



Speech by

Andrew Cripps

MEMBER FOR HINCHINBROOK

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STATE PENALTIES ENFORCEMENT AND OTHER LEGISLATION AMENDMENT BILL

Mr CRIPPS (Hinchinbrook—LNP) (12.13 pm): I rise to make a contribution to the debate on the State Penalties Enforcement and Other Legislation Amendment Bill. The bill proposes to amend a number of acts, amongst them the Disability Services Act 2006, to extend the transitional period for restrictive practices for a further nine months and to make a consequential amendment to the Guardianship and Administration Act.

My contribution to the debate will focus on this part of the bill and issues relating to it. Due to the fact that there has to be an extension of time for the implementation of a range of recommendations contained in the report by Justice Bill Carter, it is appropriate that we spend some time discussing the possible reasons this is so.

In April 2006 former Supreme Court judge the Hon. Bill Carter QC was commissioned to complete a report on the provision of services to people with an intellectual disability who present with challenging behaviours. The report entitled *Challenging behaviour and disability—a targeted response* was completed in July 2006 and publicly released in May 2007.

The report represents a thorough historical overview of the nature and extent of services provided to these Queenslanders and raises valid concerns regarding service delivery to these individuals from a legal, moral and ethical point of view. The report specifically refers to concerns regarding the crisis driven and ad hoc nature of services delivered to Queenslanders with an intellectual disability who exhibit challenging behaviour.

Justice Carter proposed a fundamental process of reform, renewal and regeneration of the way in which Disability Services Queensland and the disability sector respond to the demand for services delivered in this area with the aim of providing an efficient, cost-effective and financially sustainable outcome for the proper care and support of persons with an intellectual disability and challenging behaviour across Queensland.

As outlined in the explanatory notes accompanying the bill, in 2008 amendments were made to the Disability Services Act and the Guardianship and Administration Act to create a legislative scheme to regulate the use of restricted practices by disability service providers and mandate positive behaviour support. A transitional period was included in the legislative scheme to allow time for a disability service provider to set up for the full scheme, which has more onerous requirements.

Under the scheme, a disability service provider may be authorised to use a restrictive practice in certain circumstances while ensuring the individual has safeguards to protect their rights. Restrictive practices include containment, seclusion and chemical, physical or mechanical restraint. At times, restrictive practices are used to manage a person's behaviour which might put them or others at harm or at serious risk of harm. The explanatory notes accompanying the bill assert that an amendment is required to extend the transitional period for using a restrictive practice. The amendment will provide more time for a

service provider to meet the full legislative requirements leading to better assessments and plans for the individual and more informed decision making.

The amendment will also provide for disability service providers to continue to use a restrictive practice during the transitional period if they meet a set of transitional requirements already prescribed in the current legislative scheme. Optimistically, the explanatory notes state that, while the extension is for nine months, the majority of disability service providers are expected to fully comply with the initiatives introduced to implement the recommendations of Justice Carter within a shorter time frame, which would be welcome.

I am happy enough to see an extension of time for these initiatives to be implemented and the transitional arrangements to be extended to facilitate compliance. This is appropriate recognition that many of the requirements for disability support service providers to comply with the new standards are potentially costly not just in relation to the fact that they can require significant capital costs to comply but it can be expensive to retrain staff to deliver services that will be compliant.

One genuine question I have is if the extension of time to the transition period is borne out of necessity for DSQ to comply with the new standards as opposed to non-government disability services finding it difficult to comply. Certainly, the issue of cost associated with compliance is an issue I have certainly raised before in this House during the debate on the report of Estimates Committee D in August this year.

The costs of implementing the Carter report, also known as the Investing in Positive Futures program, has been really difficult to track through the budget papers from the 2008-09 capital statement to the 2009-10 capital statement. However, what is clear is that the costs of implementing the recommendations are increasing significantly. In the 2008-09 budget, \$24.3 million was allocated for the implementation of the Carter report recommendations. In the 2009-10 budget this had increased to \$61 million, an increase of \$36.7 million in just 12 months. I am happy to acknowledge that things are progressing and that I have been pleased to see some of this progress.

I have visited some of the new and refurbished secure accommodation facilities at Wacol on the invitation of the minister and I thank the minister for that opportunity. We do know from the minister's answers to one of my questions on notice that the funding of \$16 million for the new and refurbished secure accommodation facilities at Wacol will deliver 16 beds. There is no doubt that these specialised accommodation units are not the ordinary, run-of-the-mill accommodation units.

I have inspected some of them, and it was very instructive. They absolutely need to be fitted out with specialist equipment and furniture to meet the needs of those Queenslanders who need this support. I acknowledge that and I accept that. I have inspected those facilities and I have seen the demanding levels of security that are required to adequately protect the clients of DSQ in these facilities at Wacol with an intellectual or cognitive disability and who are exhibiting challenging behaviours from both harming themselves and from the possibility of them harming others. However, I would not be doing my job as the shadow minister charged with scrutinising the government in this portfolio if I did not point out that there have been some delays and cost increases. I have asked questions of the minister to ascertain just what progress has been made in terms of the implementation of the Carter report because it is difficult to find in the budget papers and the annual reports reveal some inconsistencies. Unfortunately, it has not been possible to ascertain a clear picture about the expenditure.

I mentioned earlier that I have been extended a kind invitation from the minister to inspect the facilities at Wacol, and I repeat that I am appreciative of that opportunity. However, I did request a breakdown of expenditure to date in relation to those facilities. Whilst I did receive a lot of written information about the facilities themselves, I am still waiting for the expenditure breakdown from the minister. I do know that in 2007-08 the core capital projects to help implement what was then called the targeted response and which is now called Positive Futures was underspent by an extraordinary 93 per cent, leaving a \$5½ million gap in the project. I also know that yet again in 2008-09 the projects that were abandoned to cover shortfalls elsewhere were the capital expenditure on the targeted response initiatives. But the accounting does not really add up. Last year's total of \$17 million remaining to be spent in capital grew to be \$30 million yet to be spent in this year's budget. In view of this observation, I return to my earlier point when I asked the question if the extension of time to the transition period proposed by this bill is borne out of necessity for DSQ to comply with the new standards as opposed to non-government disability service providers finding it difficult to comply within the current time lines.

As I have previously mentioned, the financial implications of the implementation of the Carter report recommendations are significant. Notwithstanding how necessary and overdue these changes are, it leaves many community sector providers of disability support services wide open to implementation costs at a time when they cannot afford it. Of most concern has been the real lack of financial assistance for community sector organisations to help meet the costs of implementing the changes. No doubt this lack of financial assistance has contributed to the delays being experienced throughout the sector in implementing

the Carter report recommendations in terms of capital costs and staff retraining and it lends warrant to the implication that the state government is facilitating the extension of the transition period to accommodate organisations, perhaps including itself, that are finding it difficult to meet the new standards.

There may be a real question to be posed here about whether the state government has realised it has set unrealistic requirements for non-government providers to meet or, in respect of its own delays in the delivery of the Positive Futures program, that it has been caught up in the problem with its own departmental underspending. Community organisations implementing the changes are forced to bear the financial impost of these changes. We know that the state government has been in receipt of the Carter report since July 2006. It was not released publicly until May 2007. We know that the state government has been in possession of the Carter report for around 3½ years yet we are only now seeing real progress in terms of the implementation of a number of recommendations, and this has necessitated the extension of the current transition period by nine months as per the amendment in this bill.

I have real concerns about the community sector which delivers vital on-the-ground services, helping people with disabilities and their families in the community. The community based disability support sector is doing it tough. It faces ever-increasing costs to deliver services and operate facilities. The existence of a community based disability support sector undoubtedly saves the state government an enormous cost from having to deliver services to many more Queenslanders in the community in many more communities around the state. The sector deserves the support of the state government to at least meet the costs of implementing the changes relating to the Carter report.

Under this bill, the transitional period is extended for a further period of nine months. Importantly, the current safeguards for the individual available under the existing transitional period will remain. People with disabilities who exhibit severely challenging behaviour are some of the most vulnerable people in our community. These are people who are at risk of self-harm or harming others. These are people who rely on carers not just for the essentials in life but for their fundamental safety. These people have also been subjected to a range of restraint methods over the years in the name of protecting them from themselves and protecting others from them. In July 2006 the Hon. Justice Carter provided to the state government a comprehensive examination of disability support services in respect of the treatment of people with severely challenging behaviour. These are very vulnerable people and it was desperately needed. It has taken the state government 3½ years to look like it is concentrating on the Carter report and delivering on the recommendations that it supported and promised to deliver.