

General Purpose Standing Committee No 2

# **Inquiry into Disability Advocacy Funding**

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Chair: Brian Pezzutti

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## **Terms of Reference**

That General Purpose Standing Committee No. 2 inquire into the decision of the Minister for Disability Services and Ageing and Disability Department to subject the funding of grants to peak, advocacy, information and related disability service providers to competitive tender.

The Committee shall take into consideration:

- (1) The adequacy of consultations between the Minister and the Department with advocacy groups preceding and following the decision to change the current funding arrangements.
- (2) The possible impacts affecting the operation of organisations subject to the proposed funding arrangement.
- (3) Any possible impacts on the representative structure of the non-government disability advocacy sector and the effects on people with disabilities and their families in NSW.
- (4) The implications of implementing competitive tendering in the community services sector, particularly in relation to systemic advocacy.

## **Committee Membership**

**The Hon Dr Brian Pezzutti MLC**

Liberal Party

**Chair**

**The Hon Dr Arthur Chesterfield-Evans MLC**

Australian Democrats

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# Table of Contents

	Chair's Foreword	ix
	Summary of Recommendations	x
<b>Chapter 1</b>	<b>Introduction</b>	<b>1</b>
	<b>Referral of this inquiry</b>	<b>1</b>
	<b>Conduct of the inquiry</b>	<b>1</b>
	<b>Structure of the report</b>	<b>2</b>
<b>Chapter 2</b>	<b>Background and decision</b>	<b>4</b>
	<b>Definition of Advocacy</b>	<b>4</b>
	<b>Funding of Disability Advocacy</b>	<b>6</b>
	<b>Events forming the background to the decision of the Minister to adopt an EOI process for disability advocacy funding</b>	<b>6</b>
	1995-97 consultation and its outcomes	6
	Audit Office reports	7
	National Disability Advocacy Program	8
	2000/2001 NSW budget re disability services	9
	<b>Timing and circumstances of the Minister's decision</b>	<b>10</b>
	<b>Notification of currently funded organisations and subsequent steps in the implementation of the decision</b>	<b>11</b>
	Initial letter from DADHC: 10 January 2001	11
	DADHC seminar: 6 February 2001	12
	Discussion paper on systemic advocacy: March 2001	12
	Advertisement calling for EOIs: 31 March 2001	12
	DADHC and Disability Council information sessions: April 2001	12
	Supplementary information: 15 May 2001	12
	Deadline for submitting EOIs: 13 June 2001	13
<b>Chapter 3</b>	<b>The Government's rationale for the decision to adopt an EOI process for disability advocacy funding</b>	<b>14</b>
	<b>The Need for Reform</b>	<b>14</b>
	<b>The proposal for reform</b>	<b>16</b>
	<b>The reasons for adopting an EOI process</b>	<b>17</b>
<b>Chapter 4</b>	<b>Issues raised concerning the decision to follow an EOI process</b>	<b>19</b>
	<b>Introduction</b>	<b>19</b>

	<b>The adequacy of consultation</b>	<b>19</b>
	<b>Need for a policy framework</b>	<b>21</b>
	<b>Competitive tendering in human services</b>	<b>22</b>
	<b>The appropriateness of the EOI process</b>	<b>24</b>
	<b>The level of information already provided to the DADHC by advocacy services</b>	<b>25</b>
	<b>Impact on organisations and clients</b>	<b>26</b>
	Staffing and disruption to service provision	26
	Loss of funding	27
	Deterioration of working relationships	28
	<b>Concerns about the Government's intentions for systemic advocacy</b>	<b>29</b>
<b>Chapter 5</b>	<b>Issues raised concerning the implementation of the EOI process</b>	<b>32</b>
	<b>Introduction</b>	<b>32</b>
	<b>Consultation following announcement</b>	<b>32</b>
	Summary of consultation sessions	33
	<b>Consistency of information provided and timeframes</b>	<b>33</b>
	<b>Discussion Paper on Systemic Advocacy</b>	<b>35</b>
	<b>Systemic Advocacy funding</b>	<b>36</b>
	<b>Probity and the Assessment Process</b>	<b>37</b>
	<b>Allegations of improper conduct</b>	<b>40</b>
<b>Chapter 6</b>	<b>Conclusions and Recommendations</b>	<b>42</b>
	<b>Conclusions and Findings about the issues raised</b>	<b>42</b>
	The role of advocacy	42
	The need for reform	42
	New funding arrangements	42
	The need for a policy framework	43
	The Minister's decision to adopt an EOI process for disability advocacy funding	44
	Consultation prior to the announcement of the decision	44
	Impact on disability advocacy services and people with disabilities	44
	Systemic Advocacy and the Discussion Paper	44
	Implementation of the EOI process	45
	Allegations of improper conduct	46
	<b>Moving Forward</b>	<b>46</b>

- Appendix 1**      **List of Submissions**
- Appendix 2**      **List of Witnesses**
- Appendix 3**      **Organisations funded by the State and the Commonwealth**
- Appendix 4**      **Discussion Paper: Improving and Expanding Disability Advocacy and Information Services in NSW**
- Appendix 5**      **A report on consultations convened by the Disability Council of New South Wales**
- Appendix 6**      **Plan for Improving Outcomes for Disability Advocacy and Information Services**
- Appendix 7**      **Letter from Department of Ageing, Disability & Home Care dated 15 May 2001**
- Appendix 8**      **Minutes of Proceedings**
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## **Chair's Foreword**

I am pleased to present this Report of the Committee's inquiry into the decision to follow an expression of interest process for the allocation of funding for disability advocacy services in New South Wales.

The Committee makes a number of findings and recommendations in its Report.

In particular, the Committee recognises that the decision to change funding arrangements, and the way in which the changes have been implemented, has caused considerable concern and disruption in the disability sector. Disability service providers, advocates and people with disabilities, were concerned about the current and the potential impact the change would have on the provision of advocacy services to people with disabilities in New South Wales. It is these concerns that brought disability advocacy services and peak bodies before the Committee.

The Committee now urges the Minister, the Department and the disability sector to work hard to ensure the provision of a vigorous disability advocacy service and to continuing review and improvement. The Committee believes that only an open and collaborative approach to the implementation of reform will ensure that changes do not adversely impact on the provision of services and on people with disabilities.

The report reflects the evidence presented to the Committee and the recommendations are drawn from all the players in this most unfortunate saga.

On behalf of the Committee, I would like to thank all those who made submissions and who gave evidence during the inquiry. The Committee appreciates that the inquiry was conducted at the same time as services were completing their EOI applications and that a number of these services were already stretching resources in order to continue to provide advocacy services to their clients.

I would like to thank the members of the Committee for their time and contributions to the inquiry.

I would also like to acknowledge the role of the Committee Secretariat in this inquiry, in particular David Blunt, Director and Susan Want, Project Officer, and to thank them for their efforts in the management of the inquiry process.

I commend the report to the House.

Hon Dr Brian Pezzutti MLC  
Committee Chair

## Summary of Recommendations

### **Recommendation 1      43**

That the Department of Disability, Ageing and Home Care and the disability advocacy sector work to establish a comprehensive State Disability Plan to guide future policy decisions on the funding, monitoring and implementation of disability services.

### **Recommendation 2      45**

That the State Disability Plan (refer to Recommendation 1) include a statement of commitment to systemic advocacy.

### **Recommendation 3      46**

That there should be a separation of the allocation of funding for services through an EOI process and collection of information through a scoping exercise.

### **Recommendation 4      51**

That the Department of Disability, Ageing and Home Care use the information received through the EOI process and consultation sessions related to the Discussion Paper on Systemic Advocacy in the development of a statewide disability advocacy framework and

- that this framework be incorporated into the State disability plan (See Recommendation 1); and
- that the development of the framework be done in consultation with the Disability Council of New South Wales, advocates, service providers and people with disabilities.

### **Recommendation 5      51**

That, in consultation with the Disability Council of New South Wales, the disability sector and people with disabilities, the Department of Ageing, Disability and Home Care develop and publish a document which outlines a comprehensive consultation process which must be complied with prior to, and during, the implementation of policy change in the disability sector. The document should conform with the principles of the Disability Service Act 1993 and the Disability Services Standards.

### **Recommendation 6      51**

That the process undertaken by the EOI Assessment Panel be transparent and the decisions made by both the Panel and the Minister be made public.

### **Recommendation 7      52**

That the Department of Disability, Ageing and Home Care continue to ensure that:

- there is a clear separation of the provision of independent and systemic advocacy services and the provision of community services,
- advocacy services and community services are funded and administered separately, and
- board members and committee members must be members in their own right and not a representative of any particular disability service provider.

**Recommendation 8      52**

That the Government of New South Wales ensure that the application of any contestable funding process in relation to the provision of human services be appropriate and equitable, and of benefit to clients.

**Recommendation 9      52**

That the Minister for Disability Services and the Department of Disability, Ageing and Home Care work with the disability sector to ensure that advocacy and information services are available to all to people with disabilities in New South Wales.



# Chapter 1 Introduction

## Referral of this inquiry

- 1.1** On 10 April 2001 the Director of the Legislative Council's General Purpose Standing Committees received correspondence signed by three members of General Purpose Standing Committee No 2 requesting that, in accordance with the procedure set out in paragraph 4 of the Resolution of the House of 13 May 1999 establishing that Committee, a meeting be convened to consider proposed terms of reference in relation to disability advocacy funding.
- 1.2** At a meeting on 11 April 2001, which had been convened to consider terms of reference for a separate inquiry, the Committee resolved to adopt the following terms of reference:

That General Purpose Standing Committee No 2 inquire into the decision of the Minister for Disability Services and the Ageing and Disability Department to subject the funding of grants to peak, advocacy, information and related disability service providers to competitive tender. the Committee shall take into consideration:

1. The adequacy of consultations between the Minister and the Department with advocacy groups preceding and following the decision to change the current funding arrangements.
2. The possible impacts effecting the operation of organisations subject to the proposed funding arrangement.
3. Any possible impacts on the representative structure of the non-government disability advocacy sector and the effects on people with disabilities and their families in NSW.
4. The implications of implementing competitive tendering in the community services sector, particularly in relation to systemic advocacy.

- 1.3** During the meeting held on 11 April 2001, 4 March 2001, and prior to the resolution by a majority of the Committee to adopt the terms of reference, there was discussion within the Committee about the merits of the terms of the reference. The minutes of proceedings of this meeting, which are reproduced in Appendix 8, record the issues raised by two members during that discussion.

## Conduct of the inquiry

- 1.4** The Committee resolved, at its meeting on 11 April 2001, that the Committee Chair write to relevant Ministers, advocacy and related groups, and other relevant organisations, inviting submissions. The Committee received 27 submissions. Appendix 1 lists the individuals and organisations which made submissions (except those requesting confidentiality).

- 1.5** On 12 June 2001 a public hearing was held at Parliament House, at which 10 witnesses gave evidence. The witnesses who appeared at the hearing are listed in Appendix 2.
- 1.6** Following the hearing on 12 June 2001, a number of written questions on notice were sent to Ms Marianne Hammerton, Executive Director, Department of Ageing, Disability and Home Care (hereafter DADHC). Ms Hammerton's written response to these questions was received on 13 June 2001. A number of further written questions seeking further information were sent to Ms Hammerton on 26 June 2001, and to the Minister for Community Services, Minister for Disability, Ageing and Home Care, Minister for Women, the Hon Faye Lo Po' MP (hereafter the Minister) on 28 June 2001.
- 1.7** The Committee met to consider the report on 13 July, 2001. The Minutes of Proceedings of this meeting are reproduced in Appendix 8 to this report.

### **Structure of the report**

- 1.8** Chapter Two of the report provides brief background information in relation to this inquiry, including: the definition of advocacy; funding of advocacy organisations; events forming the background to the decision of the Minister to adopt an expression of interest (EOI) process in relation to disability advocacy funding; the timing and circumstances of the Minister's decision; and subsequent events in relation to the implementation of the Minister's decision.
- 1.9** Chapter Three discusses the Government's rationale for the policy decision to adopt an expression of interest (EOI) process for disability advocacy funding, including both the need for reform generally, and the reasons for the Minister's decision to adopt this particular approach.
- 1.10** Chapter Four discusses issues raised in submissions and evidence concerning the policy decision to adopt an expression of interest (EOI) process for disability advocacy funding. The issues discussed include: the adequacy of consultation; the need for a policy framework for advocacy funding; the question of whether or not the EOI process amounted to competitive tendering; the level of information already provided to the DADHC by the disability advocacy sector; the impact of the decision upon organisations and clients; and concerns about the Government's intentions for systemic advocacy.
- 1.11** Chapter Five addresses issues raised in submissions and evidence concerning the implementation of the EOI process by the DADHC. The issues discussed include: consultation following the announcement that an EOI process would be adopted; the consistency of information and decision making concerning the EOI process; the content and timing of the discussion paper entitled *Improving and Expanding Disability Advocacy and Information Services in NSW*<sup>1</sup>; the assessment process; and allegations of improper conduct.

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<sup>1</sup> Department of Ageing, Disability and Home Care & Disability Council of NSW, *Improving and Expanding Disability Advocacy and Information Services in NSW*, March 2001 (hereafter Discussion Paper).

- 1.12** Chapter Six draws together the views expressed by witnesses and in submissions about how best to move forward from here. The findings and recommendations for this report are included in Chapter Six.

## Chapter 2 Background and decision

### Definition of Advocacy

**2.1** Advocacy is defined in the *Framework for the National Disability Advocacy Program*<sup>2</sup> as:

Speaking, acting or writing with minimal conflict of interest on behalf of the interests of a person or group, in order to promote, protect, and defend the welfare of and justice for, either the person or group by:

Being on their side and no-one else's;

Being primarily concerned with their fundamental needs; and

Remaining loyal and accountable to them in a way which is emphatic and vigorous.

**2.2** A number of submissions received by the Committee drew attention to the importance of the definition of advocacy and of the definitional framework being used in determining who is providing advocacy services for people with disabilities. Particular attention was drawn to the need to define "individual" and "systemic" advocacy.

**2.3** This report adopts the definition of individual and systemic advocacy contained in the *National Disability Advocacy Program Review Report*, July 1999, Plain English Version:

Individual advocacy is about helping individual people who have a disability be part of the community and get their rights.

Systemic advocacy is about changing laws, rules and government decisions that affect groups or large numbers of people who have a disability.

**2.4** In evidence to the Committee Mr Robert Fitzgerald, Commissioner, Community Services Commission outlined the significant role of advocacy.

Advocacy is an absolutely integral part of ensuring the rights of people with disabilities. This is not a side issue; it is at the core of whether we believe people with disabilities have rights and entitlements.<sup>3</sup>

**2.5** Mr Fitzgerald also provided an outline of the reasons why people with disabilities might require advocates.

There are a couple of reasons why people with disabilities in particular require advocates. The first reason has to do with their vulnerabilities and their capacity to self-advocate. Advocacy includes self-advocacy, and there are self-advocacy bodies in New South Wales. People with disabilities are very vulnerable and the service

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<sup>2</sup> Department of Family and Community Services, *National Disability Advocacy Program: Review Report July 1999*

<sup>3</sup> Fitzgerald, *Evidence*, 12/6/01, p 40.



models in which they live—members have served on inquiries about this—sometimes increase that vulnerability. Therefore, it is very important that there be a person in their lives who can strongly and effectively articulate and push a position with a service provider.

Secondly, the apparent advocates are not necessarily the real advocates. For example, family members may believe they are the advocates or the decision-makers for people with disabilities. However, in reality—we often find this through the commission's work—another person who is not necessarily a family member sometimes needs to look at the individual. That is important. The third critical point is that system failure impacts directly on the quality of life of people with a disability. This is an area where systemic failure and weakness impacts directly and absolutely on quality of life, day by day. Systemic advocacy is critical to improving quality of life in a way that is sometimes not so evident in other areas. There are many reasons why advocacy is important.<sup>4</sup>

**2.6** Mr Fitzgerald also referred to the obligations to provide for advocacy for people with disabilities under the NSW *Disability Services Act*:

The Disability Services Act and the principles that it articulates strongly propose that a person with a disability must be able to participate actively in decisions about his or her own wellbeing and that he or she has the right to be represented, to make complaints and so on. I cannot say whether there is a specific right to advocacy, but there is a right to a number of functions that may require advocates or advocacy to enable them to be fulfilled.<sup>5</sup>

**2.7** In April, Justice Marcus Einfeld addressed a Community Summit on Disability Advocacy and Information Services convened by the Council of Social Services of NSW (NCOSS) and the Australian Services Union. The subject of the address centred on the role and importance of independent advocacy in general in any society, and, secondly, the specific need for advocates to draw attention to the wellbeing of disabled persons and others who are unable to effectively represent themselves. In relation to the role of advocacy, Justice Einfeld stated:

It is the role of the social welfare advocate to make sure that it cannot be said by any government that money would definitely have been available were the authorities not in the dark about the sufferings and grievances concerned. It is the job of the advocate to make knowledge of the facts undeniable.<sup>6</sup>

**2.8** A number of submissions received by this inquiry referred to the causal link between information services, individual advocacy and systemic advocacy.

One cannot operate independently of the other. Systemic advocacy is informed by the collective experiences identified through the work of individual advocates.<sup>7</sup>

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<sup>4</sup> Fitzgerald, *Evidence*, 12/6/01, p 40.

<sup>5</sup> Fitzgerald, *Evidence*, 12/6/01, p 41.

<sup>6</sup> Einfeld M, *The value and importance of independent advocacy*, NCOSS News, May 2001

<sup>7</sup> *Submission*, No 12, p 5.

Statewide systemic advocacy has a place as local advocacy can feed issues to them to take up on a Statewide level.<sup>8</sup>

## **Funding of Disability Advocacy**

- 2.9** Under the Commonwealth State Disability Agreement, funding and administration of disability advocacy services is a dual responsibility, and funding for and administration of disability information services is devolved to the State and Territory level.<sup>9</sup>
- 2.10** The NSW Government currently funds 36 advocacy and/or information services through the Department of Ageing, Disability and Home Care (DADHC) (previously Ageing and Disability Department) at a recurrent cost of \$3.8 million per annum. The Commonwealth Government's National Disability Advocacy Program funds a further 18 advocacy services in NSW.
- 2.11** A list of the organisations funded by the State and Commonwealth are attached as Appendix 3.

## **Events forming the background to the decision of the Minister to adopt an EOI process for disability advocacy funding**

- 2.12** The DADHC's submission to this inquiry states that in calling for Expressions of Interest (EOI) for provision of advocacy and/or information services consideration was given to the findings and recommendations of various reports and consultations including:

Consultations undertaken by the then Ageing and Disability Department in 1995, 1996 and 1997

Auditor-General and Community Services Commission (1997) *Large Residential centres for People with Disability in NSW*

Audit Office of NSW (2000) *Performance Audit Report: Ageing and Disability Department – Group Homes for People with Disabilities in NSW*

The 1999 review of the National Disability Advocacy Program by the Commonwealth Government<sup>10</sup>

### **1995-97 consultation and its outcomes**

- 2.13** The DADHC's submission outlines a process of consultation in relation to disability advocacy, commencing in 1995, aimed at the development of an advocacy plan.

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<sup>8</sup> *Submission*, No. 4 p 4.

<sup>9</sup> Department of Family and Community Services, *National Disability Advocacy Program: Review Report July 1999*

<sup>10</sup> *Submission* No. 6, p2

In 1995, the then Ageing and Disability Department (ADD) initiated a consultation process to develop an advocacy plan for NSW targeting people with disabilities, their families and carers. This process involved comprehensive consultation ... and was subsequently put on hold when the Commonwealth commenced its Australia wide review of the National Disability Advocacy Program.

In September 1995, an ADD initiated reference group prepared four discussion papers outlining strategic issues and options for advocacy service reform. A consultation process commenced using a questionnaire survey, consultation sessions held across NSW, and a call for submissions from organisations, groups and individuals. Fifteen information and consultation sessions were conducted across NSW in the first six months of 1996, targeting people with disabilities, their families and carers.

The Advocacy Reference Group distributed 2,000 copies of the four discussion papers in a variety of formats. The accompanying survey had a low response rate: only fifty-six of these were returned. About half were from people who worked for or were associated with existing advocacy or disability organisations. Three out of ten identified themselves as either people with disabilities or a family member/volunteer advocate.

Eight out of the 15 consultation sessions were held in rural and regional NSW. These eight sessions had a mixed participation of service providers, families, carers, advocates, and people with disabilities of different types. Five out of the seven metropolitan sessions targeted specific disability or cultural groups, their families, advocates and service providers. The remaining two sessions were for general disability groups. A total of 303 people participated in the 15 sessions.

Sixteen organisations, groups or individuals provided submissions in varying degrees of detail. These included three Government agencies and the rest comprised systemic advocacy organisations, services and groups of parents/carers and people with disabilities.<sup>11</sup>

## Audit Office reports

- 2.14** In June 1997 the Audit Office, together with the Community Services Commission produced their final report on the performance audit into the provision of residential services for people with an intellectual disability. The audit was conducted following the release of the *Lachlan Report*<sup>12</sup> which identified poor practices in a large disability residential centre. The audit reviewed policies and practices in seven government and 3 non-government institutions to determine if those policies and practices protected the human and legal rights, as well as the safety and dignity of residents. The report found that practices in both government and non-government centres failed to protect residents and that major contributing factors included the absence of adequate criteria for appropriate service delivery, poor staff training and supervision, and the absence of effective

<sup>11</sup> *Submission* No 6, p 2

<sup>12</sup> NSW Department of Community Affairs, 1995, *Lachlan report: exclusionary time-out or solitary confinement?* NSW

monitoring systems. On a more fundamental level, the report concluded that the institutional model of care could not adequately address the physical, emotional and social needs of residents and that

(P)eople with an intellectual disability can not achieve their maximum potential while they remain in an institution.<sup>13</sup>

**2.15** The report contained a number of key recommendations aimed at both short and long term change for large residential centres including that the Government fund transition of large government and non-government residential centres and that a target date of seven years from the date of the report be considered for complete transition of all centres.

**2.16** On advocacy, the Report recommended that

The Ageing and Disability Department ensure that there are sufficient advocacy services to meet the needs of people living in institutions. The provision of additional services should be considered in the context of the NSW Advocacy Development Plan.

**2.17** The June 2000 Audit Office report into group homes for people with disabilities builds on the performance audit of large institutions. The major objective of the audit was to examine the overall performance management systems for the group homes receiving NSW Government funding. Overall, the report concluded that the Ageing and Disability Department had not yet developed a comprehensive framework for the provision of group homes services. In addition the Audit Office found that there were inadequate performance monitoring systems and that funding was not allocated in a manner consistent with the intent of the *Disability Services Act 1993*.

**2.18** In relation to advocacy services, the Audit Office observed several instances where residents did not have access to an independent advocate. The report states that the reasons for the limited access include:

the paucity of advocacy services and of available advocates, especially in rural areas and for non-verbal residents.<sup>14</sup>

### **National Disability Advocacy Program**

**2.19** The National Disability Advocacy Program is administered by the Commonwealth Department of Family and Community Services. The program has been in operation since 1986 when the Federal Government took responsibility for the provision of some advocacy services for people with disabilities. Currently, a total of 18 advocacy services receive annual recurrent funding under this Program.

**2.20** A list of the organisations funded by the Commonwealth are attached at Appendix 3.

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<sup>13</sup> Audit Office & Community Services Commission, *Performance Audit Report, Large Residential Centres for People with a Disability in New South Wales*, June 1997, p.ix

<sup>14</sup> The Audit Office, *New South Wales Performance Audit Report, Ageing and Disability Department. Group homes for people with disabilities in NSW*, June 2000, p.17

**2.21** The goal of the Commonwealth's National Disability Advocacy Program is:

To enable people with disabilities to gain access to and participate in community life and to achieve and maintain their rights as citizens, involving their families wherever possible and appropriate.<sup>15</sup>

**2.22** The NSW Government's work on the development of an advocacy plan was set aside when the Commonwealth undertook its Australia-wide review of the National Disability Advocacy Program in 1997.

**2.23** The DADHC's submission states that a central policy objective of the Government is to ensure consistency across NSW and Commonwealth funded services and to this end the Goal, Aims and Objectives and Principles of the NSW Disability Advocacy and Information Program are consistent with those of the Commonwealth.

### **2000/2001 NSW budget for disability services**

**2.24** A number of important developments in relation to disability funding have been included in recent budgets. For example, the 1999/2000 budget included the announcement that the Ageing and Disability Department was to contract out some accommodation and support services to the non-government sector.<sup>16</sup>

**2.25** The 2000/2001 budget provided an additional \$44.9 million (\$218.6 million over four years) under the disability services program "to enhance the strategic direction for the Disability Services system in NSW."<sup>17</sup>

**2.26** The DADHC's submission states that specific directions for enhancing disability services system to support people with disabilities and their families were announced at the time of the 2000/01 Budget.

The Government is committed to improving services for people with disabilities and to improving opportunities for people with a disability to live and participate in their communities. Specific directions to enhance the disability services system to support people with disabilities and their families were announced at the time of the 2000/01 Budget.

These directions highlight the need for more flexible and innovative support options for people with disabilities so that services are appropriate to meeting their needs and promoting participation in the community.

Key reform directions include: strengthening families and communities to help people with disabilities to be independent and to live active and full lives in their own communities; introducing preventative options and responses that reduce the likelihood of the breakdown for supports of a person with a disability; managing requests for support so that needs are addressed and prioritised in a planned and

<sup>15</sup> *National Disability Advocacy Program – Goals and Objectives, August 1999, attached to Submission No. 6*

<sup>16</sup> *Budget Paper No. 3 1999-2000, Vol 1, 5-9.*

<sup>17</sup> *Budget Paper No. 3 2000-2001, Vol 1, 5-10.*

systematic way; and optimising the capacity, responsiveness and cost effectiveness of the formal support system.

Disability advocacy and information services are important to the achievement of these strategies.<sup>18</sup>

- 2.27** The Committee received conflicting evidence as to whether reform to advocacy funding was mentioned in briefings about the 2000-2001 budget that the Department provided to disability service providers. One witness advised the Committee that, in response to efforts to determine the circumstances in which the Minister's decision to adopt an EOI process for disability advocacy funding was made, reference was made to the 2000-2001 budget.

When we asked the Government to specify that clear government policy we have been told that it was delivering the community policy announced in the budget statements given last year. When we go to the Director-General's text of that budget statement to explain the community program associated with the budget last year, we see that there is not one mention of advocacy anywhere. Also, in the Treasurer's statement on funding for the department in last year's budget statement, advocacy is not mentioned and the review of advocacy is not mentioned. So we have yet to receive anywhere from anybody clarification of where this policy comes from.<sup>19</sup>

- 2.28** Ms Marianne Hammerton, Executive Director, DADHC, addressed this question in evidence and, subsequently in correspondence with the Committee:

At the inquiry I indicated that my recollection was that I mentioned reform of the advocacy and information system at the 2000/01 Budget briefing. While this is my recollection I cannot find a reference in the formal documentation provided at the briefing. In developing the presentation material consideration had been given to indicating as many aspects of the reform program ahead of the Department as possible.<sup>20</sup>

- 2.29** On 26 June 2001, the Committee wrote to Ms Hammerton requesting clarification and documentation on the 2000-2001 budget briefing. In correspondence dated 6 July 2001, Ms Hammerton re-confirmed that it was her recollection that she mentioned reform of the advocacy and information system at the budget briefing.<sup>21</sup>

## **Timing and circumstances of the Minister's decision**

- 2.30** When Ms Hammerton appeared before the Committee she was asked about the timing of the decision to adopt an EOI process for disability advocacy funding. Ms Hammerton indicated that the decision was taken during the second half of 2000.

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<sup>18</sup> *Submission*, No 6, p1.

<sup>19</sup> Herd, *Evidence*, 12/6/01, p 21.

<sup>20</sup> Correspondence from Ms Hammerton, in response to Written Questions on Notice, 13/6/01.

<sup>21</sup> Correspondence from Ms Hammerton, dated 6 July 2001

**Ms HAMMERTON:** No. I think the Minister wanted to try to make sure that it was a very clear indication.

**CHAIR:** So this was a direction from the Minister? Or was this something that you dreamt up?

**Ms HAMMERTON:** Based on the understanding of the situation that we were facing. It is not all that clear-cut.

**CHAIR:** Were you aware that the Minister was going to go to go down this track before 10 January?

**Ms HAMMERTON:** Yes.

**CHAIR:** When were you first aware that the Minister was going in the direction of expressions of interest?

**Ms HAMMERTON:** In the second half of last year.<sup>22</sup>

**2.31** In written answers to questions on notice, Ms Hammerton provided further details on the timing of the decision. She indicated that the decision was made by the Minister on 16 August 2000 and that a detailed workplan was approved by the Director-General of the Department on 9 January 2001.

Further to discussions with the Minister and her adviser, the Minister approved a proposal to improve advocacy and information services, including an expression of interest process, from the then Ageing and Disability Department (ADD) on the 16 August 2000. A detailed work plan for implementing the proposal was approved by the Director-General of ADD on 9 January 2001.<sup>23</sup>

**2.32** On 9 July, 2001, Ms Hammerton provided further documentation relating to this matter including the Minister's approval, dated 16 August 2000, for a proposal entitled *Improving Outcomes in Disability Advocacy/Information Services* which outlines a Project, the purpose of which is to improve advocacy/information outcomes through a policy framework, performance management improvements, and an industry development strategy. The proposal specifically outlines that the improvements would be achieved through implementing an expression of interest process.<sup>24</sup>

## **Notification of currently funded organisations and subsequent steps in the implementation of the decision**

### **Initial letter from DADHC: 10 January 2001**

<sup>22</sup> Hammerton, *Evidence*, 12/6/01, p55

<sup>23</sup> Correspondence from Ms Hammerton, in response to Written Questions on Notice, 13/6/01.

<sup>24</sup> Correspondence from Ms Hammerton, dated 6 July 2001

**2.33** On 10 January, 2001, affected organisations were notified by the Director-General of the then Ageing and Disability Department (ADD) that there would be a review of advocacy and information services. This letter was accompanied by a survey form which organisations were requested to complete and return to the Department. The letter stated that new funding arrangements would commence from 1 July 2001.

**2.34** On 23 January 2001, 36 currently funded organisations were sent a further letter from the Department inviting them to attend a seminar on the 6 February 2001 to hear about the Department's plan to improve performance of disability advocacy services.

#### **DADHC seminar: 6 February 2001**

**2.35** A total of 34 currently funded services attended the meeting held on the 6 February 2001. At the meeting officers of the Department outlined changes to the funding process of disability advocacy services and announced that the Government had increased annual funding for the Disability and Advocacy Program by around 25% or \$1million recurrent.

**2.36** The Disability Council of NSW, the official adviser to the Government on disability services, became aware of the changes in funding arrangements when a member of the press contacted Ms Leonie Manns, Chairperson, on the afternoon of 6 February 2001 for comment.

#### **Discussion paper on systemic advocacy: March 2001**

**2.37** In March 2001 ADD and the Disability Council of NSW developed a Discussion Paper on systemic advocacy titled *Improving and Expanding Disability Advocacy and Information Services in NSW* (Attached as Appendix 4).

#### **Advertisement calling for EOI's: 31 March 2001**

**2.38** On 31 March 2001, an advertisement inviting expressions of interest for the provision of disability advocacy and information services appeared in the *Sydney Morning Herald*. The advertisement stated that the Department and the Disability Council had prepared a discussion paper on systemic advocacy which would be distributed with the EOI package. The advertisement also advised that information sessions would be conducted throughout the state to discuss EOI proposals and systemic advocacy. The closing date for the EOI proposals was 3pm 25 May 2001.

#### **DADHC and Disability Council information sessions: April 2001**

**2.39** Thirteen information sessions were held across the state in April 2001. Morning sessions discussed the Expression of Interest process and afternoon sessions were devoted to the Discussion Paper on systemic advocacy and were facilitated by independent consultants. (Refer to Appendix 5 for a summary of issues raised at the sessions.)

#### **Supplementary information: 15 May 2001**



- 2.40** On or about 15 May 2001, people who had requested EOI packages were provided with Supplementary Information relating to both the Invitation for Expressions of Interest Advocacy and Information Services Information Package, and the EOI application form.

**Deadline for submitting EOIs: 13 June 2001**

- 2.41** On the 25 May, 2001, on or around 3pm, people who had requested Expressions of Interest Kits were advised that there was an extension to the deadline for submitting Expressions of Interest to 12 noon on 13 June 2001. The letter outlined the procedure to be followed by the Department when dealing with EOIs already received by the Department, the process for incorporating supplementary material and the process for substituting completely revised EOIs.

## **Chapter 3     The Government's rationale for the decision to adopt an EOI process for disability advocacy funding**

### **The Need for Reform**

**3.1**        As outlined in Chapter Two, the Department undertook an extensive process of consultation, aimed at the development of an advocacy plan, during 1995, 1996 and 1997. According to the DADHC, while the process was "put on hold" during the review of the National Disability Advocacy Program, a number of consistent themes emerged from these earlier consultations. These included the need for greater resources for direct advocacy for people with disability and their families/carers and the following improvements to the provision of advocacy services:

A performance management approach for advocacy services within which outcomes are defined;

That advocacy services and advocates be required to minimise their conflict of interest;

A focus on needs of individuals with disabilities and their families; and

That advocacy provision be independent of existing service providers.<sup>25</sup>

**3.2**        In evidence before the Committee, Ms Marianne Hammerton, Executive Director, DADHC, elaborated on the themes that emerged from this earlier process of consultation.

A couple of the areas that have clearly come through consistently over the years are that there is not an equitable spread of information advocacy services across the State. If you look at the outcomes of the discussions in the south, for instance, the Southern Highlands has no coverage at all for individual advocacy. That is the case that was being put and presented in the course of those recent systemic advocacy discussions. That is just one example of a gap. There are many gaps. But there are not just gaps around geographic coverage; there are clearly gaps around cultural and linguistically diverse groups as well as ATSI communities. Indeed, the Commonwealth recognised that such that fairly recently in the last 12 months it funded an ATSI advocacy service. But in relation to other communities, we have not got that right at all. Everyone would agree, including participants in all the discussions today, that that is the case.

Another example of concerns that have come through is that there has not been necessarily a clear separation between disability service providers and their connectedness with individual advocacy and information services. So, one of the points of this exercise and one of the reasons we indeed provided supplementary information in the course of the process was to reinforce the criticality of ensuring that an outcome of this process is that people with disabilities and their families and carers are the people that constitute the memberships of boards and

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<sup>25</sup>        *Submission*, No 6, p3.

management committees that make these services work, and that we undo those connections where there can be a potential conflict that existed in the past.<sup>26</sup>

**3.3** Consultations held throughout New South Wales revealed that there was strong feeling that advocacy services should not be provided by agencies providing direct services such as accommodation, counselling or welfare support. A clear separation was essential to avoid conflicts of interest.<sup>27</sup>

**3.4** The Audit Office of NSW *Performance Audit Report on the Ageing and Disability Department – Group Homes for People with Disabilities in NSW* states that the Disability Services Act 1993 (DSA) specifies that people with disabilities are entitled to have advocacy provided to them independent of the service providers:

The DSA specifies that people with disability are entitled to have:

- advocacy services available to them
- decisions made on their behalf where they are unable to make decisions themselves
- such advocacy and substitute decisions making provided to them independent of the service providers.

The existence of an independent advocate, relative or guardian for clients unable to make an informed choice without assistance is important to ensure that the legal and human rights of residents are upheld in relation to the prevention of abuse within the service.<sup>28</sup>

**3.5** Ms Hammerton advised the Committee that while the Department had developed a picture of “what is going on in particular service types” through the annual reports and monitoring by departmental officers, as funding had developed in an “ad hoc” way, greater clarity was now required.

But what we have found in some respects is that we have still carried over baggage from Commonwealth days, so that there has not necessarily been clarity around what is being funded, and the basis of its being funded. As we move to look at our information and advocacy services, there was not total clarity, or on-the-record information, about who does what and about which services or components of services might be more appropriately funded under other service types.

The Minister felt that, while we did have a picture, taking a spot picture and developing a really close spot picture in its own right of what exactly is going on was not going to be beneficial in its own right, except insofar as we gave

<sup>26</sup> Hammerton, *Evidence*, 12/6/01, pp 53-54.

<sup>27</sup> Johnson C & Barber J, *Improving and expanding advocacy and information services for people with disabilities: A report on consultations convened by the Disability Council of New South Wales*, 11 May 2001, p4

<sup>28</sup> Audit Office of NSW (2000) *Performance Audit Report: Ageing and Disability Department – Group Homes for People with Disabilities in NSW*, p16

organisations the opportunity to tell us what more they wanted to do, many having felt constrained over time and not having had much additional funding made available to them, so that they could start putting forward and shaping ideas about what a strengthened information and advocacy system could look like. I refute the statement that there was no picture of what it looked like. The picture of what it looked like was mixed. It also confirmed messages that had come through quite strongly over time through previous consultation processes and through the National Disability Advocacy Review program. Those issues remained and had not been addressed according to the way in which we had funded a mix and range of services.<sup>29</sup>

### **The proposal for reform**

**3.6** In June 2000, the then Ageing and Disability Department prepared a proposal to improve outcomes in Disability Advocacy/Information Services based on the consistent themes identified during earlier consultation and review.<sup>30</sup>

**3.7** The proposal outlines a project which ADD would lead to improve advocacy/information outcomes through a policy framework, performance management improvements and an industry development strategy. This project was entitled *Improving Outcomes In Disability Advocacy/Information Services*.

**3.8** The stated purpose of the project was to:

- To increase the availability of advocacy to individuals and their families;
- To improve coverage of services for people disadvantaged in their access, identified as people in rural/remote areas, people of non-English speaking backgrounds and Aboriginal and Torres Strait Islander people; and
- To improve the capacity of people with disabilities, their families and carers to have access to and negotiate in mainstream service systems such as education, housing and employment.

**3.9** The proposal states that:

The Project will engage a contestable funding process as a driver for clarifying and improving service delivery.<sup>31</sup>

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<sup>29</sup> Hammerton, *Evidence*, 12/6/01, p49

<sup>30</sup> NSW Ageing and Disability Department, *Improving Outcomes in Disability Advocacy/Information Services* 30 June, 2000. (See Paragraphs 3.1 and 3.2)

<sup>31</sup> NSW Ageing and Disability Department, *Improving Outcomes in Disability Advocacy/Information Services* 30 June, 2000, p5

- 3.10** Documents provided by Ms Hammerton clearly show that from the outset, it was the intention of the Department to undertake an expression of interest process as a means for achieving the objectives of the project.<sup>32</sup>
- 3.11** The proposal was approved by the Minister on 16 August, 2000.<sup>33</sup>
- 3.12** On 9 January, 2001, the Director-General approved a plan for implementing the project, including the conduct of a seminar for current service providers, and key elements of a communications strategy. The plan (Attached as Appendix 6) outlines the time frames for advising services providers and seeking expressions of interest.

### **The reasons for adopting an EOI process**

- 3.13** The Committee understands that the EOI process is a mechanism for the allocation of funding through a contestable process. Other methods include selective tender and direct allocation. In essence, the Committee understands that the expression of interest process being conducted for the funding of disability advocacy services involves the following steps:
- submission of expressions of interest from potential service providers;
  - an assessment of the providers by an independent Panel;
  - recommendation of the most eligible providers
  - selection of the most suitable service provider by the Minister.
- 3.14** Further information on the tender process was sought from the Minister for Disability Services, however, at the time of reporting a response had not yet been received.
- 3.15** The current EOI process being conducted by DADHC for disability advocacy funding is based on previous EOI processes conducted by the Department. The Committee is aware that the EOI process has been used extensively in the Ageing and Home and Community Care programs, the Boarding House Reform Project and the Disability Services Program.
- 3.16** In evidence before the Committee, Ms Hammerton, advised that it was the Minister's preference that reform be achieved through an EOI process, the design of which would incorporate the findings and recommendations of previous consultations and would seek innovative and transparent responses across the range of individual and systemic advocacy and information services. Ms Hammerton also advised that the Department was very open to seeing what organisations wished to do, given the opportunity, but also what new organisations entering the field of disability advocacy might be able to contribute to advocacy and information services across New South Wales.

<sup>32</sup> Correspondence from Ms M. Hammerton dated 6 July 2001.

<sup>33</sup> See paragraphs 2.30-2.32 of this Report

The EOI was seen as an opportunity to demonstrate an openness to a range of services options that could be considered under the criteria.<sup>34</sup>

**3.17** The Department's submission outlines the central objective of calling for Expressions of Interest:

A central objective of the Government in calling for Expressions of Interest is to improve participation of people with disabilities and their families/carers/guardians in managing services funded under the Disability Advocacy and Information Program. Government has acted on previous concerns...about perceived or real conflict of interest where disability service providers have been represented on boards/committees of advocacy services.

To deliver improved outcomes and to strengthen the representative qualities inherent in this type of service provision, Government has constructed the expression of Interest process to seek proposals for advocacy that minimises conflict of interest, promotes, protects and defends the welfare of, and justice for, people with a disability.<sup>35</sup>

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<sup>34</sup> Hammerton, *Evidence*, 12/6/01, p45.

<sup>35</sup> *Submission*, No 6, p5.

## Chapter 4 Issues raised concerning the decision to follow an EOI process

### Introduction

- 4.1** Evidence provided to the Committee indicates that there is strong support for review and reform of the disability advocacy sector. Submissions state that services recognise the Government's right and responsibility to ensure quality and equity in services provision and acknowledge that there are gaps in existing service provision which need to be addressed. However submissions also state that a more transparent and consultative approach may have lead to a broadly supported outcome.
- 4.2** This Chapter outlines concerns raised in submissions and evidence received by the Committee about the decision to subject disability advocacy services to an expression of interest process including:
- the adequacy of consultation with service providers and people with disabilities,
  - the need for a policy framework,
  - the appropriateness of competitive tendering in human services,
  - the impact on organisations and clients, and
  - the government's intentions for funding of systemic advocacy.

Issues concerning the EOI process itself are addressed in Chapter 5.

### The adequacy of consultation

- 4.3** A number of submissions express surprise at the announcement on 6 February, 2001 that funding arrangements for disability advocacy would be changed. A number of submissions and witnesses state that there had been no consultation prior to this date. The majority of submissions and evidence received by the Committee state that most people were unaware of the decision to change disability advocacy funding until the meeting held on 6 February, 2001.
- 4.4** A number of submissions state that this lack of consultation was contrary to the Government's commitments to consulting with persons affected by decisions made and that the sector has a right to expect that government will work in partnership with the community to identify where improvements are required or desirable.

This contradicts the NSW Government's *Social Justice Directions Statement*, the Cabinet Office's discussion paper on *Participation in the New South Wales Policy Process*, and the Public Sector Management Office's *Directions for Public Sector Reform in NSW*. All these documents refer to the NSW Government's commitment to

genuine consultation about, and participation in, government decision making by persons affected.<sup>36</sup>

**4.5** The New South Wales Council for Intellectual Disability further stated:

...it appears the decision to call for EOI has been taken without consultation with those affected and without any clear policy framework, guiding principles and processes. This is a significant change to the 'landscape' of disability advocacy and information services and for the announcement to be made at the outset of review sent shock waves through the sector.<sup>37</sup>

**4.6** In particular, the author of a submission to the inquiry advised that there was a significant lack of consultation with people with disabilities.

One of my concerns is the process in which people with disabilities are consulted; often it is with little respect and the assumption that their knowledge is of little importance... I travelled 3 hours to attend this meeting to find service providers dominated it.<sup>38</sup>

**4.7** The Disability Services Standards, the NSW Disability Services Act 1993 (DSA) and the NSW Government's *Social Justice Directions Statement* seek to ensure that people with disabilities have the same right as other members of Australian society to participate in the decisions which affect their lives.<sup>39</sup>

**4.8** Some submissions, including that of the Macarthur Disability Network, stated that the change in funding arrangements is in breach of the Disability Service Act and the accompanying standards particularly: Standard 3: Decision Making and Choice; Standard 5: Participation and Integration; Standard 6: Valued Status; and Standard 8: Service Management (Planning and consultation). While there is no statutory obligation to abide by the Disability Service Standards, there is a requirement under Section 9 of the Disability Service Act to uphold the principles of the Act, and in particular there is an obligation to provide people with disabilities with opportunities for consultation in relation to the development of major policy and program changes.<sup>40</sup>

It is the belief of Macarthur Disability Network that the lack of an open and transparent consultation process and the failure to the Minister and the NSW Ageing and Disability Department to involve people with disabilities in a major decision that affects the delivery of existing services is a breach of the DSA.<sup>41</sup>

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<sup>36</sup> *Submission*, No 12, p 6.

<sup>37</sup> *Submission*, No 12, p 3.

<sup>38</sup> *Submission* No 16, p.1

<sup>39</sup> *Disability Service Act*, NSW 1993, Schedule 1, 1(f)

<sup>40</sup> *Disability Service Act*, NSW 1993, Schedule 1, 2(o)

<sup>41</sup> *Submission* No 7, p 4.



- 4.9** Ms Hammerton stated in oral evidence that the program goal, aims and objectives as detailed on Page 3 of the EOI package are consistent with the Standards.

For example one of the program aims is to assist individuals with severe disabilities to “participate equitably in community life”. This has a direct connection with Standard 5 which states that “each person should be supported and encouraged to participate and be involved in the life of the community”. Further, another program aim is to improve community knowledge about people with disabilities and to develop strategies for including them in ever day life. Once again Standard 5 is being reinforced along with Standard 6 which relates to enabling people with disabilities to achieve valued roles in the community.<sup>42</sup>

- 4.10** Participatory processes can improve decision making by matching policy to real community needs and ensuring greater compliance through increased ownership of a solution.<sup>43</sup>

Had there been a period of consultation and discussion about the outcomes required by people with disabilities there might not have been such a strong reaction.<sup>44</sup>

## Need for a policy framework

- 4.11** A number of submissions and witnesses suggest that, while the purpose of consultations commenced in 1995 was to develop a disability advocacy plan, no such plan has subsequently been implemented in New South Wales.

- 4.12** Several witnesses believe there is a need for a State advocacy plan and state that prior to the announcement about a change in disability advocacy funding arrangements, there had not been an official Disability Advocacy and Information Program.<sup>45</sup>

- 4.13** A number of witnesses call for the development and publishing of a disability policy framework that sets out the directions for actions within the advocacy and disability program with particular emphasis on how the process of change or restructure adds value within the sector.<sup>46</sup> Ms Helena O’Connell, from the NSW Council for Intellectual Disability (CID), suggests that there needs to be a State advocacy plan developed through consultation with people with disabilities and their supporters.<sup>47</sup>

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<sup>42</sup> Correspondence from Ms Marianne Hammerton, Executive Director, Department of Ageing Disability and Home Care, undated (Written questions taken on notice)

<sup>43</sup> Byrne J & Davis G, 1998, *Participation and the NSW Policy Process: A Discussion Paper for The Cabinet Officer New South Wales*, The Cabinet Office, NSW

<sup>44</sup> *Submission*, No 12, p 3.

<sup>45</sup> *Submission*, No 12, p 3.

<sup>46</sup> Regan, *Evidence*, 12/6/01, p 22.

<sup>47</sup> O’Connell, *Evidence*, 12/6/01, p 23.

- 4.14** Mr Robert Fitzgerald, Commissioner, Community Services Commission, stressed the need for a policy or program framework, developed following a review of the sector, upon which to base decisions concerning disability advocacy funding. He suggested that the expression of interest process will provide the Department with a large amount of information which should be used to establish a framework against which future funding decision would be made.

Our concerns center on the absence of a clearly articulated policy or program framework for the funding and provision of advocacy; the inappropriate process adopted for the 'service improvement strategy'; and the ambiguity surrounding statewide systemic advocacy...The Commission has previously expressed concerns about the ability of EOI processes to achieve positive outcomes for people requiring the services being tendered, particularly in situations where there is no clearly articulated strategy policy and provision framework. In our view, the use of an EOI process needs to reflect a policy and program direction that has been developed in co-operation with the sector, and be supported by a defined process and agreed outcomes, in order to be effective.<sup>48</sup>

- 4.15** While many submissions applaud the additional funds provided for disability advocacy services, they suggest there has been no systematic review of resource needs.

The figure was originally \$3.7 million and, with growth and the extra \$1million, was up to \$4.7 million for the expression of interest process. Although that figure is stated as the amount, we do not believe it is adequate. The amount of funding that organisations have been able to get over time through one method or another was tallied up by an officer in the department. In no way was a discrete figure arrived at for providing systemic advocacy. I do not feel a study has been undertaken by the department as to the adequacy of that funding or the job it has to do.<sup>49</sup>

### **Competitive tendering in human services**

- 4.16** An issue raised in evidence was whether the EOI process amounted to competitive tendering and whether it was appropriate to apply a competitive tendering process to the funding of disability advocacy services.

- 4.17** The Committee understands that peak advocacy groups who appeared before the Committee viewed the process adopted by the Department as a competitive tendering process. Representatives of the Disability Council of NSW consider that while the Government and the Department view the process as an expression of interest process, the sector, nevertheless view it as competitive tendering.

I could understand how the sector would think that it is a competitive tendering process. The Department, at its highest levels, and the Government, at its highest levels, probably believe that it is an expression of interest process. However, I believe that the community sees it as a competitive tendering process. There is

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<sup>48</sup> *Submission 24*, pp3, 10.

<sup>49</sup> *Byrne, Evidence*, 12/6/01, p 28.

very strong resistance in our community to competitive tendering of any human services.<sup>50</sup>

**4.18** In their submission to the inquiry, NSW Council of Social Services (NCOSS) states that the Minister has repeatedly insisted that the EOI is not a competitive tender, but only an information gathering exercise. NCOSS Policy Officer Ms Christine Regan stated in oral evidence that if it was simply information gathering, there would be no funding at risk however there are a number of similarities to other competitive tender processes outside and within the Department:

The tender documents that services have to fill out are exactly the same as competitive documents in place and in use by all other tender processes within the department. Also the employment of the probity auditor and the processes around the probity auditor clearly show that this is operating within the competitive environment. That competitive environment clearly points to a tender.<sup>51</sup>

**4.19** According to the Commissioner, Community Services Commission Mr Robert Fitzgerald the expression of interest process adopted by the Department is flawed because it is both a scoping exercise and a competitive tendering process.

The expression of interest process is a deeply flawed process. It is in fact a scoping exercise as well as what we would regard as a competitive tendering process. There is little doubt at all that the Government, through its various announcements, does intend to use the expression of interest process as a tendering process. There is little doubt about that because what they have done is link the gathering of information, the expression of interest and the funding announcements to that one process.<sup>52</sup>

**4.20** A number of submissions stated that the use of the EOI process was contrary to a statement made by the Premier that no competitive tendering processes would be used for existing human services.<sup>53</sup>

**4.21** The Government maintains the view that the process it has adopted does not constitute competitive tendering as it requires services to meet six criteria, only one of which is value for money.

Service providers are not being asked to compete with one another purely on a unit cost basis. Four of the six selection criteria against which applications will be assessed relate to the appropriateness of service models and the effectiveness of service delivery.<sup>54</sup>

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<sup>50</sup> Manns, *Evidence*, 12/6/01, p 25.

<sup>51</sup> Regan, *Evidence*, 12/6/01, p 7. (check this)

<sup>52</sup> Fitzgerald, *Evidence*, 12/6/01, p 36.

<sup>53</sup> *Submission*, No 12, p 11; *Submission*, No 11, p 30; *Submission* No 24 p 21.

<sup>54</sup> *Submission*, No 6, p 5.

**4.22** Further, Ms Hammerton explained in oral evidence that the expression of interest process was not seeking tenders for a particular model of service but was seeking expressions of interest from parties interested in providing a range of options.

Obviously we and the Government do not accept that this does represent competitive tendering. I refer to the New South Wales Government's service competition guidelines which define service competition as "the use of competitive forces to, indirectly or directly, achieve the best value for money". The work is allocated to the tenderer offering the best value for money. Our EOI process requires services to meet six criteria, of which value for money is but one. The six are the ability to provide the specified services; the ability to meet the required standards; the ability to meet the needs of service users; the ability to interact successfully with local community organisation networks; financial viability and sound management practices; and value for money.

In this context, value for money does not simply mean the cheapest price. We expect that the EOI process will lead to the development of many different models of service to develop a strong system, and that these models will have outcome and output measures as well as the cost of service. The assessment of EOIs will consider a range of service options under the criteria. As I stated at the outset, we see competitive tendering occurring where there is price and quality competition around the same model of service. We are not asking for a single response to the development of information and advocacy services in this State.<sup>55</sup>

### **The appropriateness of the EOI process**

**4.23** The EOI process adopted by the Department requires that any service interested in providing advocacy and information services for people with disabilities, including those currently providing disability advocacy services, must submit an expression of interest to the Department in the form contained in the Expression of Interest information package.

**4.24** The Community Services Commissioner, Mr Fitzgerald stated that there is no evidence to indicate that an EOI or competitive tendering process leads to better outcomes in the community service sector and can, on the contrary, be problematic. The Commission's submission outlines its concerns about the introduction of competitive tendering for purchasing advocacy services:

The purchasing of advocacy may jeopardize some of the key principles of advocacy, including those relating to independence, minimizing conflict of interest, and a focus on the needs of people with disabilities...We are strongly of the view that systemic advocacy must be funded in a way that allows the activities and priorities to be determined by the constituents of the organization, and informed by individual and local advocacy efforts.<sup>56</sup>

**4.25** Mr Fitzgerald also advised the Committee in oral evidence that an EOI process would not be the most appropriate way of allocating funds in particular circumstances. In particular, Mr Fitzgerald stated that, in relation to indigenous communities, a negotiated arrangement

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<sup>55</sup> Hammerton, *Evidence*, 12/6/01, p 45.

<sup>56</sup> *Submission*, No 22, pp11-12

rather than an EOI would be more likely to find the most suitable agency to provide services.<sup>57</sup>

- 4.26** The submission of Macarthur Home and Community Care suggests that the expression of interest process may encourage services to satisfy the funding body rather than clients.

This process runs the risk of funding services that will do what the Minister wants rather than what the people want...We run the risk of number crunching to satisfy funding bodies. Take the easy clients, don't spend time doing the hard slog of community development, just get the people through.<sup>58</sup>

- 4.27** A number of submissions commented on the impact the expression of interest process might have on the ability of services to collaborate and form networks. For example:

This Expression of Interest process with the real threat to community owned and based agencies, is not an enabling process of genuine partnership and co-operation, but actively discourages this collaboration by the competitive nature of the process.<sup>59</sup>

### **The level of information already provided to the DADHC by advocacy services**

- 4.28** Some submissions and witnesses stated that during information sessions the Department advised that one reason for the need for reform was that the Department did not have a clear understanding of what currently funded services did.

- 4.29** The Committee was advised that services provided detailed Annual Reports as part of their conditions of funding. A number of witnesses expressed their surprise that the Department was not fully aware of their activities.

In our funding submission that we put to the department we make a point of saying, "This is what we said we would do last year; this is what we have been able to do; and this is what we would like to do next year"—almost invariably, we ask for more money to do that, because that is the nature of the relationship. That is why we are astonished to hear the Acting Manager of Planning and Data Analysis—I cite him as an individual given that that is his title—say on behalf of the department that he does not know what our organisation does and the department as a whole does not know what we do because that is the nature of our reporting to the department.<sup>60</sup>

- 4.30** Mr Herd from the Physical Disability Council of NSW outlined the information provided to the Department:

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<sup>57</sup> Fitzgerald, *Evidence*, 12/6/01, p 42.

<sup>58</sup> *Submission*, No 4, pp3-4.

<sup>59</sup> *Submission*, No 12, p 11.

<sup>60</sup> Herd, *Evidence*, 12/6/01, p 12.

...because we are funded by the department we operate within the reporting regime that the department lays down. We meet the department's objectives to fulfil our reporting requirements to the department. We give the department every piece of information it asks for. Sometimes we are required to give it to the department in triplicate. We give it to more than one section inside the department. We give it to the department whenever it asks for it in whatever form it asks for it, and we have done that since we were created six years ago. There are files and files and files of information from our organisation telling the department what we do, why we do it and how much money we spend against the targets that it sets for us. All 36 organisations that receive any money from the department have done that in every year that they have been funded.<sup>61</sup>

- 4.31** In addition to annual reporting requirements services are monitored regularly. For example, Ms Helena O'Connell from The New South Wales Council for Intellectual Disability (CID) advised that her service received regular monitoring visits from its Service Support Development Officer to discuss the development of CID policy and action plans.<sup>62</sup>

## **Impact on organisations and clients**

- 4.32** A number of submissions advised the Committee that the expression of interest process has disrupted the work of the disability advocacy sector and, most importantly, their ability to provide services to people with disabilities. This section looks at staffing and disruption to service provision, loss of funding and deterioration of working relationships.

### **Staffing and disruption to service provision**

- 4.33** The Committee heard evidence that many agencies currently funded by the Department are small, perhaps employing one or two workers to provide advocacy services. The Committee understands that these small organisations do not have separate administrative staff and, in order to complete the expression of interest submissions, staff have been diverted from direct service delivery. Mr Herd, Physical Disability Council stated:

We are in a position where, since 10 January, our capacity to do work on behalf of our client group has been severely damaged by the department's review of advocacy. To be honest, we are just hoping that it will end so that we can get back to our core business.<sup>63</sup>

- 4.34** Mr Herd expressed concern that it was the issue of funding of the advocacy services that had brought organisations before the Parliament, rather than the issues themselves, with which the organisations are set up to address.

For us, however, as a peak body presenting people with disability, appearing in Parliament and speaking to you about these issues is quite a big deal. It is not an

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<sup>61</sup> Herd, *Evidence*, 12/6/01, p 11

<sup>62</sup> O'Connell, *Evidence*, 12/6/01, p 12.

<sup>63</sup> Herd, *Evidence*, 12/6/01, p 15.

everyday occurrence. From our point of view as a systemic advocacy organisation it is deeply regrettable that the one thing we get the opportunity to speak to you about is, what seems to us, a complete and total waste of everybody's time. We are not here talking to you about the hundreds of things that we ought to be able to say to you as parliamentarians about the life experiences of people with a disability, which we all know about: the disadvantage and discrimination that people with disability face on a daily basis.<sup>64</sup>

- 4.35** A number of submissions also advised that the instability and uncertainty caused by the process had had a negative impact on the capacity of organisations to maintain and attract staff and that, in some cases, their staff had begun looking for other jobs. Several submissions expressed the concern that this would result in a loss of valuable expertise in the sector.<sup>65</sup>

### **Loss of funding**

- 4.36** The funding arrangements following the EOI were discussed in a number of the submissions. Advocacy services told the Committee that at the initial announcement and explanation on the 6 February 2001, there was a lack of clear information about the arrangements that would be made for services unsuccessful in the EOI process. While the Department has since clarified this situation, the lack of information at the outset caused considerable concern.
- 4.37** In a letter dated 15 May, 2001, forwarded to all people who had requested an EOI information package, the Department confirmed that for service providers who are currently funded and are unsuccessful in the EOI process, transitional funding for up to one year, from 1 October 2001, would be individually negotiated with affected organisations.<sup>66</sup>
- 4.38** Despite this assurance from the Department, it remains likely that many parties who have submitted an expression of interest will not receive funding. At the closing date, 109 expressions of interest had been registered by the Department.<sup>67</sup> As \$3.7million currently funded 36 organisations, it is unlikely that the extra \$1million allocated for disability advocacy funding would be able to fund all interested parties.
- 4.39** A number of submissions and witnesses advised that the potential for organisations to lose Government funding was having the affect of seriously destabilising organisations.

When the Strategy was first announced, we were not assured of continued State funding beyond 30 June 2001. If State funding were to be withdrawn this would

<sup>64</sup> Herd, *Evidence*, 12/6/01, p 4.

<sup>65</sup> *Submission* No 4, p 3

<sup>66</sup> Letter from Marianne Hammerton, Executive Director, Strategic Policy, Planning and Funding, Department of Ageing, Disability and Home Care, dated 15 May, 2001

<sup>67</sup> Correspondence from Ms Marianne Hammerton, Executive Director, Department of Ageing Disability and Home Care, undated (Written questions taken on notice)

make our Commonwealth funded advocacy services non-viable at current staffing and service levels. All staff therefore had to be advised that we could not guarantee employment beyond 30 June 2001. Naturally this was very distressing for staff who have to have regard to their personal financial needs and capacity to find other employment.<sup>68</sup>

### **Deterioration of working relationships**

**4.40** A number of submissions to this inquiry suggests that there is strong support amongst the disability advocacy sector for reform. However, some submissions and witnesses stated that rather than consulting with service providers and people with disabilities with a view to developing agreed upon goals, objectives and procedures, and developing an environment of cooperation, the Department had implemented a process which had resulted in an environment of distrust and hostility.

**4.41** A number of witnesses stated that there are areas of need in geographical locations, for people from culturally and linguistically diverse backgrounds and the Aboriginal and Torres Strait Islander community. Mr Kevin Byrne from the Disability Council of New South Wales explained that the Council had advised the Minister that a review was warranted to address these gaps in service provision.<sup>69</sup> The Disability Council of NSW had advised the Minister that discussions should be commenced with a number of key representative organisations, over a period of several months, with the purpose of designing a more effective process for improved service provision desired by the Minister.<sup>70</sup>

**4.42** Several witnesses including Ms Epstein-Frisch from the Disability Safeguards Coalition and Mr Robert Fitzgerald, Community Services Commissioner referred to the need to build capacity and capitalise on corporate memory. The Disability Safeguards Coalition submission states that within Minister Lo Po's portfolios there are examples of collaborative approaches to capacity building such as the Community Services Grants Program which aims to enhance capacity and achieve better outcomes through a process of negotiation and capacity building.

**4.43** In relation to capacity building Mr Fitzgerald stated:

The process here runs the risk, as so much in disability services does, of spreading capacity, not enhancing and building it. One issue we have raised with the Social Issues Committee was the extraordinary spreading of the capacity within the disability sector, and that has weakened the ability of agencies and organisations to deliver quality services. The approach to that is not another EOI process. In fact, it is a clearly planned process to look at the needs and then to build capacity. I think there are two ways. If you simply want to throw it open for all agencies to put up their hand, then this process does that. If you want to build capacity in the advocacy sector I think there are different approaches you would take.<sup>71</sup>

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<sup>68</sup> *Submission*, No 24, p 18.

<sup>69</sup> Byrne, *Evidence*, 12/6/01, p31

<sup>70</sup> *Submission*, No 17, p 6.

<sup>71</sup> Fitzgerald, *Evidence*, 12/6/01, p 39.



## Concerns about the Government's intentions for systemic advocacy

**4.44** Concerns about the Government's intentions for systemic advocacy were strongly expressed in the evidence to the inquiry. A number of witnesses stated that they believed that the methods being used to implement the Government's objective of providing better services would be at the expense of advocacy at the systemic level.

**4.45** Mr Herd, Physical Disability Council, stated that these concerns were raised at the outset of the process.

The Director-General's letter of 10 January makes it unambiguously clear that, from that date, systemic advocacy will form no part whatsoever of the program. It is not an objective... Until some date in March or April, there was no suggestion that systemic advocacy would be funded.<sup>72</sup>

**4.46** In submissions by organisations including People with Disabilities (PWD), Council of Intellectual Disability (CID) and the Council of Social Services of New South Wales (NCOSS) it is stated that there had been concern in the sector from the outset that the intent behind the Government's proposal was to de-fund some organisations or, at least, to have greater control over them. PWD stated in its submission that it believed that the service improvement strategy for individual advocacy services was nothing more than a de-funding strategy for systemic advocacy, an act of payback for campaigns over the years. This belief was based on "off-the record" reports from within the Government that the real intention of the strategy was aimed at 'getting back at', and 'getting rid of,' particular organisations and individuals.<sup>73</sup> PWD in its submission said:

...the service improvement strategy for individual advocacy services therefore appears to be nothing more than a de-funding strategy for disability peaks and systemic advocacy that is being micro-managed from the Minister's Office. There is little doubt in the minds of many that this is an act of payback for the fierce campaigns a number of the peaks have conducted or coordinated over the past few years calling on the Government to address critical levels of unmet need for specialist disability services, and for devolution of Dickensian residential institutions.<sup>74</sup>

**4.47** The Brain Injury Association stated that one of its key objections to the changes announced by the Government was that:

It is clear that a key goal of this plan is to eliminate the disability peak bodies in NSW.<sup>75</sup>

**4.48** Ms Epstein-Frisch, Disability Safeguards Coalition advised the Committee in oral evidence:

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<sup>72</sup> Herd, *Evidence*, 12/6/01, p 12.

<sup>73</sup> *Submission*, No 24, p 13.

<sup>74</sup> *Submission*, No 24, p 13.

<sup>75</sup> *Submission*, No 19, p 5.

We are concerned in Safeguards that the real aim of government was to silence, or at least to manage, the voice of people with disability at the systemic level, and to provide individual advocacy only when people were participating in government processes, such as in devolution and the move of people from DOCS group homes into the non-government sector.<sup>76</sup>

**4.49** Mr Robert Fitzgerald stated that he had not seen evidence that the Government, through the Minister or the Department, had an agenda to get rid of any one agency or agencies. However Mr Fitzgerald, reiterated that the process being undertaken by Government was taking place in an environment of enormous distrust and breakdown between the community sector and the government.<sup>77</sup>

**4.50** As explained in Chapter 3 the Department's submission states that a central policy objective of the Government is to ensure maximum consistency across NSW and Commonwealth funded services and, to this end, the Goal, Aims and Objectives and Principles of the NSW Disability Advocacy and Information Program are consistent with those of the Commonwealth. People with Disabilities, in its submission, stated that DADHC had repeatedly attempted to use Recommendation 10 of the National Disability Advocacy Program Review Report of July 1999 to justify its withdrawal of funds from state level disability peak and statewide systemic advocacy organisations. Recommendation 10 states:

The primary focus of the program be individual advocacy, with a small proportion of systemic advocacy at the local and regional level as agreed in revised contractual arrangements.<sup>78</sup>

**4.51** PWD in its submission, asserts that the Department has ignored Recommendation 11 which states:

A number of state-based systemic advocacy organisations and national advocacy organisation be funded.<sup>79</sup>

**4.52** The Committee was advised that the very nature of systemic advocacy meant that there will always be tension between advocacy groups and governments. Ms Epstein-Frisch advised the Committee that governments, as the main service-providing organisation in our society, will always provide structures and processes that need to be pushed to enable people with disabilities to live as citizens.<sup>80</sup>

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<sup>76</sup> Epstein-Frisch, *Evidence*, 12/6/01, p 3.

<sup>77</sup> Fitzgerald, *Evidence*, 12/6/01, p 42.

<sup>78</sup> *Submission No 24*, p 10. (Quoting from Department of Family and Community Services, *National Disability Advocacy Program Review Report, July 1999*, p34)

<sup>79</sup> *Submission No 24*, p 10 (Quoting from Department of Family and Community Services, *National Disability Advocacy Program Review Report, July 1999*, p34)

<sup>80</sup> Epstein-Frisch, *Evidence*, 12/6/01, p 3

Together with other disability advocacy organisations, the Disability Safeguards Coalition advocated long and hard so that today “the fundamental aim of Government is to enable people with a disability to live as active participants in their communities enjoying the same rights as everyone else”. Advocacy groups continue to work to ensure that Government legislation, policy and practice enables this aim to be implemented. This brings advocacy groups into constant tension with Government.<sup>81</sup>

**4.53** A number of witnesses believed that only following pressure from systemic advocacy services was it acknowledged that systemic advocacy organisations would be included in the EOI process. Mr Herd, Physical Disability Council told the Committee:

It seems to me that the department is not doing a proper service to the Minister that it is there to serve. I make this point, although it deals with history: There are contemporary publications to remind the Committee when it deals with them—it is in our submission and I believe that it is in everybody else's submission—that there was no mention of systemic advocacy or peak body representation on 10 January or on 6 February, to answer the question in the way in which Phillip French described it. In the media statement released by the department on 6 February the only references to systemic advocacy were the erroneous identification of the Disability Council, the Community Services Commission and the community visitors program of systemic advocates. That media statement has been withdrawn.

On 12 March, again the only references to systemic advocacy were the erroneous identification of systemic advocates in the form of the Community Services Commission, the community visitors scheme, the Public Guardian, the Protective Commissioner, the Anti-Discrimination Board and the Ombudsman's Office. All those organisations cited by the department have subsequently refuted the department's description of them as systemic advocates. Only after vociferous advocacy on the part of the Disability Council—and I understand that representatives from the Disability Council will tell you that themselves this afternoon when they appear before you—did this discussion paper appear.<sup>82</sup>

<sup>81</sup> *Submission*, No 15, p 14.

<sup>82</sup> Herd, Physical Disability Council, *Evidence*, 12/6/01, p 20

## **Chapter 5      Issues raised concerning the implementation of the EOI process**

### **Introduction**

**5.1**      A great deal of evidence was taken from witnesses and submissions concerning issues raised about the implementation of the EOI process. This evidence is summarised under the following headings:

- Consultation following the announcement
- Consistency of information provided and timeframes
- Discussion Paper on Systemic Advocacy
- Systemic Advocacy Funding
- Probity issues and assessment panel
- Allegations of improper conduct.

### **Consultation following the announcement**

**5.2**      At the seminar held on the 6 February 2001, the 34 agencies in attendance were advised that there would be a series of information sessions to inform interested parties about the expression of interest process.

**5.3**      In April 2001, the Disability Council of NSW and DADHC conducted thirteen information sessions across the state. The morning sessions of the workshops were about the open call for expressions of interest for funding disability advocacy and information services. The afternoon sessions were devoted to discussions on policy issues for funding disability advocacy information services in New South Wales and focused on matters identified in the Discussion Paper *Improving and Expanding Disability Advocacy and Information Services in NSW*. Independent consultants facilitated the consultations.

**5.4**      A number of witnesses and submissions stated that these sessions were not genuine consultation and were designed to provide information about the expressions of interest process rather than discuss related issues.

**5.5**      Concerns raised about the conduct of these sessions included the following:

- It was apparent to services that the results of the consultations could not be incorporated in the expression of interest assessment process as they were being conducted concurrently.<sup>83</sup>

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<sup>83</sup>      *Submission, No 24, p 17.*

- Consultations were conducted in an atmosphere of “threat” and “intimidation” in which services feared the withdrawal of funds.<sup>84</sup>
- There was inadequate notice of consultation times and venues.<sup>85</sup>
- Sessions were held during a holiday period minimising the number of people available.<sup>86</sup>
- Venues selected were inaccessible or not fully accessible for people with disabilities.<sup>87</sup>
- The DADHC discussion paper was not made available in a range of accessible formats, or in community languages.<sup>88</sup>
- People with disabilities were not notified of the information sessions. Only people who had requested expression of interest kits were advised of the information sessions.<sup>89</sup>

### **Summary of consultation sessions**

The consultation sessions were convened by the Disability Council of New South Wales and facilitated by independent consultants. The discussions generally focused on matters identified in the Discussion Paper *Improving and expanding disability advocacy and information services in NSW* and, in particular, around four topics identified in the Discussion Paper: equity issues in the provision of advocacy services; focus of activities of advocacy services; effective linkages between advocacy services; and measuring achievements of advocacy services. The report prepared by the independent consultants entitled *Key findings of the information sessions* is attached as Appendix 5.

## **Consistency of information provided and timeframes**

- 5.6** The closing date for expressions of interest initially advised in the information package was the 25 May, 2001, at 3pm. On or around 3pm on 25 May 2001, people who had requested Expressions of Interest Kits were advised that there was an extension to the deadline for submitting expressions of interest to 12 noon on 13 June, 2001. The letter advising of the change outlined the procedure to be followed by the Department when dealing with EOIs already received by the Department, the process for incorporating supplementary material and the process for substituting completely revised EOIs.
- 5.7** A number of submissions from groups such as the Physical Disability Council, People with Disabilities and the Council of Social Services of NSW (NCOSS) raised concerns about the late provision of supplementary information and changing deadlines. A number of

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<sup>84</sup> French, *Evidence*, 12/6/01, p 5.

<sup>85</sup> *Submission*, No 24, p 17.

<sup>86</sup> *Submission*, No 12, p 7.

<sup>87</sup> *Submission*, No 24, p 17.

<sup>88</sup> *Submission*, No 24, p 17

<sup>89</sup> *Submission*, No 12, p 7.

witnesses also alleged that information provided was ambiguous and even misleading, that information from the Department and from the Minister was at times contradictory and that the information sessions varied in quality.

Now, the process of the closure of the expression of interest is unclear. There has been an extension of the deadline of expression of interest. That deadline was extended after the closure of the deadline of expression of interest...There were some indicative time frames given I think in the end of March, however, those now no longer apply.<sup>90</sup>

**5.8** In response to concerns raised about the EOI process, NCOSS and the Australian Services Union conducted a Community Summit at Parliament House on 9 April 2001. The NCOSS submission states that the Community Summit was a community initiative to work towards a negotiated outcome and involved 70 participants. On 20 April 2001, NCOSS and the ASU met with representatives of the Minister's office and the Department after advising them of the outcomes of the community summit. According to NCOSS, a several concessions were made during the meeting including:

- confirmation that organisations which are not listed as preferred providers will be funded at current levels for 15 months from 1 July 2001 and will be transitioning to closure or a different type of service provision during this 15 month period,
- organisations which are separating service provision and advocacy as required by the EOI will be assisted with an 'appropriate adjustment' of funding if they are in financial hardship; and
- the Government is interested in providing funds to support systemic advocacy infrastructure as well as projects.<sup>91</sup>

**5.9** The NCOSS submission also states that the Department confirmed at that meeting that a letter would be sent to services within a fortnight (of 20 April), clarifying issues of concern about the EOI process raised by ASU And NCOSS members. The NCOSS submission states that as at the 16th May, 2001 no letter had been received by services.<sup>92</sup>

**5.10** In a letter dated 15 May 2001 (attached as Appendix 7) sent to people who had requested EOI information packages, the Department confirmed that for service providers who are currently funded and are unsuccessful in the EOI process transitional funding for up to one year, from 1 October 2001 will be individually negotiated with affected organisations. The letter reminded potential applicants that the EOI process closed at 3.00pm on 25 May 2001.<sup>93</sup>

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<sup>90</sup> Regan, *Evidence*, 12/6/01, p 22.

<sup>91</sup> *Submission*, No 18, p 15.

<sup>92</sup> *Submission*, No 18, p 15.

<sup>93</sup> Correspondence from Marianne Hammerton, Executive Director, Strategic Policy, Planning and Funding, Department of Ageing, Disability and Home Care dated 15 May, 2001

- 5.11** Supplementary Information attached to the letter provided brief information concerning such matters as the panel process, forming consortia and managing conflict of interest.<sup>94</sup>
- 5.12** A number of submissions noted that changes to process and deadlines by which services had to submit their expressions of interest could have been handled better. For example:

From the initial announcement there have been many changes to the information provided by the Department in communications with individual services and in the EOI information sessions. Initially there was no clear role for systemic advocacy it was later included in the objectives to be funded on a project basis. It now appears that the Government may be willing to fund infrastructure for systemic advocacy, though this requires further clarification. Inevitably this lack of clarity has led to a great deal of uncertainty and speculation about the motivation behind the process. Since the call for EOI there have been conflicting messages coming from the Department and the Minister's office leading to further confusion and uncertainty.<sup>95</sup>

### **Discussion Paper on Systemic Advocacy**

- 5.13** A number of submissions raised concerns about the Discussion Paper titled *Improving and Expanding Disability Advocacy and Information Services in NSW* prepared by the Department and the Disability Council of New South Wales.
- 5.14** These concerns centred mainly on the quality of the Discussion Paper, its release concurrently with the EOI package and the Government's intentions for systemic advocacy implicit in the Discussion Paper.
- 5.15** A number of submissions asserted that the Discussion Paper was an afterthought developed only after systemic advocacy services raised concerns about the lack of reference to systemic advocacy funding at the outset of the EOI process.<sup>96</sup>
- 5.16** The Disability Council advised that the first it knew it would be involved in writing the Discussion Paper was when it saw a copy of a letter to advocacy groups putting that position. The Council expressed its disappointment at the quality of the Discussion Paper stating that it was given little time to fully consider the document and that, in its opinion, it should have been totally rewritten before distribution.

We thought it was a hodgepodge. When we saw it on Monday we were so disappointed that we called an urgent meeting of the steering group that was involved – the Minister's adviser, the then director-general for the department Mr Watts, .. to have a talk about the document and see what we could change. We

<sup>94</sup> Department of Ageing, Disability and Home Care *Expression of Interest AIS01 Advocacy and Information Services Advice of supplementary information*,

<sup>95</sup> *Submission*, No 12, p4.

<sup>96</sup> *Submission* No 11, p22

managed some changes even then but not significant changes that would have made the document what we felt was a useful thing.<sup>97</sup>

- 5.17** In evidence to the inquiry, witnesses stated that it was difficult to see how the Minister could incorporate information generated on the Discussion Paper into the expression of interest decision making process given that it had been distributed at the same time as the EOI information package. Mr Herd, Physical Disability Council, stated:

It seems to me that the department has put the Minister in quite an invidious position. The department is asking us to believe that the responses to that systemic advocacy paper—whatever one thinks about its quality—were due only on the same day as the expressions of interest had to close. The Minister, therefore, could not even begin to try to make a political judgment about what that paper produced in the way of discussion in the New South Wales sector. The Minister could not even begin to form an opinion about what the Government's position might be until after we had all been required to submit our submissions of interest.<sup>98</sup>

- 5.18** A number of witnesses advised that while the Discussion Paper was a way of generating interest and focus on the development of disability advocacy, the Discussion Paper was rushed and poorly considered.

## **Systemic Advocacy Funding**

- 5.19** In addition to the quality of the Discussion Paper a number of submissions and witnesses expressed concerns about the Government's commitment to funding systemic advocacy largely based on the ambiguity and lack of clarity in the process. Mr French, People with Disabilities advised the Committee:

The difficulty we have is how to decipher these various messages. If you go back to the 6 February meeting you see that it is absolutely clear that the funding that was currently allocated to peak bodies and systemic advocacy organisations was part of the \$3.7million that would be put to tender. The only thing that you could tender for was individual advocacy, with a small component of systemic advocacy at the local and regional levels.<sup>99</sup>

- 5.20** The Discussion Paper referred to systemic advocacy "projects" leading some services, including the Council for Intellectual Disability (CID), to believe that systemic advocacy infrastructure would not be funded. CID stated in its submission:

There is concern amongst current systemic advocacy organisations at the notion put forward in the EOI that systemic advocacy can be cast in project form. Inherent in the notion of "project" is the perception that

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<sup>97</sup> Byrne, *Evidence*, 12/6/01, p 29.

<sup>98</sup> Herd, *Evidence*, 12/6/01, p 20

<sup>99</sup> French, *Evidence*, 12/6/01, p 19



- the work is not over the long term; its commencement, parameters and by implications its completion, are determined and approved by government;
- the responsibility for any one “project” is allocated to one advocacy agency and multiple agencies cannot carry responsibility. This may be in direct conflict with the aim of the program “to prevent abuse, discrimination or negligent treatment of people with disability” or the advocacy principle of “focusing on the needs and/or rights of people with disability”

People with disabilities and their supporters must determine the issues that require systemic advocacy and many of these issues would require a long term focus, not a project based approach. It would be highly inappropriate for organisations to seek permission from government to work on specific issues.<sup>100</sup>

**5.21** Services, including NCOSS, expressed their concern that while the Minister’s office had given an undertaking that systemic advocacy infrastructure would be funded there had been no formal, written commitment.

The written information still talks about systemic advocacy projects. The absolute clear assurance from the meeting that NCOSS and the union had with the Minister’s office said there will be funding to systemic advocacy infrastructure. But that was verbal; it was not written.<sup>101</sup>

**5.22** The Discussion Paper outlines the Government’s commitment to systemic advocacy stating that the information and advocacy system will be improved by building on the experience of services already in place and stating that:

ADD recognises the historic role that systemic advocacy has played in contributing to the formation of disability services in NSW.

ADD and the Disability Council of NSW have developed this paper to inform and prompt discussion about the future role of systemic advocacy in NSW.<sup>102</sup>

## **Probity issues and Assessment Panel**

**5.23** Concerns about probity and the assessment of EOI’s were raised in a number of submissions received by the Committee.

**5.24** Applications will be assessed by an Assessment Panel, constituted by the Department, and including a minimum of three individuals who have relevant program and service delivery expertise and who will be required to operate in accordance with the Department’s *Codes of Conduct* and will have no direct involvement with any of the applicants they are to assess. More than one Assessment Panel may be established depending on the number of

<sup>100</sup> CID, *Submission*, pp11-12

<sup>101</sup> Regan, *Evidence*, 12/6/01, p 13

<sup>102</sup> Department of Ageing, Disability and Home Care, *Improving and Expanding Disability advocacy and Information Services in NSW: Discussion Paper*, p1

applications received. Standard assessment criteria and Assessment Panel Guidelines will be used by each Panel to ensure a consistent approach to the assessment process.

**5.25** The Information Packages goes on to state that all proposals will be forwarded to the Minister for final decision along with the appraisals of the Assessment Panel Members.

**5.26** The Information package also states that the information to be considered by the Panel includes the information provided in the expression of interest application form against the published assessment criteria, and may also consider information from the applicant; other sources nominated in the application, for example referees; and/or records held by the Department. The Panel may also choose to interview applicants to obtain a better understanding of the application.

**5.27** In Supplementary Information provided on 15 May, 2001, people had requested EOI Information Packages were advised that the Panel(s) would be convened by an officer of the DADHC and would include another Department officer and an independent drawn from officers of the NSW public sector.

**5.28** During oral evidence Ms Hammerton confirmed that the third member of the Panel(s) would be a person from the Department of Public Works and Services who also has no direct involvement in the process. Ms Hammerton advised the Committee of the assessment process:

...panels will be convened by the department, as is usually the case, and by an officer of the department who has not had direct involvement in the initiative to date but who has expertise in this particular service type.

Panels will have independent representation, including a person from the Department of Public Works and Services who also has no direct involvement in this process. Panel members, as is usual good practice, are trained to ensure there is a shared and clear understanding of the assessment process, and will operate in accordance with the department's guidelines for assessment panels and code of conduct for committees. All panel members will be required to enter into a confidentiality agreement. Panels will undertake a detailed assessment of all eligible bids, using the published assessments criteria in the EOI information packages.

All bids will be scored. Weightings will be applied to each of the criteria, to reflect the relative importance of each criterion in relation to the specification. The weightings are being determined before the EOI bids are sighted by panel members. That is not unusual practice. The panels will prepare a bid assessment for each EOI that they are responsible for processing, and an assessment panel and summary report as a formal record of their considerations and recommendations. Recommendations made to the Minister for funding will be on the basis of eligibility of the bids and an optimal service mix and regional spread. That includes information, individual and systemic advocacy services—a reasonable spread. The Minister, however, will be advised of the outcome of all bids assessed through the process, so that she can clearly see what has been forthcoming.

The method by which recommendations are formulated and made to the Minister is the usual process of compiling the outcomes of the assessment process.<sup>103</sup>

**5.29** Ms Hammerton was asked whether a person with a disability would be on the selection Panel.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Is the third person going to be a disabled person consistent with the Government's guidelines that disabled people should be involved in the shaping of their lives to the maximum extent possible?

**Ms HAMMERTON:** We are seeking a third person to be an independent representative. That does not necessarily mean it will be a person with a disability.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Should it not be if you are going to involve the disabled in the decision-making process to the maximum extent? One out of three seems to be pretty minor; after all it is only a third?

**Ms HAMMERTON:** That is an option.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Can you not do better than that? Can you not give me a guarantee that you will have a disabled person?

**Ms HAMMERTON:** We are trying to identify the best possible people who can support that panel process.<sup>104</sup>

**5.30** The EOI information packaged stated that the Department had appointed Deloitte Touche Tohmatsu (Deloitte) as independent Probity Auditor to provide probity oversight of the EOI process. The Information Packages states that the probity auditor is appointed to undertake reviews of accountability controls and will be in attendance at key meetings.<sup>105</sup> In a letter dated 1 June 2001 the Acting Director-General stated that the probity auditor is not responsible for sanctioning or approving any decisions taken by the Department in relation to the EOI process.<sup>106</sup>

**5.31** In evidence to the Committee, concerns were also raised about the role of the probity auditor appointed by the Department to oversight the EOI process. PWD in its submissions states that the Department misrepresented the role of the probity auditor.

The Probity Auditor has advised us that this role involves a post-facto audit of the EOI process against the original methodology proposed by DADHC. It does not involve the provision of advice on probity issues in the course of the EOI as this is incompatible with the audit role.

<sup>103</sup> Hammerton, *Evidence*, 12/6/01, p 47

<sup>104</sup> Hammerton, *Evidence*, 12/6/01, p 53.

<sup>105</sup> Department of Ageing, Disability and Home Care, EOI Information Package pp 14-15

<sup>106</sup> Correspondence from Mr Andrew Cappie-Wood, Acting Director-General dated 1 June, 2001

At pages 14/15 of the Information Package issued in association with the EOI applications form the Probity Auditor's role is described in terms that appear to suggest that he (as he is) will investigate probity complaints and concerns. That is not the case. The Probity Auditor has on two occasions recorded concerns raised with him and forwarded them to DADHC to consider, but that is a far cry from an investigative role.<sup>107</sup>

## **Allegations of improper conduct**

**5.32** A number of submissions to the inquiry alleged that DADHC staff had given assurances to certain services regarding the likely outcome of the expression of interest process.

It has been repeatedly alleged that particular DADHC staff have given assurances to representatives of particular organisations that they can be 'very confident' of being successful in the Expressions of Interest process. The organisations to which these remarks have allegedly been made report being left with the distinct impression that a decision has already been taken that they will continue to be funded. Whether that inference is correctly drawn or not, it is clearly improper for DADHC staff to be giving such assurances in the context of a competitive tender. The alleged conduct gives rise to an apprehension of bias at the very least, and may constitute actual improper or corrupt conduct.<sup>108</sup>

**5.33** The Committee also received evidence alleging that a senior Ministerial Adviser had given similar assurances to a service provider.

Several people have also reported to us an allegation that the Minister's Senior adviser has told a mid-north coast group that it should submit an Expression of Interest, that this EOI will be successful, and that the approximate amount that should be requested is \$200,000.00. We understand that this allegation has also been reported by several callers in a 'phone-in' recently conducted by the Disability Council of NSW. In the context of a competitive tender process, this allegation is clearly an allegation of 'possible corrupt conduct' that must be properly investigated. In our view DADHC must also report the allegation to the Independent Commission against Corruption in accordance with s11 of the ICAC Act.<sup>109</sup>

**5.34** This matter was also referred to in a submission by a person with a disability who stated that views by people with a disability on the expression of interest process were disregarded at an information session as a local service provider had already been advised by an adviser to the Minister that their tender would be successful.<sup>110</sup>

**5.35** These allegations were repeated during evidence before the committee on 12 June 2001.

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<sup>107</sup> *Submission* No 24, p 26.

<sup>108</sup> *Submission* No 24, p 28.

<sup>109</sup> *Submission* No 24, p 28.

<sup>110</sup> *Submission* No 16

...we have reported a number of allegations that are circulating within the field about conduct of DADHC officers and the ministerial adviser. We think they ought to be investigated according to a proper process...<sup>111</sup>

**5.36** The Acting Director-General of the DADHC released a media statement on 12 June 2001 which stated that during the course of the Expression of Interest allegations were made that staff of the Department and a staff member of the Minister's office had discussions with potential EOI applicants that could be construed as 'inappropriate' and thus compromise the EOI process. The media statement confirms that these matters were referred to the Independent Commission Against Corruption in May for its consideration pursuant to section 11 of the *Independent Commission Against Corruption Act 1988*. The statement concludes that ICAC had not at that time advised whether it would pursue the allegations.<sup>112</sup>

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<sup>111</sup> French, *Evidence*, 12/6/01, p 22.

<sup>112</sup> *Media Statement by Andrew Cappie-Wood, Acting Director General, Department of Ageing, Disability and Home Care, 12 June, 2001.*

## **Chapter 6      Conclusions and Recommendations**

This Chapter does two things. Firstly, it sets out each of the key issues raised in the inquiry, and sets out the Committee's conclusions or findings in relation to these issues.

Secondly, the Chapter outlines some of the ideas for moving forward that were put to the Committee in evidence. A number of recommendations are made, aimed at assisting the Government and the disability advocacy sector to move forward in a constructive manner.

### **Conclusions and Findings about the issues raised**

#### **The role of advocacy**

- 6.1**      Independent advocacy is essential to ensure that the human and legal rights of people with disabilities are maintained. Fulfilment of these rights requires ready access to various advocates who can pursue both individual and group representations on their behalf to service providers and to government.

#### **The need for reform**

- 6.2**      The Government has identified, and the disability services sector has agreed, that there is a need for reform in the area of disability advocacy. Some of the key issues being addressed include:
- separation of advocacy and community services provision;
  - equitable spread of disability advocacy services in rural and regional New South Wales
  - the provision of services for culturally and linguistically diverse groups and indigenous communities.

#### **New funding arrangements**

- 6.3**      The Government is providing an additional \$1million for disability advocacy funding from 1 July 2001. The total annual disability advocacy budget of approximately \$4.8 million is currently the subject of an EOI process.
- 6.4**      The Committee found that the Department's project for reform, including an expression of interest process had been proposed in June 2000, and approved by August 2000.
- 6.5**      Documents provided to the Committee by Ms Hammerton dated 9 January 2001 indicate that the Department was aware of the need for careful planning and consultation with service providers.

The Department operates within a complex environment, has developed long-term relationships with its providers and recognises their understanding of the industry. It is therefore important that the Project's communications strategy assists in capitalising on their industry knowledge.<sup>113</sup>

- 6.6** The Committee understands that the Department intended to implement a communication strategy to inform and seek information from funded services. The seminar on 6 February 2001 was part of this strategy.
- 6.7** While the Committee recognises that the communication strategy was in recognition of the potential impact on service providers and their clients, the Committee found that this strategy was neither adequate nor appropriate.
- 6.8** While recognising that it is for the Department to determine the best means for service provision and funding, the Committee considers that participatory processes can improve decision making and implementation of policy.

### **The need for a policy framework**

- 6.9** There is extensive agreement in the disability advocacy sector about the need for the development of a comprehensive policy framework.
- 6.10** While a number of steps have already been taken toward the development of a state disability advocacy framework the Committee understands that there is no overall plan guiding the delivery of disability advocacy services.<sup>114</sup> The Commonwealth developed the National Disability Advocacy Program in 1986 and recently conducted a review.
- 6.11** The Committee considers that the absence of an effective and comprehensive State Disability Plan has contributed to the problems in the decision making, funding, monitoring and implementation of disability services in New South Wales.<sup>115</sup>

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### **Recommendation 1**

That the Department of Disability, Ageing and Home Care and the disability advocacy sector work to establish a comprehensive State Disability Plan to guide future policy decisions on the funding, monitoring and implementation of disability services.

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<sup>113</sup> Ageing and Disability Department 9 January 2001, in Correspondence from Ms M Hammerton, 6 July 2001.

<sup>114</sup> The Committee understands that the Department has developed a number of planning processes for disability service provision, such as Population Group Planning and Regional Planning.

<sup>115</sup> See Chapter 7 The Audit Office, *New South Wales Performance Audit Report, Ageing and Disability Department. Group homes for people with disabilities in NSW*, June 2000; and Chapter 3, Recommendations 11 & 12, New South Wales Law Reform Commission, *Review of the Disability Services Act 1993 (NSW)*, Report 91, July 1999

**The Minister's decision to adopt an EOI process for disability advocacy funding**

- 6.12** The Minister for Disability Services made the decision to introduce an EOI process to the funding of disability advocacy services on 16 August, 2000. Evidence provided does not clarify on what basis the decision was made nor whether there was any consultation with the disability sector in relation to this decision.
- 6.13** The Committee wrote to the Minister for Disability Services on 28 June, 2001 and to Executive Director, Strategic Policy, Planning and Funding, Department of Ageing, Disability and Home Care on 26 June, 2001 seeking to clarify this matter. At the time of reporting, the Minister had not yet responded to this correspondence.
- 6.14** The Committee recognises the value of the EOI process for determining the allocation of funds where there is evidence of competition for the available resources. However, the Committee was not persuaded that it was appropriate to include systemic advocacy organisations in the EOI process which was initiated to consider individual advocacy proposals.

**Consultation prior to the announcement of the decision**

- 6.15** The Government, through the then Ageing and Disability Department, was engaged in an extensive process of consultation about disability advocacy funding from 1995 to 1997. This process was put on hold during the review of the National Disability Advocacy Plan.
- 6.16** The Committee found there had been no consultation undertaken with the Disability Council of New South Wales, or the disability sector, prior to the announcement of changes to disability advocacy funding in February 2001.

**Impact on disability advocacy services and people with disabilities**

- 6.17** Peak organisations indicated to the Committee that the proposed review of their funding caused dismay, anxiety and uncertainty over their future and that of their employees. The announcement had caused severe disruption to their core activities and they were concerned about the future impact on the people they represent.
- 6.18** The Committee is aware that it is these concerns that has brought the sector before the Parliament.

**Systemic Advocacy and the Discussion Paper**

- 6.19** Systemic advocacy is essential to provide people with disabilities with the necessary and appropriate representation.
- 6.20** Project funding is not sufficient to provide effective systemic advocacy. There is a need to provide an element of stability in funding arrangements so that an ongoing effective systemic advocacy infrastructure is maintained.



- 6.21** If EOI processes are used to allocate funding for advocacy, they should be implemented in such a way as to prevent disruption to the systemic advocacy infrastructure.
- 6.22** The Committee found that the absence of a State Disability Plan makes the Government's position on systematic advocacy funding unclear.
- 6.23** The Committee considers that the state disability plan should include a statement of commitment to systemic advocacy.
- 6.24** It is noted that the Department of Ageing, Disability and Home Care issued a Discussion Paper on Systemic Advocacy in March 2001 and held a number of consultations in relation to this issue during April 2001. The Committee found that the disability sector considered the Paper to be of little assistance in progressing discussions about disability advocacy services.
- 6.25** Evidence taken by the Committee suggests that the Discussion Paper was an 'afterthought' and the quality and content was criticised by a number of witnesses. These comments together with the inappropriate timing of the distribution suggests that the Discussion Paper was not intended to be part of the decision making process but was designed to promote discussion on the issue of systemic advocacy.
- 6.26** Thirteen information sessions were organised by the NSW Disability Council following the announcement of the policy in January 2001. Witnesses rejected the notion that these represented a consultation process and complained about the arrangements, venues and format. The Committee was very concerned by the impression of "threat" and "intimidation" which some witnesses gained and have concluded that this initiative failed to achieve its objective of involving interested parties in a consultative process.
- 6.27** The Committee notes with regret that the relationship between the Department and the peak disability organisations is not a comfortable one and has been impaired by this EOI process.

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### **Recommendation 2**

That the State Disability Plan (refer to Recommendation 1) include a statement of commitment to systemic advocacy.

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### **Implementation of the EOI process**

- 6.28** The Committee found that the implementation of the EOI process by the Department of Disability, Ageing and Home Care was problematic for a number of reasons including:
- lack of consultation with the Disability Council of New South Wales, advocacy groups and people with disabilities prior to the decision
  - the announcement of the decision without prior notice and in an inappropriate forum

- information sessions were poorly planned and executed
- late provision of information
- late advice of changed deadlines.

**6.29** The Committee considers that the EOI process introduced in this instance was also problematic as it linked a scoping exercise, an expression of interest process and funding decisions to the one process

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### **Recommendation 3**

That there should be a separation of the allocation of funding for services through an EOI process and collection of information through a scoping exercise

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### **Allegations of improper conduct**

**6.30** It is noted that allegations of improper conduct during the implementation of the EOI process have been raised in evidence. It is noted that the DADHC has referred these allegations to the Independent Commission Against Corruption.<sup>116</sup>

### **Moving Forward**

**6.31** At the hearing on 12 June 2001, the witnesses were asked what they would like to see come out of this inquiry. Some of the suggestions or recommendations proposed include:

Use of the information gathered from the EOI process to embark upon a “scoping exercise” with a view to the development of a statewide disability policy framework and a statewide advocacy plan, with the implementation of an appropriate funding process to follow the development of a policy framework;

Ensuring an independent and transparent process for assessment of the EOI’s received;

Investigation of allegations of improper conduct in the process to date;

A statement from the Government concerning the policy about competitive tendering in relation to human services; and

Restoration of peace in the disability sector.

**6.32** The responses provided are set out in full below, in view of the quality of the answers provided and the wealth of constructive suggestions that were made about how the process could be moved forward from this point.

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<sup>116</sup> Media Statement by Andrew Cappie-Wood, Acting Director-General, Department of Ageing, Disability and Home Care, 12 June, 2001

**6.33** The first group of witnesses included representatives of People with Disabilities, the NSW Disability Safeguards Coalition, the Physical Disability Council of NSW, NCOSS and the Council for Intellectual Disability.

**CHAIR:** What would you like to see come out of the Committee's inquiry?

**Mr FRENCH:** We have submitted some recommendations to the Committee for its consideration. One of the most important underlying policy issues is that advocacy needs to be funded and administered separate from the community services, and ageing and disability Department simply because of the conflict of interest that arises. The respondent to much of the advocacy undertaken on behalf of people with disability inevitably will be the Minister and the Ageing and Disability Department. Secondly, we have reported a number of allegations that are circulating within the field about conduct of DADHC officers and the ministerial adviser. We think they ought to be investigated according to a proper process and we have asked the Committee to recommend that. We also think there needs to be established a formal complaints and appeals process in relation to the Ageing and Disability Department EOIs generally but specifically in relation to this one...<sup>117</sup>

**Mr FRENCH:** The final thing I would like to highlight is that People With Disabilities take the view that we have a severely compromised process here in terms of both the department and the Minister's office. For the expressions of interest to be properly assessed there ought to be a relatively independent panel established to assist them. We propose that that panel be constituted by the President of the Anti-Discrimination Board or delegate and the Community Services Commissioner or delegate; that that panel make recommendations to the Minister about what expressions of interest ought to be funded and so forth; and where the Minister disagrees with a recommendation, that she be required to give reasons in writing. We also have other recommendations, but they are the ones I highlight.<sup>118</sup>

**Ms EPSTEIN-FRISCH:** I would like to build on the ones that Phillip French enunciated, including that the Government needs to refine the range of activities. There is lack of clarity around what is advocacy and what the Government is going to fund. The Government needs to clarify those activities. It needs to use growth funds as the mechanism for improving access for people in rural and remote areas, for people of non-English-speaking backgrounds and for Aboriginal people. So, using a process rather than a top-down government imposition; a process of advocacy development, that is argued through our paper, as a way to grow the program responding to the issues of people with disability, particularly in those geographical and cultural areas that are missing out. Particularly to emphasise the point that we need an independent process to take us forward at this point where we have so many tenders in. It needs to be an independent process to determine what funds are going to be allocated. We need a negotiated process with the disability sector, perhaps led by a group such as the Community Services Commission, to take us forward clarifying accountability provisions,

<sup>117</sup> French, *Evidence*, 12/6/01, p21,22

<sup>118</sup> French, *Evidence*, 12/6/01, p22

clarifying those who did the activities of advocacy and taking us forward into the future for improved advocacy for people with disability.<sup>119</sup>

**Mr HERD:** We would endorse all the recommendations we ask the Committee to consider. The only one we would add is that we would like to see, as we have said in our submission, a restatement, or a statement for the first time, that competitive tendering in the community services sector is not a viable purchasing option for services. I say that within the context that we are not necessarily opposed to competitive tendering; we just think that in these government services it is not an appropriate mechanism. It is for other areas and we certainly would like to have confirmed that that is not going to be the basis of purchasing in this sector.

**Ms REGAN:** I would like to draw it down to a number of recommendations of a more specific nature building absolutely on the recommendations that have already been put. Firstly, the rest of the process. Now, the process of the closure of the expression of interest is unclear. There has been an extension of the deadline of expression of interest. That deadline was extended after the closure of the deadline of expression of interest. So, NCOSS would like to see a written process of what happens now to the expressions of interest and how the groups will be affected. There were some indicative time frames given I think in the end of March, however, those now no longer apply. NCOSS is calling for the publishing of the purchasing plan as it is developed, however it is developed.

Also we are calling for the publishing of the list of preferred providers in the interests of accountability and transparency. And we are calling for the publishing of the probity plan. Over and above all that, we would call for the development and publishing of a disability policy framework that sets out the directions for actions within the advocacy and disability program with particular emphasis on how any process of change or restructure actually adds value within the sector. That is something the Government often asks community organisations in their quest for funding, but very often the Government is not transparent about how its own actions add value within the community.

**Ms O'CONNELL:** I support the comments, particularly about the disability safeguards coalition. But we would like to see a State advocacy plan developed through consultation with people with disabilities and their supporters.<sup>120</sup>

**6.34** Representatives of the Disability Council were also asked what they would like to see come out of the Committee's inquiry.

**CHAIR:** What would you like to see as an outcome from the inquiry of this Committee?

**Ms MANN:** The main outcome I would like to see is peace in the sector. I do not know if that is something I am not going to see, but I would like it. I would like to see services on the ground throughout New South Wales for all citizens with disability to have access to advocacy, but I still believe that we need a strong system of advocacy because all of us sitting around here, or the achievements we

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<sup>119</sup> Epstein-Frisch, *Evidence*, 12/6/01, p22

<sup>120</sup> O'Connell, *Evidence*, 12/6/01, p 23.

have made in disability, are a result of the advocacy system. It has come from people being advocates throughout their lives; some of us in all sorts of ways, even as members of Parliament.<sup>121</sup>

**CHAIR:** Is there anything further you would like to add? Other issues raised by some of the peak groups this morning went to the transparency that follows this process and the transparency of adjustment to the discussion paper, because the discussion paper on systemic advocacy was finalised at the same time as the EOI process went in. What do you think should happen from here? Do we simply wait until November when the Minister suddenly says, "Here are the winners. The winners are." Or do we need more than it?

**Ms MANNS:** I would hope that the Minister, her advisers and her senior departmental officers would read the report of the systemic advocacy consultation very closely and have a close look at what the community has said and what it feels, especially the additional information that the Disability Council has written in there, so that they can look at what they looked at what comes through in the expressions of interest process and marry them together. It will not work if everything is funded as individual advocacy programs or a project because the organisation cannot exist on project funding. We all know that. All of us have been there.<sup>122</sup>

**6.35** The Community Services Commissioner was also asked what he would like to see come out of the inquiry.

**The Hon. DOUG MOPPETT:** Given the ambiguity that you are talking about and the broad concepts you have discussed about the significance of advocacy, what would you like to come out of this Parliamentary inquiry? Do you think the Committee can play a role in developing better models for advocacy?

**Mr FITZGERALD:** Given the terms of reference of this Committee, there are three or four things that we think would be important. The first would be a moratorium on the current expressions of interest process. Second, to encourage the Government to use the information gained through that process to embark on a scoping exercise. Third, to call on the Government to develop an appropriate statewide framework for disability services. The last part of that is a funding process appropriate to achieving the outcomes established in the framework. In that way it is important that the Government's increased and enhanced contribution would be well used. The process would gain integrity and within 12 months we would, in fact, have what should have been completed following the initiation of the review in 1996. That would be a good outcome for everybody and would achieve a considerably more robust outcome than the current process. That is what we would believe the inquiry could contribute. I do not think it is appropriate that the inquiry itself set to establish a framework for advocacy services. If it is, your terms of reference are substantially short.<sup>123</sup>

<sup>121</sup> Manns, *Evidence*, 12/6/01, p32

<sup>122</sup> Manns, *Evidence*, 12/6/01, p 33.

<sup>123</sup> Fitzgerald, *Evidence*, 12/6/01, p 42.

**6.36** Whilst Ms Hammerton was not asked this question in the same terms, she made a number of comments which indicated the preferred outcomes from the perspective of the DADHC.

But it is important now to conclude the process giving confidence that the assessment process, the negotiations and the transitions ahead will be smooth and fair. At stake is \$4.8 million of advocacy and information services. That extra million dollars demonstrates the commitment to growth, but also to further investments to underpin information and advocacy services for this State. That information, what it is that will largely need to be done, will come from the outcomes of the systemic advocacy discussion, but also what participating community organisations will tell us in this EOI process about what is needed.<sup>124</sup>

**The Hon. DOUG MOPPETT:** If you saw there was a need for reform, obviously you identified shortcomings in the existing advocacy arrangements. It would be helpful if you gave us some specific examples so that we would understand really what is driving the Government?

**Ms HAMMERTON:** A couple of the areas that have clearly come through consistently over the years are that there is not an equitable spread of information advocacy services across the State. If you look at the outcomes of the discussions in the south, for instance, the Southern Highlands has no coverage at all for individual advocacy. That is the case that was being put and presented in the course of those recent systemic advocacy discussions. That is just one example of a gap. There are many gaps. But there are not just gaps around geographic coverage; there are clearly gaps around cultural and linguistically diverse groups as well as ATSI communities. Indeed, the Commonwealth recognised that such that fairly recently in the last 12 months it funded an ATSI advocacy service. But in relation to other communities, we have not got that right at all. Everyone would agree, including participants in all the discussions today, that that is the case.

Another example of concerns that have come through is that there has not been necessarily a clear separation between disability service providers and their connectedness with individual advocacy and information services. So, one of the points of this exercise and one of the reasons we indeed provided supplementary information in the course of the process was to reinforce the criticality of ensuring that an outcome of this process is that people with disabilities and their families and carers are the people that constitute the memberships of boards and management committees that make these services work, and that we undo those connections where there can be a potential conflict that existed in the past.

That theme goes right back to the consultations in 1995-96. So, we have been drawing together all the threads of the consultations and, as I said, in looking at the write-ups of the 13 systemic advocacy discussions across the State, much of which is reinforced by the observations that are made. Various parts of rural communities say "We haven't got this", "We haven't got that", or "We are not necessarily getting the coverage we need from the peak organisations". They might say that they are doing that, but they are not. If you carefully read the range of

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<sup>124</sup> Hammerton, *Evidence*, 12/6/01, p 45.

messages, all the write-ups, they are quite consistent with the themes that we are responding to and trying to address in this process.<sup>125</sup>

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**Recommendation 4**

That the Department of Disability, Ageing and Home Care use the information received through the EOI process and consultation sessions related to the Discussion Paper on Systemic Advocacy in the development of a statewide disability advocacy framework and

- that this framework be incorporated into the State Disability Plan (See Recommendation 1); and
- that the development of the framework be done in consultation with the Disability Council of New South Wales, advocates, service providers and people with disabilities.

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**Recommendation 5**

That, in consultation with the Disability Council of New South Wales, the disability sector and people with disabilities, the Department of Ageing, Disability and Home Care develop and publish a document which outlines a comprehensive consultation process which must be complied with prior to, and during, the implementation of policy change in the disability sector. The document should conform with the principles of the Disability Service Act 1993 and the Disability Services Standards.

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**Recommendation 6**

That the process undertaken by the EOI Assessment Panel be transparent and the decisions made by both the Panel and the Minister be made public.

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<sup>125</sup> Hammerton, *Evidence*, 12/6/01, pp 53-54.

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**Recommendation 7**

That the Department of Disability, Ageing and Home Care continue to ensure that:

- there is a clear separation of the provision of independent and systemic advocacy services and the provision of community services;
  - advocacy services and community services are funded and administered separately, and
  - board members and committee members must be members in their own right and not a representative of any particular disability service provider.
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**Recommendation 8**

That the Government of New South Wales ensure that the application of any contestable funding process in relation to the provision of human services be appropriate and equitable, and of benefit to clients.

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**Recommendation 9**

That the Minister for Disability Services and the Department of Disability, Ageing and Home Care work with the disability sector to ensure that advocacy and information services are available to all to people with disabilities in New South Wales.

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# **Appendix 1**

## **List of Submissions**

## List of Submissions

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- 1 PALMER Ms Diana, IDEAS - Information on Disability Equipment Access Services
- 2 HEWTON Mr Anthony, Warringah Council
- 3 DAVIS Mr Trevor, ACROD
- 4 MARGRIE Ms Linda, Macarthur HACC Forum
- 5 O'TOOLE Ms Shirley, Central Coast Disability Network
- 6 CAPPIE-WOOD Andrew, Department of Ageing, Disability & Home Care
- 7 LESTER Mr Bob, Macarthur Disability Network
- 8 JONES Ms Gabrielle, Disability Information Network of Australia
- 9 BOWEN Ms Margaret, Illawarra Disability Trust
- 10 INDER Ms Brigid, Combined Community Legal (Centres Group)
- 11 MOXON Mr John, Physical Disability Council of NSW
- 12 O'CONNELL Ms Helena, NSW Council for Intellectual Disability
- 13 WILSON Ms Maggie
- 14 Confidential
- 15 EPSTEIN-FRISCH Ms Belinda, The Disability Safeguards Coalition
- 16 Confidential
- 17 MANNNS Ms Leonie, Disability Council of NSW
- 18 THOMSON Ms Maz, Council of Social Service of NSW
- 19 MARRON Mr Kevin, Brain Injury Association
- 20 NOLAN Ms Joan, PATH
- 21 NEWWEY Ms Dianne, Family Advocacy
- 22 FITZGERALD Mr Robert, Community Services Commission
- 23 STELC Ms Lisa, Western Sydney Intellectual Disability Support Group Inc
- 24 FRENCH Mr Phillip, People with Disabilities (NSW) Inc
- 25 ELLIS, Ms Judy, Family Advocacy
- 26 BRINGOLF, Ms Jane, Independent Living Centre
- 27 FOLEY, Mr Luke, Australian Services Union

# **Appendix 2**

## **List of Witnesses**

## **Witnesses at Public Hearing 12 June 2001**

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<b>Ms Belinda Epstein-Frisch,</b>	Advocate New South Wales Disability Safeguards Coalition
<b>Mr Douglas Dugan Herd</b>	Executive Officer Physical Disability Council of New South Wales
<b>Ms Christine Anne Regan</b>	Senior Policy Officer New South Wales Council of Social Service
<b>Ms Helena Bridget O'Connell</b>	Executive Officer New South Wales Council on Intellectual Disability
<b>Mr Phillip John French</b>	Executive Officer People with Disabilities New South Wales (Inc)
<b>Ms Leonie Margaret Manns</b>	Chairperson Disability Council of New South Wales
<b>Mr Donel Kevin Byrne</b>	Executive Officer Disability Council of New South Wales
<b>Mr Robert William Fitzgerald</b>	Commissioner Community Services Commission
<b>Ms Anita Tang</b>	Manager Policy and Community Education Unit Community Services Commission
<b>Ms Marianne Debra Hammerton</b>	Executive Director Strategic Policy, Planning and Funding Department of Ageing, Disability and Home Care

## **Appendix 3**

# **Organisations funded by the State and the Commonwealth**













## **Appendix 4**

### **Discussion Paper: Improving and Expanding Disability Advocacy and Information Services in NSW**





















## **Appendix 5**

### **A report on consultations convened by the Disability Council of New South Wales**





























































































## **Appendix 6**

# **Plan for Improving Outcomes for Disability Advocacy and Information Services**













## **Appendix 7**

### **Letter from Department of Ageing, Disability & Home Care dated 15 May 2001**



# **Appendix 8**

## **Minutes of the Proceedings**

**Minutes No. 25**

Wednesday 11 April 2001  
At Room 1108, Parliament House at 1:30pm

**1. Members Present**

Dr Pezzutti (in the Chair)  
Dr Chesterfield-Evans  
Mr Corbett  
Mr Dyer  
Ms Fazio  
Mr Moppett  
Mr Tsang

...

**3. Proposed terms of reference concerning disability peak group funding**

Dr Chesterfield-Evans tabled proposed terms of reference for an inquiry into disability peak group funding.

Dr Chesterfield-Evans moved:

That General Purpose Standing Committee No 2 inquire into the decision of the Minister for Disability Services and the Ageing and Disability Department to subject the funding of grants to peak, advocacy, information and related disability service providers to competitive tender. The Committee shall take into consideration:

1. The adequacy of consultations between the Minister and the Department with advocacy groups preceding and following the decision to change the current funding arrangements.
2. The possible impacts effecting the operation of organisations subject to the proposed funding arrangement.
3. Any possible impacts on the representative structure of the non-government disability advocacy sector and the effects on people with disabilities and their families in NSW.
4. The implications of implementing competitive tendering in the community services sector, particularly in relation to systemic advocacy.

The Committee deliberated.

Mr Dyer asked that the minutes record that he had raised the following issues in speaking against the motion:

- that the House had already debated the matter;
- that the Minister and Department was in the process of conducting a series of seminars around the State in order to consult relevant groups about the proposed changes to funding arrangements; and
- the capacity and appropriateness of the Standing Committee on Social Issues inquiring into the matters set out in the proposed terms of reference.

Dr Chesterfield-Evans asked that the minutes record that he had raised the following points in reply to Mr Dyer:

- that the Opposition and Cross-Bench had the numbers in the House to refer this matter for inquiry;
- that the funding changes the subject of the inquiry would be in place well before the Social Issues Committee is due to report on its inquiry into disability services; and



- that the consultation process being conducted by the Minister and Department were lacking in credibility.

The question was put.

The Committee divided.

Ayes: Dr Pezzutti; Dr Chesterfield-Evans; Mr Corbett; Mr Moppett.

Noes: Mr Dyer; Ms Fazio; Mr Tsang.

The question was resolved in the affirmative.

Resolved, on the motion of Dr Chesterfield-Evans, that the Chair write to relevant Ministers, advocacy and related groups, and other relevant organisations, inviting submissions up until Friday 18 May 2001.

Resolved, on the motion of Mr Moppett, that the calendar to be circulated to members also provide for members to indicate their availability for either one full day or two half day hearings in relation to the inquiry into disability peak group funding.

#### **4. Adjournment**

The meeting adjourned at 2.25 pm *sine die*.

David Blunt  
Committee Director

**Minutes No. 26**

Wednesday 30 May 2001  
At Room 1153, Parliament House at 1:00pm

**1. Members Present**

Dr Pezzutti (in the Chair)  
Dr Chesterfield-Evans  
Mr Dyer  
Mr Moppett  
Mr Tsang  
Ms Saffin

**2. Apologies**

Mr Corbett  
Ms Fazio

The Chair advised the Committee that he had been advised that for the purposes of the inquiry into quality of care for public patients and value for money in major non-metropolitan hospitals throughout New South Wales, Ms Saffin will be substituting for Ms Fazio.

**3. Confirmation of minutes**

Resolved, on the motion of Mr Dyer, that the minutes of meeting no. 25 be confirmed.

**4. Inquiry into Disability Advocacy Funding**

The Committee deliberated.

The Chair tabled submissions 1 to 23. (See attached list)

Resolved, on the motion of Mr Dyer, that the Committee accept submissions received, Nos 1 – 23.

Resolved, on the motion of Mr Dyer, that submissions 1-13, 15, 17 – 23 be made public.

Resolved, on the motion of Mr Moppett, that the Committee report by 29 June 2001 if feasible in light of the workload associated with the Budget Estimates process.

Resolved, on the motion of Mr Moppett, that the Secretariat contact the following persons/organisations and invite them to give evidence at the hearing on Tuesday 12 June 2001:

Department of Ageing, Disability & Home Care  
Community Services Commission  
NSW Council of Social Services  
People with Disabilities  
NSW Council on Intellectual Disability  
The NSW Safeguards Coalition  
Physical Disability Council of NSW  
The Disability Council of NSW

Resolved, on the motion of Mr Dyer, that the Secretariat contact the author of submission No. 14 regarding their possible participation in the hearing.

**5. Inquiry into quality of care for public patients and value for money in major non-metropolitan hospitals in NSW**

The Committee deliberated.

The Chair tabled submissions 1 to 13. (See attached list)

Resolved, on the motion of Mr Tsang that the Committee accept submissions received, Nos 1 – 13.

Resolved, on the motion of Mr Dyer that the reporting date of 15 June 2001 recorded in the Minutes for meeting no. 25 be deleted.

Resolved, on the motion of Mr Moppett that the Secretariat contact the following persons/organisations and invite them to give evidence at the hearing on Wednesday 13 June 2001:

Representatives from NSW Health

Sir John Menadue, or other persons who can provide information on the Health Council report

Dr Stuart Peacock

Professor Robert Gibberd

Representatives from the Audit Office.

## **6. Adjournment**

The meeting adjourned at 2.00pm *sine die*.

David Blunt  
Committee Director

## **Minutes No. 27**

Wednesday 12 June 2001  
At Room 814-815, Parliament House at 10.00am

### **1. Members Present**

Dr Pezzutti (in the Chair)  
Dr Chesterfield-Evans  
Mr Dyer  
Ms Fazio  
Mr Moppett  
Mr Tsang

### **2. Apologies**

Mr Corbett

### **3. Inquiry into disability advocacy funding**

The media and the public were admitted.

Ms Belinda Epstein-Frisch, Advocate New South Wales Disability Safeguards Coalition, Bellevue Hill, and

Mr Douglas Dugan Herd, Executive Officer, Physical Disability Council of New South Wales, Glebe, and

Ms Christine Anne Regan, Senior Policy Officer, New South Wales Council of Social Service, Surry Hills, and

Ms Helena Bridget O'Connell, Executive Officer, New South Wales Council on Intellectual Disability, Broadway, affirmed and examined.

Mr Phillip John French, Executive Officer, People with Disabilities New South Wales (Inc), Redfern, sworn and examined.

Evidence concluded, and witnesses withdrew.

### **4. Tabled documents**

The Chair tabled submission 24.

Resolved, on the motion of Mr Moppett, that the Committee accept submission 24.

Resolved, on the motion of Mr Moppett, that submissions 24 be made public.

Ms Leonie Margaret Manns, Chairperson, Disability Council of New South Wales, Sydney and

Mr Donel Kevin Byrne, Executive Officer, Disability Council of New South Wales, sworn and examined.

Ms Manns tendered documents to support her evidence.

Resolved, on the motion of Mr Moppett, to accept the documents.

Resolved, on the motion of Mr Moppett that the documents be made public.

Evidence concluded and witnesses withdrew.

Mr Robert William Fitzgerald, Commissioner of Community Services, Surry Hills, sworn and examined, and

Ms Anita Tang, Manager of the Policy and Community Education Unit, Community Services Commission, Surry Hills, affirmed and examined.

Evidence concluded and witnesses withdrew.

Ms Marianne Debra Hammerton, Executive Director, Strategic Policy, Planning and Funding, Department of Ageing, Disability and Home Care, Sydney, sworn and examined.

Evidence concluded and witness withdrew.

The media and public withdrew.

The Committee deliberated.

Resolved, on the motion of Mr Dyer, that pursuant to the provisions of section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and the authority of Standing Order 252, the Committee authorises the Secretariat to publish the corrected transcript of today's evidence.

## **5. Adjournment**

The meeting adjourned at 4.05pm *sine die*.

Susan Want  
Project Officer

## **Minutes No. 33**

Friday 13 July 2001

At Room 1254, Parliament House at 11.00am

### **1. Members Present**

Dr Pezzutti (in the Chair)  
Dr Chesterfield-Evans  
Mr Dyer  
Ms Fazio  
Mr Moppett  
Mr Tsang

### **2. Apologies**

Mr Corbett

### **3. Confirmation of Minutes**

Resolved on the motion of Mr Dyer, that Minutes for Meeting number 26 be confirmed.

Resolved on the motion of Mr Dyer, that Minutes for Meeting number 27, as amended, be confirmed.

Resolved on the motion of Mr Dyer, that Minutes for Meeting number 28, as amended, be confirmed.

Resolved on the motion of Mr Dyer, that Minutes for Meeting numbers 30, 31, 32 be confirmed.

### **4. Tabled Documents**

4.1 The Chair tabled correspondence sent:

...

Letter to Ms Marianne Hammerton, Executive Director, Strategic Policy, Planning and Funding, Department of Ageing, Disability and Home Care, dated 26 June, 2001, regarding further information requested by the Committee

Letter to Hon Faye Lo Po', Minister for Community Services, Minister for Ageing and Disability, Minister for Women, dated 28 June, 2001, requesting information referred to during the Budget Estimates hearing on 22 June 2001.

4.2 The Chair tabled correspondence received

...

Letter from Ms Marianne Hammerton, Executive Director, Strategic Policy, Planning and Funding, Department of Ageing, Disability and Home Care, dated 6 July 2001.

The Committee deliberated.

...

Resolved on the motion of Dr Chesterfield-Evans that correspondence received from Ms Hammerton, Executive Director, Strategic Policy, Planning and Funding, Department of Ageing, Disability and Home Care, dated 6 July 2001, be made public.

...

5.

...

**6. Inquiry into Disability advocacy funding**

The Chair tabled submissions 25, 26 and 27.

Resolved on the motion of Ms Fazio, that submissions 25,26 and 27 be made public.

**7. Consideration of Draft Report – Disability Advocacy Funding**

**Chapter 1**

Resolved on the motion of Mr Moppett, that Chapter 1, as read, be adopted.

**Chapter 2**

Ms Fazio moved that paragraph 2.25 [2.30]<sup>126</sup> be deleted:

Question put.

The Committee divided.

Ayes:

Mr Dyer

Ms Fazio

Mr Tsang

Noes:

Dr Chesterfield-Evans

Mr Moppett

Dr Pezzutti (Chair)

The Chair exercised his casting vote in favour of the Noes.

Question resolved in the negative.

Resolved on the motion of Ms Fazio, that after paragraph 2.26 [2.32] the heading be amended by deleting the word “affected” and inserting instead the words “currently funded”.

Resolved on the motion of Mr Moppett, that Chapter 2, as amended, be adopted.

**Chapter 3**

Mr Moppett moved that paragraph 3.7 [3.14] be amended by inserting at the end: *Further information has been sought from the Minister for Disability Services, but at the time of reporting, a response had not yet been received.*

Question put.

The Committee divided.

Ayes:

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<sup>126</sup> [ ] indicates paragraph number in final report.

Dr Chesterfield-Evans  
Mr Moppett  
Dr Pezzutti (Chair)

Noes:  
Mr Dyer  
Ms Fazio  
Mr Tsang

The Chair exercised his casting vote in favour of the Ayes.

Question resolved in the affirmative.

Resolved on the motion of Mr Moppett, that Chapter 3, as amended, be adopted.

#### **Chapter 4**

Resolved on the motion of Mr Moppett, that paragraph 4.17 be amended by deleting the words “service providers view” and inserting instead “peak advocacy groups who appeared before the Committee viewed”.

Resolved on the motion of Mr Moppett, that paragraph 4.53 be amended by deleting all words after “services” and inserting instead the words “it acknowledged that systemic advocacy organisations would be included in the EOI process”.

Resolved on the motion of Mr Tsang, that Chapter 4, as amended, be adopted.

#### **Chapter 5**

Ms Fazio moved that, in section 5.1, the final dot point be deleted.

Question put.

The Committee divided.

Ayes:  
Mr Dyer  
Ms Fazio  
Mr Tsang

Noes:  
Mr Chesterfield-Evans  
Mr Moppett  
Mr Pezzutti (Chair)

The Chair exercised his casting vote in favour of the Noes.

Question resolved in the negative.

Ms Fazio moved that paragraph 5.5 be amended by deleting the second dot point.

Question put.

The Committee divided.

Ayes:  
Mr Dyer  
Ms Fazio  
Mr Tsang



Noes:  
 Dr Chesterfield-Evans  
 Mr Moppett  
 Dr Pezzutti (Chair)

The Chair exercised his casting vote in favour of the Noes.

Question resolved in the negative.

Resolved on the motion of Mr Dyer that a summary of the Appendix 5 *A report on consultations convened by the Disability Council of New South Wales* be inserted after paragraph 5.5 and that there be a cross reference to the Appendix.5.

Mr Dyer moved that, paragraphs 5.34 to 5.38 [5.32 to 5.36] be deleted.

Question put.

The Committee divided.

Ayes:  
 Mr Dyer  
 Ms Fazio  
 Mr Tsang

Noes:  
 Dr Chesterfield-Evans  
 Mr Moppett  
 Dr Pezzutti (Chair)

The Chair exercised his casting vote in favour of the Noes.

Question resolved in the negative.

Resolved on the motion of Mr Moppett that Chapter 5, as amended, be adopted.

## **Chapter 6**

Resolved on the motion of Mr Moppett, that paragraph 6.1, be amended by deleting the words "*individual and systemic*" and inserting at the end the following sentence:

Fulfilment of these rights requires ready access to various advocates who can pursue both individual and group representations on their behalf to service providers and to government.

Mr Dyer moved that paragraph 6.7 be deleted.

Question put.

The Committee divided.

Ayes:  
 Mr Dyer  
 Ms Fazio

Noes:  
 Mr Moppett  
 Dr Pezzutti (Chair)

The Chair exercised his casting vote in favour of the Noes.

Question resolved in the negative.

Resolved on the motion of Mr Dyer, that the first sentence in paragraph 6.12 be amended by deleting all words after “decision” and inserting instead the words:

to introduce an EOI process to the funding of disability advocacy services on 16 August, 2000.

Mr Moppett moved that, as suggested, paragraph 6.14 be inserted.

To which Mr Dyer moved that the second sentence in 6.14 be deleted.

Question: that the amendment of Mr Dyer be agreed to.

The Committee divided.

Ayes:

Mr Dyer

Ms Fazio

Noes:

Mr Moppett

Dr Pezzutti (Chair)

The Chair exercised his casting vote in favour of the Noes.

Question resolved in the negative.

Question: That the original question of Mr Moppett be agreed to – put and passed.

Resolved on the motion of Mr Moppett that paragraph 6.19 be deleted.

Resolved on the motion of Mr Moppett that new paragraph 6.19 [6.17] be inserted.

Mr Dyer moved that paragraph 6.23 [6.21] be deleted.

Question put.

The Committee divided.

Ayes:

Mr Dyer

Ms Fazio

Noes:

Mr Moppett

Dr Pezzutti (Chair)

The Chair exercised his casting vote in favour of the Noes.

Question resolved in the negative.

Mr Moppett moved that paragraph 6.28 [6.25] as suggested be inserted.

Question put.

The Committee divided.

Ayes:

Mr Moppett

Dr Pezzutti (Chair)

Noes:  
Mr Dyer  
Ms Fazio

The Chair exercised his casting vote in favour of the Ayes.

Question resolved in the affirmative.

Mr Moppett moved that paragraph 6.29 [6.26] as suggested, be inserted.

Question put.

The Committee divided.

Ayes:  
Mr Moppett  
Dr Pezzutti (Chair)

Noes:  
Mr Dyer  
Ms Fazio

The Chair exercised his casting vote in favour of the Ayes.

Question resolved in the affirmative.

Mr Moppett moved that paragraph 6.31 [6.27] as suggested, be inserted.

Question put.

The Committee divided.

Ayes:  
Mr Moppett  
Dr Pezzutti (Chair)

Noes:  
Mr Dyer  
Ms Fazio

The Chair exercised his casting vote in favour of the Ayes.

Question resolved in the affirmative.

Mr Dyer moved that paragraph 6.34 [6.28] be deleted.

Question put.

The Committee divided.

Ayes:  
Mr Dyer  
Ms Fazio

Noes:  
Mr Moppett  
Dr Pezzutti (Chair)

The Chair exercised his casting vote in favour of the Noes.

Question resolved in the negative.

Mr Dyer moved that paragraph 6.35 [6.29] be deleted.

Question put.

The Committee divided.

Ayes:

Mr Dyer

Ms Fazio

Noes:

Mr Moppett

Dr Pezzutti (Chair)

The Chair exercised his casting vote in favour of the Noes.

Question resolved in the negative.

Resolved on the motion of Mr Dyer that paragraph 6.36 be deleted.

Mr Dyer moved that Recommendation 3 be deleted.

Question put.

The Committee divided.

Ayes:

Mr Dyer

Ms Fazio

Noes:

Mr Moppett

Dr Pezzutti (Chair)

The Chair exercised his casting vote in favour of the Noes.

Question resolved in the negative.

Ms Fazio moved that paragraph 6.37 [6.30] be deleted.

Question put.

The Committee divided.

Ayes:

Mr Dyer

Ms Fazio

Noes:

Mr Moppett

Dr Pezzutti (Chair)

The Chair exercised his casting vote in favour of the Noes.

Question resolved in the negative.

Ms Fazio moved that Recommendation 5 be deleted.

Question put.

The Committee divided.

Ayes:

Mr Dyer

Ms Fazio

Noes:

Mr Moppett

Dr Pezzutti (Chair)

The Chair exercised his casting vote in favour of the Noes.

Question resolved in the negative.

Resolved on the motion of Mr Dyer that Recommended 6 be amended by deleting the words "*and the decisions made by both the Panel and the Minister be transparent, made public and include an independent review mechanism.*" and instead insert the words: "*be transparent and the decisions made by both the Panel and the Minister be made public.*"

Resolved on the motion of Ms Fazio that Recommendation 7, be amended by inserting at the end the following dot point:

- board members and committee members must be members in their own right and not a representative of any particular disability service provider.

Resolved on the motion of Mr Moppett that Chapter 6 be adopted.

Resolved, on the motion of Mr Dyer that Appendix 1-8 be adopted.

Resolved on the motion of Mr Moppett that the Report, as amended, be adopted.

Resolved on the motion of Mr Moppett, that the report be signed by the Chair and presented to the House in accordance with the resolution establishing the Committee of 13 May 1999.

Resolved on the motion of Mr Moppett that pursuant to the provisions of section 4 of the Parliamentary Papers (Supplementary Provisions) Act 1975 and under the authority of Standing Order 252, the Committee authorises the Clerk of the Committee to publish the report, submissions, corrected transcript, and related documents and material with the exception of documents identified as "private and confidential" or "not publicly available".

## **9. Next meeting**

The Chair requested the secretariat to contact members regarding future meetings in August.

## **10. Adjournment**

The meeting adjourned at 4.15pm *sine die*.

Susan Want  
Project Officer

