeguard the rights of adults with an intellectual or cognitive disability who demonstrate challenging behaviour and to put in place a mechanism providing for restrictive practices to be utilised to manage their behaviour. The bill proposes to try to achieve a balance between the rights of the adult with a disability and the need to protect the rights of others to live and work in a safe environment. The amendments relate only to adults with an intellectual or cognitive disability who are in receipt of disability support services provided or funded by Disability Services Queensland.

The overall aim of the bill is to achieve service improvements to reduce or eliminate the use of restrictive practices, promote positive behavioural support, reduce the incidence of challenging behaviour and improve the quality of life for adults with an intellectual or cognitive disability. In particular, restrictive practices are regulated in a way that has regard to the human rights of the disabled adult and are necessary for the safety of the disabled adult, their service provider or indeed others who may be affected and are the least restrictive option of ensuring their safety.

The term 'challenging behaviour' is not defined in this bill, and this is an interesting aspect of the proposed legislation. It is asserted by the explanatory notes that 'challenging behaviour' will be taken to mean behaviour of such intensity, frequency or duration that it places the adult or another person at serious risk of harm and is often characterised by physical violence and/or serious property damage, which on the face of it seems general enough to provide protection to disability support workers in a range of different circumstances. No doubt there are concerns in some quarters about a lack of definition of 'challenging behaviour' in the bill. I can imagine that the range of circumstances in which carers and support workers might find themselves in the course of attending individuals with intellectual or cognitive disabilities would be vast and, as such, the range of appropriate responses and degrees of responses in those circumstances would be equally vast. As such, proscriptive legislation may be unhelpful and indeed unworkable in this area of disability support. There is obviously great difficulty in achieving an appropriate balance between protecting the rights and liberties of individuals with disabilities and extending appropriate protection to carers and support workers.

Restrictive practices, however, are defined in this bill. A relatively small proportion of adults with an intellectual or cognitive disability receiving disability services from a relevant service provider exhibit challenging behaviour. In the course of caring for these adults, restrictive practices may be used from time to time to prevent them harm or a risk of harm to the adult or another such as support workers, family members, co-tenants and members of the public. These adults generally do not have the capacity to consent to decisions around their care or treatment. Restrictive practices are defined in the bill to mean containing or secluding a disabled adult; using chemical, mechanical or physical restraint on the disabled adult; and restricting access of the adult most likely to an environment which may trigger a behaviour pattern when other restrictive practices are likely to be required. Examples provided in the explanatory notes include confining the adult to their room during a period of aggression to prevent them from hitting

members of staff or co-tenants or administering medication prescribed to prevent the escalation of aggressive behaviour by the disabled adult.

There are some key principles which underpin the proposed legislation and must be considered before a decision can be made about whether or not to use a restrictive practice. These are preventing harm or a serious risk of harm to an adult or another; using the least restrictive option for ensuring the safety of the adult or another as is possible in the circumstances; considering the human rights principle including preventing abuse, neglect or exploitation of the disabled adult; and focusing on development of the individual and enhancing their quality of life. The bill includes special provisions for respite and community access services where either or both are the only disability service accessed by the adult and short-term approval—for example, in emergency situations—where there is immediate and serious risk of harm to the adult or another.

I sincerely hope that the amendments to this bill provide an improved framework for the management and delivery of disability support services in Queensland, which face very substantial challenges as far as staff and resourcing are concerned. I really hope that these amendments improve the workplace environment for carers and disability support staff who work in a sector where compassion, love, patience and understanding are a non-negotiable prerequisite. I also really hope that the amendments can improve the quality of life for those Queenslanders with an intellectual or cognitive disability who are amongst the most vulnerable people in our society and who should be supported to live their lives with dignity.

Debate, on motion of Mr Cripps, adjourned.

Debate resumed on 30 April 2008.

Mr CRIPPS (Hinchinbrook—NPA) (12.04 pm): This bill applies to disabled adults with an intellectual or cognitive disability who are in receipt of disability support services provided or funded by Disability Services Queensland which means this extends to disabled adults receiving care and support from non-government organisations in receipt of funding from DSQ. I wish to canvass the circumstances of an NGO in my electorate of Hinchinbrook in the disability support services sector, that is, the Ingham Parents Support Group. The Ingham Parents Support Group is funded by Disability Services Queensland to deliver a number of programs in the Herbert River district. However, demand for those programs exceeds current funding levels. In recent times I have had cause to advocate on behalf of the Ingham Parents Support Group by way of representations to the Minister for Disability Services. Recently the Ingham Parents Support Group faced a problem with a funding shortfall for one of its accommodation support houses that assists people with severe intellectual and physical disabilities. The house needs to have four clients with associated funding to make the service viable. The Ingham Parents Support Group—

Mr DEPUTY SPEAKER (Mr Hoolihan): Order! Member for Hinchinbrook, I will give you some latitude, but you are straying well away from the relevance of the bill.

Mr CRIPPS: Thank you, Mr Deputy Speaker. Recently the Ingham Parents Support Group had difficulty with Disability Services Queensland involving the filling of a vacancy in its supported accommodation house which required a resident with associated DSQ funding to be confirmed in that position for the service to be viable. Securing a client was a difficult and protracted process when there should have been no problem finding a client who required supported accommodation, such is the demand for those types of services in the community. This was quite frustrating and financially difficult for the Ingham Parents Support Group. Although a client has now been found, the care of the other three clients was threatened during the time that there was a vacancy because the facility was operating at an unsustainable deficit.

The Community Access Program and the Accommodation Support Program, which are run by the Ingham Parents Support Group, are experiencing real problems in meeting demand for respite services and placement of individuals with disabilities in homes with appropriate support services in the Herbert River district. In my electorate I am experiencing an increased number of visits and formal communications from concerned individuals about the future care of their disabled relatives following advice from the Ingham Parents Support Group that its applications for DSQ funding for certain programs are not being successful or are only being partially funded.

The Ingham Parents Support Group provides a high level of service to local families who have family members with disabilities. The Ingham Parents Support Group is a major asset to the community and no doubt is a valuable partner for DSQ to have based in the Herbert River district given that the Ingham Parents Support Group has the capacity to deliver a range of support programs. These funding shortfalls are undermining the ability of the Ingham Parents Support Group to deliver those programs to its clients. The support group has a very sound record of delivering—

Mr DEPUTY SPEAKER: Order! Member for Hinchinbrook, I ask you to come back to the bill.

Mr CRIPPS: Yes, Mr Deputy Speaker. The Ingham Parents Support Group has a sound record of delivering—

Government members: Oh!

Mr CRIPPS: Mr Deputy Speaker, throughout this debate a number of members have been given an opportunity to recount the individual circumstances of support organisations in their communities.

Mr DEPUTY SPEAKER: Order! Member for Hinchinbrook, I appreciate what you are saying. I have asked you to come back to the bill. I have given you some latitude. The bill deals with specific matters. I ask you to drift way back towards the bill please.

Mr CRIPPS: Earlier this year I received a copy of a report from the disability sector peak body, National Disability Services, titled *Disability services in Queensland: the state of the sector in 2007*. The report is effectively a budget submission to the Queensland government ahead of the 2008-09 state budget with respect to the funding needs of non-government organisations that deliver disability services in Queensland. The report states that for the 2005-06 financial year non-government organisations delivered support for approximately 81 per cent of all disability services to service users in Queensland for that year. The report states that the last state budget did not deliver a substantial increase—

Ms Nelson-Carr: What has this got to do with the legislation?

Mr CRIPPS: I take that interjection from the minister. This legislation deals with a range of practices—

Ms Nelson-Carr: Two.

Mr CRIPPS: Two practices that relate to the delivery of support services in the community by a range of providers, both government and non-government, and that is stated in the legislation.

Ms Nelson-Carr: If you have a problem, come and see me.

Mr DEPUTY SPEAKER (Mr Hoolihan): Minister. Member for Hinchinbrook, you will direct your comments through the chair and I have asked you to come back to the bill. I will draw your attention to the basis for the bill, and that is to safeguard the rights of adults with an intellectual or cognitive disability by regulating the use of restrictive practices by particular disability service providers in relation to those adults. If you can convince me that what you are saying relates to the regulation of those restrictive practices then it may be relevant to the bill. In other circumstances, I would ask you to address the bill.

Mr CRIPPS: Yes, Mr Deputy Speaker. I would argue that the funding provided to those organisations delivering those types of support services to people with disabilities in the community is a central issue in determining their capacity to deliver those services and utilise those practices. I am towards the end of my contribution in this regard. I am speaking about a recent report from a peak body in relation to disability support services. It makes a particular point about the funding shortfall for non-government organisations in the community delivering those support services.

What concerns me in particular is that people with disabilities who are provided support services by non-government organisations in regional areas of Queensland, such as the Ingham Parents Support Group in the Herbert River district, will be the most disadvantaged because of the lack of alternative service providers if existing NGOs can no longer deliver those specific services. Therefore, it is imperative that funding to regional disability service providers be fully maintained and indeed enhanced by the government.

Given that people with disabilities are amongst the most vulnerable in the community and given that there are many instances of families finding themselves in serious difficulty throughout my electorate and in regional areas generally, I make these remarks with a sense of hope that the funding shortfall of the Ingham Parents Support Group and similar non-government organisations in the disability support sector generally will be a real focus for the upcoming state budget. With those few remarks on the record, I am happy to support the bill.