

**THE JOINT STANDING COMMITTEE ON COMMUNITY DEVELOPMENT MET
IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART, ON TUESDAY
7 APRIL 2009**

PRINCIPLES AND OBJECTIVES FOR NEW DISABILITY SERVICES ACT

Ms ALISON JACOB, DEPUTY SECRETARY, DEPARTMENT OF HEALTH AND HUMAN SERVICES, AND **Mr NICK EVANS**, DIRECTOR, POLICY AND PROGRAMS, DEPARTMENT OF HEALTH AND HUMAN SERVICES, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR (Mr Finch) - Thanks to you both for joining us here today, and thanks to members of the committee for coming in. I think we can make a start.

Ms JACOB - We have brought with us some of the relevant documentation so that you don't have to go and get it yourself.

CHAIR - Is there a copy for everyone, Alison?

Ms JACOB - I think so.

CHAIR - Thanks very much.

CHAIR - We have received the reference from the minister and of course we are obliged to take that reference on, and we are looking to you now to give us some idea of what the Minister's intentions are. Which parts of the Disability Services Act are under scrutiny, or is it a complete overhaul of the act? So over to you, Alison.

Ms JACOB - Thanks very much. What we decided to do was to give you a little package and you can throw it away if it is not useful but at least you have all the relevant documentation. The first paper in your package is a summary that I will go through and there are some of the development papers as attachments.

I am not sure how much background people have as to why this was referred to the joint committee. I assume people would be aware of that but that is summarised on the first page. On the second page it gives the pertinent part of the motion that requested the House to do those various things: to recognise that institutional care is no longer appropriate for people with disabilities; to note that the institutional facilities for people with disabilities has officially closed; to endorse the policy of all Tasmanian parties of primary care and support for the people with disabilities be provided in the community; and to refer to the Joint Standing Committee on Community Development to investigate and report on the objective outcomes and principles that should form the basis of a new disability services act. It is a bit of a moot point as to whether we are talking about a completely new act or whether we are talking about a revised act - and we perhaps could come to that in a moment - the idea of that being to ensure that the experience of institutional care cannot happen again; and that the legislative outcomes reflect the Tasmanian Government's obligation to protect human rights under the United Nations

Convention on the Rights of Disabled People. We have given you a copy of that as attachment three so that you have that information.

CHAIR - Thanks.

Ms JACOB - The last point is that the quality and safety framework governing disability services would be in line with modern approaches and the last two attachments are about the quality and safety framework that is being prepared at the moment across human services for both the community service part and the Government part. Perhaps I will come to that as well a bit later on, if that is all right.

CHAIR - Yes.

Ms JACOB - Let us go then to the background to the Disability Services Act. The act was developed in 1991 and at that stage I suppose it was basically to bring the Tasmanian act into line with national acts and national agreements, particularly the Commonwealth-State/Territory Disability Agreement. The act binds Tasmania to the objectives, principles and standards of service provision that are consistent with those under the Commonwealth Disability Services Act, so the local State act was reflecting what had already been put in place under the Commonwealth act.

Mr MARTIN - Sorry Alison, did you say 1991?

Ms JACOB - Yes.

Mr MARTIN - What was 1992?

Ms JACOB - It should be 1992, sorry. I know what has happened - I was looking at the FOI act this morning and that was 1991.

You have a copy of the 1992 act in your first attachment. It is, I think, a really bad act in the sense that it focuses on the way that money is paid to services and it also has some discussion about an ethics committee which has always been problematic in the way that functions. There is a kind of a schedule at the back which has the really the important part of the act - the objectives, the principles and standards which really, I think, ought to govern what the act is about and how that ought to apply. In my mind there is quite a substantial case for rewriting the whole act rather than using that framework. At the moment, when you look at it, you see that the important bit is right at the back and the bit at the front is really about how you pay money in grants and is relatively insignificant in terms of the way I think a disability act should occur.

Mrs JAMIESON - Alison, what about the definitions of disability - are they going to be rehashed, do you think?

Ms JACOB - Certainly our intention is to rehash the whole act in which case we would certainly be looking at the definitions. The bit that you, as a standing committee, have been asked to look at is particularly the objectives, outcomes and principles which are contained in that section at the back, but I see no reason why there couldn't be input into the other bits as well. If you look at the comparative acts in other States and Territories,

you will see that they range from quite slim, small acts, such as the ACT's, through to the Victorian one which is -

CHAIR - Something with a bit of grunt!

Ms JACOB - There is obviously a huge variation in what is included in acts and what is not. My personal preference would be to go for something slim and meaningful and then to have things added on to it but that is, again, something that you might want to look at.

Ms O'CONNOR - Is there an act operating in another State that is the best possible model to reflect on, not to absorb totally?

Ms JACOB - I think there are certainly some good models in other States and Territories. The ACT and South Australian models are not bad. But to be honest I have not done enough research on them to give you an absolute answer on that.

So with the act as it stands at the moment, if you actually read the objectives, principles and standards you will see that they are relatively meaningless in the sense that they include everything and they are very motherhoody. So if you actually did try to use those as the basis for making decisions you would find that they were not terribly helpful in terms of being able to differentiate cases for funding and so forth. So it would be useful, I think, to really challenge some of that.

What has happened since the 1992 act? There have certainly been a lot of changes, I suppose, to approaches to people with disabilities, the way we respond to people with disabilities and the expectations that people with disabilities and their families have of the level of care that is provided to them and their place in the community. So there have certainly been significant changes.

Then under point four, recent government policy that encapsulates some of those changes, we do have documentation that has gone some way towards reflecting a more modern approach to people with disabilities. People would be aware of the whole-of-government disability action plan, which has a reasonable encapsulation of the kind of approach that we would expect a government to provide. So that is certainly there. There is a bit of a summary of some of the main principles around the disability framework for action. It does foster human rights, it does provide or aim to provide access to high quality services, safeguards and advocacy and working collaboratively - some of those themes that come through.

I am now on page 5. People would be aware that in 2007 the Tasmanian Government initiated a major review of Tasmanian disability services. The point I would want to emphasise there is that that involved considerable consultation with people with disabilities, their families, the sector and the general community about what sort of specialist disability services we should provide as a government in Tasmania. If you look at the resulting report of the review of disability services you will see that it does in particular include some case studies and what parents felt about things and so on. So there has already been a considerable amount of work done with the sector and the community about what a modern approach to disability services should look like. I would want to avoid going back and doing all of that again, given that that work was

done in 2007. We have, I think, a reasonably good understanding of the outcome that people were looking for, what was wrong with the current services and so on.

Ms O'CONNOR - How would the outcome of the review need to be reflected in the new act?

Ms JACOB - We would want to pick up the direction that the review recommended, which then resulted in the framework for action, the operational framework that you have as one of your attachments. That has a number of principles, objectives and so on, which were part of the agreed approach. I would be hoping that any review of our legislation would reflect the agreed principles and objectives we have already decided on as a specialist disability service. I think that is where the connection comes in. If you look at what the review actually said we ought to be doing in terms of a more modern approach to disability services, that is really summarised on page five. The review recommended we needed to have a greater emphasis on people with disabilities and their families as partners rather than being passive recipients of services imposed on them, that they ought to be actively working with us as a partner in decision-making.

There should be a greater emphasis on inclusion. The model of disability services which we are actually working towards implementing is one that is really making maximum use of the mainstream services which are already available in the community, rather than setting up specialist services that only exist for people with disabilities, recognising that they will always be needed for a small number of people. We ought to really be trying to make sure that people with disabilities are able to participate in mainstream recreation services, mainstream art services, mainstream education and whatever else, rather than always having specialist things. So that is why we are talking about inclusion there.

'Strengthening informal support structures and increasing access to mainstream services' is what I have just described. 'A focus on citizenship, recognising that people with a disability should have information about an access to a continuum of service options' - I think that is fairly self-explanatory. 'New and innovative models of the way of providing services' - they were really saying, if I take the example of day support services, that rather than go with very traditional models where people with disabilities tend to go to a particular centre and are provided with relatively mundane activities to keep them occupied during the day, we ought to be thinking of completely different ways of delivering those services and new and more flexible way in which we can engage people with disabilities in a whole range of options rather than the traditional models.

So the review is very much trying to get away from just continuing to provide the same services we provide now, but maybe do more of them towards a whole new way of doing that.

The review also recommended a declining emphasis on the Government providing services. It was really trying to get away from the Government having a potential conflict of interest or trying to be all things to all people by being both a provider of services but also a purchaser of services, being a quality assurer but also delivering themselves. What the review was basically saying was that the Government really needs to understand what its role should be in the delivery of disability services. If it is going to be the person or organisation that sets a standard and says how things should operate, quality assures the services and so on, then it should not also be providing them because

that puts the Government in a very difficult position. So the recommendation from the review was an outsourcing of direct services to the non-government sector, which is where we have been going. Also there was an increased emphasis on cost efficiency and effectiveness. The review did, warts and all, outline places where they thought that disability services were not being effective and efficient.

That was a really important piece of work. It was well received by the sector and by people with disabilities and has generally been accepted. It forms the foundation of the reform that is going on at the moment.

That then led to the operational framework, which basically describes the vision for where we ought to go as disability services. That is on page 6. It describes a vision, the context and the various significant principles that the operational framework was based on. It also outlines the underpinning principles, which are on page 15 of that document. So you have principles such as a focus on the individual partnership, equity, access, inclusion, strengthening individuals, family and support networks, cultural proficiency and so on. The operational framework already has gone a fair way towards encapsulating what a modern up-to-date defensible disability service ought to look like and the kinds of principles that should underpin it and the way it should be.

Mrs JAMIESON - Does the framework say how we are going to do these things?

Ms JACOB - It does. It has a fair bit to do with that. It is the framework and that is underpinned by a very detailed business plan and Gantt charts for when things will happen and all the rest of it. You will be able to quiz me about it at Estimates in terms of whether they have occurred. This is not just a framework where we went away and said it sounds nice and is a good idea. The framework was then underpinned by a work plan which we are now implementing.

Ms FORREST - Do you have a Gantt chart?

Ms JACOB - We do have for all of the activities.

Ms FORREST - You do not have it here, though?

Ms JACOB - No, I do not have it with me because you are only talking about the objectives and principles. We can certainly provide it but it is publicly available. It is a work plan that we are working on.

Mr BEST - Can I ask about inclusion? Last time I raised this I was told off. Families I have contact with who have kids with disabilities really enjoyed the special school up in Steele Street in Devonport, but then there are other children that really enjoy being integrated or included in schools. Is there some prescriptive thing here because every time I raise this I am told that I have a 1950s mentality?

Laughter.

Mr BEST - It just seems to me, though, that it is about a level of choice. Some parents say that it has worked fantastically, they have taken their child and put them into Reece High, Devonport High, Devonport Primary or whatever and it has been great. For others it just

has not worked no matter what they try and for some reason they are more comfortable and less stressed with other kids that have disabilities.

Ms JACOB - When we are using the word 'inclusion' in this context we are not just talking about education; we are talking about inclusion in the mainstream. I went to visit some people at a group home last week and all of the people in that group home participated in mainstream activities. One went to the local writers club, one went down to the pub with the local band on a Friday night and had a drink with the boys, and one was involved in local sporting activities with darts and so on. All of those activities could be described as inclusion in the sense that those people are just being included in the normal Glenorchy - this happened to be at Glenorchy - activities. To the extent that it is possible and that people feel comfortable and want to do it, that opportunity ought to be available. That is not to say there will not always be a need for some specialist services for people who require that, but inclusion is about is trying to make sure that we do not automatically go to specialist, often isolated services, which is where this inquiry started from. It started from Willow Court. If you take the philosophy of non-inclusion to its nth degree you end up with totally isolating people and all the rest of it. But in terms of how well it works that depends on a whole heap of things.

Mr BEST - You get into this other argument about the inclusiveness of providing certain levels of care. It is a difficult subject as to how you legislate.

Ms JACOB - It is and the review was not about legislating that every person with a disability has to make use of mainstream services and you cannot have any others. It was saying that to the extent that people want to and are able to, and to the extent that we can make that easier for them by perhaps providing extra support or education or someone to go with them or whatever, we ought to try to do that rather than having a totally isolated body. I emphasise the fact that inclusion, whether we are talking about education or whatever, never said there should never ever be any specialist or separate assistance or whatever. It is just that once you have a bit of it there is a tendency to try to put everybody into it.

I should declare this: I worked at Willow Court for three-and-a-half years. I know what happens when you isolate people with disabilities in what is basically an inhumane way. Once you start doing that it is really hard to know where you draw the line.

Mrs JAMIESON - But the reality also is that if you do include you must provide adequate services and support for those who are trying to assist, particularly in the classroom or in any activities. That raised a question about the companion card. Is that widely used, do you know? That is getting off the subject a fraction but it is tied up with inclusion.

Ms JACOB - It is tied up with inclusion and it is very much one of the things in the framework for action. It was one of the Government's commitments under the framework.

Mrs JAMIESON - It is working but it needs a bit more push, probably.

Ms JACOB - It is one out of the Disability Bureau, and that is not within Disability Services. It is in the Premier's office, but my understanding is that it is working well.

Mrs BUTLER - Alison, can I just ask under these underpinning principles if individuals who have some sort of disability still have the right to retire?

Ms JACOB - Have the right to retire?

Mrs BUTLER - Yes, from Oakrise - who really want to be able to retire. They are sick of being carted off in buses.

Ms JACOB - It is a really good question. At the moment what tends to happen is that we provide accommodation services as a completely separate set of activities from day services. The rationale was, as I understand it in the past, that it was thought to be good practice to have a different set of people looking after your accommodation needs from the people who looked after what you did during the day, so that there was a kind of safety net. If any abuse was occurring there would be other people who were in contact with you because you were not just in contact with the same people 24 hours a day. That I think was the rationale in keeping accommodation support separate from day support.

This means that for many people there are different providers, different contracts, to govern where you live and what you do during the day. This makes it very difficult if you get to the age where you are thinking you would actually like to stay home all day and retire like anybody does when they get to that age. Contractually you cannot do that because the people who have provided those services are different from the people in it. It is a totally ludicrous kind of model.

Ms O'CONNOR - It is also, is it not, Alison, to do with the Commonwealth and State funding models? The aged care does not come under -

Ms JACOB - That is an added complication. Once you get to the age where you would perhaps prefer to go into some kind of aged-care facility, that is not open to people with disabilities if you have already been involved in the disability accommodation model, so that is another complication.

To come back to your question about why couldn't someone who is living in a group home decide that they do not want to go to day support anymore, they want to stay at home and do their knitting or do all the other things that people might want to do when they retire, we think that is a perfectly viable model and one that we would see as a really good thing to facilitate. When I talked before about having a different range of models and more flexible options, that is the kind of thing that I am talking about. Maybe what we do is say to people that once you get to that stage that is possible and we would build that into your accommodation program. Therefore you would not need to be funded for day support.

Mrs JAMIESON - It is essential because we had 80-year-olds being trotted around to day centres miles away, dragged out of their group home and off they went.

Ms JACOB - When you track back as why that has occurred, the answer that you are always given is that it was always thought in the past to be good practice to have different providers doing different things so that if anyone was being abused -

Mrs JAMIESON - It also meant that you did not have to staff the accommodation.

Ms JACOB - It is a fairly silly reason in this day and age. You can do other things to make sure that people are safe.

Mr EVANS - We are also in an era where people with disabilities tend to live longer than they did in the past. This is a bigger issue than it previously has been.

Ms O'CONNOR - It does mean in an employment context that if you have older people with disabilities who are not able to retire then the younger people cannot get jobs.

Mr EVANS - Yes, it causes blockages in the system.

Mrs JAMIESON - Is the age of disability going to be increased? It used to be about 60, then you had this gap to 65 when you became old, and now the old are 70. What is happening about the age range, as it were, for disability?

Ms JACOB - Basically what you are talking about is the cut-off point for State funding and Commonwealth funding. That debate is still ongoing and it is still part of the COAG agenda. It has not yet been sorted because it has huge cost-shifting implications in terms of when disability services begin and end and when aged care starts. So we cannot give you an answer to that.

Mrs JAMIESON - But it is on the agenda?

Ms JACOB - It is certainly on the national agenda.

So that was the review. You have the operational framework, which is on page 6. As we have already heard the framework is the big picture stuff. Underneath that we have work plans and Gantt charts and all of that other stuff.

The review and the operational framework both make reference to the United Nations conventions on the rights of persons with disabilities, which was only in 2008 so that was a very modern set of principles and human rights. We have given you a copy of that under attachment three. I want to emphasise that the disability services review and the operational framework took the conventions into account.

We have also made the point that under the COAG agreement there has been a new Commonwealth-State disability agreement negotiated. That clearly is also based on the new way of doing business. The priority areas that have been agreed on to be tackled by ministers under that new COAG agreement are listed on page eight - like better measurement of need. There is always a debate on how many people with disabilities there are and how many have services and how many have not et cetera.

Mrs JAMIESON - And what is a disability.

Ms JACOB - And what is a disability. You read figures that about 23 per cent of Tasmanians have a disability. Well, yes, but does that really mean many of us wear glasses or that kind of thing.

You were also asked to look at the quality and safety framework governing specialist disability services. We have been doing a lot of work on that in terms of how that covers government services and how that is covered in the community sector. I have given you the business cases for the quality and safety frameworks because we have those out there at the moment being consulted on. The kind of model, if you like, of how we are going to incorporate quality and safety into disability services is really a fair way down the track. At some stage you would want a better briefing in terms of how that is going to operate across disability services and how it is actually rolling out. So that is just to complete all the bits of paper that you might need in order to do your task.

Mr MARTIN - Looking at the objectives of the review, would it be fair to say that the work has already been done and we just need to decide which particular model?

Ms JACOB - With legislation you can go two ways. You either use the legislation as the way in which you are going to signal your reform or you work out what your reform needs to be and then you use your legislation to basically confirm the reform. That is what I am saying we need to do.

Mr MARTIN - We are being asked to look at principles and objectives that should underpin the legislation. The principles have already been decided, haven't they?

Ms JACOB - Yes, they have, in terms of the reform.

Mr MARTIN - So our job is really to see whether they are appropriate.

Ms JACOB - That is correct.

Ms FORREST - And what things are missing, which is quite unlikely because of the degree of consultation that occurred under KPMG.

Ms JACOB - I guess some of your constituents might have a different view. Certainly our feedback on the reform review was that people were happy with it. They thought that was a good process. They felt they'd had a chance to be heard, and that what was reflected in the review is okay.

Ms FORREST - So you heard from people receiving services and accessing services as well as the providers?

Ms JACOB - Absolutely, yes.

Mrs JAMIESON - Carers Tasmania and a few of the others had input too?

Ms JACOB - Oh, absolutely. The question in people's minds is whether your implementation of the reform is good, and that is a separate issue. That is not the question that we are talking about today. Whether it is based on good, up-to-date, modern understanding of what we ought to be doing for people with disabilities, I haven't heard anybody say no. I would go back to the United Nations document of 2008; given that it was so modern and we based our reform on it, we hope we got it right. How well are we implementing the reform? That is a Budget Estimates issue.

Mr BEST - Another interesting inquiry we had similar to this was assistive needs for people with disabilities. One of the contributions that particularly stuck in my mind was Professor Chris Newell's evidence about the meaningful resource and the opportunities to assist people with disabilities, as opposed to a total care model. I am just wondering what your thoughts might be regarding what Terry has raised about objectives and that sort of thing. Do we have a capacity, then, to contribute in that way to this?

Ms JACOB - If we were able to deliver a disability services system that was based on the kinds of principles and objectives which are articulated in those documents, we would not have the problems with the equipment and assistive technologies process that we have at the moment. We would all acknowledge that is not being done well and that we have a lot of work to do, but if we did it well it would reflect the kinds of principles and so forth that we are talking about.

Mr BEST - That is a good comment. Thank you.

Ms O'CONNOR - Alison, I understand and appreciate that a lot of good work has gone into this, but I just want your thoughts on how the Willow Court story might integrate with how we proceed as a committee, because it is integral to it. I would imagine that we would be hearing from people who have had experience at Willow Court.

The second question is that when this process started, Brett Whiteley and I had a meeting with Lara and we talked about the need for an audit, if you like, that is done on a confidential basis to work out where those children, particularly those who were in Willow Court, are now and whether their needs are being met. What is the progress of that?

Ms JACOB - We have finished it and we have provided a report to the minister. I understand we have a time on 23 April to provide a briefing to you and Brett Whiteley on the progress.

Ms O'CONNOR - That is good. How do you think that integrates with the work that we are doing?

Ms JACOB - It was a file review of all of the people who had been deinstitutionalised from Willow Court, where were they now, did they have adequate guardianship provisions around them and so on. So we did not go and talk to all of those people. We have gone on the basis of the files to find how many now live in the north, how many are in group homes and how many attend whatever service. So we have done that work.

Mrs JAMIESON - How many are dead?

Ms JACOB - Clearly, some are. So how does that integrate with this? There is another thing going on with National Disability Services in that they are doing some stories so there will be some really interesting information out of that. But I suspect all of that will basically reinforce the case for making sure that we do not ever go back there. Therefore we do need to have disability services that are based on the kinds of human rights that are articulated in the United Nations document and now implemented in our own documents.

Do we now have in our reform documents a disability services model which would ensure that we would never go back to the Willow Court model? I believe we have, but I guess that would be for you people to interrogate to see whether you agree.

CHAIR - Would we get a briefing on the Willow Court report?

Ms FORREST - If others thought it was appropriate, everyone could be briefed at the same time.

Ms JACOB - We would be more than happy to do that. So we have done it and it was useful piece of work.

Mrs JAMIESON - Pardon my cynicism but when we hear of the Government devolving and divesting itself to the NGOs, it is obviously seen as the cheaper option and yet we are still having problems with parity of wages and what have you. So what are we going to be doing about that?

Ms JACOB - I think that is outside the brief of this committee.

Mrs JAMIESON - Yes, it probably is. However, it is integral because what we are saying, and nobody would deny it, is that we have to make sure we have adequate wages and support for our staff - be they paid staff and/or carers in the community - and that is what is not happening and has not happened.

Ms JACOB - I think the minister has been on the record about supporting, in principle, the disability wage case, which we all would. It is really a budget issue now.

Mrs JAMIESON - It is behind time already, though.

Ms JACOB - The reason for the devolution is not that it is a cheaper option. It is really to have a much clearer understanding of what the roles and responsibilities of the different parties are. We think that the non-government sector does direct services better. There is a pretty good track record across Australia that they do it better. Our role is to be really clear about what we are purchasing and what quality we want, to be the quality assurer and purchaser rather than trying, as well, to provide services. The review said to make up your mind about what your role is going to be and then do it well rather than this very ambivalent role. How can we do quality assurance on other people providing services when we are also providing services?

Mrs JAMIESON - That is understood. I certainly appreciate that.

Ms JACOB - It is also true that there are some savings in the way the non-government sector can provide some services, simply because they are not part of great bureaucracies and so on.

Mr MARTIN - I can remember watching Judy on TV announcing the closure of Willow Court. But then I had the experience as mayor of the city where a large number of them were housed, and then continuing on in this role. Where it fell down was lack of resourcing. Do we have a role to look at the lack of resourcing in this inquiry? There

has been progress but that is still really where it is falling down, isn't it, if we are really honest?

Ms JACOB - In terms of accommodation and the Living Independently program, which was what we completed in terms of devolving, the contracts that were let to the non-government sector in terms of those services paid a really fair and good price for the quality of the services. Where we have a problem is in the grants model. Some of those grants are from years and years ago where we simply have not kept pace. One of the pieces of work we are now doing under the reform is a thing that is called 'unit pricing', which is really determining a fair price to pay for each of those services. That work is under way. That is happening as we speak. So it might be more appropriate for you to follow that. Clearly that will mean that the Government will have a really clear understanding of what the services they want to provide cost, at a fair wage, of good quality - all of those things which we know have to be built in. Then it is a separate issue of having the money to do it.

If you are talking about any disability services anywhere in the world there will always be a gap between what is there and what you would like to provide. Equipment is a really good example of that. What we have to do first of all is really understand what a service costs, and then we are in a much better position to say that if we want to provide so many people with that service then that is the cost. At the moment it is all over the place. Some services get paid a huge amount for delivering the same service where another organisation gets a much lesser grant.

We set up a reform implementation unit to implement all of our disability reform and the out-of-home care reform in child protection. That is a three-year process because we really figured that the reform was so big it could not just be done on the side of people's desks while they kept everything going. So we set up a separate group and that is happening as we speak.

Mr MARTIN - Do we have access to that?

Ms JACOB - Absolutely. We could give you an update on where that reform process is at, bearing in mind that we rolled into it the reform of Children and Family Services as well as Disability Services. So it is being done together.

Ms O'CONNOR - You can outsource the care, the service provision, but ultimately where does the responsibility lie? I believe it lies with the Government because it is government policy that is being implemented by the NGOs.

Ms JACOB - No question about that.

Ms O'CONNOR - Is that built into these principles?

Ms JACOB - What we have not been very good at in the past is being really clear about what we were asking the non-government sector to provide, the standard of quality we wanted and how were we going to make sure that occurred. In the kind of work that we have been doing with our reform we are now much clearer in what we are asking the organisation to provide, to what standards, how we are going to quality assure it, what sort of auditing will occur and so on, which is built into the new model. It does not mean

that government does not have a role. It means that government's role is to set the standards, to make sure that services are being delivered to those standards, to have consequences when it does not happen, to be doing all of the other things that you would expect government to be doing in terms of policy development and facilitating partnerships with NGOs. I do not want to give the impression that is all just being dumped out there. We are working really closely in partnership. There will always be some tensions there, which we are going through with some of our contractual arrangements at the moment.

Mrs BUTLER - How are you going to measure the effectiveness of the reform? I am thinking specifically of the jail population. Where is your benchmark and how do you know how effective it is going to be?

Ms JACOB - I think that is always going to be difficult because there will always be a lot of variables. One of the problems with disability services generally is the lack of good data. One of the things, as part of the reform, is getting a decent database so that we have a better way of being able to measure how many people we are providing services to, to what level and what are the outcomes of those services. The other problem is that often those things take a long time to filter through. So you might well be doing better now in terms of children's therapy or early intervention services, but for that to have an impact on the jail population when that person is 18 is going to take an awfully long time, so you always have those problems as well.

How will we know whether the reform has been successful? It will largely be in terms of what people with disabilities and their carers tell us and answers they give to questions about whether the services are better, are we able to get better access, is it easier to find a way in and so on. The outcome will basically be what the client group says.

Mrs BUTLER - Will you be going to back to them on a regular basis?

Ms JACOB - It is a complex model and that is why it is useful for you to have a briefing. It sets up local area planning groups - and by 'local areas' I mean the north-west, the north, the south-east and the south-west - which include the client group. They will have an ongoing role in terms of being able to quality assure what is going on, what are the problems, how it is going, so we will be hearing the message as we go through. We have also set up an action research project that we are contracting out - the tender is out there at the moment - so we will actually have an external person looking at how well it is going and giving feedback on what the problems are and how we can correct those as we go.

Mr MARTIN - Outsourcing by governments generally in service provision I think is a good thing, but the downside is the tendering process and the short-term nature of that. It seems to me that so much resource is looking at the sustainability of the various NGOs. Has there been any thought given in the department generally to maybe making the terms of the contract longer? They mostly seem to be every three years. An organisation takes over, then they have to get up and running and just as they get up and running they are already through the contract and then another one has to get up and running.

Ms JACOB - I take your point. A large proportion of the sector would be saying the same thing to us, that it would be nice to have extended contracts and some certainty so that they could plan for the longer term and so on.

Mr MARTIN - Why would you not have five- or 10-year contracts?

Ms JACOB - It depends on the services and it also depends a bit on our budgetary situation. We have only got forward Estimates to a certain level and we cannot sometimes commit beyond that level, depending on what the project is. At the moment in Disability Services, the lion's share of the money is actually in grants where they are just rolled over from year to year and those organisations have never had to put in competitive bids or tenders. We are just starting to overturn that at the moment in terms of changing the contractual arrangements so that there is more competitiveness, if you like. The business person in me wants to say it is a good thing to have a bit of uncertainty and a bit of competitiveness and people having to really lift their game because they do not know whether it is going to continue and so on, but you have to measure that always against the long-term sustainability of NGOs. I suspect there will always be a bit of a tension.

Mr MARTIN - And the uncertainty it creates with the customers as well as the employees.

Ms JACOB - It can do. The turnover of staff in those services tends to be high anyway, regardless of the contractual times. We face that at the moment. You would be aware that there has been some controversy over the contracts that we have just let for our new family support services and our Gateway Service. Our Gateway Service is where you come in through the door and you get an assessment and work out what your needs will be. Some of those organisations that have been in the field for a long time were disappointed that they did not get some of those contractual arrangements, but if you are going to have a competitive bid process, well you have to have a competitive bid process. You cannot make allowances for people, so it will always be a problem.

Mr MARTIN - I am certainly not questioning the benefits of an open tendering process, just the length of contracts.

Ms JACOB - There are different lengths of contract and that is certainly something that could be considered, provided we have certainty of funding as well.

Mr MARTIN - So you are saying the boundary is really for four years?

Ms JACOB - It can be sometimes. The contracts we have just let for family support services are only three years. We have to be careful, not knowing what we have beyond the forward Estimates period, about being able to pay those contracts.

Mrs JAMIESON - Through your early intervention programs will you be able to track things more accurately, particularly things like foetal alcohol syndrome? Then you would have a better idea of what actually may be required and the level of care that may be required.

Ms JACOB - You are raising all of those questions that are a part of those priorities for the Commonwealth-State/Territory Disability Agreement. One of those is to get a better understanding of where there is unmet need and where there is some big area coming up.

My experience of working in the disability area is that there is never going to be a definitive way of defining disability or quantifying how many people fall into various categories, because it is not that easy. There will always be a certain grey area, and you will probably never have enough money to cover everybody anyway. I would rather think that we were in a better position to prioritise need, to work out what your needs are and whether you are eligible for various programs and to give you the maximum that we can in terms of your eligibility, rather than putting people into categories and saying, 'You are foetal alcohol syndrome' or 'You're ADHD' or 'You're Down Syndrome'. At the end of the day that probably doesn't tell you a lot about what your needs are or how we can best deliver services.

Mrs JAMIESON - Except the actual services themselves may be different.

Ms JACOB - Yes, but you'd be surprised how little different they are. Your family will need some respite; you will need to have an educational service -

Mrs JAMIESON - That's right, the basics are the same.

Ms JACOB - Clearly there are some very specific things which you may only require if you have a particular syndrome or a particular disability. Sometimes we get a bit caught up in what is different, rather than thinking that what this person needs is pretty well what I need and how can we best deliver that.

Mrs JAMIESON - That has been one of the problems with the Disability Services Act itself. It has been mostly focusing on intellectual disabilities up until relatively recently.

Ms JACOB - The new act did not, but you are quite right. Disability Services originally started off only catering for people with intellectual disabilities.

CHAIR - There is no mention of any sort of time frame here or how we are dovetailing in with other work that is being done by the department. Can you give us some sort of idea of the expectation of the minister in respect of the work that she would like us to undertake?

Mr EVANS - When we get down to review the act, we are probably looking at a 12-month process. If the committee does have significant issues with what you have been presented with today and the direction we are going, we would like to know sooner rather than later. But if it is going to value-add to the direction we are already heading, we have probably got six months or so to consider it.

CHAIR - It is only in respect of other references that might come to the committee. If you need us to do this quickly then we will have all hands on deck, but if there is more of an elongated time frame we can perhaps look at other references at the same time.

Mr EVANS - From our point of view I would say we probably have six months.

Ms JACOB - We would certainly be very happy to provide you with an update on where the reform is at and all of that sort of thing. That might help you to understand whether what we are doing is the way you think we ought to be going.

CHAIR - You mentioned South Australia and the ACT as a couple of okay models. I am wondering where we might carry out some further investigation - for instance, New Zealand. I am checking whether there is something in the mind of the Government that might be a good comparison.

Ms JACOB - I do not think so. I do not think that the Government would be suggesting anything other than what has already been incorporated from other States and Territories, and documentation about United Nations human rights and so on.

Mr EVANS - KPMG, who have been involved in a lot of our work, under the new national disability agreement are doing similar work through that process, applying the same principles to the rest of the country. What has happened here and through this process is now being thought about and applied potentially in other places.

Ms FORREST - So when would that report come in?

Mr EVANS - Towards the end of the year.

Ms FORREST - A bit later than your time frame, then.

Mr EVANS - Yes, they are looking to have that completed towards the end of the year. All the indications to date are, not surprisingly, that what we have is the direction that they will be suggesting at the national level. We would be surprised if it was any different given it is only nine months since they did it here.

CHAIR - Thanks very much for your time.

THE WITNESSES WITHDREW.