

Submission in response to the *Towards an All Abilities Queensland* Consultation Paper

The role of the Public Advocate is established by the *Guardianship and Administration Act 2000* (Qld) to undertake systems advocacy on behalf of adults with impaired decision-making capacity in Queensland.¹ The Public Advocate focuses on influencing and changing systems, including legislative, policy and service systems, to promote and improve opportunities and outcomes for people with impaired decision-making capacity.

The Public Advocate focuses on broad issues affecting the lives of people with impaired decision-making capacity, and works to ensure that:

- their rights and interests are protected;
- they are included and participate in society;
- they have equal access to the goods and services available to all citizens;
- the services that they need are accessible and help improve their lives; and
- their collective 'voice' is strengthened and heard.

In light of this, the Public Advocate welcomes the *Towards an all abilities Queensland* consultation paper and strategies to create a more inclusive and responsive society for all Queenslanders. While the themes of person-centred policies, enablement and reasonable accommodation are relevant to all of the priority areas in the consultation paper, this submission focuses on the priorities considered to have the greatest significance to adults with impaired decision-making capacity.

Priority 3 – Working and learning

Access to education, meaningful work and income can enable people of all abilities to achieve greater financial independence, improve their standard of living and health, expand their social skills and networks, and play a greater role in their community. Further, the Queensland Government has a responsibility to promote and enable the right of people with disability to work and learn under the *Convention on the Rights of Persons with Disabilities*.

As one of Queensland's major employers, the Queensland Government should demonstrate leadership in relation to the employment of people of all abilities. Currently, people with disability only account for an average of 2.9% of the people employed across Queensland Government departments.² While individual government departments may employ slightly more or fewer people

¹ *Guardianship and Administration Act 2000* (Qld) ch 9.

² Department of Communities, Child Safety and Disability Services, *Annual Report 2015-16* (7 October 2016) Department of Communities, Child Safety and Disability Services <<https://www.communities.qld.gov.au/gateway/about-us/corporate-publications/annual-report/annual-report-2015-16>>.

with disability than this average, the Queensland Government as a whole must increase the number of people with disability that it employs.

The Disability Service Plans and Annual Reports of individual Queensland Government Departments suggest that work is being done to reduce the barriers to the public sector employment of people with disability. These policies and initiatives need to be accompanied by practical efforts and programs to attract, employ and retain people with disability to increase the number of people with disability employed by the Queensland Government.

Much of government disability employment policy has focused on providing employers with financial incentives that reduce the financial cost of employing people with disability. These policies have been costly and of limited benefit to those seeking employment. For example, the Commonwealth Supported Wage System reduces the barriers for employers by directly reducing the income of the employee with disability. This policy perpetuates an incorrect perception that people with disabilities are a burden for employers for which they should be compensated.

In November 2016, the Public Advocate made a submission to the Department of Social Services in relation to disability employment services.³ The submission highlighted the need for government policy to focus on supporting the individual seeking employment, rather than simplifying processes at the expense of choice and control for people seeking employment.⁴ Moving towards an employee-focused employment policy will set the stage for more cost effective approaches that build demand for employees with disability and drive towards a competitive disability employment service market.

In late 2016, a Sydney Morning Herald article highlighted the potential for a combined fiscal policy and employment regulation approach to improve employment access for people with a disability.⁵ The article drew attention to a Chinese government policy which featured an employment quota whereby people with disability must account for at least 1.5% of a company's workforce in order for the company to avoid being imposed with a levy for failing to meet the quota. Exceeding the quota has additional benefits for employers including tax breaks and preferential access to government contracts.⁶

This policy promotes demand for jobseekers with a disability without devaluing them as employees. The proceeds of the levy can be used to fund incentives for employers who meet or exceed their quota, provide additional funds to disability employment services, or, as is the case in China, be channelled directly to funding non-government organisations that deliver disability policy intervention, such as training, employment support and assistance.⁷

This approach challenges the negative stereotypes held by many employers about jobseekers with disability — that people with disabilities are a burden for employers for which they should be compensated — while recognising that businesses are not charities. This shifts the issue of employing people with a disability from being exclusively one of social responsibility to one that makes good

³ Office of the Public Advocate (Qld), Submission to Department of Human Services, *Disability Employment Services Reform*, 16 December 2016.

⁴ Ibid.

⁵ Karen Fischer, 'How China trumps Australia when it comes to supporting disabled workers', The Sydney Morning Herald (online), 4 January 2017 <<http://www.smh.com.au/comment/how-china-trumps-australia-when-it-comes-to-supporting-disabled-workers-20170103-gtl7bh.html>>.

⁶ Ibid.

⁷ Ibid.

business sense.⁸ Those employers yet to discover the social and economic benefits of employing people with disability may need to be provided with motivations beyond short-term financial incentives and subsidies, and recouping the costs of reasonable adjustment.

Much of the responsibility for developing and implementing these types of strategies rests with the Commonwealth Government. However, Queensland has an opportunity to provide leadership and drive change both through its own policy and direction, and through its influence in national forums such as the Council of Australian Governments. Person-centred approaches at all levels of government are crucial to fostering better work opportunities for people of all abilities.

Priority 4 – Key services

Queenslanders with disability, including adults with impaired decision-making capacity, often face barriers to accessing services. Two of the most significant of these are access to health care and transport.

Health care

The Public Advocate recently highlighted the inconsistent nature of health care access for adults with impaired decision-making capacity in the 2016 systemic advocacy report *Upholding the right to life and health: A review of the deaths in care of people with disability in Queensland*. The report found that over half (53%) of the reviewed deaths in care of people with disability were potentially avoidable.⁹ It also highlighted that access to primary health care, including regular general health checks and annual comprehensive health checks, is integral to maintaining the health and wellbeing of people with disability and to identifying preventable diseases in a timely manner.¹⁰

People with disability living in supported accommodation are particularly vulnerable to poor health outcomes due to communication, mobility and self-care restrictions, as well as their reliance on support workers who often have minimal or no medical expertise.¹¹ The *Upholding the Right to Life and Health* report, referred to above, presented a number of recommendations for improving health outcomes for people with disability in supported accommodation including:

- People with disability should have access to regular check-ups by their general practitioner and dentist, including annual Comprehensive Health Assessment Program (CHAP)¹² reviews;
- A CHAP review should be conducted prior to transition to the National Disability Insurance Scheme (NDIS) for all people with disability;

⁸ Bob Peck and Lynn Trew Kirkbride, 'Why Businesses Don't Employ People with Disabilities' 16(2) *Journal of Vocational Rehabilitation* (2001) 71-75.

⁹ Office of the Public Advocate, *Upholding the right to life and health: A review of the deaths in care of people with disability in Queensland* (2016) Office of the Public Advocate, 16 <http://www.justice.qld.gov.au/__data/assets/pdf_file/0008/460088/final-systemic-advocacy-report-deaths-in-care-of-people-with-disability-in-Queensland-February-2016.pdf>.

¹⁰ *Ibid* viii.

¹¹ *Ibid* x.

¹² The Comprehensive Health Assessment Program was developed by the Queensland Centre for Intellectual and Developmental Disability and enables improved identification and documentation of the health needs of adults with intellectual disability. Refer to Department of Communities, Child Safety and Disability Services, *Comprehensive Health Assessment Program (CHAP)*, Department of Communities, Child Safety and Disability Services <<https://www.communities.qld.gov.au/disability/support-services/service-providers/service-initiatives/comprehensive-health-assessment-program-chap>>.

- People with disability should have access to appropriate specialist medical care and reviews relevant and appropriate to the management and monitoring of any conditions they may have such as epilepsy, chronic respiratory disease and heart disease;
- Queensland Health should lead the development of a framework to improve the health of people with intellectual disability through improved promotion and coordination of quality health services for people with intellectual disability;
- Queensland's Hospital and Health Services should work to develop local, regional and state-wide networks of health practitioners with disability-specific knowledge and expertise to provide clinical leadership and enhance the provision and coordination of services;
- Resources and support should be made available to enable people with disability in residential care to access medical appointment; and
- Broadening eligibility for funded tele-health services for people with disability living in residential support services.¹³

A whole-of-government strategy and supporting action plan that addresses these recommendations should be developed. The *Towards an All Abilities Queensland Strategy* provides an opportunity for the Queensland Government to commit to significantly improving the accessibility of health services for people with disability.

Transport

Transport is fundamental to connecting people to opportunity and their community. In particular, transport enables people to access employment and enjoy social participation. Barriers to accessing and using transport reduce the capacity of people with disability and their families to participate in community life.¹⁴

Translink's Access Pass provides eligible people with disability with unlimited travel on all Translink bus, train, ferry and tram services (excluding Airtrain) for an annual fee of around \$70. While this initiative is a positive step to improving access to public transport for people with disability, the State Government could further enhance the initiative by:

- Reducing the cost of the Access Pass to adults with disability by extending the term of the pass from one to five years (so that the \$70 fee provides unlimited travel for five years);
- Broadening the eligibility criteria to all persons with a profound, severe or moderate disability; and
- Promoting the card more widely within the disability service sector to increase awareness of the initiative and encourage greater up-take of the pass.

Separate to the Access Pass, the concessional rate for people with disability using public transport in Queensland is 75% of the full ticket price. Considering that the median gross personal income for

¹³ Office of the Public Advocate, *Upholding the right to life and health: A review of the deaths in care of people with disability in Queensland* (2016) Office of the Public Advocate, 54-55 <http://www.justice.qld.gov.au/__data/assets/pdf_file/0008/460088/final-systemic-advocacy-report-deaths-in-care-of-people-with-disability-in-Queensland-February-2016.pdf>.

¹⁴ National People with Disabilities and Carer Council, *Shut Out: The experience of people with disabilities and their families in Australia*, (19 September 2016) Department of Social Services <<https://www.dss.gov.au/our-responsibilities/disability-and-carers/publications-articles/policy-research/shut-out-the-experience-of-people-with-disabilities-and-their-families-in-australia>>.

people with a disability aged over 15 years is approximately half what it is for people with no reported disability,¹⁵ the State Government is encouraged to increase the concession to 50% of the full ticket price to ensure equitable access to public transport.

Despite these policies, transport assistance for people with disability and their families remains costly, fragmented, and uncoordinated between the public and private sectors. The Queensland Taxi Subsidy Scheme continues to be the only program of its type to support adults with disability to bridge the gaps in Queensland's public transport system. Transport assistance is vital for people with disability who, given their economic disadvantage, tend to live further from public transport hubs. As such, it is important that the Queensland Taxi Subsidy Scheme is continued in parallel with the implementation of the NDIS. In addition, further strategies are needed to improve access to transport for people with disability to ensure public transport can be easily used by people of all abilities.

In addition to transport subsidies, it is important that people of all abilities are able to physically access public transport. Within Queensland Rail's South-East Queensland city train network, less than half (48%) of stations have infrastructure to enable independent access for people with disability. A further 33% of stations are accessible by people with disability when they are provided with assistance (e.g. to use ramps at the station). Unfortunately, 19% of stations still only have stair access to platforms, which can prevent some people mobility issues from accessing the platforms.¹⁶

The Queensland Government must continue to remove discrimination from its rail services and supporting facilities as required under the *Disability Standards for Accessible Public Transport 2002* (Cth). A commitment to make all Queensland public transport facilities accessible to people of all abilities within a specific and reasonable timeframe should form part of the *Towards an all abilities Queensland* strategy to ensure that public transport services are available and accessible to people of all abilities.

Priority 5 – Leadership and contribution

The Queensland Government has a significant role to play in supporting people of all abilities to be involved in the decisions that affect all Queenslanders. This role includes improving the accessibility of online information and resources, routinely producing information in easy English and making reasonable adjustments to engagement strategies to minimise barriers to participation for people with disability.

Providing information in a manner that is accessible to people of all abilities and ensuring that people of all abilities have the opportunity to genuinely participate in government processes can require a significant investment of resources and expertise for government agencies. The production of accessible information and material requires specialist skills and experience that the majority of government agencies cannot access internally. A whole-of-government approach to this issue should be considered involving establishing a specialist team that either centrally produces accessible materials for government agencies, or develops and disseminates guidance that will enable agencies

¹⁵ Australian Bureau of Statistics, 'Survey of Disability, Ageing and Carers: Summary of Findings 2009', Cat. No.4430.0 (2012).

¹⁶ Queensland Rail, Station access guide, Queensland Rail <<https://www.queenslandrail.com.au/forcustomers/access/station-access-guide>>.

to produce high quality accessible materials themselves. Alternatively, this work could be contracted by the State Government to a non-government organisation with the relevant expertise.

Another strategy to better enable people with impaired decision-making capacity to participate in decisions impacting their lives and their communities is to trial a volunteer decision-making support program. Currently in Queensland, other than appointments under the guardianship system that provide for substitute decision-making, people who experience impaired decision-making can only rely on their own informal support networks for support. This presents particular issues for people who have a very small or no informal support network.

Under the *Queensland: an age-friendly community* strategy and action plan, the Queensland Government has made a commitment to “Continue to support and safeguard the interests of older people in Queensland through provision of ... decision-making support and advocacy for older people with impaired capacity.”¹⁷ The Department of Justice and Attorney-General has responsibility for this action.

In June 2016, the Public Advocate’s report – *Decision-making support and Queensland’s guardianship system* – was tabled in the Queensland Parliament. The report highlighted that the focus of decision-making support is increasingly shifting from substitute decision-making to the supports that should be provided to enable people to make decisions for themselves and exercise their legal capacity.¹⁸

Australian trials have highlighted a range of benefits to those who have been provided with decision-making support. These include: improved decision-making skills and experience, and increased confidence in decision-making; making new types of decisions; greater control over their lives; growth in support networks; increased community engagement; and improved health, independence, relationships and/or life circumstances. These skills provide the foundation for people with impaired decision-making capacity to contribute to government, organisations and their community more broadly.

To this end, the Public Advocate is developing a proposal for a three year trial of a volunteer decision-making support program. The Queensland government is encouraged to support and fund such a program. The commencement of a trial of a volunteer decision-making support program, in addition to the approaches suggested above will help ensure that Queensland meets its obligations under the *Convention on the Rights of Persons with Disabilities* which guarantees that people with disability have political rights and the opportunity to enjoy them on an equal basis with others. To accomplish this, Queensland must not only actively promote a society in which people with disability can fully participate in the conduct of public affairs, but also encourage their participation in public affairs by providing appropriate supports for them to do so.

¹⁷ Queensland Government, *Queensland: an age-friendly community Action Plan* (14 February 2017) Queensland Government, 17 <<https://www.communities.qld.gov.au/resources/communityservices/seniors/qafc-action-plan.pdf>>.

¹⁸ Office of the Public Advocate, *Decision-making support and Queensland’s guardianship system* (2016) Office of the Public Advocate, xi <http://www.justice.qld.gov.au/__data/assets/pdf_file/0010/470458/OPA_DMS_Systemic-Advocacy-Report_FINAL.pdf>.

Summary

The development of the *Towards an all abilities Queensland* strategy presents an opportunity for the Queensland Government to create a society which enables people with disability to live as equal citizens and fulfil their potential. In particular, the Queensland Government can play a lead role in making Queensland a more accessible state for people of all abilities through employing more people with disabilities and pursuing policies, at both the state level, and through bilateral forums, that promote the value of people with disability as employees and provide direct incentives to employers to seek them out.

The *Towards an All Abilities Queensland* Strategy also provides an opportunity for the Queensland Government to commit to significantly improving the accessibility of health services for people with disability. One way that this could be achieved is through a whole-of-government strategy and supporting action plan addressing the recommendations of the *Upholding the right to life and health* report.

The Queensland Government should improve the accessibility of online information and resources and consider a whole-of-government approach to producing accessible materials for government agencies. Being able to access easy-to-understand information is not only foundational for people to interact with government, but can be a barrier to people with disability taking on leadership roles and contributing to government processes.

Finally, the *Towards an all abilities Queensland* strategy presents an opportunity for the Queensland Government to consider how it can better include people with disability in its consultation processes and provide government information and resources in a more accessible way to better enable people with impaired decision-making capacity to make a meaningful contribution to public policy development and the community more generally.