



LEGISLATIVE COUNCIL

STANDING COMMITTEE ON SOCIAL ISSUES

# **The Group Homes Proposal**

Inquiry into  
Residential and Support Services for  
People with Disability

## First Report

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Ordered to be printed 2 December 1999

According to resolution of the House

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## How to contact the Committee

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## Terms of reference

- 1) That the Standing Committee on Social Issues inquire into and report on the provision of residential care and other services which support people with disability, including the following.
- 2) The tendering out of group homes currently operated by DOCS, including:
  - a) how the decision was made, by whom and for what reason,
  - b) the criteria for choosing which homes would be tendered out, how they were arrived at,
  - c) the service planning and development that preceded the decision to tender out group homes, and in particular the following:
    - i) arrangements for the provision of case work, clinical and allied health services for people with disability in accommodation provided by the non-government sector,
    - ii) arrangements for the training and accreditation of staff working in non-government accommodation services,
    - iii) arrangements for non-government infrastructure support and development generally.
  - d) how the processes involved in tendering out group homes were arrived at,
  - e) the level of consultation with people with disability, their families and carers prior to and during the process of tendering out the group homes, and organisations representing people with disability, especially including People with Disabilities (Inc), the NSW Council on Intellectual Disability, the NSW Safeguard Coalition and the Public Service Association,
  - f) the appropriateness of the means by which people with disability and their families were informed of the decision to tender out group homes,
  - g) whether during this process the government has breached the Disability Services Act in any way,
  - h) the need for certainty of future accommodation for people currently residing in DOCS Group Homes, and future clients of what are now DOCS Group Homes,
  - i) the particular impact on rural and remote families.
- 3) The provision of residential care and other services for people with disabilities, having regard but not limited to:
  - a) current unmet need,
  - b) the adequacy of the Government's response to unmet need to date, including:
    - i) the provision of funding to address unmet need,
    - ii) service planning,
  - c) the need and level of provision for respite care,

- d) the availability and distribution of supported accommodation, respite care and other disability services for people in rural and remote communities, needs of people with disabilities and their families in rural and remote areas, and the need for government to make particular provision for their needs,
  - e) the security of ongoing funding arrangements for the non-government sector,
  - f) the desirability or otherwise of a continuing role for Government in the direct provision of services for people with disability,
  - g) the adequacy of administrative arrangements between the Ageing and Disability Department and the Department of Community Services in relation to the disability services provided by the Department of Community Service,
  - h) the status of the implementation of the Disability Services Act (1993) in particular in respect to:
    - i) the provision of funding to assist services to reach conformity to legislative requirements, and
    - ii) the implementation of those provisions dealing with individualised funding arrangements.
- 4)** That the Inquiry make specific and general recommendations about the matters inquired into,
  - 5)** That in conducting the Inquiry specific steps be taken to consult as widely as possible with people with disability, their families and carers, and organisations representing people with disability, especially including People with Disabilities (Inc), the NSW Council on Intellectual Disability, the NSW Safeguard Coalition and the Public Service Association, having particular regard to the need to ensure people with disability are fully involved in decisions affecting their lives,
  - 6)** That, in relation to the matters raised in paragraph 2 the Inquiry report to the Parliament no later than 30 November 1999,
  - 7)** That until recommendations are made by this Inquiry, this House calls on the Government in the strongest terms to agree to a moratorium on the proposed changes to DOCS group homes, in order that it may respond positively to the Inquiry's outcomes,
  - 8)** That the Government be required to provide to the House all Government papers in written or electronic form including the complete range of documents relating to the decision to tender out DOCS group homes, including papers from the Departments of the Premier, Treasury, Ageing and Disability and Community Services.

These terms of reference were referred to the Committee by the Legislative Council on the motion of the Hon. John Ryan MLC on 16 September 1999 (Minutes of Proceedings No 6 page 63).

## **Committee Membership**

Jan Burnswoods MLC, *Chair*

Australian Labor Party

The Hon Doug Moppett MLC, *Deputy Chair*

National Party

The Hon Dr Arthur Chesterfield-Evans MLC

Australian Democrats

The Hon Andrew Manson MLC

Australian Labor Party

The Hon Henry Tsang MLC

Australian Labor Party



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## Chair's Foreword

I am pleased to present the first Report of the Committee's Inquiry into residential and support services for people with disability.

This first part of the Inquiry, which looks at the Government decision to seek expressions of interest for the operation of Department of Community Services group homes, has attracted a great deal of interest. We are examining the provision of services for one of the most vulnerable groups in our society, so it is not surprising that many of the people concerned – residents, their families, advocates and staff – are apprehensive about any proposals for change.

The Committee received 170 submissions from people with disability, their families and advocates, staff and carers, advocacy groups and the wider community. On six separate hearing days, the Committee took evidence from 48 individuals. We were fortunate to meet residents of a number of group homes and clients of Community Accommodation Support Services. Committee Members were impressed by the high level of commitment and concern displayed by families, advocates and staff to maintaining and enhancing the quality of life for people with disability.

I would like to thank all the individuals and organisations who participated in the Inquiry. Your evidence and opinions were an invaluable resource for the Committee.

I would particularly like to thank the residents and staff of the group homes that we visited. We gained a valuable insight into the workings of a group home and the care that is provided, and an understanding of the value of community living for people with disability. We appreciate that our visits were a disruption to routine for many residents and we are grateful for their welcome.

The Committee has had only 11 weeks in which to conduct this first part of our Inquiry. We are aware that we have not been able to do justice to all the material and the issues that have been raised, or to consult as widely as we would have wished.

During part two of the Inquiry, the Committee will be able to take up these issues and consult more widely. We will then be examining more broadly the provision of residential and other services for people with disability. This will include an analysis of issues such as unmet need, funding arrangements, the provision of respite care and the status of the Disability Services Act.



Submissions for part two of the Inquiry close on 31 January 1999, and should be sent to the contact address in this Report. If you would like further details about making a submission, please contact the Committee secretariat for information.

An Inquiry of this magnitude, with only 11 weeks to carry it out, has placed a great strain on the Members of the Committee and the Secretariat staff. I am deeply appreciative of all their efforts. To produce a unanimous Report on an issue as complex and controversial as this is a considerable achievement. Without the commitment and patience of the Committee Members, and the tireless efforts of Tony Davies, Acting Director of the Committee Secretariat; Julie Langsworth, Senior Project Officer; and Heather Crichton, Committee Officer, the Report would not have been possible.

I commend this report to the Government.

**Jan Burnswoods, MLC**  
Chair

# Summary of Recommendations

## Chapter 1

### Recommendation 1

That any savings achieved in the Department of Community Services disability services program through increased efficiencies should, as a general principle, be redirected to the Ageing and Disability Department for re-investment in disability service delivery. Savings achieved through efficiency measures should not be returned to Consolidated Revenue.

### Recommendation 2

That, in order to ensure that clients have a genuine choice of service provider, the Department of Community Services be required to submit an expression of interest for the existing service in each case.

### Recommendation 3

That the expression of interest process should apply to complete households unless consultation processes clearly indicate that residents of a house do not wish to remain together. In such cases, those who wish to remain together should be able to do so. Where residents of a service choose to move to the non-government sector, contractual arrangements with service providers should ensure that people are able to remain within their existing residential grouping as long as they choose to do so.

## Chapter 2

### Recommendation 4

That the Ageing and Disability Department review the decision to seek expressions of interest for Community Accommodation Support Teams operated by the Department of Community Services.

### Recommendation 5

That if, after reconsideration, it is decided to seek expressions of interest for Community Accommodation Support Teams, the expression of interest process should ensure that clients of the services are able to exercise genuine choice of service provider. This choice should include the clear option of remaining with the Department of Community Services.

**Recommendation 6**

That, in the case of homes which include one or two residents with moderate or high support needs, the Ageing and Disability Department ensure that negotiations involved in the expression of interest process are independently facilitated and conducted with genuine input from residents, parents and advocates.

**Chapter 3****Recommendation 7**

That people who decide to transfer to a non-government service provider be given a guarantee that they will receive the same level of access to case-work, clinical and allied health services that they currently receive within the Department of Community Services. Funding agreements should ensure that non-government service providers are fully resourced to provide these services. The funding agreement should contain sufficient flexibility to provide additional funding for increased access to these services in cases where a person requires increased support.

**Recommendation 8**

That the expression of interest process be structured in a way that enables non-government providers to negotiate with the Department of Community Services to ensure clients have continuing access to case-work, clinical and allied health services currently provided by the Department.

**Recommendation 9**

That the Ageing and Disability Department ensure that funding for training and accreditation is an integral component of the Expression of Interest process for the current group homes initiative.

**Recommendation 10**

That specific guidelines be established setting out the required levels of skill for staff in non-government organisations, skill development and accreditation programmes, and the level of funding to be provided by the Government to support staff development and accreditation.

**Recommendation 11**

That the Ageing and Disability Department fully supplement award increases for non-government sector employees to ensure that workers are adequately paid, and that trained staff with necessary skills are attracted to, and remain in, the sector to provide quality care.

**Recommendation 12**

That the Ageing and Disability Department ensure that the expression of interest process undertaken for the current proposal evaluates the infrastructure of non-government organisations and that the evaluation takes into account the specific infrastructure needs of organisations that submit expressions of interest.

**Recommendation 13**

That the Ageing and Disability Department investigate the infrastructure of small organisations, with an aim to develop funding strategies to meet future infrastructure needs to enable small organisations to support additional clients.

**Chapter 4****Recommendation 14**

That the expression of interest process be structured to ensure that its principal object is to achieve quality of service, measured in terms of improved outcomes for people who participate.

**Recommendation 15**

That each expressions of interest Selection Panel convened as part of the group homes initiative be structured in a way that facilitates participation of people with disability in decision-making through the inclusion of effective representation of stakeholders. In particular, the Selection Panels should include residents of services and relatives or advocates of residents.

**Recommendation 16**

That expression of interest Selection Panels be structured in such a way as to ensure that residents, in conjunction with their guardians and advocates, exercise effective choice about which service provider is chosen following the expression of interest process.

**Recommendation 17**

That the terms of reference for the Independent Probity Auditor engaged by the Ageing and Disability Department to oversee the expression of interest process include the requirement that:

- the Selection Panel for each service includes key stakeholders.
- the primary issue in selection of a future provider is quality of service, measured in terms of improved outcomes for individuals who participate in the process.
- the process has ensured adequate client support and effective consultation.

**Recommendation 18**

That a communication strategy be developed and implemented as a matter of urgency to ensure that residents have a clear understanding of the expression of interest process. The communication strategy should ensure that residents understand that they will have the genuine option of remaining within the Department of Community Services.

**Recommendation 19**

That an appeals and complaints mechanism in relation to the expression of interest process be established which is readily accessible to residents and carers who participate.

**Recommendation 20**

That the Ageing and Disability Department ensure that the assessment of clients' support needs takes into account any relevant information in addition to that provided by the proposed Service Needs Assessment Profile and Vermont tools. The assessment process should be finalised after consultation with clients, families, advocacy groups and staff.

**Recommendation 21**

That consultation with individual clients and their guardians or advocates take place as part of the assessment process.

**Recommendation 22**

That no assessments take place without the consent of the client, or where the client is not able to give consent, the consent of the person who exercises consent on their behalf.

**Recommendation 23**

That the Ageing and Disability Department develop and publish an evaluation strategy in consultation with key stakeholders, including people with disability, relatives and guardians and representative organisations.

**Recommendation 24**

That the evaluation referred to in Recommendation 23 take place over a period of time sufficient to enable judgements to be made about long term outcomes for people from the 41 identified services who choose to transfer to the non-government sector.

**Recommendation 25**

That no further expressions of interest be sought for the operation of Department of Community Services group homes until thorough evaluation of the expression of interest process for the 41 identified services, and its outcomes, has taken place.

**Recommendation 26**

That in the event of increased involvement of non-government providers in service delivery, additional resources should be made available to the Ageing and Disability Department to ensure adequate monitoring of these services.

**Chapter 5****Recommendation 27**

That the Ageing and Disability Department ensure that interpreter services are made available on departmental information hotlines. Advice on accessing the hotlines should be provided in community languages.

**Recommendation 28**

That the Minister establish and maintain a consultation framework for the disability sector to ensure that stakeholders are consulted about future significant policy decisions involving people with a disability.

**Recommendation 29**

That the Department of Community Services and the Ageing and Disability Department have regard to the need to improve public confidence in their ability to provide comprehensive services to people with disability and the Departments jointly develop a strategy to achieve this objective.

**Recommendation 30**

That the Ageing and Disability Department ensure that the views of residents are actively sought as part of the expression of interest process in ways that genuinely demonstrate an interest in the point of view of residents.

**Recommendation 31**

That in developing consultation strategies for people with disability as part of the current group homes initiative, the Ageing and Disability Department give careful consideration to the recommendations of the Report, 'Consultation with residents and clients of identified services' contained in Appendix 4 of this Report.

**Recommendation 32**

That an effective communication protocol be devised to ensure that residents are kept fully informed of the decisions made about future accommodation services.

**Recommendation 33**

That the Ageing and Disability Department and the Department of Community Services ensure that staff are provided with timely information and assistance so they may fully support residents and ensure a smooth transition process for residents who wish to transfer to the non-government sector.

**Recommendation 34**

That the Ageing and Disability Department ensure that all clients who do not have advocates are provided with independent advocacy support as part of the expression of interest process and that adequate funding for advocacy support be provided.

**Chapter 6****Recommendation 35**

That the consultation framework referred to in recommendation 28 specifically include formal mechanisms for the participation of people with disability.

**Chapter 7****Recommendation 36**

That the funding agreements for people who transfer as part of the group homes initiative should include clearly stated arrangements to meet changing support needs.

**Recommendation 37**

That the Ageing and Disability Department ensure that the expression of interest process for the current group homes initiative accounts for full funding for non-government service providers.

**Recommendation 38**

That the Government provide residents who choose to transfer to the non-government sector as part of the group homes initiative with an unconditional life-time guarantee of service.

**Recommendation 39**

That, as part of the guarantee referred to in Recommendation 38, the Government guarantee immediate placement in an alternative service providing an equivalent level of care in the event that a resident's placement breaks down.

## **Chapter 8**

### **Recommendation 40**

That the Ageing and Disability Department ensure that the particular needs and requirements of residents and families from rural areas are considered in the expression of interest process for the 41 identified services.

### **Recommendation 41**

That the Ageing and Disability Department ensure that residents residing in metropolitan services, but whose family members are located in rural and regional areas, are provided where necessary with independent advocacy and support during the current expression of interest process.

## **Chapter 9**

### **Recommendation 42**

That the present role of the Department of Community Services as a provider to people with a broad range of support needs be maintained. Disability services provided by the Department of Community Services should not be restricted to people with medium to high support needs, or people who cannot be provided for in the non-government sector.



## Introduction

This is the first Report of the Committee's Inquiry into residential and support services for people with disability. The Report considers the decision of the Government to seek expressions of interest (EOI) for the operation of group homes and supported accommodation services currently run by the Department of Community Services (DOCS).

### Background to the Inquiry

The Legislative Council referred the Inquiry to the Committee on 16 September 1999 on the motion of the Hon John Ryan MLC. The first part of the terms of reference specifically required the Committee to examine the decision of the Government to seek tenders for the operation of DOCS group homes, referred to in the Report as the group homes initiative. The Committee was required by the terms of reference to report to the Parliament on this question by 30 November 1999. The Legislative Council gave the Committee an extension of two days to finalise the Report so it was tabled on 2 December 1999. The second part of the terms of reference asked the Committee to examine more broadly the provision of residential care and other services for people with disability.

After considering the terms of reference, the Committee decided to conduct the Inquiry in two Parts:

- The first part has been an examination of the decision to seek expressions of interest for some homes currently operated by DOCS. This part of the Inquiry is now complete.
- The second part of the Inquiry will investigate the broader issues with regard to residential and support services for people with disability, as directed by the terms of reference. The work on this second part of the Inquiry will commence now this Report is finalised. As work on Part 1 has been done, it has become clear that many of the issues arising during this part of the Inquiry are relevant to the terms of reference for Part 2. There is no set date for the completion of Part 2 and the Committee expects the Inquiry to take all of next year. The closing date for submissions for Part 2 is 31 January 2000. The terms of reference for Part 2 are located in the front of this Report.

The terms of reference for Part 1 of the Inquiry are:

*That the Standing Committee on Social Issues inquire into and report on the provision of residential care and other services which support people with disability, including the following.*

*The tendering out of group homes currently operated by DOCS, including:*

- a) *how the decision was made, by whom and for what reason,*
- b) *the criteria for choosing which homes would be tendered out, how they were arrived at,*
- c) *the service planning and development that preceded the decision to tender out group homes, and in particular the following:*
  - i) *arrangements for the provision of case work, clinical and allied health services for people with disability in accommodation provided by the non-government sector,*
  - ii) *arrangements for the training and accreditation of staff working in non-government accommodation services,*
  - iii) *arrangements for non-government infrastructure support and development generally.*
- d) *How the processes involved in tendering out group homes were arrived at,*
- e) *The level of consultation with people with disability, their families and carers prior to and during the process of tendering out the group homes, and organisations representing people with disability, especially including People with Disabilities (Inc), the NSW Council on Intellectual Disability, the NSW Safeguard Coalition and the Public Service Association,*
- f) *The appropriateness of the means by which people with disability and their families were informed of the decision to tender out group homes,*
- g) *Whether during this process the government has breached the Disability Services Act in any way,*
- h) *The need for certainty of future accommodation for people currently residing in DOCS Group Homes, and future clients of what are now DOCS Group Homes,*
- i) *The particular impact on rural and remote families.*

## **Scope and Process of the Inquiry**

The Committee was given eleven weeks to conduct this first part of the Inquiry. The terms of reference were advertised in mid-September 1999 in the metropolitan and regional newspapers. Information was also sent to the major regional media outlets. Since September, the Committee has called for submissions, heard a range of oral evidence and conducted site visits, briefings and two forums with families, advocates and residents. In addition, the Committee

engaged an independent consultant to meet with residents directly affected by group homes initiative. The information generated from this evidence is reported on in the following chapters of the Report.

### ***Submissions***

Individuals and organisations provided information to the Committee in 171 written submissions. Approximately two-thirds of the submissions were from parents, relatives, guardians and advocates. The Committee received a small number of submissions from people with a disability. Other submissions were provided by peak organisations representing people with disability, church and welfare organisations and the Government. The information provided was used extensively in the writing of the Report. A list of people and organisations who provided submissions is included in Appendix 1.

### ***Public Hearings***

The Committee heard formal evidence from 52 witnesses during the Inquiry process, including parents, advocates, people with disability, academics, representatives from the Ageing and Disability Department, and Department of Community Services and representatives from the peak organisations. The list of witnesses can be found in Appendix 2.

### ***Site visits***

The Committee visited four group homes currently operated by the Department of Community Services (DOCS) and selected by the Government for consideration for tender. Two homes were located in the Sydney metropolitan area, and two homes in the Newcastle region. Community Visitors provided advice on the selection of homes and facilitated the discussions between Committee Members and residents, parents and House Managers.

The Committee also met with approximately 20 clients and a number of staff from the Hunter Community Accommodation Support Team (CAST) in Newcastle, in order to discuss the decision and its impact on clients and staff. See also Appendix 3.

### ***Forums with residents, parents and advocates***

The Committee conducted two forums with parents, advocates and residents from the 41 identified services, one in Sydney and one in Newcastle. Upon request, the Ageing and Disability Department provided the Committee with a list of names and addresses and the Committee invited all those on the list. A total of 50 people attended the Newcastle forum and 19 people attended in Sydney. Participants were invited to discuss with Committee Members the decision and its impact on people with disability and their families. On each occasion the main group was divided into smaller discussion groups, with Committee Members reporting a summary of each discussion to the whole group; this was recorded by Hansard.

The urgency to report on this part of the Inquiry meant that invitations were sent on short notice and some people were unable to attend. The Committee expects to consult more widely with residents, parents and advocates during Part 2 of this Inquiry.

### ***Independent Consultant***

The terms of reference required the Committee to take specific steps ‘to consult widely with people with disability, their families and carers and organisations representing people with disability’. The Committee felt that it was important to ensure that the views of people with disability were heard, and that appropriate methods were used in the collection of that information. A Project Brief was prepared by the Committee and sent to a number of consultants with past experience in working with people with disability, and who had not made a submission to the Inquiry. Ms Michelle O’Dea was the successful consultant, and her Report, ‘Consultation with residents and clients of identified services’, can be found in Appendix 4. The Report contains a full explanation of the project’s aims and methodology, and a summary of the feedback from residents and clients.

### **Outline of the Report**

This Report has a total of 10 Chapters and each Chapter addresses one or more sections of the terms of reference.

**Chapter 1** examines the decision to seek expressions of interest (EOI) for some of the Department of Community Services (DOCS) group homes, the way it was made, and why the decision was taken. The Chapter also analyses the details of the decision and considers a number of specific issues arising out of it.

**Chapter 2** considers the way the 41 services were identified, and the concerns raised about the process. This Chapter looks at the specific decision to include the Community Accommodation Support Teams in the initial expression of interest process.

In **Chapter 3**, the service planning and development that preceded the decision to seek EOIs is examined. This includes a discussion on the arrangements for the provision of case work, clinical and allied health services for people with disability in the non-government sector (NGO); arrangements for the training and accreditation of staff working in NGOs; and the arrangements for non-government infrastructure support and development.

**Chapter 4** provides an overview of the processes involved in the tendering out of group homes, including the expression of interest process, the assessment process, and evaluation and monitoring. The Chapter looks at the importance of rigorous evaluation and monitoring systems.

**Chapter 5** deals with the consultation process, both before and after the decision, as well as the means by which people were informed about the decision. For example, information is provided on the hotlines, Newsletters and Family Forums.

**Chapter 6** discusses whether as part of the EOI process, the Government has breached the Disability Services Act (DSA).

**Chapter 7** examines the need for certainty of future accommodation for people with disability. One of the main issues raised in this Chapter is the security of tenure for people with disability. The Chapter relies heavily on information provided to the Committee by parents, advocates and residents.

**Chapter 8** looks at the impact of the decision on rural and remote families. Many issues were raised regarding the lack of choice in service, particularly for people from non-English speaking backgrounds and for Aboriginal people. These and other issues will be taken up in greater detail in Part 2 of the Inquiry.

In **Chapter 9**, Broader Issues, the Committee provides a discussion on the continuing role of the Department of Community Services, and the need for a disability service plan. In addition, there is a discussion on government and non-government service provision, and the competitive tendering principles. These issues will be further dealt with in Part 2 of the Report.

**Chapter 10** Outlines the Committee's conclusions on the group homes initiative.

The Committee notes that the Department of Community Services provides for people whose primary disability is intellectual. Hence references to people with disability in this Report relate to people whose primary disability is intellectual.

## **Chapter 1 – How the decision was made, by whom and for what reason**

This Chapter examines the decision to seek expressions of interest (EOI) for Department of Community Services (DOCS) group homes, the way it was made, who made it, and why the decision was taken. Initially, the Chapter outlines the Committee's understanding of exactly what "the decision" is. In the course of discussion, particularly with families, it became clear to the Committee that many people are confused about what actually has been decided, how it will affect people in DOCS residential services and what the full scope of the decision is. For residents and many families this uncertainty has led to considerable apprehension and distress. The Committee hopes that by presenting a clear outline of what has been decided, the level of apprehension will be reduced.

### **1.1 The decision**

The decision was first made public in the context of the New South Wales State Budget which was tabled on 22 June 1999. The Budget papers indicated that major initiatives in the Department of Community Services would include 'assisting in the transfer of group homes management to non-government organisations where appropriate' (Budget Estimates 1999-2000. Budget Paper No. 3, page 5-3). The Committee considers that at the time of the announcement in the Budget, this initiative amounted to a clear policy decision to transfer a proportion of DOCS group homes to the non-government sector.

#### ***1.1.1 Process for transfer***

As part of the Budget announcement, it was made clear that the proposed transfer would occur through the Ageing and Disability Department (ADD) calling for expressions of interest (EOI) for the management of group homes. The role of ADD in providing disability services in New South Wales includes establishing and implementing overall policy for disability services, monitoring service quality and providing funding to other organisations which then provide direct services to people with disability. As part of this role, ADD provides funding to DOCS so that DOCS can provide direct services, such as group home accommodation to people with disability. ADD also provides funding to a range of non-government service providers.

The Committee was told that the EOI process has been used previously by ADD for allocation of new funding for disability services, and is presently considered by the Department to be the optimum way of allocating disability service funding.

The EOI process is essentially a competitive selection process for the provision of services to people with disability. The successful provider is selected through a structured process that takes into account, among other things, the quality and price of service offered. EOI processes are discussed further in Chapter 4.

### ***1.1.2 Clients affected by the decision***

A letter to guardians and advocates of group home residents sent in July 1999 from the Directors General of ADD and DOCS stated that only residents with low support needs would initially move to the non-government sector as a result of this policy. However, the possibility that residents with medium support needs could transfer to the non-government sector at a later stage was not ruled out. Subsequent correspondence from the Acting Director General of ADD, Ms Marianne Hammerton, stated:

Clearly, the Government will always be there [to] care for people with intellectual disabilities, especially those with complex support needs.

It appears that, in general terms, the policy decision to transfer clients of group homes to the non-government sector was to apply first to those clients with low support needs, where such a transfer was appropriate. People requiring medium levels of support would subsequently be considered for transfer. However, people with high or complex support needs would not be considered for transfer to the non-government sector. This approach is confirmed in departmental planning documents provided to the Committee.

### ***1.1.3 Number of group homes***

The Budget papers indicated that the number of group homes operated by DOCS in the 1999-2000 financial year would be reduced from 256 to 237 (Budget Paper No. 3, page 5-25), suggesting a target reduction of 19 group homes by 30 June 2000. This target of 19 by the end of the current Budget period was subsequently confirmed by the Minister at the Budget Estimates hearing of 8 September 1999. The Committee notes that in confirming this target, the Minister did not state that 19 services would definitely be transferred to non-government organisations by 30 June 2000:

... we are doing it budget by budget. In this year's Budget they are talking about 19 group homes, and if we can achieve 19 group homes at the end of this Budget, I will feel very pleased (Hon Faye Lo Po' MP, Minister for Community Services, Ageing, Disability Services and Women. Evidence. General Purpose Standing Committee No. 2. 8 September 1999).

However, the figure can be viewed as a baseline for planning and costing for the initial stage of implementation of the decision.

It is clear from this that specific group homes were not identified during the budgetary process. Departmental papers provided to the Committee confirm that specific homes were not identified at the time the decision was announced.

Following the announcement, ADD identified 41 group homes and Community Accommodation Support Teams that would be included in the initial round of the EOI process. That is, expressions of interest would be sought for management of 41 specific services managed by DOCS. In evidence before the Committee, the Acting Director General of ADD made it clear that inclusion of these services in the initial round of EOIs would not necessarily result in the transfer of all identified services to the non-government sector

(Hammerton. Evidence. 22 October 1999). Rather, it was intended that DOCS would participate in the process and might successfully tender for a proportion of the houses.

The way that the 41 services were chosen is considered in Chapter 2.

It would appear that over the longer term, it was intended to include significantly more group homes in subsequent stages of the EOI process. The Committee has considered papers from both DOCS and ADD that relate to the decision. Whilst a number of these papers are undated, it can be assumed from their context that they were prepared around the time that the decision was made and announced.

The papers suggest that it was originally intended to re-auspice 183 DOCS group homes, catering for 825 residents by the beginning of the 2002/2003 financial year. It was estimated that this would involve the loss of 1,555 full-time equivalent positions within DOCS and achieve a recurrent saving of \$8.4 million dollars (ADD internal memorandum: *Key Issues: 1999/2000 State Budget Proposals Concerning Re-auspicing of DOCS Group Homes*). Another Departmental paper indicates that the number of residents to be re-auspiced equates to '75% of group homes currently managed by DOCS' (DOCS document no. 66: *1999/2000 to 2002/2003 Budget Allocations*). However, further internal working documents from ADD suggest that it would be possible to achieve projected cost savings if only 600 residents are transferred to the non-government sector over the three year period (Facsimile from ADD to DOCS. 19 May 1999).

#### **1.1.4 Proposed time-frame**

At the time the changes were made public, official announcements provided little detail about the extent of the decision and the timeframe for overall implementation. An indication of the overall timeframe was provided in the initial letter to guardians and advocates of residents. The letter indicated that EOIs would take place over three years. The initial EOI process for residents with low support needs would take place during the 1999-2000 financial year. At that stage, no clear indication was given about what level of change was envisaged. The Committee appreciates that, to some extent, this was a consequence of the fact that full details about the implementation of the decision had not been finalised at the time of its announcement.

#### **1.1.5 Summary – nature of the decision as announced in the Budget**

At the time the decision was announced, the Committee considers the decision embraced the following elements:

- It was a policy decision to transfer group home management to the non-government sector 'where appropriate'.
- The initial target for 1999/2000 was 19 group homes; but this was an indicative target only and specific houses had not been identified.



- The transfer would occur through ADD seeking expressions of interest for identified services.
- Expressions of interest would initially be sought for houses that had residents with low support needs; these expressions would be sought by July 2000.
- Over three years, between 600 and 825 people with disability, or approximately 75% of residents of DOCS group homes, would be transferred to the non-government sector.
- DOCS would be able to participate in the expression of interest process.

## 1.2 How the decision was made

The evidence before the Committee makes it clear that the decision was made by Cabinet on the recommendation of the Budget Subcommittee. The Committee recognises that this is how Budget decisions are normally made. Apart from Treasury, there is only limited departmental involvement in final Budget decision-making processes. Final Budget allocations are approved by the Cabinet as a whole. A number of witnesses have suggested that the decision was forced upon the Minister by Treasury, however the Committee accepts the evidence that budgetary decisions are made within the context of a Cabinet decision-making process. The decision was therefore not made by a particular individual or Department.

Having noted that the decision was formally made by Cabinet, the Committee understands that, as with all Budget decisions, the Department of Treasury had significant input into the decision-making process. In particular, it is clear that cost considerations played an important role in the decision-making process.

Budget allocation letters from the Secretary of Treasury to the Directors General of DOCS and ADD dated 10 May 1999 confirm that the decision was finalised by that date. These letters state that:

Budget Committee has approved the relocation of most group homes currently in the care of the Department of Community Services (DCS) with non-government service providers (NGOs) over the next 3 years. While saving from this measure will accrue to ADD through lower costs of care, DCS will clearly need to be closely involved in the transition process to ensure that associated industrial issues are appropriately managed and that savings are maximised.

The revised forward estimates for disability services should reflect progressive reduction in funding to DCS, and increased funding for non-government providers ... (Letter from J Pearce to M Hammerton. 10 May 1999. Schedule 1g).

Departmental working documents on implementation of the decision focus initially on the level of saving required, and the number of people who would need to be re-auspiced in order to achieve the savings. From the documents provided it appears that little consideration was initially given to the possible benefits that the decision might bring to residents to be re-auspiced. However, in evidence, departmental officers advised the Committee that significant

interaction between Treasury, DOCS and ADD had taken place over a number of years (O'Reilly. Evidence. 17 November 1999; Hammerton. Evidence. 17 November 1999).

The Committee has not been able to determine precisely where the proposal originated. In part, this is a result of the budgetary context in which the decision arose. Budget negotiations are an ongoing process within government. Budget decisions may be based on a range of information, including costing information, provided over time by Departments to Treasury. By necessity, Budget negotiations take place in an environment of strict confidentiality and at Ministerial level. There is no clear evidence that a specific proposal to re-auspice existing DOCS group homes was prepared by either Department and submitted for the consideration of Treasury or Cabinet.

The Committee notes that a focus on financial inputs to decision-making is appropriate in the context of budgetary decision-making. It is also important that human services be delivered cost-effectively. Members are aware that Departments and Ministers add policy considerations. This is particularly the case given that there is substantial unmet need in the area of disability services. However, for reasons outlined in Chapter 5, the Committee has some hesitation about whether this type of decision should have been made and announced as part of the Budget.

### ***1.2.1 Why the decision was made***

A limited range of documents has been provided to the Committee to outline the policy basis for the Budget decision, due to Cabinet confidentiality requirements. As stated, these documents focus largely on the financial aspects of the proposal.

However, discussion of the costs of disability service provision leads inevitably to the issues of unmet need and devolution of large residential services. Internal working papers from ADD note that re-investment of the savings in disability services, along with progressive asset realisation by DOCS, would significantly advance the Government's recently announced 12 year plan for devolution of large residential centres. Similarly, public statements by the Minister and senior departmental officials indicate that additional funds will go towards meeting unmet need. For example, in evidence the Acting Director General of ADD acknowledged the problem of unmet need and noted that the decision was therefore taken in the context of:

trying to find ways of ensuring that more dollars are made available either through the existing service system and doing things differently or by ensuring that new dollars are available through the budget process (Hammerton. Evidence. 22 October 1999).

### ***1.2.2 Government perspective***

The Government has advised the Committee that the decision is consistent with policy in the disability sector in recent years. In answer to a written question about whether the proposal was based on any recommendations made by ADD or DOCS about ways to improve outcomes for people with disability, the Minister stated:

There has been ongoing work in relation to improving service delivery and outcomes for people with disabilities. This is well known to ADD, DOCS and Treasury and the respective Ministers.

The following reports have been undertaken with information provided to the Government:

- Group Home Funding Methodology – April 1996. This project was informed by the Group Home Benchmarking project which ‘proposed the development of an alternative method of resource allocation for group homes that is more flexible and responsive to the changing needs of consumers’. This project was not implemented due to adverse reaction from the HREA Union and families (DOCS).
- Report to the NSW Treasury and Cabinet Office, Examining Service Delivery Issues and Outcome Based Funding for People With a Disability Receiving Accommodation Support – April 1997 (ADD).
- Cost of Disability Group Homes – September 1997 (DOCS).
- From the DOCS perspective, over the past couple of years we have had a number of discussions with Treasury about funding requirements and the impact on people with disabilities. Officers from Treasury have accompanied us to our large residentials and our group homes so that they become familiar with our operations.
- We have also commissioned a number of reports on the provision of care in and costs associated with Disability Services. These reports include a report from Laurie Young, an external consultant, and a report from Ernst & Young.

All reports identified inequity in current resource allocation and a need for a more flexible response to individual needs. The current proposal is consistent with policy development over previous years (Correspondence from the Hon Faye Lo Po’ MP, Minister for Community Services, Ageing, Disability Services and Women. 22 November 1999).

The Committee has not had the opportunity to examine most of the documents referred to by the Government, but accepts that consideration of issues relating to the disability services system as a whole influenced the initial decision-making process. However, on the information presently before it, the Committee is unable to determine the weight given to other factors outside of cost.

### **1.3 Subsequent developments**

Evidence presented to the Committee by the Government during this Inquiry suggests that the proposal has been modified since the Budget announcement. The Government submission to the Inquiry states:

The Government’s intention is to review the services currently provided by DOCS and increase the availability of options that address the individual needs of people with disabilities in these homes. A further objective is to seek the same level of monitoring and accountability for these services that applies to NGOs...

This decision aims to improve the provision of services for people with disabilities. The decision was taken in the context of the 1999-2000 Budget but, as outlined above it should be seen as part of the ongoing process of improving the quality of disability services and improving options for those people with disability with low support needs ... (New South Wales Cabinet Office. Submission 1).

The submission makes an important statement, saying that the ‘decision is essentially an “in-principle” one at this stage’. The submission notes that outcomes of the first stage of the process, dealing with people who have low support needs, will be fully evaluated ‘to ensure that the objectives are being met and that there are not unintended consequences in the implementation of the program’.

In evidence, the Acting Director General of ADD, Ms Marianne Hammerton, clearly indicated that the decision was viewed by her Department as being an in-principle decision of Cabinet to investigate alternative models of service delivery for some DOCS clients. Consultation would be a vital aspect in the implementation of the decision:

I would just like to say that the decision was an in-principle one. It was always intended to consult and work through within the parameters that were there and with interested parties the full implementation arrangements. That is why from day one, we cannot refer back to a set of detailed plans. ... I think we have demonstrated over time that we have not had a pre-ordained position, which at times has been interpreted as not being sure about where we wanted to go, but, clearly, we needed to be open to what the interested parties were saying at the time (Hammerton. Evidence. 17 November 1999).

Despite the forward estimates relating to subsequent transfer of people to the non-government sector, which appear in the papers provided to the Committee, the Government has indicated that subsequent stages of the process have not commenced. When asked what work had taken place on further stages of the re-appointing process, the Acting Director General of ADD stated:

The answer, in short, is: nothing. We are clearly going through the process of applying this policy decision in principle, and government is clear, as I said up front at the start of this Inquiry, about making sure we are evaluating the process and the outcomes that we are getting, so that means that clearly ADD needs to be giving government advice about whatever scenario there might be in relation to the so-called years 2 and 3.

No one has received a letter saying “You are next cab off the rank” ... (Hammerton. Evidence. 17 November 1999).

On the question of the targets outlined in the Budget papers, the Acting Director General said:

They are indicative targets. In a budget context obviously Treasury normally puts some indicative targets in there. Sometimes it only does it for one year; sometimes it does it for two or three years (Hammerton. Evidence. 17 November 1999).

The current clear emphasis that this is an in-principle decision, which will be rigorously evaluated, indicates to the Committee that the Government has taken a more cautious approach in implementing the decision than initially suggested by the Budget papers. Similarly, the Committee notes from the evidence that the focus of discussion has shifted from the level of savings that may be achieved, to the improvement in outcomes for people with disability that will flow from the policy change.

The Committee welcomes this change, and notes that, provided an appropriate consultative process is in place, an investigation of the possibility of changing service provider could benefit people with disability who live in DOCS group homes.

Chapter 5 of this Report deals in part with consultation processes that have taken place following announcement of the decision. Whilst the Committee notes that significant concerns have been raised about the consultation that has taken place, it believes that the shift in emphasis indicates that the Government has been responsive to the feedback it has received about this proposal.

### **1.3.1 Timetable for implementation**

The Committee has been informed that the timetable for implementation of the decision has been extended in response to feedback and concerns expressed by people who are affected by the decision.

At a Committee hearing on 17 November 1999, the following timeframe for implementation of the decision was given by the Manager of the Community Living Development Unit within ADD, Ms Pamela Riddiford:

January 2000	Assessment of support needs of residents in identified services
March 2000	Finalisation of the EOI process/initial call for expressions of interest
April 2000	Assessment of expressions of interest
July 2000	Announcement of list of eligible providers.

Ms Riddiford indicated that at this point in July 2000 residents and their families would be able to consider the options available to them in terms of service provision:

... we would be looking at eligibility being announced in July because, remember, then the list of eligible service providers will be provided to residents and their families, advocates, guardians and support network for them to determine which service provider they would like to consider as a service provider for themselves, and the service provider most likely to provide them with the service that meets their individual needs (Riddiford. Evidence. 17 November 1999).

## **1.4 Specific issues arising out of the decision**

A number of specific concerns were raised before the Committee about the nature and detail of the decision. These are dealt with below.

### **1.4.1 Will any savings be returned to disability services?**

The Budget forward estimates up to the 2002-2003 financial year provided to ADD with the allocation letter of 10 May 1999 outline a range of enhancements required to fund election commitments and State matching of Commonwealth HACC program funds. However, the forward estimates appear to deduct savings from the proposed relocation of group home residents to non-government service providers. In the year 2002-2003, the projected savings to be returned by ADD total \$8.3 million (Letter from J Pearce to M Hammerton. 10 May 1999. Schedule 1a).

Submissions to this Inquiry from the peak organisations, as well as parent organisations and many individuals, have expressed significant concern about the return of any savings arising out of the proposed re-auspice to consolidated revenue. The Government has subsequently announced that savings will not be withdrawn from disability services. In response to a written question on notice, the Government stated:

The budget figures are indicative only. Final costings will not be known until after the conclusion of the EOI process. It is not clear if there will be any savings. But if there are, then the Government has given a commitment to ensure that they are ploughed back into disability services (Hon Faye Lo Po' MP. General Purpose Standing Committee No. 2. Answers to Questions on Notice).

During the Budget Estimates process, the Minister stated:

I can give you an honest promise. I will hand back to Treasury not one single red cent. Now you have that as a promise (Hon Faye Lo Po' MP. Evidence. General Purpose Standing Committee No. 2. 8 September 1999).

The Committee accepts that there is now a clear and unambiguous commitment by the Government to return any savings achieved through this measure to the disability sector. The findings and recommendations in this Report are predicated on this commitment to quarantine all savings within disability services.

In addition to the retention of any savings within disability services, the Committee welcomes the Government's commitment to invest significant additional recurrent funding in disability services. The Committee has already received considerable evidence about the level of unmet need in the disability sector. Whilst the Committee will deal more thoroughly with this question in Part 2 of the Inquiry, it notes that any savings achieved through efficiency measures in DOCS would complement additional funding. In view of the level of need, the Committee considers that as a general principle, any saving from efficiencies in DOCS disability services should be redirected to ADD to expand disability service provision.

### **Recommendation 1**

That any savings achieved in the Department of Community Services disability services program through increased efficiencies should, as a general principle, be redirected to the Ageing and Disability Department for re-investment in disability service delivery. Savings achieved through efficiency measures should not be returned to Consolidated Revenue.

### **1.4.2 Does DOCS intend to submit an EOI for each of the 41 identified services?**

At the time of the announcement it was not indicated that DOCS would be able to participate in the EOI process. This was clarified by the Minister shortly after the decision was announced by stating, that 'it is expected that the Department of Community Services would be a bidder in the process (Hon Faye Lo Po' MP, Minister for Community Services, Ageing, Disability Services and Women. Press Release. 30 June 1999).

In the course of this Inquiry, however, a number of people expressed concern that whilst DOCS would be permitted to submit EOIs, there was no actual intention to do so. Concerns were also expressed about the possibility that DOCS would selectively tender for service provision, with the result that it would be a foregone conclusion that other services would transfer to the non-government sector.

In evidence before the Committee, the Department of Community Services has now confirmed that it intends to submit an EOI for each identified service (O'Reilly. Evidence. 17 November 1999).

The Committee considers it important that DOCS participate in the process by submitting an EOI for each service currently operated by DOCS, and that staff be involved in the preparation of each EOI. The participation of the Department allows for realistic choice on the part of clients, guardians and advocates in relation to their preferred service provider. This is particularly important where, after consideration of the available options, clients decide that they wish to stay with the present provider. Conversely, failure of DOCS to participate in relation to particular services will mean that effectively, a decision will have been made to transfer the services to non-government organisations. Whilst clients of such services may have input into which non-government provider they transfer to, they would not have any choice about the decision to transfer to the non-government sector.

#### **Recommendation 2**

That, in order to ensure that clients have a genuine choice of service provider, the Department of Community Services be required to submit an expression of interest for the existing service in each case.

Given that DOCS will participate in the EOI process, the Committee is not able to comment on the possible number of these services that will ultimately transfer to the non-government sector. This will depend on a range of factors, including the specific way that the EOI and resultant selection process will be conducted and the range of other organisations that participate. Chapter 4 deals with EOI processes in more detail.

### ***1.4.3 Will the EOI process result in group homes being split up?***

A significant concern for guardians, advocates and residents who were involved in Committee consultations was the possibility that individual group homes would be split up as a result of the EOI process. The Committee understands that this concern has arisen in part because of the lack of clarity of information given to people about the decision. In particular, there was no clear indication at the outset about whether an EOI would be sought in respect of each individual client of the identified services or for each service as a whole.

The available information indicated that EOIs would be sought for services with clients who had low support needs. As discussed in Chapter 2, a number of identified group homes appear to have a mix of residents with low, medium or high support needs. This has led to a concern that non-government providers might submit EOIs only for clients from the identified services with low support needs. The possibility was raised by a number of witnesses that these clients would be moved out of their existing household, leaving their companions with higher support needs within DOCS.

In a written response to a question about the impact of the decision on existing households, the Minister advised the Committee that:

Residents who currently live together and who wish to continue to do so will be able to do so. It is essential that consultation of this aspect of the project is carefully considered and that all residents have appropriate independent advocacy. In some cases, families representing residents in a particular house have indicated that all residents are happy with the status quo yet Community Visitors have indicated that living arrangements may not be suited to residents needs.

Negotiations will be about the individual needs of residents both as a group and as a member of a group. In a house of five, it may be that three residents wish to remain as a group but that two residents are able to achieve increased levels of independence by a different living arrangement e.g. two independent flats close by a flat for three (Question on Notice. 22 November 1999).

The Committee welcomes this commitment to ensure that groups of residents who wish to remain living together are able to do so. In giving substance to the commitment, the Committee considers that the EOI process should apply to households as a whole except where individuals express a desire through appropriate consultation processes to change their living arrangements. Where residents of a service choose to move to the non-government sector, contractual arrangements with service providers should ensure that people are able to remain within their existing residential grouping as long as they choose to do so.



### **Recommendation 3**

That the expression of interest process should apply to complete households unless consultation processes clearly indicate that residents of a house do not wish to remain together. In such cases, those who wish to remain together should be able to do so. Where residents of a service choose to move to the non-government sector, contractual arrangements with service providers should ensure that people are able to remain within their existing residential grouping as long as they choose to do so.

In Chapter 2, the Committee considers what should happen where a house has a mix of residents including people with low and high support needs. Issues relating to the need for continuity of living arrangements are dealt with more thoroughly in Chapter 7.

#### ***1.4.4 Will there be private-for-profit service provision?***

Submissions and evidence from the peak advocacy groups, such as the NSW Council for Intellectual Disability (CID) and People With Disabilities (PWD), raised concerns about the possibility that the Government's decision will result in the transfer of some existing DOCS clients to services operated by private-for-profit organisations. In particular, fears were raised about the possibility that some residents will be moved into boarding-house style accommodation. These concerns are based on a perceived refusal by the Government to rule out the possibility that private-for-profit organisations have a role in service provision for people with disability and uncertainty about the capacity of the not-for-profit sector to absorb a large number of new residents.

However, public statements by the Minister and departmental officers have made it clear that this proposal will not result in transfer of DOCS clients to private-for-profit providers. During Budget Estimates, the Minister was adamant that she was philosophically opposed to involvement of profit-making enterprises in delivery of services for people with disability:

No one is making profit out of people with disabilities while I am Minister (Hon Faye Lo Po' MP. Evidence. General Purpose Standing Committee No. 2. 8 September 1999).

The restriction on the involvement of private-for-profit providers was reiterated a number of times by the Acting Director General of ADD in evidence before this Inquiry. In particular, the Acting Director General specifically denied suggestions that there would be a transfer of residents to boarding-house style accommodation (Hammerton. Evidence. 17 November 1999).

Given the clarity of these assurances, the Committee accepts that there is no intention as part of this process to involve private-for-profit providers in the provision of residential and support services for existing clients of DOCS residential services.

#### ***1.4.5 Will there be any transfer of assets?***

Another concern raised before the Committee has been that DOCS assets, particularly the actual houses, would be transferred to the non-government sector.

The Minister has advised the Committee that assets will not be transferred to the non-government sector (Hon Faye Lo Po' MP, Minister for Ageing, Community Services, Disability Services and Women. Answer to Questions on Notice. 22 November 1999).

#### ***1.4.6 Will residents have to pay a higher proportion of their Disability Support Pension?***

Some submissions raised the question of whether residents will have to pay a higher proportion of their disability support pension if they transfer to non-government providers. The Committee has not taken significant evidence on this issue, but is aware that it is very important for residents. Members understand that DOCS currently charges residents a maximum of 75% of their disability support pension for accommodation related charges whilst non-government providers are able to charge up to 85%. In their submission, Rights Forum, a representative body of people with disability, wrote:

In our experience, some non-government group homes charge consumers a lot more money than DOCS homes.

We are worried that a change to non-government group homes might make things hard for consumers because they cost more (Submission 165).

The government has indicated however, that people who chose to move to the non-government sector as part of this process will not be charged more than 75% of their disability support pension (Hammerton. Evidence. 17 November 1999).

### **1.5 The decision as at 30 November 1999**

Since the announcement of the decision on 22 June 1999, further detail about the process has become clear. The Committee considers that the substance of the decision now is as follows:

- The Government, through the Ageing and Disability Department has made an in principle decision to explore the possibility of transferring some clients of DOCS group homes to the non-government sector.
- The foremost consideration in implementing this in principle decision will be ensuring that the process ensures the best possible outcome for clients of those services.
- Implementation of the decision at this stage is limited to service with clients who have low support needs.

- 41 services have been identified for inclusion in the initial round of EOIs.
- DOCS will submit an EOI for each of the 41 services.
- No further action to seek EOIs for additional services will be taken until the EOI process for the 41 services has been finalised.
- There are no targets for numbers of clients to transfer from the DOCS system to the non-government system, or savings which must be achieved.
- Any savings which do eventuate will be reinvested in disability services through the Ageing and Disability Department.
- Private-for-profit service providers will not be able to participate in current or future EOI processes for provision of services to people with disabilities.
- DOCS assets, including houses, will not be transferred to non-government organisations.
- Residents who transfer to non-government providers will have to pay no more than the current maximum of 75% of their Disability Support Pension to the provider for accommodation.
- Houses in which all residents have high support needs will be removed from the project. Further negotiation will take place in relation to houses where one or two residents have high support needs.

In many ways therefore, the initial proposal announced at the time of the Budget has subsequently been made very much clearer. The Committee notes that the more cautious approach now being expressed by the Government is more appropriate to the implementation of a decision of this kind. In carrying the proposal forward, the Committee considers it important to ensure that initial EOI processes for the 41 identified services will enable proper participation in decision-making by clients, their guardians and advocates. At the completion of the process for the initial 41 services, there must be thorough evaluation of the proposal. This evaluation should involve proper consultation with stakeholders. Further moves to seek EOIs for provision of services to existing DOCS clients should only proceed if the evaluation of the initial 41 services demonstrates that the objectives of the proposal are being met.

## Chapter 2 – The criteria for choosing services for tender

### 2.1 Introduction

As outlined in Chapter 1, the Committee understands that there has been no decision yet to tender out specific homes. The Committee also understands that there are no targets for numbers of services, or service clients, to be re-auspiced within a set time frame.

However, as stated in Chapter 1, the Government has identified 41 services that may provisionally be subjected to an expression of interest process. The Committee is aware that as a result of the EOI process, it is possible that some of those 41 services will be transferred to the non-government sector.

An analysis of these services by geographical region appears in Table 1. From this analysis, it is clear that the majority of identified services are located in the Hunter and Sydney regions.

This Chapter examines the way that the 41 services were identified, and the concerns that have been raised about this process.

**Table 1 – Regional breakdown of the 41 identified services**

Area	No of Services	No of Group Home Residents	No of Clients of Community Accommodation Support Teams
Northern Sydney	7	32	---
South Eastern Sydney	2*	5	5
Nepean	2*	5	9
Cumberland/Prospect	9*	35	10
South West Sydney	2	9	---
Hunter	13**	53	53
Central Coast	2*	4	14

Central West	1	2	---
Riverina Murray	1	4 (+ 1 respite)	---
Southern Highlands	1	5	---
Far North Coast	1*	---	6
<b>Total</b>	<b>41</b>	<b>155</b>	<b>97</b>

Source: Correspondence from Hon Faye Lo Po' MP, Minister for Community Services, Ageing, Disability Services and Women. 6 October 1999.

- \* Total includes one Community Accommodation Support Team.
- \*\* The Committee understands that 2 Community Accommodation Support Teams were initially identified in the Hunter Region, however, one of the teams, the Newcastle CAST services, actually comprises two separate services: Newcastle CAST and Mayfield CAST. This brings the total number of services to 42. For the sake of consistency with other publicly available information this Report will refer to 41 identified services rather than 42.

## 2.2 How the 41 identified services were chosen

In its submission to the Inquiry, the Government states:

The services under consideration were initially identified by DOCS using current staffing levels of support for residents. A list of fifty-one houses was provided to the Ageing and Disability Department (ADD). After further clarification with their local staff, DOCS provided more service information. Discussion between the two agencies then identified 41 services providing predominantly low support to residents. Both Departments understood that consultation with clients and their parents, advocates and guardians, along with independent support needs assessments would be central to the process of finalising support levels (Submission 1).

The services were initially selected in the belief that the level of staffing in each service would correlate with the support needs of clients.

Whilst the Budget papers initially indicated that 19 group homes would be transferred to the non-government sector, a list of 41 services that would be involved in the expression of interest process was circulated to interested parties in July 1999. The Committee understands that provision of this information led to some confusion as to how many services would be transferred to non-government providers. It may also have led to the impression that within a short time after the initial announcement, ADD had significantly increased the number of services that would be transferred.

In evidence, the Director General of DOCS, Ms Carmel Niland, explained why more than 19 services were chosen:

The Budget papers, which we received in June 1999 indicated that 19 DOCS-run group homes were to have an expression of interest process applied. To implement the decision by the

Government, we in DOCS met with the Ageing and Disability Department to determine which group homes would be affected by this Cabinet decision.

It was jointly agreed that in the first instance all homes that were thought to be of low support service needs would be identified. Then, after an assessment of the individual clients, the expression of interest process would be applied (Niland. Evidence. 17 November 1999).

Internal working documents provided to the Committee indicate that the 41 services were identified by a four stage process, as follows:

1. An indicative list based on staff support hours was forwarded to ADD.
2. DOCS area managers then reviewed the list to ensure that support hours reported in the list were accurate. This resulted in an initial list of 30 houses.
3. DOCS then identified a further list of ‘low support’ accommodation models which were referred to ADD.
4. On the basis of the information supplied by DOCS, ADD determined the houses and accommodation support services to be included in the EOI process (Department of Community Services. Document 23).

### ***2.2.1 Were specific services targeted?***

Some concerns have been raised that particular services may have been ‘targeted’ for inclusion in the list. The Committee has not been able to obtain any evidence to suggest this to be the case. Data collected by the Community Visitors (see below) indicated that there are some anomalies between the types of issues raised by clients of the identified services during visits and those raised more generally by people with disabilities in care (Submission 10). However, whilst noting that ‘specific and unusual factors’ may have contributed to the decision to select services, evidence did not support these allegations.

The Committee’s analysis of documents relating to the decision provided by the Government indicates that specific services were selected for inclusion in the initial round of expressions of interest for reasons of low staff support hours.

## **2.3 Concern about the identified services and level of residents’ needs**

Most submissions expressed concerns about the way that the 41 services were identified. These concerns were re-iterated by most witnesses who appeared before the Committee as well as relatives and guardians of people from the identified services who attended Committee consultations. The Committee acknowledges that the selection process is incomplete, and the level of concern may be a consequence of people failing to appreciate that their service will not necessarily transfer to the non-government sector.

### **2.3.1 Inclusion of residents with medium and high support needs**

Serious concern was raised in evidence before the Committee that clients from many of the identified services had medium or high support needs. The evidence presented to the Committee at the Newcastle and Sydney forums with parents, residents and advocates suggested that there were a number of identified services that had residents with medium to high support needs (Evidence. 22 October 1999; Evidence. 8 November 1999). This appears to be inconsistent with the statement that only group homes with low support needs would be included in the initial round of EOIs. While the Committee appreciates that departmental assessment of client support needs has not yet taken place, it notes evidence from a range of sources which indicates that the initial selection may have included a significant number of services that have clients with moderate and high support needs.

The Committee understands that a resident's level of need is not fixed and may change dependent on circumstances. Many parents and advocates told the Committee that apparently low support needs were a result of a range of factors, including the compatibility of residents within a long established group home. At the Sydney forum with relatives and guardians organised by the Committee, the following observation was made by a relative and reported by Dr Chesterfield-Evans at the plenary session:

My group home has lasted 15 years together to function as a unit. Now they want to divide them up. They are interdependent, they help to remind each other with their medication, catching trains, et cetera. None of this is ever talked about at the meetings. They function highly as a unit, even if they function lowly individually (Reported by Hon Dr Arthur Chesterfield-Evans. Sydney Forum. 8 November 1999).

This issue is discussed further in Chapter 4.

### **2.3.2 Evidence from Community Visitors**

Community Visitors are independent monitors of a range of community services in New South Wales. These include full time accommodation services for people with disability operated by DOCS or funded by ADD. Community Visitors are appointed by the Minister and co-ordinated by the Community Services Commission. Community Visitors are not able to visit all accommodation and support services for people with disability, however, the Committee has been advised by Community Visitors that they are engaged to visit 34 group homes of the 41 identified services; they do not visit people supported by Community Accommodation Support Teams.

Following the announcement of the decision, the Community Services Commission requested that Community Visitors visit the affected group homes as soon as possible. Visitors were requested to provide the Commission with verbal information about the needs of residents in the affected group homes and to complete a report about issues for residents of the services.

In a submission to the Inquiry, the Community Visitors commented on the support needs of residents of identified services, based on an analysis of 27 responses:

Of the information collected so far, only 8 services have been identified by Community Visitors as providing accommodation for people with low support needs. A further 11 houses have a mix of people, some with low and other with medium to high support needs. 8 of the house have no residents with low support needs (Submission 10).

The Committee acknowledges that this is preliminary data, and reflects no more than an initial analysis of the support needs of residents. However, the Committee notes that Community Visitors are independent and selected by the Minister on the basis of demonstrated expertise in consulting with people with disability. The Committee therefore considers that the submission and evidence of the Community Visitors raise significant issues about the assumption that the 41 services provide services predominantly to people with low support needs.

### ***2.3.3 Information provided by the Public Service Association of NSW (PSA)***

In its submission, the PSA states that the ‘majority of group homes targeted in the first round of expressions of interest have been inappropriately assessed as having low support needs clients’ (Submission 17). This view is based on the PSA’s analysis of survey data collected by the PSA in December 1998. The survey, which was conducted prior to the Budget announcement, involved collection of data by staff on a range of factors including resident support needs. Staff from many, but not all, of the 41 identified services returned completed survey forms to the union.

The raw data from the survey (completed survey forms) and an analysis of the information have been provided to the Committee. The analysis indicates that many of the identified services may have clients with medium to high support needs resulting from factors such as challenging behaviour, dual diagnosis, high medical needs, or a high level of disability. The Committee recognises there are possible limitations to this evidence, which was not intended to be a rigorous assessment of client support needs, but it considers that it raises valid questions about how many clients of identified services have low support needs.

### ***2.3.4 Concerns expressed by staff***

The Committee appreciates that staff of the identified services have special concerns about the identification process. Understandably, staff would be concerned about their job security. During site visits in the Hunter region, staff expressed concern that there were a limited number of vacancies in DOCS compared to the potentially high number of staff who could lose their position. In relation to staff in general, the President of the Public Service Association of New South Wales noted that this initiative was announced in a context of declining public employment in New South Wales (O’Sullivan. Evidence. 1 November 1999).

Staff of houses visited by Community Visitors expressed their surprise that their particular service had been identified. Staff of houses visited by Committee Members expressed similar views. In many cases, staff felt that their service had been mis-identified because, in their view, service clients had high support needs. This concern was particularly evident in the Hunter region, where staff suggested to the Committee that the high number of identified services in



that region reflected under-funding of the region as a whole rather than lower support needs of residents.

In some cases, the Committee was informed that apparently low staff hours in particular group homes were a consequence of informal 'cost-shifting' arrangements whereby excess staff hours from some group homes were shifted to other houses to ensure adequate support to residents.

There was also the view that by selecting 'cost-effective' services the process penalised innovation and flexibility on the part of staff who have worked effectively to reduce budgets. According to the Community Visitors, these views were particularly prevalent in the Hunter region:

One [Community Visitor] in particular in the Hunter area said that some of the staff in a couple of the services she has gone to said they had done quite a lot of work to be fairly innovative with the Budget that they had. They had tried to change the way staff were rostered on. They developed independent skills in the residents who live there to minimise the amount of face-to-face contact they needed and they felt now they had been selected that their jobs were now about to go, that somehow they had been penalised for working hard to come under budget (Pickering. Evidence. 1 November 1999).

## **2.4 Community Accommodation Support Teams**

Six Community Accommodation Support Teams are included in the 41 identified services. Unlike group homes, these services provide tailored assistance to enable people with disability to live independently in their own homes. This model of service delivery is suitable for people who have low support needs and have developed semi-independent living skills. The Committee has been told that this model of support is highly regarded both for its flexibility and its cost effectiveness. The development of Community Accommodation Support Teams within DOCS was given as an example of moves within the Department to abandon the rigidity of its current structure. This was acknowledged in evidence before the Committee by the Deputy Director General of DOCS, Mr Brendan O'Reilly:

I would hate this Committee to feel that nothing happens in DOCS. You know, we have some innovative stuff. They have done some particularly great things. There are a number of models, particularly in the Hunter area with the community accommodation support team, where the staff themselves have worked through the issues and set up a range of accommodation models that are not necessarily a group home, so the staff themselves at the coalface can see the need and push it through (O'Reilly. Evidence. 22 October 1999).

The Committee met with staff and clients of the Community Accommodation Support Teams from the Hunter area (Hunter CAST). The Committee also took evidence from guardians and advocates of people who receive support from a similar service on the far north coast, the Ballina Accommodation Support Service (BASS), and invited relatives and guardians from affected services to consultation sessions. Clients and relatives expressed a high level of satisfaction with the services provided by the DOCS accommodation support teams (McCabe. Evidence. 4 November 1999). In particular, there was a considerable level of appreciation for the amount of unpaid after hours work carried out by staff of these services.

Clients of the Hunter CAST service informed the Committee that they were very apprehensive about the possibility of change, and would prefer to remain with the current provider. The Chairperson of the CAST Client Committee wrote to the Committee about his concerns:

The Government should have listened to what we have to say we have rights like everyone else. They should have asked us because it is our lives they are playing with. One of the clients said she will not let new staff into her house because she likes her old staff. My wife ..... has already had lots of changes and she does not want any more changes. It will make her very upset and confused (Submission 47).

Correspondence between ADD and DOCS dated 30 June 1999 indicates that the Hunter CAST services were initially to be excluded from the EOI process (Letter. Ms Marianne Hammerton to Ms Carmel Niland. 30 June 1999). However, the Committee was advised that a decision was subsequently made to include these services in the process (O'Reilly. Evidence. 17 November 1999).

It is not clear to the Committee why DOCS Community Accommodation Support Teams should be included in the EOI process. The Government has advised the Committee that these services were included because it was considered important to include all clients with low support needs in the process (Questions on Notice. 22 November 1999). However, the policy decision announced by the Government during the Budget referred to the transfer of residents of group homes rather than a possible withdrawal from provision of accommodation support services by DOCS. Similarly, most of the information provided following the decision refers specifically to group homes. Inclusion of these services appears to be outside the terms of what was initially decided by the Government.

Given the high quality and cost effectiveness of services offered by the Community Accommodation Support Teams, the Committee is unsure whether including these services in an EOI process will bring any real benefits to clients. Retention of the services within DOCS may also ensure that the Department will retain the skills base necessary to ensure that innovative proposals for service delivery continue to be implemented. The Committee is also aware of the negative consequences and disruption to clients that transfer of service providers may bring and the strong desire expressed by clients to remain within DOCS.

The Committee therefore feels that there are strong grounds to reconsider whether these services should be included in the EOI process. If it is decided that EOIs should be sought for these services, then the EOI process should be structured in such a way as to ensure that clients of these services are able to exercise genuine choice of service providers. This choice should include the option of remaining with DOCS.

**Recommendation 4**

That the Ageing and Disability Department review the decision to seek expressions of interest for Community Accommodation Support Teams operated by the Department of Community Services.

**Recommendation 5**

That if, after reconsideration, it is decided to seek expressions of interest for Community Accommodation Support Teams, the expression of interest process should ensure that clients of the services are able to exercise genuine choice of service provider. This choice should include the clear option of remaining with the Department of Community Services.

**2.5 Committee's view regarding selection of the 41 services**

Given the information available to date, the Committee is concerned that a number, possibly a substantial proportion, of the 41 identified services have residents with medium or high support needs. The Committee acknowledges that the selection process is at this stage incomplete. Assuming an adequate assessment process is undertaken, the Committee would expect that these services will be identified before they are opened for EOI. Given that the policy decision of the Government has been to explore the possibility for transfer of services whose residents have low support needs to the non-government sector, the Committee feels it would serve no purpose to seek expressions of interest for services with residents with high support needs.

The Government has provided information to the Committee in response to a question about what would happen in cases where assessments that take place as part of the EOI process indicate that a particular group home has residents with different levels of need:

The independent assessment process will identify the support level of residents. If all residents have a high level of support need the home will be removed from the project. If one or two people in the house have high or moderate support needs, the process of negotiation will determine the status of the house. Residents will only re-locate if this is agreed to be the best-negotiated option for all concerned.

The project aims to minimise any disruption to existing living arrangements. However, it is also a good opportunity to identify whether current living arrangements are those which best suit the needs of clients. If these living arrangements do alter with the agreement of residents, in order to meet changing needs and increased independence – an object of the DSA – transitional support will be provided (Question on Notice. 22 November 1999).

The Committee welcomes the Government's commitment to remove a house from the EOI process where residents have high support needs. The Committee also welcomes the Government's promise to negotiate with residents in a home where one or two residents have moderate or high support needs. The Committee strongly believes that the negotiation process should be done with genuine input from residents, parents and advocates, and that the negotiation process should be independently facilitated. The Committee urges the Government to consider the recommendations on consultation with residents made by Ms Michelle O'Dea in her Report, 'Consultation with Residents and Clients of Identified Services', in Appendix 4 (see also the Committee's recommendations on consultation with residents located in Chapter 5).

### **Recommendation 6**

That, in the case of homes which include one or two residents with moderate or high support needs, the Ageing and Disability Department ensure that negotiations involved in the expression of interest process are independently facilitated and conducted with genuine input from residents, parents and advocates.

The Committee also heard that DOCS has a higher proportion of clients with medium and high support needs than the non-government sector. It is possible therefore that there will be limits to the number of clients who transfer to the non-government sector as a result of the current policy decision. This would not necessarily preclude the transition from DOCS to the non-government sector, over the longer term, of clients who have low support needs. However, such transition does raise issues about the implications for DOCS of a change in focus to clients who have higher support needs. These issues are discussed further in Chapter 9.

Given the limitations of the methodology used to identify services for inclusion in the initial round of expressions of interest, the Committee considers the staffing hours criteria to be inappropriate by themselves for identifying services with low support needs. The approach taken does not distinguish between services that provide for clients with mixed support needs and those that provide solely for clients with low support needs. There is also the potential to include services which are inadequately funded or that are managed with a high degree of flexibility and innovation. The Committee notes that a resident's level of need may change depending on a number of factors including stability and familiarity with staff. This issue is discussed in greater detail in Chapter 7.

## Chapter 3 – Service planning and development

This Chapter examines the service planning and development that preceded the decision to seek expressions of interest for the management of some DOCS group homes. In accordance with the terms of reference, the Chapter considers:

- arrangements for the provision of case work, clinical and allied health services for people with disability in the non-government sector;
- arrangements for the training and accreditation of staff working in non-government accommodation services;
- arrangements for non-government infrastructure support and development generally.

The Committee notes that these issues apply to the disability sector as a whole and are therefore important aspects of Part 2 of this Inquiry. Concerns about transfer to the non-government sector that have been expressed in relation to the current EOI process appear to relate more generally to the level of support available to the non-government sector as a whole.

These concerns require more detailed consideration and consultation than the Committee is able to undertake within the time-frame available for the first part of this Inquiry. The consideration in this Chapter is therefore restricted to how these matters will be dealt with in relation to people who choose to transfer to the non-government sector as a result of the current group homes initiative. The second part of the Inquiry will deal with these issues in greater depth.

### 3.1 Arrangements for provision of case-work, clinical and allied health services

Submissions to the Committee have indicated that residents of DOCS group homes are able to access a range of “allied services” within the Department, or through arrangements with the Department of Health, to assist them with daily living. By comparison, the Committee heard that non-government agencies in some instances do not provide these services, or are required to pay for them out of limited funds. The Committee was advised that access to these services can be a particular problem for smaller services that do not have sufficient infrastructure to employ specialist practitioners to assist people with disability.

In relation to the decision to seek EOIs for current DOCS services, particular concerns have been raised that clients will lose access to services which they currently require. For example, People With Disability state in their submission:

Many people with disability affected by this policy have complex medical needs requiring intensive casework and clinical service support (eg psychology). Some also have routine needs for health

services. In the absence of these services some people would not survive. At the least they would live a greatly diminished quality of life, and face significant risks to their safety and well-being.

The Department of Community Services is itself significantly under resourced in these areas ... However, it is nevertheless far better resourced than the non-government sector. Many non-government agencies don't have access to these services at all, others may have a social worker capable of providing casework support, but no psychologist etc (Submission 7).

Similar concerns were expressed by other organisations as well as by parents who were worried that their son or daughter would lose access to these services as part of the transfer.

The Committee considers that these concerns need to be addressed as part of the transfer process for people who decide to move to non-government providers. Whilst it would be expected that the focus of the current group homes initiative on people with disability who have low support needs would mean that people with complex medical needs will not shift to the non-government sector, it is important to ensure that access to existing levels of service is maintained for all those that do choose to transfer.

### ***3.1.1 The Government position***

The Government submission to the Inquiry notes that through the EOI process 'the provision of case management and specialist support services will be negotiated with service providers' (Submission 1). The Committee understands that the Disability Services Program provides non-government organisations with a block grant for most services for people with disability via a Funding Agreement. In response to a question on notice, Ms Hammerton said the block grants allow service providers to respond in a flexible manner to changing support needs of individuals. The Funding Agreement requires the NGO to have in place mechanisms to assess and respond to the changing needs of service users. Ms Hammerton explained that these changing needs are identified through the appropriate mechanism of Individual Service Plans.

The Committee has been assured that the EOI process for the current group homes initiative will take account of all aspects of support services that the non-government provider will need to ensure that the needs of clients are met.

### ***3.1.2 Existing models***

Evidence given to the Committee indicates that not all non-government providers have difficulty accessing associated support services. The Committee was particularly impressed by the arrangement entered into by the Australian Jewish Welfare Society, which operates a small non-government provider in Eastern Sydney. The Manager of Disability Services, Ms Freda Hilson, informed the Committee that over a period of time, her organisation had managed to negotiate access to ancillary services provided by DOCS:

... we have access to a case worker from the Department of Community Services whose role, we have now clarified, is one mainly to support families and because we work very collaboratively that works very well.

Jewish Community Services does, in fact, employ case workers but our resources are so limited and sometimes the issues are so complex that having access to a case worker in the department and

other services, psychology services, occupational therapy services, are available and that, because we have now worked out a way of working together, that is a very positive relationship and a very positive benefit to our organisation.

We have also used funds, and that has been approved by the Department of Community Services, to use other consultants, experts in the area of autism, for example, where necessary and they have provided us with the funds to enable us to access that expertise (Hilson. Evidence. 1 November 1999).

### **3.1.3 The Committee's view**

The Committee recognises that the long-term success of any transfer of provider as part of the current initiative is likely to depend on people continuing to have access to the same level of ancillary support that they received within the DOCS system. Similarly, there is a need for people to be able to access higher levels of support in the future as support needs increase with age. In many cases, it may be beneficial for people to continue to receive this support from within DOCS.

The Committee therefore recommends that people who decide to transfer to a non-government service provider should receive a guarantee that they will have the same level of access to allied support services that they currently receive in DOCS. Funding arrangements should ensure that the non-government provider will be fully resourced to provide this level of service. There should also be provision for additional funding for allied services when support needs increase.

There is also a need for further collaborative arrangements between DOCS and non-government providers to enable access to existing services within DOCS. This should be reflected in the relationship agreement between ADD and DOCS and, where appropriate, in funding agreements between ADD and the non-government provider. The potential for clients to retain access to existing services should also be fully explored as part of the EOI process. The potential for non-government providers - particularly smaller providers - to access allied services within DOCS will clearly play an important role in guaranteeing that clients who transfer to non-government providers retain existing levels of service.

#### **Recommendation 7**

That people who decide to transfer to a non-government service provider be given a guarantee that they will receive the same level of access to case-work, clinical and allied health services that they currently receive within the Department of Community Services. Funding agreements should ensure that non-government service providers are fully resourced to provide these services. The funding agreement should contain sufficient flexibility to provide additional funding for increased access to these services in cases where a person requires increased support.

**Recommendation 8**

That the expression of interest process be structured in a way that enables non-government providers to negotiate with the Department of Community Services to ensure clients have continuing access to case-work, clinical and allied health services currently provided by the Department.

**3.2 Arrangements for the training and accreditation of staff**

Evidence given to the Committee indicates that there is a broad problem affecting staff training and accreditation in both the Government and non-government sectors. The submission from the industry association for disability service providers, ACROD, states that the non-government sector has constantly requested funding to provide training for staff, and 'has been refused on the grounds that this is their own responsibility' (Submission 23). The Disability Safeguards Coalition told the Committee that it is left to non-government organisations to provide staff training from their own resources (Submission 35).

The Committee understands that in 1996 the Community Services Commission conducted an inquiry into staffing issues in the disability sector. The Report, 'Who Cares? Protecting people in residential care', revealed major problems in the disability workforce including high staff turnover and poor levels of training (Submission 34). The submission of the Community Services Commission explained that the findings, including a reliance on casual and temporary staff and poor supervision, applied to both the government and the non-government sector. However, the Commission argues, DOCS staff have access to certain resources and training facilities which are not available to NGO staff. The Commission also stresses that the Report found that there is a high level of skill and professionalism in both sectors (Submission 10).

The submission from the Commission notes that ADD has identified a number of important issues in relation to staff training across the sector. For example, ADD has developed a human resources kit to assist service providers to determine skill needs and access to training. However, the Commission remains concerned that the service providers still have considerable discretion in determining if and what training will be provided to staff. The Commission suggests one way to ensure that staff are provided with the necessary training is to ensure that monitoring systems account for staff training issues.

The Committee is aware of the recent changes in national training agenda, and that the Australian Recognition Framework (ARF) and the Australian Qualifications Framework (AQF) now provide a framework to enable disability staff to gain nationally recognised competency based skills. The Committee commends the work of NCOSS, ACROD, ADD and the NSW Health and Community Services Industry Training Advisory Board in consulting and informing non-government organisations on staff training issues. In correspondence to the Committee,



ACROD said that a major concern was that there should be flexibility in the pathways to obtaining qualifications. This would include on-site training, flexible delivery and recognition of prior learning.

The Government submission explains that arrangements for staff development will form part of the selection criteria of the EOI process. Provision for staff recruitment as well as other issues such as induction will be included as costs within the EOI applications provided to government by non-government services. Ms Hammerton explained in evidence that:

One of the factors that the non-government providers have to demonstrate in their EOI submission is that they have training development systems in place (Evidence, 22 October 1999).

Ms Hammerton also explained that the Department monitored the training of staff through its monitoring process. While the Committee is encouraged by the inclusion of funding for training in the EOI process, there is still concern about the provision of specific, on-going and 'in-house' training to staff working in the non-government sector.

The Committee believes that the training of staff is essential in the provision of quality services for people with disability. The Committee recognises that there is a need for government to ensure adequate resources are provided to allow government and non-government services to provide staff training. The Committee believes that there should be some flexibility in the provision of training, but that adequate monitoring of training provision must occur.

The Committee understands that training and accreditation is an endemic problem within the disability services sector and these issues will be considered in greater detail during Part 2 of this Inquiry.

### **Recommendation 9**

That the Ageing and Disability Department ensure that funding for training and accreditation is an integral component of the Expression of Interest process for the current group homes initiative.

#### ***3.2.1 Effect of disparity in rates of pay on staff skill levels***

Another concern is the effect of the disparity in rates of pay on staff skill levels. In evidence to the Inquiry, concern was expressed about the variation in rates of pay between DOCS and the non-government sector. In evidence to the Committee, Ms Hammerton acknowledged that the award under which DOCS workers are paid was more generous than the award under which the non-government sector is paid. Ms Hammerton explained that the Social and Community Services (NSW) Award is currently up for renegotiation and the Government will consider the issue of whether to fully fund any increase when a final figure is determined.

The Committee considers that ensuring workers in the non-government sector are adequately paid is essential in making sure trained staff with necessary skills are attracted to, and remain in, the sector to provide quality care. This depends on providing NGOs with adequate resources to meet future wage increases. The Committee therefore recommends that future wage rises in the non-government sector should be fully supplemented.

### **Recommendation 10**

That specific guidelines be established setting out the required levels of skill for staff in non-government organisations, skill development and accreditation programmes, and the level of funding to be provided by the Government to support staff development and accreditation.

### **Recommendation 11**

That the Ageing and Disability Department fully supplement award increases for non-government sector employees to ensure that workers are adequately paid, and that trained staff with necessary skills are attracted to, and remain in, the sector to provide quality care.

## **3.3 Arrangements for non-government infrastructure support and development**

The major issue raised regarding arrangements for infrastructure support and development in the non-government sector was about the provision of adequate resources. The Committee understands infrastructure costs include costs for changes to premises, equipment and service administration. These costs are additional to those incurred in the direct provision of service to people with disability. The Committee heard that there is a general lack of infrastructure and development support to the disability sector.

The Government submission explains that ADD works with individual organisations to strengthen management capability and ensure appropriate infrastructure systems are in place. The Committee understands that ADD monitors NGOs and that time-framed action plans that cover all aspects of NGO infrastructure are developed when there is a need for quality improvements (Submission 1).

In evidence to the Committee, Ms Hammerton said:

Historically non-government providers are in service provision because they care about what they do and they have traditionally ... been able to garner a range of resources ... it is not unusual for providers to subsidise in some way, and it might only be an overhead component or whatever, or

spread cost across a number of services being provided by the organisation (Evidence. 22 October 1999).

ACROD told the Committee that there is an inequity in funding arrangements for government and non-government providers. According to ACROD, the DOCS services have a substantial infrastructure to rely on and do not pay the administration and other costs incurred by the non-government sector. In correspondence to the Committee, ACROD explain that the increasing costs likely to affect the sector include:

- Increases arising from revisions to the Social and Community Services (NSW) Award (see above discussion);
- Impact of tax reform;
- Cost of administration in addition to “direct service” costs (Correspondence. 26 November 1999).

ACROD argues that the Government should ensure that increased funding is provided to meet these cost increases (Submission 23).

In other submissions presented to the Inquiry, it is suggested that infrastructure costs are a major problem for smaller non-government organisations. People With Disabilities argue that the current approach to funding new supported accommodation packages does not adequately provide for infrastructure costs and this disadvantages many of the smaller organisations who do not have the ‘economy of scale’ to generate the necessary funds (Submission 7). The Jewish Community Services argue that many smaller organisations do not want to expand and risk losing the personalised and responsive service they provide.

This results in large non-government organisations which have adequate administrative infrastructure tendering for services and expanding and becoming larger, more ‘bureaucratic’ and less flexible and innovative (Submission 21).

The Committee believes that the evaluation of costings undertaken during the EOI process is the appropriate place to ensure that the non-government sector has adequate infrastructure and development funding. The Committee is concerned that non-government services are provided with sufficient infrastructure support to allow them to provide their clients with quality care. Committee Members are aware that this is especially important for the smaller organisations who want to expand but are not as able to cover large infrastructure costs.

As with staff training issues, the Committee is aware that the infrastructure support for the disability sector is a major issue of concern for the community organisations as well as industry bodies. The Committee will consider the infrastructure and development issues in greater depth in Part 2 of the Inquiry.

**Recommendation 12**

That the Ageing and Disability Department ensure that the expression of interest process undertaken for the current proposal evaluates the infrastructure of non-government organisations and that the evaluation takes into account the specific infrastructure needs of organisations that submit expressions of interest.

**Recommendation 13**

That the Ageing and Disability Department investigate the infrastructure of small organisations, with an aim to develop funding strategies to meet future infrastructure needs to enable small organisations to support additional clients.

## **Chapter 4 – Processes involved: Expression of Interest (EOI), Assessment and Evaluation**

This Chapter looks at the processes involved in tendering out group homes, including the expression of interest (EOI) process, the assessment process and subsequent evaluation. The Committee understands that the central component of the tendering out process is the use of an EOI process to determine the organisation that will provide services to residents of group homes. These processes are still being developed through consultation and negotiation with relevant groups and individuals.

The Committee believes that as a part of the EOI process, a thorough assessment of resident needs must be undertaken. The Committee heard evidence that the proposed assessment process is not necessarily an adequate process. This Chapter will canvass these views.

In addition, the Committee considers that, should any people from the 41 services decide to transfer to the non-government sector, a rigorous evaluation of the success of the transfer, in terms of outcomes for individuals, should be carried out. Systems must also be established to enable effective ongoing monitoring of quality of service for these individuals.

### **4.1 Outline of EOI processes**

The Committee understands that the EOI process is a competitive selection process used by the Government to determine the provision of services for an identified group or individual. In essence, the Committee understands that the process involves the following steps:

1. submission of expressions of interest from potential service providers;
2. an assessment of the providers and the quality of care they are able to provide;
3. independent assessment of the support needs of the residents involved in the process;
4. matching of residents with potential service providers;
5. selection of the most suitable service provider.

The current EOI process being developed by ADD for the group homes initiative 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 (HACC) programs, the Boarding House Reform Project and the Disability Services Program. Committee Members understand that this process is considered by the Department to be the optimum way of allocating disability service funding.

## **4.2 Expression of Interest Working Party**

The Committee is aware that an EOI Working Party has been established by ADD to facilitate input into development of EOI processes generally. The Working Party was established as a result of the representations made by peak organisations concerned with the application of past EOI processes. The membership of the Working Party includes representatives from NCOSS, ACROD, the Office of Community Housing and a parent, as well as 3 representatives from ADD. To date, the Working Party has produced an Interim Report with recommendations about the EOI process.

The terms of reference of the group are:

1. To consider the principles, practice and evolution of the Department's EOI process, and the way in which reviews and feedback have contributed to continuous improvement;
2. To identify indicators of effectiveness of the EOI process against which future EOIs can be regularly monitored and evaluated;
3. Taking into account current feedback, to test the process through consideration of unique features of a number of imminent EOI projects;
4. To document the findings/recommendations of the Working Party and advise the Acting Director-General of these by 30 September 1999.

The Interim Report of the Working Party has found that there is a need to review the application of competitive selection in individual service placement and facilitate the role of individuals, their families and carers in long term service choices. The Interim Report recommendations focus on the design of processes and how to attain the best outcomes for service users. In particular, the recommendations suggest that emphasis should be on:

- fostering individual decision making about the services;
- the inclusion of people with disability, Aboriginal and Torres Strait Islanders and people of non-English Speaking Backgrounds on assessment panels;
- clear, consistent and accessible information on the process;
- realistic and consistent timelines for the process (Expression of Interest Working Party, Interim Report, undated).

The Committee notes that this is an Interim Report and that recommendations and information may change in the final report. However, as outlined below, the Committee supports these recommendations.

#### **4.2.1 Concerns about the representative nature of the Working Party**

In evidence to the Committee, the NCOSS representative on the Working Party, Ms Christine Regan, expressed some concern about the consultative nature of the Working Party. Ms Regan told Committee Members:

I need to absolutely, categorically say that the working party was not established to oversee the expression of interest process. In no way, shape or form did we have any responsibility to monitor, oversee, or in any way influence an expression of interest process that was attached to the tendering out of group homes (Evidence. 22 October 1999).

A number of submissions, including that of NCOSS, suggested that the Working Party was not representative of the disability sector and was not an effective vehicle for consultation. However, there was acknowledgment that the inclusion of a parent of a group home resident on the EOI Working Party was important and a vital part of the consultation process. There were some concerns raised, however, about the ability of a single person to adequately represent the views of all residents, advocates and parents (IDRS. Submission 22).

The Committee acknowledges concerns about the representative nature of the Working Party and considers that measures should be taken as a matter of urgency to address these concerns.

#### **4.3 Review of the EOI process**

The Committee understands that the EOI process is in constant review and improvements are made to the process based on previous experiences and feedback. One example of the feedback mechanism was the Review of the HACC EOI Process, an independent evaluation undertaken in 1998. The Committee understands that the Report made a number of recommendations that were taken up by ADD.

In evidence, Ms Hammerton explained that part of the EOI process is a review of how the process works for the individual and for the other parties involved. Ms Hammerton explained that the most recent EOI process was in relation to boarding house residents. The feedback from the surveys conducted as a part of the process ensured that it was person-centred. Ms Hammerton explained that listening and talking to the parties involved was a central part of the EOI process (Evidence. 22 October 1999).

In addition to the feedback provided by reports and surveys conducted by ADD, the Committee was told that ACROD also co-ordinates feedback on a range of EOI processes through public forums and other forms of consultation (ACROD evidence. 1 November 1999).

#### **4.4 The proposed EOI process for the group homes initiative**

The Government submission states that the processes to be used in this project on group homes are in line with the practice of Government since the establishment of ADD in 1995:

These involve the use of an EOI process to determine the grant of funding for services, with monitoring and evaluation of service provision ensuring quality, accountability and transparency within all organisations (Submission 1).

The Committee understands that the EOI process for the current group homes initiative is still being developed, with the assistance of the information provided by the EOI Working Party. As already noted, the establishment of the EOI Working Party is a major factor in the development of an EOI model for this project. The Committee believes that the process used for the group homes project will be similar to that used for the Boarding House Reform Project.

In the weeks following the announcement of the group homes initiative, ADD produced an information sheet titled, 'The Expression of Interest Process, How it will work'. The document explained the two phases of the process. The first phase will be to ask service providers, including DOCS, to provide information about the services that they deliver to people with disability. This will include information about:

- Background of the organisation;
- Level of expertise;
- Management systems such as staffing policies, financial processes;
- Outcomes achieved for people with disability;
- Level of satisfaction of service users, families, advocates and guardians.

This information will then be considered by a Selection Panel which will shortlist the applications according to specific criteria. The panel will also receive information on the assessment processes and seek to match selected providers to particular client groups. The Committee understands that this panel will include representatives from parents and advocacy groups as well as the relevant Government authorities such as the Housing Department and the Office of the Public Guardian.

The second stage of the process will involve negotiations between clients, families, advocates and guardians to develop a proposal for service delivery. ADD will facilitate these negotiations and then provide an assessment of the proposal to ensure that the costings are accurate and enable the provision of quality care. Recommendations will then be sought from the Selection Panel and forwarded to the Minister for approval. After the Working Party has considered the process, and adjustments are made, ADD will hold meetings with people from the 41 group homes and accommodation services to discuss the process.

It is the Committee's understanding that the Selection Panel will be the key decision-making body in the EOI process that will take place as part of the group homes initiative. Clearly, the success of the current group homes initiative in providing better outcomes and involvement in decision-making for people with disability will depend upon the composition of Selection



Panels, and the decision-making processes used by the Panels. The recommendations in this Chapter are intended to ensure that the process is focussed on the empowerment of clients, guardians and advocates as part of the decision-making process.

## **4.5 Concerns about the EOI process**

The majority of the submissions received in this Inquiry were unclear about how the processes involved in tendering out group homes would work. In particular, there was a lot of confusion about the EOI process and how it would be applied to the group homes initiative. Information collected by the Community Services Commission suggested there was confusion about whether non-government organisations will be tendering for individuals, whole group homes or clusters of group homes (Submission 12).

### **4.5.1 Experience with past EOI processes**

Several of the peak organisations raised concerns about the EOI process used by ADD, or DOCS, in the past. Some people found the scale and manner of the process depersonalising and dehumanising. The Community Services Commission said that there have been many problems with the EOI for the Boarding House Reform Project. The Commission argued that issues such as the variation between the service specification and the evaluation criteria need to be resolved, as well as ensuring there are independent checks on the services tendering for the group homes (Submission 12).

ACROD told the Committee that in the past, the EOI process was flawed because it was largely 'paper driven'. ACROD's Ms Robin Way said there was very little face to face interaction:

... where organisations and families (could) say to each other, can I meet your needs? Is this the organisation you would feel comfortable in coming to have your personal needs met? (Evidence. 1 November 1999).

In a position paper released in June 1999, ACROD indicated a desire to work with ADD to ensure that 'a process is developed which provides an equitable outcome for all stakeholders' but noted that members of their organisation expressed significant concerns about the way that past EOI processes had been carried out (ACROD NSW Position Paper. *Ageing and Disability Department. Expressions of Interest Process: Supported Accommodation Packages*. June 1999).

The Committee heard about the specific experience of one non-government organisation's involvement in previous EOI processes. The Australian Jewish Welfare Society told the Committee that after a period of time, there were some very successful aspects to the processes involved in the 300 Supported Accommodation Places program, including a level of co-operation with DOCS personnel (Evidence. 1 November 1999).

In her submission to the Inquiry, Ms Hilson said that although families were initially involved in the process of selection:

Information and understanding of the culture of the organisations selected to provide services for their sons and daughter was not provided and families had little choice in the selection of service providers (Submission 21).

Ms Hilson said that the organisations were not provided with detailed information or assessments on the people they were to accommodate and support. This has caused a number of problems for all parties involved, including the NGO, the residents and their families and carers (Submission 21).

Ms Hilson demonstrated the need for direct consultation with the individuals concerned.

I will give you an example of a really good process. ... We were approached with regard to putting in a tender to re-aspice. ... We first talked to the family before proceeding. Before putting pen to paper, I had a discussion with the family about whether they were supportive of us putting in this application. Because we started from that foundation, we were able to talk through to get a lot of information. We negotiated adequate, additional one off funding for the transition process (Evidence. 1 November 1999).

In discussion with clients from the CAST service in Newcastle, the Committee heard that several people were concerned about the possibility of religious organisations taking over their care. Other concerns were raised about the choice and diversity of services for people with disability and their families in rural and regional New South Wales. The issue of choice and rural services is discussed in Chapter 8.

## **4.6 Overview and recommendations in relation to the EOI process**

The Committee is aware that the EOI process is currently being determined and that the EOI Working Party will contribute significantly to the development of an appropriate model for the EOI process. The Committee acknowledges that significant changes have already been made to address problems that have arisen in past EOI processes. The Committee feels that undertaking consultation with residents, families and advocates will be central to addressing these concerns. The Committee recommends that the Government ensure that the EOI process in relation to the group homes initiative is conducted in a transparent and consultative manner.

Consultations have suggested to the Committee that there is a strong perception that the process is driven by departmental imperatives and will not focus on the needs of residents. The Committee therefore strongly supports extensive involvement of residents, families, advocates and carers in the EOI process. The evidence to this Inquiry suggests also that there should be direct consultation between non-government providers and the residents and families. Members understand that this is now taking place. The Committee recognises that cultural, social, and religious needs must be taken into account in the negotiations and the decision on any future service providers. The Committee also recognises the particular problems faced by people from rural and regional areas and the need for choice and diversity to be considered as part of the group homes initiative.

Independent consultation with residents from the 41 identified services undertaken on behalf of the Committee indicates that residents of identified services do not understand the EOI process, but they are apprehensive about its nature and possible outcomes. According to the report, participants in our consultation have indicated a general consensus that they had no input into the decision-making process (O’Dea. Consultation with Clients of Identified Services. November 1999). However, clients indicated a clear desire to be involved in decision-making processes relating to their future, and a perception that it is the role of Government to seek their views:

“the Government has to listen to what we say, it is part of their job. If they don’t listen they’re not doing their job” (O’Dea. Consultation with Clients of Identified Services. November 1999).

Given the clearly expressed intention of the Government to ensure that this proposal achieves better outcomes for people with disability, the Committee recommends that the EOI process be structured to facilitate, as its main objective, the independent exercise of choice by clients who participate. A communication strategy should be developed and implemented to ensure that residents have a clear understanding of the EOI process, before they participate. To reduce the current level of concern within group homes, the communication strategy should be developed and implemented as a matter of urgency. In Chapter 1, the Committee recommends that the choice to remain within DOCS should be central to the EOI process. As part of this communication strategy, clients should be advised that they will have the option to remain within DOCS, and that there will be no adverse consequences for them in exercising that choice.

#### ***4.6.1 Ensuring resident choice***

The guidelines in the Interim Report of the EOI Working Party, referred to above, indicate that there is a need for involvement of stakeholders in decision-making processes. The Committee supports this approach. The Committee commends the recognition in the Interim Report of the need for people who are directly affected by EOI decision-making processes to participate in Selection Panels. In relation to the group homes initiative, the Committee understands that a separate Selection Panel will be constituted to determine the successful provider in relation to the EOI process for each service. Given that EOI Selection Panels are the key decision-making bodies in the process, guardians and advocates for residents should clearly be included on Selection Panels.

In addition, the Committee strongly supports the inclusion of people with disability on Selection Panels. The Committee considers that, where possible, inclusion of service user, on Selection Panels will enable them to exercise choice in relation to which organisation will provide services to them. The Committee notes that Selection Panel procedures must be structured in such a way as to facilitate active participation by service users. The Committee’s recommendations in relation to consultation and independent facilitation in Chapter 5 are directed towards ensuring that this takes place.

### **4.6.2 An independent Probity Auditor**

The Committee is aware that an independent Probity Auditor has been engaged by the Government to oversee the EOI process. In the public information distributed after the announcement of the decision, ADD explained that the Auditor was appointed to ensure the legitimacy of the process, and to assure parents and residents that an appropriate service provider has been properly selected. The Committee is not aware of the exact responsibilities of the independent Probity Auditor, but considers that these should include the requirement to ensure that:

- the Selection Panel for each service includes key stakeholders;
- the primary issue in selection of the successful provider is quality of service, measured in terms of improved outcomes for individuals who participate in the process; and
- the process has ensured effective client support and consultation.

#### **Recommendation 14**

That the expression of interest process be structured to ensure that its principal object is to achieve quality of service, measured in terms of improved outcomes for people who participate.

#### **Recommendation 15**

That each expressions of interest Selection Panel convened as part of the group homes initiative be structured in a way that facilitates participation of people with disability in decision-making through the inclusion of effective representation of stakeholders. In particular, the Selection Panels should include residents of services and relatives or advocates of residents.

#### **Recommendation 16**

That expression of interest Selection Panels be structured in such a way as to ensure that residents, in conjunction with their guardians and advocates, exercise effective choice about which service provider is chosen following the expression of interest process.

**Recommendation 17**

That the terms of reference for the Independent Probity Auditor engaged by the Ageing and Disability Department to oversee the expression of interest process include the requirement that:

- the Selection Panel for each service includes key stakeholders.
- the primary issue in selection of a future provider is quality of service, measured in terms of improved outcomes for individuals who participate in the process.
- the process has ensured adequate client support and effective consultation.

**Recommendation 18**

That a communication strategy be developed and implemented as a matter of urgency to ensure that residents have a clear understanding of the expression of interest process. The communication strategy should ensure that residents understand that they will have the genuine option of remaining within the Department of Community Services.

**4.6.3 The need for an appeals and complaints mechanisms**

In several submissions, the issue of a complaints mechanism was raised. The Community Services Commission argues that those affected by the decision must be given an avenue to make complaints. The submission says that ADD must also have mechanisms in place to deal with these matters. The submission by People With Disability (NSW) also expressed the need for a complaints mechanism, and the input of clients on how the mechanism might operate. The Committee understands that these processes are currently being developed.

**Recommendation 19**

That an appeals and complaints mechanism in relation to the expression of interest process be established which is readily accessible to residents and carers who participate.

## 4.7 Assessment of resident support needs

As part of the EOI process, there will be an independent assessment process to provide information on each resident's support needs. It is the Committee's view that this is a vital part of the tendering out process, as it will ultimately determine the appropriateness of an individual resident's involvement in the process. As Ms Hammerton said in evidence, it is not until this process has been undertaken that a decision can be made as to the involvement of individuals in the EOI process. In response to a Question on Notice, Ms Hammerton explained that the independent assessment process will identify whether current living arrangements are those best suited to the needs of clients (Question on Notice. 22 November 1999).

The Committee understands that two assessment tools will be used for the process – the Service Need Assessment Profile (SNAP) and the Vermont. The SNAP tool was developed by Allan Gould, a registered nurse with qualifications in public administration, and the Vermont tool was developed by Mr George Vermont, a Melbourne-based psychologist and statistician. These tools are explained in a Group Homes Fact Sheet provided to relatives by ADD as part of a package of information on the decision and the assessment process.

These tools will be used to accurately identify the support needs of people in the group homes that DOCS has indicated are provided for people.

The Fact Sheet explains that the assessment will involve an interview with the person who has the most knowledge about the resident. The assessment will take about 30 minutes and will be undertaken by an experienced assessor. The Fact Sheet also says that the assessment will look at a number of areas, including physical support needs and social support needs, and "a rating will be applied to each area according to the level of support required".

A set of descriptions or definitions will be used to determine the support needs rating for each item of the assessment, which will be used to indicate the level of support required by your son or daughter (ADD Fact Sheet. Undated).

In evidence to the Committee, the Director General of DOCS explained the Vermont assessment process. Ms Niland explained that Vermont assesses each client's needs with the permission and involvement of parents and/or advocates. Ms Niland said:

This assessment allows a common understanding of the needs of the clients and the additional support required to assist them to function as independently as possible (Evidence. 17 November 1999).

Ms Hammerton told the Committee that the Vermont and SNAP tools provided information on a resident's level of need in order to ensure the best possible outcomes. Ms Hammerton said:

Clearly, one of the factors that needs to be borne in mind is to ensure that government is increasingly moving towards a consistent indicative amount of dollars for particular types of services for people with comparable support needs, and that is why we are using the Vermont and SNAP tools ..." (Evidence. 17 November 1999).

#### **4.7.1 Feedback from organisations about the proposed assessment tools**

Submissions and evidence from peak organisations have suggested that these tools are for financial modelling purposes and do not provide sufficient information on which to ground decisions about residents' long term accommodation support needs. The Committee has heard that they involve only limited input from residents and family members.

The Community Services Commission told the Committee that the SNAP and Vermont tools do not appear to adequately address issues such as compatibility, impact of the number of house residents, the need for individualised support and the impact of staff experience. The tools also do not identify the changing needs of residents and the effects of ageing on the need for service (Submission 12).

The Committee is persuaded by views from a range of organisations with expertise in the disability field that the assessment process must take into account the unique needs of each individual and the range of development issues for each resident. As the past Chair of ACROD and member of the EOI Working Party, Ms Robin Way, told the Committee, the assessment process must not be driven by a "tick type process again". Ms Way stressed the importance of the assessment having a direct interaction with the individual resident concerned (Way. Evidence. 1 November 1999).

#### **4.7.2 Views of relatives and advocates**

Concerns about the proposed assessment process were strongly expressed to the Committee during forums with relatives and advocates of clients from the 41 identified services conducted for this Inquiry. Participants at the Sydney forum said:

SNAP and Vermont have no qualitative aspects (as) far as the interdependence, emotional needs or happiness are concerned.

They are a tool for money but have not been validated by independent studies (Evidence. 8 November 1999).

Other participants told the Committee that the assessment tools would provide no more than a 'snapshot' of residents' support needs and would not take into account fluctuations in support needs over time. The Committee was told that relational factors were also not fully accounted for. For example, residents who were in a stable household with staff who understood their individual needs, may appear to an external observer to have low support needs, but these needs would increase significantly if the person was removed from the established context. Many relatives also indicated that apparently low support needs were a result of the compatibility of residents within a long established group home:

My group home has lasted 15 years together to function as a unit. Now they want to divide them up. They are interdependent, they help to remind each other with their medication, catching trains, et cetera. None of this is ever talked about at the meetings. They function highly as a unit, even if they function lowly individually (Comment reported by Hon Dr Arthur Chesterfield-Evans. Forum for Relatives and Guardians of Clients of the 41 Identified Services. Sydney, 8 November 1999).

### **4.7.3 The Committee's view**

The Committee is not in a position to determine the criteria for low support needs, nor the appropriate assessment process. The Committee is aware that the SNAP and Vermont tools are reputable and have been used in a range of circumstances. However, the Committee is not convinced that the proposed SNAP and Vermont tools provide sufficient information to ensure adequate assessment will take place as part of the current group homes initiative. The Committee recommends that a rigorous process be first undertaken to determine precisely the criteria of 'low support needs', and how this will be measured. The Committee strongly recommends that ADD consult thoroughly with advocacy groups, staff, residents and families on the information and processes that should be included in the assessment procedure. The Committee's particularly concerned that all aspects of a resident's support needs, including social and emotional needs, be taken into consideration in the assessment process

As outlined in Chapter 6, concerns have been raised about the possibility that assessments will be carried out without the consent of residents, or their relevant consent giver. The Committee considers that obtaining consent will be fundamental to ensuring that the EOI process enables residents to exercise effective choice about their service provider.

#### **Recommendation 20**

That the Ageing and Disability Department ensure that the assessment of clients' support needs takes into account any relevant information in addition to that provided by the proposed Service Needs Assessment Profile and Vermont tools. The assessment process should be finalised after consultation with clients, families, advocacy groups and staff.

#### **Recommendation 21**

That consultation with individual clients and their guardians or advocates take place as part of the assessment process.

#### **Recommendation 22**

That no assessments take place without the consent of the client, or where the client is not able to give consent, the consent of the person who exercises consent on their behalf.



## 4.8 Evaluation

In Chapter 1, the Committee noted that the Government has made a commitment to ensure that the first stage of the group homes initiative will be thoroughly evaluated before further stages commence. The Committee understands this commitment means that no further services will be selected to take part in an EOI process until the outcomes of the current EOI process relating to the initial 41 identified services are known.

The Committee strongly believes that such evaluation is necessary before any further stage of this initiative can be undertaken. In evidence before the Committee, Ms Hammerton noted that whilst proper evaluation was always intended before further stages of the project would commence, the details of this evaluation were still to be finalised (Hammerton. Evidence. 22 October 1999). Given the level of concern expressed to the Committee about possible subsequent stages of this initiative, the Committee considers that, as a matter of urgency, a proper evaluation strategy should be developed and made public. The Committee suggests that development of such methodology should involve consultation with stakeholders, including people with disability, relatives and representative organisations.

The Committee is not in a position to make specific suggestions about evaluation of this project, however Members consider that evaluation must take place over a sufficient period of time to allow longer term outcomes to be assessed. In this regard, the Committee has received considerable feedback from relatives and guardians of people with disability that many residents take a considerable time to settle into new accommodation arrangements.

A departmental position paper on managing the group homes initiative, provided to the Committee, supports the need for evaluation to take place over a sufficient time period. The paper suggests that commitment to a 'longitudinal evaluation strategy' would assist the Government to manage some of the apprehension that the proposal has created. The paper suggests that an independent expert body, such as the Centre for Development Disability Studies, would be best placed to undertake the evaluation, which would include a one-year period of follow-up with residents in their new non-government service. The Committee agrees with the need for independent evaluation over an appropriate time-frame (DOCS, document 51. Position paper: *How to manage the situation with the group home initiative from the Budget*; undated).

**Recommendation 23**

That the Ageing and Disability Department develop and publish an evaluation strategy in consultation with key stakeholders, including people with disability, relatives and guardians and representative organisations.

**Recommendation 24**

That the evaluation referred to in Recommendation 23 take place over a period of time sufficient to enable judgements to be made about long term outcomes for people from the 41 identified services who choose to transfer to the non-government sector.

**Recommendation 25**

That no further expressions of interest be sought for the operation of Department of Community Services group homes until thorough evaluation of the expression of interest process for the 41 identified services, and its outcomes, has taken place.

**4.9 Monitoring**

The Committee received evidence on the importance of monitoring of both government and non-government service providers. The Committee understands that ADD provides a number of monitoring services, including support development officers who monitor service delivery. In response to a question on notice, the Department explained there are 43 Service Support Development Officers (SSDOs) across the State who are “responsible for monitoring and providing service support and development” (Question on Notice, 24 November 1999). The Committee has been told that DOCS also has systems in place to monitor accommodation services for people with disability.

A number of peak organisations told the Committee they were concerned about the level of independent monitoring in both DOCS and non-government services. In particular, they were apprehensive about ADD’s ability to ensure conformity with the disability service standards. These concerns relate both to the resources available to ADD for monitoring of non-government providers, and the current lack of monitoring by ADD of DOCS services. In this regard, the Acting Director-General of ADD has advised the Committee that one objective of the current group homes initiative is to ensure that DOCS services receive the same level of scrutiny by ADD as that given to non-government providers (Hammerton. Evidence. 22 October 1999).

A second concern raised by several organisations, including the Community Services Commission was about whether the current group homes initiative – and the potential increased involvement of the non-government sector – will remove the level of monitoring currently provided by DOCS. The Committee understands that DOCS current monitoring and management systems include Senior Clinical Practitioners, area practice review groups and placement committees (Submission 12).

The Committee will consider issues relating to monitoring of service delivery in both the government and non-government sector during Part 2 of the Inquiry. There is some evidence that Senior Clinical Practitioners within DOCS currently perform an important monitoring role, which on a very preliminary view, may reduce the need for additional monitoring of DOCS services by ADD. However, the Committee notes that the group homes initiative may result in an increased responsibility on ADD to monitor accommodation services for people with disability in the non-government sector. A concern has also been raised with the Committee that there is a need to ensure high standards of record-keeping in both the government and non-government sector, particularly where the transfer of clients has taken place.

The Committee believes that the Ageing and Disability Department should receive the necessary resources to monitor new and existing services. The Committee therefore recommends that, in the event of an increase in the number of people who receive services from non-government providers, the Government ensure that adequate funding is made available to allow ADD to provide comprehensive monitoring.

### **Recommendation 26**

That in the event of increased involvement of non-government providers in service delivery, additional resources should be made available to the Ageing and Disability Department to ensure adequate monitoring of these services.

#### **4.9.1 The Auditor-General**

The Committee is aware that the Office of the Auditor-General is currently looking at the systems in place to ensure that there is accountability between ADD and DOCS and the non-government organisations. Ms Hammerton told the Committee that the Auditor-General's Inquiry will ensure there is an independent review of the systems that are in place and that service providers are accountable (Evidence, 22 October 1999). The Committee understands that the Auditor-General's report will be available in April 2000. The Committee notes that this report may provide valuable feedback on systems for service monitoring in both the government and non-government sector. Members believe that the Committee will be able to consider issues relating to monitoring in Part 2 of the Inquiry following publication of the Auditor-General's Report.

## Chapter 5 – Consultation

This Chapter outlines issues relating to the consultation undertaken prior to and after the announcement of the group homes initiative. In particular, the Chapter will consider the means by which people with disability and their families were informed of the decision, as well as the various consultation processes following the decision. The Chapter addresses two aspects of the terms of reference: one on consultation, and the other on the means by which people were informed of the decision.

The Committee received a large number of submissions from individuals and organisations concerned about the level of consultation on this decision and the manner in which the consultation was conducted. The Committee understands that a number of people are not necessarily opposed to the concept of a transition of services from the government to the non-government sector provided that appropriate consultation takes place and residents and guardians have an opportunity to exercise effective choice. However, there was significant opposition to the manner in which the decision was taken and announced and the implementation process to date.

Evidence presented throughout the Inquiry suggests that there was a failure to adequately consult or inform residents, parents, advocates, staff and the relevant organisations in the initial stages of the process. The Committee recognises that the consultation process is an on-going one, and is encouraged by the Government's response to the feedback it has received about this proposal. As stated in Chapter 1, the Committee feels that the Government has modified the proposal as a result of feedback received so far. The Committee acknowledges that DOCS and ADD have more recently taken substantial steps to provide information and feedback on the decision.

The Committee considers that the issues raised below can be addressed by a coordinated strategy involving all interested parties. The recommendations made in this chapter are designed to ensure that future consultation with people with disability, their families and carers is undertaken in an open and transparent manner, with a view to enhancing services to people with disability.

### 5.1 Consultation prior to the decision

This section provides information on the consultation prior to the announcement of the decision in the Budget regarding the tendering out of group homes.

#### ***5.1.1 The involvement of organisations representing people with disability***

The Committee received submissions and took oral evidence from the major organisations representing people with disability, including the four groups mentioned in the Terms of

Reference – People With Disability (PWD), the NSW Council for Intellectual Disability (CID), the NSW Safeguards Coalition and the Public Service Association (PSA) – as well as the Statewide Disability Coalition, the Intellectual Disability Rights Service (IDRS) and the New South Wales Council of Social Service (NCOSS). Evidence was also taken from the Disability Council of NSW, which was established as an independent advisory body in 1984 to advise the NSW Government on issues relating to people with disability. In the case of all these organisations, there was no prior consultation concerning the decision to tender out group homes.

The Disability Council expressed their disappointment and surprise at not being consulted prior to the decision. Chairperson Leonie Manns told the Committee:

We made a very strong point that we were unhappy about the lack of consultation. The Minister's response to that was that she understood that we would be unhappy about that. She apologised, but she said there was nothing she could do, that it was beyond her control (Evidence. 2 November 1999).

Witnesses expressed the view that in relation to this decision, consultation should have involved a comprehensive process of first identifying the objectives of the process, followed by discussion with key stakeholders. In evidence, NCOSS told the Committee:

It is not possible to consult on a process unless the policy objectives are clear. If the Government announced a policy objective of working with families to improve standards of living, community participation and choice, it would have been able to engage in a process of discussion with the families and other stakeholders about how this objective could be achieved (Submission 33).

A number of organisations noted that peak groups met with the Minister in the months preceding the Budget announcement, and 'nothing was mentioned about the tendering out of group homes' (Submission 19).

Many submissions and witnesses argued that the lack of prior consultation contravened the Disability Services Act. This issue will be discussed further in Chapter 6.

### ***5.1.2 Prior consultation with residents, families and advocates***

The evidence presented to the Committee shows that residents in the affected group homes, their families and advocates were not consulted prior to the announcement of the decision. This is highlighted by the submission of the Community Services Commission which notes that a number of complaints were received by the Commission concerning this issue (Submission 12).

Submissions and evidence taken by the Committee indicate that residents, families and advocates were upset and angered by the lack of prior consultation. For example, the Disability Advocacy Service Hunter (DASH) visited a number of group home residents in the Hunter region following the announcement. DASH Co-ordinator Mark Grierson told the Committee that most residents expressed anger about not being asked their views about the changes before the decision was made (Submission 27).

The Committee heard from parents and advocates at our forums in Newcastle and Sydney that there had been no consultation with anyone involved with people with disability. The majority of participants at the Sydney forum told Committee Members they had no prior knowledge of the decision and were genuinely shocked by the announcement (Evidence. 8 November 1999). At the Newcastle forum, participants said there had been “disregard for physical, emotional and spiritual needs” (Evidence. 22 October 1999).

## **5.2 The Budget announcement of the decision**

As stated earlier in the Report, the decision was first announced on 22 June 1999 as part of the State Budget. The Committee accepts the evidence provided by the Acting Director General of ADD, Ms Hammerton, that the decision was essentially an in principle decision, and that the Government intends to consult with the interested parties on the full implementation arrangements (Evidence. 17 November 1999).

However, the Committee notes that the Budget announcement of the decision attracted considerable criticism from many sectors of the community. The Community Services Commission argued that while the Government has a right to make policy announcements in the Budget context, it is inappropriate for such complex and sensitive policy. Commissioner Robert Fitzgerald told the Committee that:

In relation to the Budget process, it is an inappropriate way to announce and develop policies that are extraordinarily complex. It is clear from the Budget announcement that there was insufficient regard to the actual policy ramifications of its announcement and, as a consequence, neither the Department of Community Services, ADD nor the Government was in a position to answer the most fundamental questions raised by consumers, their families or their advocates. That, in an environment where you are dealing with extraordinarily vulnerable and fragile people, both consumers and their relatives, is completely inappropriate (Evidence. 1 November 1999).

... in relation to this particular announcement, this did and does requires a high level of consultation prior to its announcement in order that the issues that will legitimately be raised by consumers, their relatives and advocates have been appropriately answered. In the absence of that, what has occurred is unnecessary stress and anger has been generated by a group who are considerably vulnerable (Fitzgerald. Evidence. 1 November 1999).

Representatives of the Far North Coast Disability Action team noted that “government has a right and a duty to develop and implement policy”. However, the group told the Committee that the Government should have raised the issue with peak bodies and others prior to the Budget announcement (Gorman. Evidence. 4 November 1999).

## **5.3 The means by which people were informed about the decision**

The Committee received a large number of submissions addressing the ways that people were informed about the decision. This section addresses this issue and provides an overview of the information given to residents and families, including letters, staff videos, newsletters and fact sheets.

### **5.3.1 Informing group home residents and their families and advocates**

The majority of submissions and evidence received by the Committee suggest that most people were unaware of the decision until some time after the Budget announcement was made. The Vice-Chairperson for Statewide Disability Coalition told the Committee that many of the families they represent found out about the decision by reading an article by Adele Horin in the *Sydney Morning Herald* in the days after the announcement (Rhodes. Evidence. November 4 1999).

The Committee understands the first formal notice to residents, families and advocates came in the form of a joint letter from ADD and DOCS to guardians and advocates of residents of all DOCS group homes. The letter outlined the proposed changes in general terms. Attached to this was a letter in plain English which guardians and advocates were asked to read to residents. Although these letters are undated, the Committee understands that most people received them in early July, some two weeks after the decision was made public. Follow up letters from ADD providing further information were sent to guardians and advocates some weeks later.

On 23 July 1999, a letter was sent to relatives of people who lived in DOCS group homes along with a list of the 41 identified services. The letter asked recipients to call a hotline number and provide their contact details if their relative's group home appeared on the attached list. The Committee understands that this letter was the first formal notification to people that their relative's home had been identified for inclusion in the initial round of EOIs. The Committee is unable to determine how many people received this letter, however concerns have been raised as to whether the provision of this information in this manner was a breach of the Disability Services Act (see Chapter 6).

The Manager of the Community Living Development Unit of ADD, Ms Pamela Riddiford, advised the Committee that some months after the initial letter was sent DOCS staff requested more information for residents on the decision. Ms Riddiford told the Committee that her department then provided residents with a letter in plain English providing questions and answers, and a letter in Compic (symbolic) format (Riddiford. Evidence. 17 November 1999).

### **5.3.2 Response to the correspondence**

A number of submissions from parents suggested that they did not consider it appropriate to be asked to tell their child about the proposed changes. The letter to clients included the following statement:

After Christmas this year one of three things is going to happen:

1. The staff who care for you will stay the same but not work for DOCS; or
2. New Staff will care for you; or
3. The same staff will care for you and still work for DOCS.

Many submissions raised concerns that the letter to clients was confusing and led to unnecessary apprehension about the impact of the change. For example one parent of a 42 year old man wrote in reply to DOCS:

To put your letter in perspective for him, I would need to translate your three points as follows:

1. James (House Manager), Helen, Mary, ... will be looking after you.
2. James, Helen, Mary, ... will be leaving and someone else will look after you.
3. James will look after you and you will still go to Jenners Club.

What this would mean to him would be to cause confusion and be upsetting.

Note: staff names have been changed for confidentiality purposes (Submission 62).

Some families told the Committee that the timing of this letter was inappropriate, given that the news of the possible changes had already filtered down to them through discussions with staff at the group homes. A parent of a resident in one of the DOCS group homes said:

Although my daughter is profoundly physically disabled she understands most human emotions. She has picked up on the stress felt by staff when they realised their positions and the lifestyle of the people in their care were at risk. .... I believe the uncertainty caused by this whole process will continue to impact on her care (Submission 57).

According to the Multicultural Disability Advocacy Association of NSW (MDAA), the letter informing families and people was provided in English and did not provide information about accessing the information line via the Telephone Interpreter Service. The MDAA said this lack of information caused further distress and confusion for NESB residents and family members (Evidence. 4 November 1999).

### ***5.3.3 Informing the clients of Community Accommodation Support Teams***

A number of Community Accommodation Support Teams were identified for inclusion in the initial round of services for which EOIs would be sought. As explained earlier in the Report, these services include Hunter CAST services, Ballina Accommodation Support Service and Gosford Residential Support Team. The Committee understands that limited information was sent to clients of these services.

In discussions with clients of Hunter CAST, the Committee heard that an inconsistent approach had been taken in the way clients of the CAST services were informed. In some cases, no information had been provided, in others clients received letters, but not their families.

### ***5.3.4 ADD Newsletter and Fact Sheets***

In September 1999, ADD established a Group Homes Newsletter to provide information on the on-going process. As Marianne Hammerton explained "In this, our first newsletter, we detail the ways in which residents, families, carers and advocates are being encouraged to participate in the process" (ADD NSW. September 1999. Issue 1, Vol. 1:1). At the time of writing this Report, three issues of the Newsletter have been produced.



ADD also circulated a number of Fact Sheets with information about the process.

Some submissions to the Inquiry suggested that the Newsletters did not properly represent their concerns, and that they presented the consultation process and feedback from family and residents in an overly positive light. According to PWD, the Newsletter “has caused enormous anger as a result of its entirely false reports about outcomes of so-called family forums” (Submission 7).

At the Sydney forum with relatives and guardians, the following observation was made by a parent and reported at the plenary session:

Meetings were held. Everyone was worried, and the group home newsletter totally misrepresented the reaction of parents and carers. The newsletter isolates people because they feel that everyone else must have changed except them (Reported by Hon Dr Chesterfield-Evans. Sydney Forum. 8 November 1999).

Others suggested that the Newsletter and other information from the Department was a good source of information about the decision. In their submission to the Inquiry Mr and Mrs Hammett wrote:

Having in the first instance learned of the proposed devolution of the DOCS group homes via the media, in recent times newsletters and other communications have been coming direct through the mail, on an almost weekly basis. This is a good deal more satisfactory (and polite) (Submission 88).

In response to the criticism about the Newsletters, Ms Riddiford told the Committee that her Department was aware of these concerns and responded by providing space in the November issue of the Newsletter to allow for a different point of view (Evidence. 17 November 1999).

### ***5.3.5 The way that staff were informed of the decision***

Staff of DOCS received a letter and video from the Director-General within two days of the Budget announcement. The letter included information on the decision and the likely impact on staff. In addition to the letter and video, DOCS provided a number of Fact Sheets with information on the impact on staff and clients and descriptions of the tendering process.

The submission provided by the Public Service Association suggests that the methods by which employees of DOCS who work in the affected group homes were informed varied greatly. According to the PSA:

DOCS Area Managers were briefed by the Department in the afternoon of 22<sup>nd</sup> June 1999. Some Area Managers arranged for meetings of staff to be held the following day. Most staff, however were advised via a video produced by DOCS which was distributed immediately to every group home (Submission 17).

The PSA explained that as staff arrived to commence their shift, they found a note from the House Manager asking them to watch the video. The video provided information on the decision and told the staff they would have access to advice, counselling and training in resume writing and interview skills. The PSA told the Committee that the feedback they have received from staff is that the video ‘caused them to be distressed’ (Submission 17). In evidence, the

PSA noted that announcement of the decision should have been handled more personally and been accompanied by more thorough information:

People should have been at least notified in person. They should have been collected together in whatever way was the easiest, in meetings or whatever or the house manager who may have had access to the majority of staff on a personal level should have been able to convey the message in some sort of sympathetic way. Of course, the house managers did not have any answers themselves to the questions, so that in itself would have been somewhat difficult (Jeffries. Evidence. 1 November 1999).

### **5.3.6 Informing staff of identified services**

Submissions suggest that staff of identified services found out that they were ‘on the list’ in a variety of ways. Staff of several homes told the Community Visitors they first discovered their service was selected by reading the internal staff circular ‘Carmel Niland’s News’ on the DOCS intranet.

In a confidential submission, another staff member wrote:

Staff were notified of the unit closure on 23/7/99 unofficially by the Union Secretary that this house was to close. On Monday 26/7/99 the unit received official notification from [the DOCS Area Manager] that the unit was on “the list”. I was asked to notify the parents/advocates/friends and clients. I asked the Department what I was to notify and was given no response. About the same time I was given a photocopied package and video from Carmel Niland. This package in short told me I had three choices – Stay and redeploy somewhere else, go to the non-government sector if I was successful or possibly take a redundancy (Submission 44).

## **5.4 Subsequent consultation**

This section examines the consultation processes undertaken by the Government in the weeks and months after the decision was announced. The majority of information provided below comes from submissions from organisations and individuals, as well as public evidence given by individuals, peak bodies and representatives from ADD and DOCS.

### **5.4.1 Parent and staff hotlines**

In the days following the announcement two hotlines were established to provide information on the decision. One operated by ADD provided information for residents, families and advocates and one operated by DOCS provided information for staff.

Information provided to the Committee indicates that the hotlines were not always effective in addressing people’s concerns. In general, the comments in submissions and in evidence regarding these services suggested that hotline personnel were unable to provide meaningful information. For example, Ms Darleen Fawl of the Inner West Group Homes Parents and Friends Association, informed the Committee that many people could not get through on the hotline and when people did get through ‘there was a lot of ambiguity in the answers’ (Evidence. 1 November 1999).

On the basis of the evidence presented to this Inquiry, the Committee concludes that the establishment of the hotlines was a useful step to assist staff and parents, but both hotlines needed more resources to enable staff to provide the necessary information.

#### **5.4.2 People from non-English speaking backgrounds (NESB)**

The MDAA told the Committee that NESB residents and families also had problems with the hotline.

This information line was advertised in English ONLY and despite assurances that the Telephone Interpreter Service would be available no information about this service was advertised anywhere (Submission 6).

The Committee emphasises the vital importance of ensuring that all people who are affected by this decision have proper access to information about the process, and recommends that appropriate access to and information about interpreter services be made available.

#### **Recommendation 27**

That the Ageing and Disability Department ensure that interpreter services are made available on departmental information hotlines. Advice on accessing the hotlines should be provided in community languages.

#### **5.4.3 Independent Liaison Worker**

In addition to the family hotline, ADD employed an independent liaison worker to provide information about the proposed changes several weeks after the announcement. Ms Lynn Houlahan was engaged by the Department to talk to residents, families, guardians and advocates on rights, roles and responsibilities within the process (Submission 1).

The evidence to the Inquiry suggests that, despite initial concerns, this service was well received by parents and advocates. The Community Services Commission told the Committee that the establishment of the hotline was an example of a genuine attempt by ADD to talk to the interested parties about the decision. The Committee understands that for some rural parents and carers, the information service provided by Ms Houlahan was very useful. Ms Marie Cowling, a representative from Statewide Disability Coalition told the Committee that Ms Houlahan visited Armidale to meet with people with disabilities, families and service providers. Ms Cowling told the Committee about the response of the participants to the meeting with Ms Houlahan.

They said that it was much better (than a previous consultation meeting) because it was smaller... . They could ask questions that they wanted to ask and get answers. Lynn was good. She would say

“I do not know the answer to that, but I will get back to you on it”. It was a good exercise (Evidence. 4 November 1999).

#### **5.4.4 Peak Meetings**

The Acting Director General of ADD, the Director General of DOCS, and their staff, have attended a number of meetings with peak group since the decision was announced. A range of peak bodies attended these meetings including People With Disabilities, the Council for Intellectual Disability and the Intellectual Disability Rights Service. In evidence to the Committee, Ms Hammerton explained that she attends meetings with about 40 individuals from peak organisations on a monthly basis to discuss issues surrounding this process (Evidence. 17 November 1999).

Several of the peak groups attending these meetings have told the Committee that they did not believe these meetings were consultation sessions. IDRS argued that the peak group meetings involved ‘description of decisions already made at a governmental level about the tender process’ (Submission 22).

One of the major concerns expressed by the peak organisations was the way the term ‘consultation’ has been interpreted during this process. According to NSW Council for Intellectual Disability, there was a fundamental difference in the way government understood consultation and the way the sector understood consultation.

Consultation to us implies that there is some sort of equality between the two parties engaged in the consultation, that there is an honest setting of opinions and information before a decision is made ... (Seares. Evidence. 22 October 1999).

Similarly, the NSW Safeguards Coalition stated that the consultation process was not ‘genuine consultation’. They told the Committee that ‘surely we would be sent a position paper on an issue, ideally a few days in advance, given time to think about it, discuss it with our colleagues and then come to contribute, to discuss’ (Evidence. 22 October 1999).

In response to the criticism that the meetings have been one-way information sessions, Ms Hammerton explained that her Department has a responsibility to set certain parameters, particularly with regard to assessment processes.

But how that might unfold, be applied and how we make sure, for instance, that it is person-centred, are the kinds of areas that are up for discussion (Evidence. 17 November 1999).

#### **5.4.5 Consultation with the PSA**

In evidence to the Committee, the Director General of DOCS, Ms Carmel Niland, explained that DOCS is currently coordinating a series of meetings with the PSA to address the submission that DOCS may make for group homes identified as being part of the EOI process. The meetings will also focus on the conditions of employment and the impact of the decision on DOCS staff. The Committee understands that ADD will also be involved in these meetings.

### **5.4.6 Family Forums and Public Meetings**

During the Committee hearing of 17 November 1999, Ms Pamela Riddiford, Manager of the Community Living Unit of ADD, explained that there have been 35 public meetings with the broader community on the general issue of re-auspicing group homes. ADD conducted a number of Family Forums in July and August in Sydney and regional and rural New South Wales. A letter was sent to family members explaining that the Family Forums were designed to provide information to families on the changes to group homes, and to provide an opportunity to put questions to those who work on the Group Homes Team.

One criticism aired by a number of witnesses about the Forums has been the level of confusion and uncertainty surrounding the purpose of the Forums. A number of witnesses stated that the Family Forums were information sessions rather than consultation sessions. For example, as with peak consultations, IDRS described the forums as 'information sessions only' (Submission 22).

The Committee understands that there was some confusion as to whether the Forums were intended to give information or whether they were designed to give people an opportunity to have input on this decision. The Committee notes the comments made by Ms Hammerton that there was not a set of detailed plans on the direction of the arrangements because the Government wanted to consult on the key issues.

I think we have demonstrated over time that we have not had a preordained position, which at times has been interpreted as not being sure about where we want to go, but, clearly, we needed to be open to what the interested parties were saying over time (Evidence. 17 November 1999).

In addition to this, some organisations were concerned that ADD listed and advertised meetings previously organised by advocacy and parent groups as family forums (PWD. Submission 7). The Manly Warringah Families and Friends of People with Disabilities told the Committee that a public meeting they had arranged for people to express their views to invited guests including staff from ADD and DOCS was listed as a Family Forum.

We were appalled when we received a mail out from the Ageing and Disability Department, prior to our meeting, where our meeting was listed as a 'family forum' organised by the Ageing and Disability Department (Submission 5).

Other criticisms of the Forums include the lack of recording and minute taking by ADD staff. Many people attending the Forums felt that the contributions they made at the Forums were not recorded. However, evidence given by ADD suggests that concerns were recorded at a number of meetings. The Committee also heard that high attendance at earlier meetings made it difficult to conduct them in any way other than as information sessions (Riddiford. Evidence. 17 November 1999).

The Committee understands that the Department is now in the process of holding smaller meeting with those people directly affected by this decision. Ms Riddiford explained the process:

Now, that the meetings are getting smaller it is, in fact, changing the whole nature of the process. ... We are more able now to listen as groups are becoming smaller and those people who are actually involved in this project are part of the discussions. ... (Evidence. 17 November 1999).

In addition to this, Ms Riddiford told the Committee that there have been 10 assessment information sessions designed to put the assessment process on the agenda and allow people to talk about it. Ms Riddiford told the Committee that follow up meetings on the assessment process would be completed by the end of November. Feedback from these sessions indicates that the Department has been responsive to concerns that have been aired about the process, and to some extent has modified the process to accommodate these concerns (Riddiford. Evidence. 17 November 1999).

#### **5.4.7 Direct consultation with group home residents**

The Committee understands that ADD is currently in the process of consulting with residents of group homes. Ms Riddiford told the Committee that some residents attended the public meetings as well as the assessment information sessions. The Department is seeking advice from peak organisations such as the Intellectual Disability Rights Service to look at ways to ensure that residents receive adequate advocacy support (Riddiford. Evidence. 17 November 1999).

There was considerable concern in the submissions and evidence about the initial level of consultation with group home residents. According to the Community Visitors:

Residents in 21 houses do not have sufficient information about what they can expect during the process, how they can have input or make choices, or when the changes will occur (Submission 10).

In their discussions with residents, the Community Visitors found there were a range of concerns about resident input at the public meetings. Several residents attending the ADD forums were unable to hear the discussion and no special provisions were made to ensure the views of residents were addressed (Submission 10).

The Committee received a number of submissions from people with disability. The submission from Rights Forum, a representative body which advises the Intellectual Disability Rights Service, states that 'we think it is very important that people living in group homes are asked who they want to live with and what staff work with them' (Submission 165). Rights Forum went on to express their concern that ADD will not listen to the consumers of the services.

Consultations conducted on behalf of the Committee with residents from the 41 identified services indicate that residents did not feel that any consultation with them had taken place either prior to or following the decision to include their service in the initial round of EOIs. However, there was some optimism about the possibility that they might get a chance to have their say in the future:

... every participant expressed great interest in the possibility of putting their options forward and having a say in the decision-making process. Further than that, it was considered the "*right thing to do*" and "*only polite to ask what we think*" (O'Dea. Consultation with Residents and Clients of Identified Services. November 1999:8).

Participants in the consultations indicated disappointment that they did not have effective input into decision-making:

There was general consensus amongst participants that they had no opportunity for genuine input into the decisionmaking process. "*the government already organised it, even our parents can't get a say*", "*no one gives a stuff about us*" (O'Dea. Consultation with Residents and Clients of Identified Services. November 1999: 8).

The feedback from a range of sources persuades the Committee that further stages of the current EOI process need to address existing concerns of residents and ensure that they are consulted with and involved more fully in further stages of implementation of the project.

#### **5.4.8 Advocacy support for residents**

Several groups raised concern about consultation with residents who have no family or advocate to assist them. The Council of Social Service of NSW (NCOSS) also expressed concern about possible conflict between the opinions and needs of the person with disability and those of their family. For this reason, NCOSS argues, a person with disability may sometimes require separate representation, through personal advocacy or guardianship (Submission 33).

Ms Riddiford explained that representatives from ADD have discussed this issue with the Office of Public Guardian to look for the best way to ensure that these people have an independent advocate (Evidence. 17 November 1999).

### **5.5 The impact of the announcement and the consultation process**

A majority of the submissions received by the Committee expressed concern about the means by which people with disability and their families and advocates were informed about the decision and the level and nature of the consultation with those people. Many of these issues have been examined in the above sections.

#### **5.5.1 Impact on residents**

Based on the evidence provided to the Committee, the impact of the decision on residents and families has generally been negative. In their submission to the Inquiry, the Community Visitors told the Committee that they were asked to report on the impact of the proposed changes on residents, families and staff. The Visitors found that:

- There were 3 houses where residents had not been told about the decision
- In 18 services, residents were experiencing a range of responses including concern, anger and distress. In 6 of these houses, visitors were told that challenging behaviour of residents had increased (Submission 10).

In other evidence, Tom Gorman, a Member of the Far North Coast Disability Action Team, told the Committee about a resident who was suffering 'increased fitting' as a result of overhearing staff and others discuss the proposed changes (Evidence. 4 November 1999).

The Chairperson of the NSW Council for Intellectual Disability, Ms Helen Seares, told the Committee that many residents have become agitated since the announcement. Ms Seares said that in some instances it may be desirable to discuss the matter with the individual concerned at the outset and in other cases this may not be appropriate, "but in any case, the uncertainty is having an effect on many people" (Seares. Evidence. 22 October 1999).

Consultations with residents conducted on behalf of the Committee indicated substantial anxiety and concern:

Participants reported various feelings about the decision. Words used to describe their feelings included 'confused', 'upset', 'angry', 'not good', 'scared', 'cranky' and 'worried'. Some of the participants were visibly upset when discussing how they felt.

Two participants in separate discussion groups, broke into tears when attempting to explain how they felt. One participant, who had recently moved house, found it difficult to speak and appeared emotional as he raised his fears of having to move again.

Confusion and anxiety were reported to have manifested in several ways. Certain participants conveyed the following:

- 'Feeling like punching people.'
- Visiting a real estate agent to find out which house they would live in next.
- Placing themselves on a 'housing commission' waiting list.

Participants wanted to know exactly what was going to happen and when changes were going to take place. There was a feeling that everything had already been decided and was totally out of their hands.

Participants also reported that staff had no information to address their concerns as they arose which was causing further anxiety.

Whilst this report is limited to the information gained from the participants during discussions with them, it may be of assistance to note at this point, comments made by staff to this consultant during the initial stages of organising the discussion groups. Staff members reported that since learning of the decision, residents have shown the following behaviour:

- Stripping and washing bed linen every day in preparation for moving.
- An increase in incidence of challenging behaviour.
- Obsessive interest in the particulars of the staff roster.
- Daily questioning of staff about what is going to happen about the decision.

(O'Dea. Consultations with Residents and Clients of Identified Services. November 1999).

### ***5.5.2 Impact on families and advocates***

The impact on families and advocates has also been largely negative. The Manly and Warringah Families and Friends of People with Disabilities said, 'families have stated that they feel they



have been treated with contempt and their supporting roles devalued' (Submission 5). Ms Darleen Fawl from the Inner West Group Homes Parents and Friends Association also expressed this view and said that the lack of choice and consultation 'has coloured the whole event' (Evidence. 1 November 1999).

The organisation representing people with disability from non-English speaking backgrounds (NESB), the Multicultural Disability Advocacy Association suggests that the impact on NESB people has been particularly disturbing:

The fear and anxiety is sometimes greater amongst people from NESB because in some ethnic communities there is a very strong stigma attached to having a daughter or son living in a group home. This fear and anxiety is reflective of the additional barriers experienced by people from NESB with disabilities in disability services (Submission 6).

The Jewish Community Service, a non-government organisation providing disability services, told the Committee that one of the unintended consequences of the consultation process is that conflict and tensions have emerged between the government and non-government sector. The organisation argues that the issue of the provision of the best service, whether from the government or non-government sector, should be paramount (Submission 21).

### ***5.5.3 Impact on staff***

The Committee received several confidential submissions from staff in group homes affected by the decision. They indicated that the announcement had affected staff morale. In turn, these concerns were filtering down to residents. One submission noted that this decision followed several quite disruptive restructures of DOCS:

I have survived 2 previous "restructures". Each time the unbelievable stress and hopelessness returns. For me this time the stress is less but morale is rock bottom. For other staff, who are not as old as I am and have families and mortgages, their lives are in **turmoil** (Submission 44).

The Submission of the Community Visitors stated that staff in 10 of 29 services that had been surveyed expressed fears about job security. During consultations, Committee Members became aware of the considerable alarm that the decision has caused to some DOCS staff, not only in respect of concerns for job security but also their genuine concerns about the future of clients of services in which they work (Submission 10).

### ***5.5.4 How the consultation process could have been managed***

The management of the group homes initiative is discussed in an undated departmental position paper provided to the Committee by the Government. The document acknowledges that the decision was announced as part of the Budget strategy and was therefore not subject to the processes usually associated with changes in Government policy. The document goes on to discuss how a decision of this kind would usually be handled.

If this initiative had been handled through the usual bureaucratic processes, the proposal would have been fully developed, after a consultation process with key stakeholders, a comprehensive business case would have been prepared and the implications, timeframes and communication strategy would have been identified and tested out. The results would then form a Cabinet minute

which would have been further tested in Cabinet scrutiny (Department of Community Services. Document No. 51. *Position Paper: How to manage the situation with the group home initiative from the Budget.* Undated).

The document acknowledges that the lack of this process has led to calls from key stakeholders for more information and claims that the decision-making processes have been unfair. The paper concludes that there is no disagreement within DOCS that people with disability with low support needs can be supported in the non-government sector without any reduction in the quality of care. The paper recommends the way to achieve this outcome is to consult with the community to address the major concerns arising out of the earlier lack of consultation.

The Community Services Commission provided the Committee with its view on how on the announcement and the consultation process should have taken place. According to the Commission, many of the problems arose as a result of the lack of a detailed disability plan for New South Wales. The Commission argued that prior to the announcement of the decision, the Government should have undergone a more thorough process to assist in the development of a comprehensive disability policy.

There are two things that are required. The first was that there is requirement by the Government to have established some framework by which an overall disability policy was established. A green paper process would have been an appropriate strategy which dealt not only with the issue of whether or not the Department of Community Services should remain in this service delivery of disability services but a whole range of broader issues (Fitzgerald. Evidence. 1 November 1999).

In relation to the specific policy of re-auspicing group homes, the Commission argued that a high level of consultation should have taken place both prior to and after the announcement, since the failure to consult on complex policy issues can lead to unnecessary anxiety and distress. The Commission stressed the importance of the consultation process and the need to understand all the issues and determine a collaborative way forward.

The Disability Council of New South Wales suggested that consultation must occur at the localised level and address the concerns of each group home, and individual clients, as well as family members, advocates and guardians (Manns. Evidence. 2 November 1999). The Chairperson of the Council, Ms Leonie Manns, argued that without an open process to allow people to express their views, it is difficult for organisations such as hers to give considered advice.

## **5.6 The Committee's view**

The Committee notes that the Government is currently consulting with many of the people who are affected by this decision and has already begun to incorporate the feedback received on this process. This is a very positive development. However it is clear that many of the concerns arising out of this process could have been avoided if the decision had been preceded by consultation.

In retrospect, the Committee considers that it is unfortunate that some form of consultation with the disability sector, particularly residents and their guardians and advocates, did not

precede the announcement of this decision in the Budget. It is possible that adequate prior consultation, along with a fuller initial explanation of the reason for the decision, could have avoided the considerable level of concern that is now apparent.

To some extent, the lack of prior consultation appears to have impacted on the credibility of the process, and may, at least in the medium term, have reduced the ability of the Government to initiate constructive reform within the disability sector. A further consequence appears to be the focus within the disability sector on the negative aspects of the proposal rather than the potential for the proposal, as modified, to achieved positive outcomes. The Committee recommends therefore, that an adequate consultation framework be developed for future significant policy announcements in order to avoid repetition of this situation.

The effects of failure to consult prior to the announcement of the decision were compounded by the way in which residents, families and staff were informed of the decision. Adequate information was not provided at the outset and there was a lack of detail in initial information, which caused unnecessary distress. The Committee has heard overwhelming evidence from people that the announcement caused distress and anxiety for many people with disability. The Committee believes that the manner in which the decision was announced to residents, consumers, families and advocates was both inappropriate and upsetting for many people.

The Committee supports the right and role of Government to make policy decisions considered to be in the best interests of the community. The Committee has already acknowledged the strict confidentiality requirements that surround decisions taken by Cabinet in the context of the Budget. However, the Committee concurs with the opinion of the Community Services Commission that the announcement of this decision in the Budget context was not appropriate for such complex and sensitive policy.

The Committee acknowledges that since the announcement of the decision there have been a number of measures taken to consult and inform residents, families and carers on the decision to re-ausepice group homes. In particular, the Committee notes that ADD is currently meeting with smaller groups of residents and families affected by the decision to discuss and to resolve issues that concern them.

The Committee would like to see steps taken to ensure that in future, major policy decisions relating to disability services are handled with sensitivity and with appropriate consultation prior to any announcement. The Committee is particularly concerned that the official advisory body to the Government, the Disability Council of New South Wales, was not consulted prior to the announcement of the decision and that the advice and opinion of peak organisations was not sought.

The recommendations made in this Chapter seek to address the confusion and anxiety which have followed the announcement of the decision on group homes.

**Recommendation 28**

That the Minister establish and maintain a consultation framework for the disability sector to ensure that stakeholders are consulted about future significant policy decisions involving people with a disability.

**Recommendation 29**

That the Department of Community Services and the Ageing and Disability Department have regard to the need to improve public confidence in their ability to provide comprehensive services to people with disability and the Departments jointly develop a strategy to achieve this objective.

**5.7 Specific issues in relation to consultation for people with disability**

A particular concern for the Committee is to ensure that an adequate process is put in place for residents of DOCS group homes and clients of Community Accommodation Support Teams who participate in the EOI process. The Committee accepts that some residents are unable to give consent, or effectively participate in decision-making processes, and that their guardian or advocate would have to exercise consent on their behalf. However many residents, particularly those who have low support needs, are able with appropriate support to effectively participate in decision-making. This section considers ways to ensure that these people are able to participate in the decision-making process.

**5.7.1 Advocacy support for residents**

As noted above, concern was expressed about the need to provide advocacy support for people who do not have an advocate. In addition Ms Riddiford told the Committee that an independent advocate may be necessary when the views of the resident differ from those of the family or advocate. The Committee agrees that there is a need for independent advocacy support for people with disability, and that this may be required where there is a genuine difference of opinion between residents and their families. Adequate resources should therefore be made available for independent advocacy support where requested.

**5.7.2 The need for properly facilitated consultation**

Whilst the Committee accepts the commitment of the Government to ensure that adequate consultation takes place as part of the current group homes initiative, it is important to ensure that consultation processes are open and conducted in a way that enables effective input from residents. As discussed above, consultations conducted for the Committee indicated that residents did not feel they had been properly consulted. The Committee is aware that a range

of communication strategies may need to be developed to assist people with disability to participate in decision-making and they may need specific support when engaging in the communication process. Suggested strategies are contained in the report of consultations conducted on behalf of the Committee. This report is reproduced in Appendix 4. The Committee believes that the consultation with people with disability relating to the current group homes initiative will need to be conducted sympathetically, using people with appropriate expertise.

**Recommendation 30**

That the Ageing and Disability Department ensure that the views of residents are actively sought as part of the expression of interest process in ways that genuinely demonstrate an interest in the point of view of residents.

**Recommendation 31**

That in developing consultation strategies for people with disability as part of the current group homes initiative, the Ageing and Disability Department give careful consideration to the recommendations of the Report, 'Consultation with residents and clients of identified services' contained in Appendix 4 of this Report.

**Recommendation 32**

That an effective communication protocol be devised to ensure that residents are kept fully informed of the decisions made about future accommodation services.

**Recommendation 33**

That the Ageing and Disability Department and the Department of Community Services ensure that staff are provided with timely information and assistance so they may fully support residents and ensure a smooth transition process for residents who wish to transfer to the non-government sector.

**Recommendation 34**

That the Ageing and Disability Department ensure that all clients who do not have advocates are provided with independent advocacy support as part of the expression of interest process and that adequate funding for advocacy support be provided.

## Chapter 6 – Whether the Disability Services Act has been breached

This Chapter considers whether in announcing the group homes initiative, the Government has breached the Disability Services Act (DSA). A majority of submissions have alleged breaches of the DSA have occurred in two main areas:

- Failure to consult with residents has breached provisions of the DSA which, broadly speaking, deal with the rights of residents to be consulted in relation to and participate in decisions that affect their lives;
- Provision of the addresses of the 41 identified services has breached the privacy provisions of the DSA.

Before considering these specific concerns, the Committee will outline its understanding of the duty of the Minister (and therefore her delegates) under the DSA.

### 6.1 Duty of the Minister under the DSA

People with disability are referred to in the DSA as the ‘target group’. Section 6 of the DSA provides:

**Section 6 – Minister to ensure that designated services are provided and funded in conformity with the Act**

- (1) It is the duty of the Minister in providing and funding designated services to persons in the target group, either directly to those persons or indirectly through other persons or bodies, to ensure that the services are provided and funded in conformity with the objects of this Act and the principles and applications set out in Schedule 1.

With respect to a specific decision to provide funding to service providers, section 10 of the DSA provides that approval of funding (referred to as financial assistance) for a service,

... may not be given unless the Minister is satisfied on reasonable grounds that providing the assistance would conform with the objects of this Act and the principles and applications of principles set out in Schedule 1.

The Committee understands that this imposes an obligation on the Minister – and those to whom she delegates this decision-making authority, such as departmental officers – to

ensure that decisions relating to the funding of services conform with the Objects that are spelt out in the DSA, and the Principles, and Applications of Principles outlined in the Act.

The Objects, Principles and Applications of Principles of the Act are fairly comprehensive. They provide a broad framework for a 'rights based' approach for provision of services to people with disability so as to ensure that service provision is focussed on choice and empowerment for people with disability. Whilst concerns have only been raised about specific breaches, all of the Objects, Principles and Applications of Principles are outlined below:

### **Section 3 – Objects**

- (a) to ensure the provision of services necessary to enable persons with disabilities to achieve their maximum potential as members of the community, and
- (b) to ensure the provision of services that:
  - (i) further the integration of persons with disabilities in the community and complement services available generally to such persons in the community, and
  - (ii) enable persons with disabilities to achieve positive outcomes, such as increased independence, employment opportunities and integration in the community, and
  - (iii) are provided in ways that promote in the community a positive image of persons with disabilities and enhance their self-esteem, and
- (c) to ensure that the outcomes achieved by the persons with disabilities by the provision of services for them are taken into account in the granting of financial assistance for the provision of such services, and
- (d) to encourage innovation in the provision of services for persons with disabilities, and
- (e) to achieve positive outcomes, such as increased independence, employment opportunities and integration in the community, for persons with disabilities, and

to ensure that designated services for persons with disabilities are developed and reviewed on a periodic basis through the use of forward plans.

### **Schedule 1 – Principles and applications of principles**

#### **1 – Principles**

Persons with disabilities have the same basic human rights as other members of Australian society. They also have the rights needed to ensure that their specific needs are met. Their rights, which apply irrespective of the nature, origin, type or degree of disability, include the following Principles:

- (a) Persons with disabilities are individuals who have the inherent right to respect for their human worth and dignity,
- (b) Persons with disabilities have the right to live in and be part of the community,
- (c) Persons with disabilities have the right to realise their individual capacities for physical, social, emotional and intellectual development,
- (d) Persons with disabilities have the same rights as other members of Australian society to services which will support their attaining a reasonable quality of life,

- (e) Persons with disabilities have the right to choose their own lifestyle and to have access to information, provided in a manner appropriate to their disability and cultural background, necessary to allow informed choice,
- (f) Persons with disabilities have the same right as other members of Australian society to participate in the decisions which affect their lives,
- (g) Persons with disabilities receiving services have the same right as other members of Australian society to receive those services in a manner which results in the least restriction of their rights and opportunities,
- (h) Persons with disabilities have the right to pursue any grievance in relation to services without fear of the services being discontinued or recrimination from service providers,
- (i) Persons with disabilities have the right to protection from neglect, abuse and exploitation.

## **2 – Application of principles**

Services and programs of services must apply to the principles set out in Clause 1. In particular they must be designed and administered so as to achieve the following:

- (a) To have as their focus the achievement of positive outcomes for persons with disabilities, such as increased independence, employment opportunities and integration into the community,
- (b) To contribute to ensuring that the conditions of the everyday life of persons with disabilities are the same as, or as close as possible to, norms and patterns which are valued in the general community,
- (c) To form part of local co-ordinated service systems and other services generally available to members of the community, wherever possible,
- (d) To meet the individual needs and goals of the persons with disabilities receiving services,
- (e) To meet the needs of persons with disabilities who experience an additional disadvantage as a result of their gender, ethnic origin or Aboriginality,
- (f) To promote recognition of the competence of, and enhance the image of, persons with disabilities,
- (g) To promote the participation of persons with disabilities in the life of the local community through maximum physical and social integration in that community,
- (h) To ensure that no single organisation providing services exercises control over all or most aspects of the life of a person with disabilities,
- (i) To ensure that organisations providing services, (whether specifically to persons with disabilities or generally to members of the community) are accountable to persons with disabilities who use them, the advocates of those persons, the State and the community generally for the provision of information from which the quality of those services can be judged,



- (j) To provide opportunities for persons with disabilities to reach goals and enjoy lifestyles which are valued by the community generally and are appropriate to their chronological age,
- (k) To ensure that persons with disabilities participate in the decisions that affect their lives,
- (l) To ensure that persons with disabilities have access to advocacy support where necessary to ensure adequate participation in decision making about the services they receive,
- (m) To recognise the importance of preserving the family relationships and the cultural and linguistic environments of persons with disabilities,
- (n) To ensure that appropriate avenues exist for persons with disabilities to raise and have resolved any grievances about services, and to ensure that a person raising any such grievance does not suffer any reprisal,
- (o) To provide persons with disabilities with, and encourage them to make use of, avenues for participating in the planning and operation of services and programs which they receive and to provide opportunities for consultation in relation to the development of major policy and program changes,
- (p) To respect the rights of persons with disabilities to privacy and confidentiality.

The Committee understands that the effect of section 6 is that, when making decisions to provide or fund services, the Minister or her delegate is required to ensure that the decision-making process takes into account the Objects, Principles and Applications of Principles of the DSA. In particular, the Minister must ensure that the Applications of Principles are followed as part of the decision-making process. The Act provides that a person may apply to the Administrative Decisions Tribunal for review of a funding decision (section 20). Similarly, the Committee is aware that more general administrative law remedies may be available for failing to comply with the Act when making a decision. For example, review could possibly be sought of a decision to fund a non-government provider through an EOI process on the basis that the process did not conform with the DSA.

The Committee's understanding is that the philosophy behind the DSA is to enable people with disability to exercise fundamental rights of citizenship – including the right to participate in decisions and development of policies that affect their lives. However, the DSA is only binding when actual decisions are made under the Act. The DSA primarily governs funding decisions for services for people with disability. As such, the Minister is only required to ensure that the Objects, Principles and Applications of Principles are followed when making a specific decision to provide services or fund services under the DSA. Rights that can be enforced under the DSA include actual decisions relating to service provision, and the development of policies within an organisation that provides services.

Whilst the DSA imposes enforceable obligations relating to provision and funding of services under the Act, it does not apply to decisions by the Government about broad policy. That is, the DSA does not impose a legally enforceable obligation on the Minister to conform with the Objects, Principles and Applications of Principles when making decisions about general policy.

## **6.2 Did the announcement of the group homes initiative breach the Act?**

As a matter of law, the Committee appreciates that the DSA does not restrict the ability of the Government to establish policy directions in the disability sector. The Committee's current understanding of the Government's decision is that it is an in-principle one to explore alternative accommodation options for people with disability. No decision has been made to transfer specific individuals or services out of the DOCS system or alter the way DOCS services have been provided. There has also been a clear commitment that service users will be able to participate in decisions about whether or not to move to a non-government provider. Importantly, DOCS will participate in the EOI process, which will ensure that clients have the genuine option of remaining with DOCS.

The Committee has been provided with internal legal advice from ADD which notes that:

... the announcement by the Government of a proposal to investigate re-auspicings as a way of improving services provided to residents of some DOCS group homes was legitimately within the province of the Executive, was not unlawful or contrary to the DSA, and is not reviewable by the ADT or, arguably, even by the Supreme Court (Hammerton. Correspondence. 29 October 1999).

As stated previously, the Committee agrees that the Government has the prerogative to make policy decisions about disability services. A decision to explore new ways of providing service or, as a matter of general policy, to reduce the role of DOCS in direct service provision for people with disability, will not breach the Act. However, the Committee has also indicated its view that decisions of this nature should be undertaken within an effective framework for consultation. The Committee believes that more appropriate consultative processes could have furthered the intention of the Act.

### **6.2.1 The Government's understanding of its obligations under the DSA**

In response to a written question about the Minister's duty in relation to the Act and relevant Principles and Applications of Principles, the Committee was advised:

The Minister has one prime responsibility under the DSA, which is to ensure that designated services are provided and funded in conformity with the Act. The responsibility is set out in section 6 (1).

"It is the duty of the Minister in providing and funding designated services to persons in the target group, either directly to those persons or indirectly through other persons or bodies, to ensure that the services are provided and funded in conformity with the objects of this Act and the principles and applications of principles set out in Schedule 1".

This provision is the only one that imposes a duty on the Minister and is for this reason seen as fundamental to the DSA.

The Government's announcement in relation to Group Homes did not constitute the funding or provision of a service by the Minister. It was an in principle announcement of general Government policy and, as such, is outside the province of DSA.

The response went on to note that:

The translation and implementation of this general policy decision into actual funding or provision of services by the Minister will have to comply with the requirements of the DSA.

ADD is currently in the first phase of implementing the policy decision announced. This comprises the provision of information to residents, their family members, and other interested persons. ADD's efforts in making information easily available is completely consistent with the DSA, particularly the Principle (e), cited by the Committee, that persons with disabilities are to "have access to information ... necessary to allow informed choice".

Subsequent phases of the process will involve the establishment of panels to assess the Expressions of Interest that may be submitted in respect of particular group homes. Representatives of family members will be on each panel. The views of residents will also be sought. These procedures are aimed at satisfying Application of Principle (k), cited by the Committee, that persons with disabilities "participate in decisions that affect their lives" and Application of Principle (1) that persons with disabilities "have access to advocacy support where necessary to ensure adequate participation in decision-making about the services they receive".

The determination of whether the services currently being provided to the residents of any particular group home would be likely to be improved by changing the auspice for that group home would be based on:

- the expressed and assessed individual requirements of each resident,
- the assessed ability of the service providers which have submitted Expressions of Interest.

Any decision regarding the future auspice of a group home which was based upon these considerations, after completion of the proposed process, would comply with the requirements of the DSA.

In relation to the rights of people with disability to participate in policy and program changes (Application of Principle (o)), the Minister noted that this relates to policy in organisations that deliver direct service to people with disability:

The committee has drawn attention to Application of Principle (o), which requires that services and programs of services must be designed and administered so as to "provide persons with disabilities with, and encourage them to make use of, avenues for participating in the planning and operation of services and programs which they receive and to provide opportunities for consultation in relation to the development of major policy and program changes".

This Application of Principle applies to day to day services being received by persons with disabilities. It is intended to ensure that persons with disabilities have input into practical aspects of their lives.

At a broader level, the response indicated that advice and input from people with disability is sought in a number of ways:

The Government also seeks input and advice from people with disabilities in many ways, at all levels. In the broadest sense, the Minister and the Government receive advice from organisations like the NSW Council for Disability, and the Ageing and Disability Department. The Government also receives representations and advice from many advocacy groups and individuals representing the interests of people with disabilities.

The Ageing and Disability Department and the Department of Community Services ensure that they engage in consultation with people with disabilities and their families and carers, so that their advice to Government reflects this.

In conclusion, the Minister's response noted:

However, it should be recognised that executive Government has a mandate (and indeed has an obligation) to make policy decisions. Principle "o" cannot be interpreted as overriding this capacity of the Government of the day. A requirement to consult and participate in the planning of services cannot be interpreted as precluding executive decision-making in the Westminster system of Government. The two are complementary, and in the case of the group homes decision, Cabinet has made an in-principle policy decision; its implementation will involve extensive consultation and enable input from people with disabilities as outlined above (Hon Faye Lo Po' MP, Minister for Community Services, Ageing, Disability Services and Women. Answer to Questions on Notice. 22 October 1999).

Whilst the Committee accepts that a general policy decision of the Government cannot be in breach of the DSA, the Budget announcement raised significant concerns that substantial change would be implemented in the lives of a number of people with disability without consultation or input from people with disability. This led to a concern that the decision to re-auspice group homes was in breach of the Act. However, the Committee understands that the EOI processes that will be used to investigate the possibility of changing service provider will ensure that people with disability have significant opportunity to participate in decisions that affect their lives.

The Committee notes the assurance given by the Government that the EOI process will conform to the Act. In particular, this means that the EOI process will be one that allows people genuine choice about whether or not to change service provider.

The Committee notes, therefore that in carrying out the current group homes initiative, ADD must ensure that there will be no breach of the DSA. In particular, there is a need to ensure that the funding decisions which emerge from the EOI process must conform with the Objects, Principles and Applications of Principles of the DSA.

### **6.2.2 The spirit of the DSA**

Concerns have also been raised that the policy announcement by the Government breached the spirit of the DSA although it did not breach the letter of the Act. In evidence, Ms Helen Seares, President of Council for Intellectual Disability, told the Committee that:

In relation to possible breaches of the Disability Services Act, I might say that there is what you might call the spirit versus the letter of the law and we believe that certainly the spirit of the law has been breached (Seares. Evidence. 22 October 1999).

The Committee notes that questions about the spirit of legislation raise complex and at times subjective issues. The level of concern raised about possible breach of the Act highlights the need outlined in Chapter 5 for the Government to adopt a proper framework for consultation within the disability sector. The Committee considers that such a framework is consistent with the underlying philosophy of the DSA. In view of the importance that the Act places on the rights of people with disability, the Committee recommends that the consultation framework referred to in Chapter 5 specifically provide for input and advice from people with disability.

**Recommendation 35**

That the consultation framework referred to in recommendation 28 specifically include formal mechanisms for the participation of people with disability.

**6.3 Has there been a breach of the privacy provisions of the DSA?**

As noted in Chapter 5, on 23 July 1999 a letter was sent by ADD to parents of people who live in DOCS group homes. Attached to that letter was a list of the 41 identified services. The Committee understands that the list included addresses of the group homes. Additionally, the list of identified services was circulated to DOCS staff via the 26 July 1999 issue of Carmel Niland's News (CNN). CNN is an internal circular that provides information for DOCS staff.

A number of submissions raised the concern that publication of information that identified the service locations in this way breached application (p) of the DSA, which relates to the rights of people with disability to privacy and confidentiality.

However, Crown Solicitor's advice provided to the Committee states:

The Minister is therefore under a general duty to administer services and programs under the *Disability Services Act* in such a way as to respect privacy and confidentiality rights of persons with disabilities. I do not consider that the names and addresses of a list of group homes, circulated internally within DOCS, or forwarded to families or clients of those group homes by the Director General (or indeed, forwarded by the Minister) constitutes a breach by the Minister (or those performing administrative functions in the Department on her behalf) of the principle contained in clause 2(p) of Schedule 1 of the *Disability Services Act*. Information relating to the identity of residents, and information about individuals' places of residence is not disclosed in any way ... My researches have not disclosed any legal basis for a conclusion that information disclosing the locations of group homes is of itself, subject to secrecy restrictions (Crown Solicitor's Advice. 4 August 1999).

On the basis of this advice, the Committee concludes that there was no breach of the DSA resulting from circulation of the locations of group homes as described in this section. The Crown Solicitor's advice also indicated that there has been no breach of other relevant Acts relating to privacy, including the *Community Welfare Act 1987* and the *Privacy and Personal Information Protection Act 1998* (PPIPA).

**6.3.1 Concerns about privacy and the EOI process**

The Intellectual Disability Rights Service (IDRS) drew the Committee's attention to possible breaches of the PPIPA (part of which commenced on 1 February 1999, and part of which is due to commence in February 2000) that may occur as part of the EOI process. The Committee understands that the PPIPA governs the collection and use of personal information

concerning individuals by State Government Departments. IDRS express concern that the PPIPA lays down strict consent requirements relating to the collection of information from individuals. According to IDRS, similar requirements appear in the Disability Service Standards. In their submission, IDRS state:

There are both ethical and legal issues concerning the collection of personal information relating to group home residents during the assessment process. This is particularly the case given that ADD has as yet failed to indicate how it will deal with group home residents who:

- have refused consent to the assessment of support needs (or whose families/advocates have done so on their behalf); and
- are incapable of either consenting or refusing consent to assessments (Submission 22).

The Committee agrees that issues relating to confidentiality and consent to gathering of information should be dealt with appropriately. The Committee is confident that these concerns will be dealt with by ensuring that the EOI process involves adequate consultation, advocacy support and monitoring, as recommended in Chapter 5.

## **6.4 Conclusion**

The Committee believes that in the announcement and implementation of the group homes initiative, there has not been a breach of the DSA. This conclusion is based on the following:

- The Government has the right to make general policy decisions about disability services.
- The decision as it currently stands is a general policy decision to investigate the possibility of re-auspecting some DOCS group homes.
- The DSA is binding on the Government when actual decisions about service provision and funding are made.
- No actual decision about service provision has yet been made. That is, there has been no decision to move specific individuals or services to the non-government sector.
- Further implementation of the group homes initiative, and in particular EOI processes, will have to comply with the DSA.

The Committee accepts the clear commitment by the Government that the implementation of the group homes initiative will comply fully with the DSA. The recommendations of this Report relating to participation of people with disability in EOI selection processes will assist in ensuring that decisions taken as part of this initiative comply with the DSA.

## Chapter 7 – The need for certainty of future accommodation

This Chapter considers the issues surrounding the need for certainty in accommodation services for people with disability. In particular, the Chapter considers questions raised about the ability of non-government services to provide certainty of accommodation.

Throughout the Inquiry, the Committee heard that security of tenure was one of the major issues of concern for people with disability and their families. Many people were concerned about the capacity of the non-government sector to provide an unconditional guarantee of service. This is of particular concern for ageing parents and people with disability. The Committee is especially conscious of the fact that the proposed pace and scale of change in relation to group homes is causing concern among residents and families.

### 7.1 Security of tenure

The Committee is aware of the very real need for certainty and stability in accommodation services for disabled people. According to the submission presented by People With Disabilities (NSW):

Security of tenure in residential services is perhaps the single most important issue for people with disability and their families (Submission 7).

Many parents told the Committee they wanted to know that their son or daughter would be assured of care and support. Ms Darleen Fawl, a parent of a 24 year old woman with disability, told the Committee her daughter waited a year before getting a placement with DOCS.

I think ahead to when she is 50, maybe I am not here to look after her or look over her, and I just want to know that she is in caring hands for life. I think that was our main attitude with accepting DOCS (Evidence. 1 November 1999).

During the Committee's discussions with relatives and guardians of people with disability a number of parents expressed disquiet about what would happen to their children after they had died. Parents expressed a general anxiety that their children would suffer without continuing advocacy. For example, one parent stated that she felt she 'needed to live to be 100 in order to advocate for my son until the end of his life' (Mrs B Hammett. Committee Forum for Relatives and Guardians. Sydney. 8 November 1999).

In evidence to the Committee Ms Lynn Houlahan said that feedback from her hotline suggests that while some people have had a positive experience with the non-government sector, many have chosen a DOCS home for their family member because they see it as delivering long-term security of tenure. Ms Houlahan explained that parents and carers were not necessarily unhappy with the non-government service, but they perceived stability with the government service provider (Evidence. 2 November 1999).

Independent consultations with clients of the identified services, commissioned by the Committee, indicated that clients of the identified services are apprehensive about the certainty of their accommodation. Their particular concerns reported to the Committee include losing:

- their home or having to move somewhere else,
- staff that work with them (some participants mentioned, by name, particular staff with whom they had built up close bonds),
- their money and personal belongings,
- their social networks (many friendships have been maintained over a long period of time and stem back to pre-devolution – these friendships are often supported by staff who have knowledge of residents' and clients' social history),
- their community network and support systems.

(O'Dea, Consultations with Residents and Clients of Identified Services, November 1999:9-10).

As a consequence, the consultant reported that many participants 'appeared visibly distressed when talking about the decision' (O'Dea, Consultations with Residents and Clients of Identified Services, November 1999:10).

The Committee understands that many of the inquiries made at the Community Services Commission involve anxiety about disruption to services and security of tenure. According to the Commission there needs to be certainty not only for ageing parents and carers, but particularly for residents (Evidence. 22 October 1999). Concerns about the effect of uncertainty were also expressed in many submissions from relatives of people with disability. As one parent wrote:

To see John (not his real name) settle into [his group home], watch him mature in ways we never thought he would, or could – although he still has a long way to go – has been a joy and encouragement for us.

Now all this is being threatened: the continuity of care with the same carers, the regular daily schedule and the trust that has developed. We are frightened. John cannot cope with change. He can become violent when he finds himself in a situation he does not understand. (Submission 86).

The Committee is sensitive to the fears of relatives and appreciates the need for certainty about on-going support and care for their family member. The Committee strongly supports the view that it is the responsibility of Government to assure that consistent and quality care is available for people with disability, one of the most vulnerable groups within our society.

## **7.2 Specific issues**

This section outlines some specific issues that have been raised before the Committee in relation to the group homes initiative.



### **7.2.1 Does the proposal breach the guarantee of lifetime service provision?**

In 1995, as part of the devolution process, the then Minister for Community Services, the Hon. Ron Dyer MLC, provided to residents and families involved in devolution of large institutions, a guarantee of lifetime service provision. In making the guarantee, the Hon Ron Dyer informed the Legislative Council:

... the Carr Government will guarantee a lifetime of care to all permanent residents of government-operated large residential services, including the 136 residents of Peat Island. This is part of the Government's commitment to continue to implement the Disability Services Act 1993, which requires that centres such as Peat Island be closed and residents move into group homes in the community. However, let me emphasise that we will not abandon people to fend for themselves when we begin to gradually close the residential centres.

The guarantee will apply in cases in which the institution is required to reconfigure in order to meet the requirements of the legislation. This guarantee will ensure that when these institutions are closed all clients will continue to receive the services and levels of support needed to enable them to make a successful transition to community living. We will consult before moving someone into a group homes. The guarantee of lifetime care will extend until the client no longer requires such care or dies.

...

Let me be absolutely clear about this: I guarantee that when the large residential centres are closed down over the next several years we will not desert our responsibility to provide ongoing care and support to clients (The Hon R. D. Dyer MLC, Hansard 21 November 1995).

It is clear to the Committee that this guarantee relates to those people who move into community living from large residential centres. Members understand that the guarantee was given to provide assurances to people, particularly family members, who were concerned in 1995 that devolution of large institutions would result in reduced quality of care for people who lived in large institutions. It is therefore not a general guarantee that applies to every resident of DOCS group homes.

The Committee notes that the Government has stated that it remains fully committed to this guarantee. In a compelling statement during the recent Budget process, the current Minister said:

There is some concern about a pledge that was given, very correctly, by the former Minister, Ron Dyer, that they will be in care and that they will stay in care. I am reiterating that. My pledge to the people in group homes is: People who are now in care will stay in care and it may be that they will get an even better service (Hon Faye Lo Po' MP, Minister for Community Services, Ageing, Disability Services and Women. Evidence. General Purpose Standing Committee No.2. 8 September 1999).

In her evidence to the Inquiry, Ms Hammerton said that Government has given the assurance that people will be supported through the DOCS system or through the non-government system in the future (Evidence. 22 October 1999). The Committee acknowledges that the guarantee may not apply to every DOCS resident. The Minister's statement also makes it clear that the Government is committed to ensuring that residents of DOCS accommodations services, including those who transfer to non-government organisations, will continue to

receive services. However as outlined below, the Committee considers that people who participate in the current group homes initiative should receive a similar guarantee to that provided by the former Minister.

### ***7.2.2 Can non-government providers respond adequately to changing support needs?***

The Committee heard that a number of factors can contribute to changes in an individual resident's support needs, including sudden increase in challenging behaviour, loss of day programs and sickness. The Committee also appreciates that as people age, their support needs increase.

Many people were concerned that NGOs' may not be able to provide services to clients whose support needs increase. Several of the peak bodies expressed concern about the non-government sector's ability to respond quickly to the changing needs of residents. There was concern that funding may not be immediately available to provide support services in crisis situations.

The NSW Council for Intellectual Disability (CID) expressed concern about smaller NGOs access to clinical services such as counsellors, speech therapists and psychiatrists. CID Chairperson Ms Helen Seares said that while these services are freely available to government services, there is concern that individuals in NGOs will have to pay for these services (Evidence, 22 October 1999).

Ms Hammerton told the Committee that the Department is open to the renegotiation of funding to non-government bodies, provided there is evidence that the needs of the individuals have changed. The Committee understands that the current EOI process will take account of all aspects of support services that the non-government provider will need to ensure that the needs of clients are met. The Committee considers it essential to ensure that non-government providers are able to adequately respond to changing support needs. The recommendations in Chapter 3 address these issues in relation to access to health and allied services. There is also a broader need for clearly stated funding arrangements to meet changing support needs.

#### **Recommendation 36**

That the funding agreements for people who transfer as part of the group homes initiative should include clearly stated arrangements to meet changing support needs.

### **7.2.3 Will non-government providers have to raise additional funds to complement Government funding?**

The Safeguards Coalition expressed their concern that non-government providers are required to rely on the charity dollar to complement their funding. The Coalition told the Committee that NGOs are competing in the marketplace for the charity dollar, and that there should not be a 'move back to the days of people selling pens outside Woolworths in order to pay for the basic support that other members of society take for granted' (Epstein-Frisch. Evidence. 22 October 1999).

Ms Freda Hilson told the Committee that some organisations are dependent for income on fund raising. Ms Hilson believes that smaller NGOs have limited resources to devote to fund raising campaigns and they experience difficulties in attracting funds in a very competitive environment (Evidence. 1 November 1999).

In evidence Ms Hammerton told the Committee that historically it was not unusual for non-government providers to subsidise services in some way, and spread costs over a number of services being provided by the organisation. In relation to the present process, Ms Hammerton provided the Committee with an assurance that the non-government sector will receive the necessary financial support.

... We will make sure that the dollars that are needed are made available. This is not an issue (Evidence. 22 October 1999).

The Committee considers it essential to ensure that the expression of interest process for this proposal accounts for full funding for non-government service providers.

#### **Recommendation 37**

That the Ageing and Disability Department ensure that the expression of interest process for the current group homes initiative accounts for full funding for non-government service providers.

### **7.2.4 Will residents who want to stay together be able to do so?**

As outlined in Chapter 2 concern has been expressed that houses which function effectively as a household will be broken up as a consequence of the group homes initiative. The Committee heard from a number of residents and advocacy groups on this issue. The Disability Advocacy Service (Hunter) told the Committee that one of the major concerns for residents with whom they had consulted was to be assured that they could remain with their friends in their current homes (Grierson. Evidence. 22 October 1999).

The independent consultation undertaken with residents as a part of this Inquiry suggests that residents were primarily concerned about staying with their friends and that relationships developed over time with staff members were also important. For more information on the consultation see Appendix 4.

In a number of cases, the Committee was informed, residents of identified services have been living together for a significant period of time. In one house on the list of 41 identified services, visited by Committee Members, Members heard that the residents have been together for over 40 years. The Committee understands that the residents of this house had lived together in a large-scale institution and following devolution had moved through a range of services. The residents had been in their present house for more than ten years. The Committee heard that while these residents have been accommodated in a relatively low support environment, this is largely a result of the level of stability in their lives.

The Committee notes that allowing residents to exercise choice as part of the EOI process is fundamental. The Committee also believes that the age of residents and the stability of the accommodation arrangements are extremely important factors to consider in the current Expression of Interest process. In addition, the Committee argues that in future these factors should be taken into consideration before a service is selected for an Expression of Interest.

### ***7.2.5 Could there be a change of service provider every three years?***

The Committee understands that it is intended that funding agreements for non-government providers that take on clients as part of the group homes initiative will run for a period of three years. Submissions and evidence have raised the concern that this could potentially lead to a change of service provider every three years. As a result it has been suggested that there would be continuing uncertainty for clients.

The Committee sought information about the level of security for clients with a three year funding arrangement. In response to a written question on notice from the Committee, Ms Hammerton stated that the non-government provider would be required to meet specifications and standards of service. Each provider will be given a three-year contractual term, and providing the standards are met, 'the contract is renewable and will be 'rolled over' largely as a matter of course' (Hon Faye Lo Po' MP, Minister for Community Services, Ageing, Disability Services and Women. Answer to Question on Notice. 22 November 1999).

The Committee has not been able to examine the detail of contractual arrangements. However, Members appreciate that it is appropriate to enter into agreements for specified terms, provided that appropriate roll-over provisions are in place to ensure that continuity of service will be provided in all cases where the service provider has met agreed standards of service delivery.

The Committee understands that in cases where problems arise during the contract, ADD would negotiate about the support required, and if necessary would contact another provider. ADD told the Committee that, depending on the circumstances and the availability of services, either DOCS or a non-government provider would be considered.

### ***7.2.6 Will existing staff be able to transfer to the non-government provider?***

Submissions and consultations have indicated to the Committee that stability of accommodation would be greatly enhanced by ensuring that, as part of the EOI process, existing staff would be able to transfer to the new service provider. Many submissions from parents have praised the expertise and dedication of DOCS staff in dealing with residents. The Committee agrees that it would be desirable for the EOI process to facilitate transfer of existing staff to new providers where possible to ease the transition for residents. The Committee is also aware that, provided the new employer offered similar working conditions to those within DOCS, the possibility of such transfer would ease the legitimate concerns many staff within DOCS have about job security.

On this issue, Ms Marianne Hammerton told the Committee that the re-auspicing project's aim was to minimise disruption to residents by retaining current residents and existing staff together if possible. Preference will be given to NGOs able to retain existing staff, provided they meet the necessary standards (Question on Notice. 24 November 1999).

The Committee is pleased that the EOI process will ensure that preference is given to organisations that are able to retain existing staff. Members understand that this matter is currently under negotiation with the PSA, and details of how this process will work are not yet available (Hammerton. Evidence. 17 November 1999). The Committee is aware that the two major difficulties are that award rates for employees in the non-government sector are presently lower than the DOCS award and that there are difficulties to be overcome if accrued entitlements of staff are to be transferred.

### ***7.2.7 Will non-government providers be able to withdraw service from people who transfer?***

The Committee is aware that, in some cases, a non-government provider may have to withdraw services from particular individuals. This may be very distressing for all concerned, but is particularly distressing for the resident and their families and advocates. The Committee heard that, in some cases, placement breakdown may mean that an individual does not get access to an alternative permanent placement.

Several peak organisations and individuals told the Committee that they are aware of a number of residents who, in the past, have been returned to DOCS when the non-government sector was not able to deal with their needs. In correspondence to the Committee, People With Disabilities Executive Officer Phillip French said his organisation was aware of 30 instances over the past year in which placements in the non-government sector have broken down.

In 3 cases, this involved the non-government agency refusing to continue to provide services to an entire client group (Correspondence. 23 November 1999).

In evidence, Ms Hammerton told the Committee that there had been 11 'controversial exits' from the non-government sector since March 1999. The reasons given for these exits include increases in support needs to complex high support, such as increases in challenging behaviour.

The Committee understands that four of these clients were placed in alternative non-government organisations, three were placed in DOCS homes, and four remained in the original service with the provision of additional financial assistance (Hammerton. Evidence. 22 October 1999).

During a visit to a group home in the Sydney metropolitan region, Members of the Committee met a resident who had experienced considerable difficulty finding a permanent home. The resident had lived in a non-government group home but was asked to leave due to the difficulty experienced by the NGO in providing sufficient support. The resident was eventually placed in a DOCS group home after waiting a year for the placement. This home has since been identified as one of the 41 services for consideration for tender. The Committee acknowledges that this may be an isolated occurrence, however there are concerns that this type of situation may become more common as a result of large-scale transfer to the non-government sector.

At the parents and advocates forum in Newcastle, Committee Members had the opportunity to discuss the issue of certainty with families and advocates. One group told Members that the one advantage of DOCS homes was that they felt they could complain without repercussions. Several participants in the group told Members of cases they knew about where there had been a disagreement with the management of an NGO, and the resident had been asked to leave. The participants were concerned about the rights of residents in the non-government sector.

According to ACROD it is not common for non-government organisations to exit people from their services. In correspondence to the Committee, ACROD said that it is difficult to ascertain the level of 'exits' from non-government services and that NGOs do not report all service exits to ADD. The letter states that the Department is informed of the problematic or controversial cases. ACROD states that in some cases an exit may be a positive outcome for a disabled person, for example, when a resident moves into an individual support arrangement (Correspondence. 26 November 1999).

Whilst the level of placement breakdown may be numerically small compared to the number of people in supported accommodation, the Committee believes that the possibility of placement breakdown is a significant issue Belinda Epstein-Frisch of the Disability Safeguards Coalition told the Committee:

Ms Hammerton talked about the 11 people for whom there were contentious exits and indicated that in the ADD system that was a drop in the ocean. May I put it to Committee members that to those people, to their families, to other residents of the house and to all parents of people with a disability, that represents fear and uncertainty and an appalling breakdown. It represents a system that does not have the capacities that Ms Hammerton indicated (Epstein-Frisch. Evidence. 22 October 1999: 48).

The Committee believes that in the first instance, systems should be in place to ensure that placements with non-government organisations do not break down. The recommendations in Chapter 3 and in this Chapter are intended to enhance the ability of the non-government sector to maintain service delivery in the face of changing support needs. However, the Committee is also aware that unavoidable placement breakdown may occur in some instances, and there is a need to ensure that, at the very least, these people receive continuous service provision. The

Committee considers that this should be dealt with in the context of a general guarantee of service as outlined in the next part of this Chapter.

### **7.3 Conclusion – A guarantee of service provision**

The evidence presented to this Inquiry shows that there are genuine fears about the future certainty of accommodation services for people with a disability. The Committee believes that the Government has responsibility to ensure that residents in group homes are provided with quality, secure accommodation.

A fundamental concern for many people is that this project will remove the guarantee of a residential place for people with disability. Whilst the specific guarantee given by the former Minister does not cover some people in the DOCS system, the Committee understands that there is a widespread acceptance within the disability sector that a placement within DOCS equates to a guarantee of lifetime care. The Committee notes that it is appropriate that such a guarantee is given within the context of disability service provision.

For example, Ms Barbara Spode, a mother of a child with disability, explained in her submission that non-government organisations could not provide this assurance. Ms Spode referred to personal knowledge of examples where an NGO was not able to provide a particular service, usually to do with difficult behaviour, and the residents were either returned home or placed in DOCS respite care (Submission 122).

The difficulties of providing an unconditional guarantee of service are acknowledged by non-government providers. ACROD, representing non-government disability service providers across Australia, told the Committee that it was not possible for the non-government sector to offer an unconditional guarantee of service. Mr Graham Catt, Executive Officer of ACROD, said:

In an environment where you are relying on government funding, I do not see how in any kind of good conscience an NGO as an organisation could provide that sort of unconditional guarantee. I would actually rely on government, .. as the funder or administrator ultimately to see if it could provide that sort of unconditional guarantee ..... (Evidence. 1 November 1999).

In evidence to the Committee Ms Freda Hilson, Manager of Disability Services, Australian Jewish Welfare Society, provided a candid admission that while her organisation would try to do everything possible, 'I do not know that you could ever give an unconditional guarantee'. Ms Hilson did say, however, that if there was an unconditional guarantee of resources, then she could 'absolutely' offer an unconditional guarantee of service (Evidence. 1 November 1999).

As noted in Chapter 3, the Committee appreciates that there are significant structural issues that need to be addressed so as to assist the non-government sector to provide increased levels of security for people with disability. These relate to the level of resources available to non-government organisations and the ability of non-government organisations to access additional funding where required, for example as a result of changing needs.

In making this comment, the Committee does not mean to imply that non-government organisations should not provide accommodation to people who have disability. Members are well aware of the highly effective role played by the non-government sector in providing secure accommodation for many people with disability. However, on the evidence presented to the Committee, security of present accommodation is more difficult to guarantee outside the government sector, particularly for people who have high or complex support needs. Difficulties in providing an absolute guarantee of service must therefore be addressed to the satisfaction of stakeholders if the group homes initiative is to succeed.

The Committee therefore recommends that the Government provide an unconditional guarantee of life-time service provision to any residents who choose to transfer to a non-government provider as part of this process. As part of this guarantee, the Government should ensure that people who agree to transfer receive an immediate permanent placement in an equivalent service in the event that their placement breaks down.

**Recommendation 38**

That the Government provide residents who choose to transfer to the non-government sector as part of the group homes initiative with an unconditional life-time guarantee of service.

**Recommendation 39**

That, as part of the guarantee referred to in Recommendation 38, the Government guarantee immediate placement in an alternative service providing an equivalent level of care in the event that a resident's placement breaks down.



## **Chapter 8 - The impact on rural and remote families**

This Chapter considers the impact of the group homes initiative on rural and remote families. The Chapter refers to information given to the Committee by organisations and individuals concerned with the provision of disability services in rural New South Wales. While there are some significant issues raised and discussed below, the provision of disability services to rural and regional areas will be considered in detail in Part 2 of this Inquiry.

### **8.1 Rural Services identified as part of the current EOI process**

The Committee notes that there are only a very limited number of homes and services located in rural NSW that have been identified in the current EOI process. The submission provided by the Government explains that three group homes in regional areas - the Southern Highlands, the Central West and Riverina Murray - are included and none in remote parts of the State (Submission 1). The Ballina Accommodation Support Service is also included in the list of 41 identified services.

### **8.2 The lack of choice in service**

The Committee is aware of concerns about the current lack of choice of accommodation services for people with disability in rural and regional areas. In evidence to the Inquiry, the Committee heard that many regional centres only have one or two accommodation services for disabled people.

The importance of DOCS group homes to rural people is illustrated by Mr Phillip French from People With Disabilities (PWD) in a historical perspective on disability services for rural people:

Because there have been so few services in rural and remote New South Wales, the experience of most families is that people ... ended up in large metropolitan institutions, such as the Stockton Centre, Rydalmere Centre, Bloomfield in Orange, Strathallen and so on. That was the only place and sometimes it was days away from the family home. Under the Richmond and Newstart programs of the mid to late 1980s some of those people were able to move back to rural communities into what are now DOCS group homes to bring them into closer proximity with their families (Evidence. 2 November 1999).

The submission from the Community Services Commission said that if DOCS reduces its role in the provision of supported accommodation, this will necessarily disadvantage those areas where the Government has been the main or only provider (Submission 12). Many families told the Committee that they were apprehensive about the removal of DOCS as a service provider and felt it may result in a further reduction in choice for rural people. The Convenor of the Disability Safeguards Coalition, Ms Belinda Epstein-Frisch, told the Committee:

The role that DOCS plays in rural and remote areas is to provide the alternative service provider, that is vaguely close to the family, to the non-government organisation (Evidence. 22 October 1999).

### ***8.2.1 Capacity of the non-government sector to provide services in rural areas***

The Disability Council of NSW expressed concern about whether there would be a sufficient number of non-government agencies with the capacity to take on the provision of accommodation and support for people with a disability in rural and remote areas. In her submission to the Inquiry, Ms Leonie Manns said it is possible that large established services will tender for those group homes earmarked for re-auspicings as these are the only services with the capacity to do so. Ms Manns was also concerned that these larger services are less likely to provide innovative services, and that the lack of flexible, diverse and creative services will disadvantage rural people (Submission 8).

Community Services Commissioner, Mr Robert Fitzgerald, said an alternative solution to the lack of choice in rural communities is that service providers from outside the community may need to be contracted to provide the necessary services.

I think the issue here will be actually attracting alternative service providers into some areas where either there is only DOCS or there is only one other provider in the community (Evidence. 1 November 1999).

Other families were concerned about the lack of alternatives for residents and families who may experience a falling out with the non-government service provider. The Committee heard that this may result in an entire family having to relocate to find an alternative service. The Committee also heard that residents and families may be less inclined to complain for fear of losing the service (Submission 12).

The view expressed by organisations such as People With Disabilities is that Government has a fundamental social responsibility to develop infrastructure in areas where there is significant unmet need, such as rural and regional areas. This issue will be taken up in greater detail in Part 2 of this Inquiry.

### ***8.2.2 Whole of life service provision***

The Committee has heard that there are concerns about the lack of diversity in service provision in rural towns. The Committee was told that often there are only enough individuals within the community to provide the necessary human and financial resources to support a limited number of NGOs. According to organisations such as the Disability Safeguards Coalition this can lead to a situation where a single organisation provides whole of life services, that is, accommodation, day programs, recreational services, and so on.

If DOCS moves out of providing, for example, accommodation support in a rural or remote area it will mean that people with disability are faced with only one service in the area that can provide support, so people will live in Bloggs Organisation Group Home; they will work or attend a day program organised under the auspice of Bloggs Association; they might go and have some

recreational opportunities that are also provided through Bloggs Non-Government Organisation (Epstein-Frisch. Evidence. 22 October 1999).

The Committee is aware that the Disability Services Act states that no organisation should provide whole of life services for people with disability. The Committee is concerned that this lack of choice and diversity may seriously disadvantage rural residents. This issue will be investigated further in Part 2 of the Inquiry.

### **8.3 The lack of support services**

The Community Services Commission told the Committee that one of the big issues facing all people living in rural and regional areas is the limited access to specialist and therapeutic services. The Committee heard, for example, that some families currently travel two days to get to a respite care facility. The Commission believes that in some regions, the non-government sector has experienced difficulties in accessing some of those services. This evidence is supported by the information gathered by Liaison Officer Lyn Houlahan in her consultation with residents and families members (Evidence. 2 November 1999).

In evidence to the Committee, Ms Dorothy Knight explained that the lack of support services in Yass, where she lives, would preclude her from bringing her daughter home to live with her. Ms Knight is the mother of a young woman with high support needs currently residing in a group home in Sydney. Ms Knight told the Committee:

I believe there is no private organisation (in Yass) which is experienced enough in the degree of disability and combination of disability (services) to successfully look after my daughter in the way in which she is used to, which she needs, and which is humane. She could not come to Yass ... there is absolutely nothing for her to do in Yass. She likes to bowl, she goes to the theatre. There is only a repertory theatre in Yass, but she would have to negotiate stairs. There is no day program or residential accommodation in Yass, it does not cater for a one-off situation. It would be totally unsatisfactory (Evidence. 4 November 1999).

The Committee understands that access to special support services in rural areas is a particular problem for people with disability due to difficulties with mobility, disruption to routines, and lack of familiarity with care givers.

### **8.4 Access to services for people from non-English speaking backgrounds and Aboriginal people**

The Committee heard evidence from the Multicultural Disability Advocacy Association of New South Wales (MDAA) on the problems of access to services for people of non-English speaking background (NESB) with disability. In their submission, MDAA explain that for NESB people additional barriers compound the impact of the lack of access to facilities. The organisation said that in instances where there is racism or limited NESB resources, the lack of alternative care can cause very real problems for NESB clients and their families (Submission 6).

The Committee understands that the lack of choice is also a problem for Aboriginal people with disability. For example, the Committee heard about the difficulties faced by one

Aboriginal man in the Riverina, who must travel considerable distances away from his kinship network to gain access to basic support services (French. Evidence. 2 November 1999).

## **8.5 The impact of the current EOI process on rural and regional people**

A small amount of evidence was presented to the Committee on the consultation process with people from rural and remote communities and the impact of this consultation. NCOSS told the Committee that in visits to rural and remote areas, they have discovered a distinct lack of information provided to people in these areas. This has led to confusion and in some cases panic about the changes to services. NCOSS says that despite the limited number of services affected in this current EOI process, the lack of information is causing unnecessary anxiety (Regan. Evidence. 22 October 1999).

Representatives from the Far North Coast Disability Action Team told the Committee that for people in the north of the State there is a sense of being away from the processes of Government decision-making. Mr Gorman said that there was anxiety in the far north coast about the apparent withdrawal of services from rural areas. Rural people have the same concerns as people in the wider community, but as Mr Gorman eloquently said:

They do not have any voice for their concerns and they do not have any fall back position for support (Evidence. 4 November 1999).

### **8.5.1 Residents with families in rural and regional areas**

The Committee understands that a number of residents in Sydney and Newcastle group homes are from rural and remote areas and that many have parents and siblings remaining in rural New South Wales. Edwina Pickering Co-ordinator of the Community Visitors told the Committee that some of those residents directly affected by the current round of EOIs have not been told of the decision 'other than indirectly through staff'. Ms Pickering said they were informed of the decision over the phone, but they have received no other information (Evidence. 1 November 1999).

The Manager of the Central Coast Disability Network, Ms Debbie Coleman, told the Committee that a lot of residents in the Hunter region do not have family nearby. Ms Coleman said, 'The majority of them do not have a family support network to advocate for them' (Evidence. 4 November 1999). As stated above, Mr French from PWD told the Committee many people from rural areas had to be accommodated after the Richmond and Newstart programs of the 1980s. The Committee understands that many disabled people were placed in group homes in the Hunter region.

## **8.6 Conclusion**

The Committee understands that the provision of accommodation services for disabled people in rural and remote areas is a very difficult issue. The Committee is aware that there is already a lack of accommodation and support services for people in rural and regional New South Wales. The evidence to this Inquiry suggests that there are real concerns that in the longer term, the

re-auspicing of government accommodation services will have a negative impact on rural and regional disabled people and their families.

The Committee believes that the current group homes initiative will not have a major impact on rural communities as only a limited number of the 41 identified services are in rural or regional areas. Nevertheless, the Committee has made two recommendations to deal with the needs of people from rural and regional backgrounds.

The Committee will examine the issues of access and equity relating to accommodation services for people with disability in rural and regional New South Wales in Part 2 of the Inquiry.

**Recommendation 40**

That the Ageing and Disability Department ensure that the particular needs and requirements of residents and families from rural areas are considered in the expression of interest process for the 41 identified services.

**Recommendation 41**

That the Ageing and Disability Department ensure that residents residing in metropolitan services, but whose family members are located in rural and regional areas, are provided where necessary with independent advocacy and support during the current expression of interest process.

## Chapter 9 – Broader Issues

This Chapter outlines the Committee's perspective on broader issues that have arisen in the course of Part 1 of this Inquiry. Many of these issues will be considered further during Part 2 of the Inquiry.

### 9.1 Future role of the Department of Community Services

A significant area of concern in submissions and evidence taken by the Committee was that the group homes initiative was part of a broader strategy to reduce the role of DOCS in direct service provision for people with disability. Some people expressed concern that DOCS would withdraw from service provision to people with disability and concentrate totally on child protection. More commonly, the concern was expressed that DOCS would become a service provider of 'last resort', catering only to people who could not be accommodated in the non-government sector.

The main concern expressed to the Committee, however, related to the possible implications of focussing DOCS service provision solely upon clients with higher support needs. Specific issues include:

- Difficulties in supporting a group of clients who all have moderate to high support needs within a community setting. At present, the Committee understands that practice within DOCS is to ensure that there is a mix of residents within DOCS group homes to ensure staff workloads are not excessive and to reduce the possibility of a volatile client mix emerging within specific group homes. This point was acknowledged by the Deputy Director General of DOCS, Mr Brendan O'Reilly:

Hopefully we would never get people with high support needs all in the one home. It would be an extremely difficult job for staff, massive problems, and for clients (O'Reilly. Evidence. 22 October 1999).

- Possible 'ghettoisation' of residents with higher support needs. This concern was raised in the submission of the Intellectual Disability Rights Service. The submission goes on to state that 'IDRS does not know whether or not this is a likely outcome of the tender process, but notes that adequate planning is necessary to prevent it from occurring' (Submission 22).
- The reduction in corporate knowledge and memory within DOCS as a result of focus on a narrow client group.
- The possibility that a significant reduction in the size of the DOCS client base will result in a reduction in size or abolition of associated services such as case-work and clinical

support within DOCS. These latter two concerns were raised by a number of disability organisations and the PSA.

Underpinning these concerns is the fear that DOCS will ultimately return to an institutional or congregate care model for people with disability, particularly in the case of residents with medium and high support needs. For example, when asked for her views on the type or range of services that DOCS should provide, the President of Council for Intellectual Disability, Ms Helen Seares, told the Committee:

... my Council believes that government should be in service provision to people with disabilities for a range of reasons. ... And for a range of different ability levels. I believe that is quite obvious. Why? You look at the sort of problems that one has in providing services to people with high support needs. It is only a very short step away when you have only people with high support needs that the pressures are on to congregate care, which will see a return to institutionalisation.

There is also the question that people should not be grouped together in any type of congregation, large or small, solely on the basis of their disability. It is like putting people together in a congregate situation on any other artificial criteria. Governments no longer provide big housing developments that congregate poor people together, because that is not socially a good thing (Seares. Evidence. 22 October 1999).

The Committee notes that the Government has stated repeatedly that DOCS will remain involved in direct service provision for people with disability. The concern expressed before the Committee, however, has been about the nature and extent of service provided. In evidence, the Committee received information about the nature of the continuing role proposed for DOCS from the Director General, Ms Carmel Niland:

DOCS would prefer to specialise our group homes for clients with medium to high support needs. Of course, DOCS will continue to share those clients with challenging behaviour with the non-government sector.

We see ourselves as realigning our role from that of the dominant provider to that of a large service provider which is part of a continuum of seamless service with[in] the disability sector (Niland. Evidence. 17 November 1999).

Further guidance about the intended role of DOCS in provision of services for people with disability is contained in the relationship agreement between ADD and DOCS. The agreement outlines the responsibilities of each Department in relation to provision of services for people with disability. The preamble to this agreement notes that that the 'target group for provision of direct services by DOCS are people for whom their primary disability is an intellectual disability.' The preamble goes on to state that:

Each agency recognises that the Provider [DOCS] provides services to individuals or groups of individuals within the target group who are more at risk and for whom no non-government alternate service, which will assist in minimising harm or injury or risk of homelessness can be found (DOCS. Document 71).

The Committee recognises that the Department appears to be moving towards a more specialist role in the provision of support services for clients with higher support needs who cannot be provided for within the non-government sector. While noting that important arguments about the value of retaining a broad range of clients within the DOCS system have

been raised, the Committee will undertake a more thorough discussion of the role of DOCS within the broader disability support system during Part 2 of the Inquiry. However, Members are concerned that undue specialisation on clients with high support needs may lead to rigidity within DOCS and a lack of awareness about or ability to adopt innovative and more flexible models of service delivery.

In relation to the ambit of this first Report, the Committee believes that any refocussing of DOCS services on people with medium to high support needs who cannot be provided for by the non-government sector, raises the question of how effective DOCS participation in the EOI process will be. Given that the process will initially be applied to services that predominantly have clients with low support needs, it would appear to be inappropriate for an organisation that intends to specialise in services for people with medium to high support needs to participate. If clients of these services fall outside the stated target group for DOCS, then DOCS may be placed at a disadvantage in comparison with other providers. Similarly, it raises the possibility that clients with low support needs who choose to remain with DOCS may be transferred to another provider at some time in the future. This may create a climate of continuing uncertainty.

As stated in Chapter 1, the Committee considers it essential that DOCS participate effectively in the current EOI process so that clients have a genuine option to remain with their current provider. This will ensure that the process achieves the objective of improving outcomes for people with disability. The Committee therefore has reservations about any move to specialise DOCS services to people who have medium to high support needs.

As noted previously, many DOCS group homes have clients with a mixed range of support needs. There is therefore the need to carefully consider the effect on remaining residents if there is a significant transfer of people with low support needs out of the DOCS system. Related to this is the issue of whether it is appropriate to re-aspice stable, cost effective, well run group homes regardless of whether or not they are in the government or non-government sector. The Committee sees little benefit in putting an efficiently managed service through an EOI process, particularly if to do so would lead to apprehension on the part of residents, family and staff. The Committee suggests that there may be significant benefits for DOCS to retain examples of best practice over a range of support needs within the organisation.

In visits to group homes and accommodation services, the skill and dedication of DOCS staff, as well as their concern for residents and clients, have impressed the Committee. The Committee believes that serious consideration needs to be given to the implications for the organisation as a whole of losing this skills base.

It is important, therefore, that a policy shift with such far-reaching implications be preceded by appropriate consultation with stakeholders. The Committee therefore recommends that the DOCS client base should not at this stage be restricted to people with medium to high support needs who are unable to obtain service from a non-government provider.



In making this recommendation, the Committee is aware that there is a need to define more clearly the role of DOCS as a provider within the broader range of service providers. However, such redefinition should occur through appropriate policy development processes.

### **Recommendation 42**

That the present role of the Department of Community Services as a provider to people with a broad range of support needs be maintained. Disability services provided by the Department of Community Services should not be restricted to people with medium to high support needs, or people who cannot be provided for in the non-government sector.

## **9.2 Need for a disability services plan**

The Committee has been made aware of calls for a long-term plan for disability services in New South Wales. This point was made in several submissions and by a number of witnesses. For example, the Community Services Commissioner informed the Committee:

We believe New South Wales has an opportunity to develop a world class disability service system and we have the wit and wisdom to be able to do so. It is disappointing that so many years after the Disability Services Act was introduced, New South Wales is not in a great position in relation to its services for people with disabilities. We would be looking to a longer term or medium term to long term policy that actually dealt with a few issues. One is a structured plan for the devolution of large institutions with a high degree of time tabling, so that all people in the sector can plan with some degree of certainty. (Fitzgerald. Evidence. 1 November 1999).

The need for long-term planning of service provision for people with disability will be considered in greater detail in Part 2 of this Inquiry. However, the Committee is agreed that significant policy decisions relating to disability services should be taken in the context of an overall framework for disability service provision.

## **9.3 Government and non-government service provision**

As noted in Chapter 7, the issues raised in this first part of the Inquiry have appeared to involve unfavourable comparison of government and non-government service providers. For example, concerns about the inability of non-government services to provide an absolute guarantee of service, lack of access to clinical services or lack of access to training resources could be interpreted as criticism of the concept of service provision by the non-government sector.

The Committee does not, however, wish to engage in any form of comparison. The evidence taken so far indicates that both the non-government sector and DOCS play vital roles in the provision of services to people with disabilities. The Committee has heard evidence that some

of the most innovative and flexible programs for people with disability are operated by non-government providers. Similarly we have seen evidence of innovation within DOCS, notably in the services operated by Community Accommodation Support Teams. Most organisations that have expressed concern about the group homes initiative have taken pains to point out that they support non-government providers and do not wish to engage in any form of comparison between the two. For example, the Disability Safeguards Coalition stated:

The Disability Safeguards Coalition does not have a position on the merits of government and non-government services for people with disabilities. There are examples of good practice and poor practice in both (Epstein-Frisch. Evidence. 22 October 1999).

As noted in Chapter 4, much of the concern expressed to the Committee about the possibility of transfer to the non-government sector relates to structural matters that need to be addressed in order to ensure that the non-government sector continues to provide effective service to people with disability. This is a concern not only in relation to people who may choose to transfer from DOCS to the non-government sector as part of the current process, but also to existing clients of non-government providers and to people in future placements arising from strategies to devolve institutions or address unmet need.

The Committee has heard that access to infrastructure support and allied services, systems for ensuring smooth transition to other providers or DOCS when placements break down, and adequate training resources need to be properly guaranteed in order to ensure the long term viability of the non-government sector. The representative body of non-government providers, ACROD, has informed the Committee that there are significant equity issues about access to resources such as clinical and allied expertise, that should be addressed to ensure the long term vitality of non-government service providers (Submission 23).

The recommendations in Chapter 3 of this Report are intended to ensure that these issues are properly addressed in relation to people who transfer to non-government providers as part of the current group homes initiative. The Committee is aware that this may raise significant equity concerns for other people within the non-government sector. These matters will be considered further in Part 2 of the Inquiry.

## **9.4 The focus on DOCS group homes**

Some submissions to the Committee have indicated that the need for reform in DOCS group homes is relatively low in the scale of priorities for reform in the disability sector. It has been argued that residents of group homes in both DOCS and the non-government sector are in a relatively favourable position by comparison with some other people with disability. These include people in large-scale residential institutions, people and their families who have only limited access to respite care, and people who do not have access to any form of services at all. The Committee has heard that, whilst there is scope for improvement in DOCS group homes, the current proposal has diverted attention from more pressing issues.

The Committee is keen to consider these issues more thoroughly in Part 2 of the Inquiry. However, Members consider that the need for broader reform in the disability sector should

not preclude initiatives that may increase lifestyle choices for people who currently live in group homes.

## **9.5 Competitive tendering principles and human services**

The basis of concerns about the EOI process in a number of submissions was questions about the role of competitive tendering, or similar approaches to service delivery, in the area of human services. In some cases, parents and advocates consulted by the Committee stated that the notion of competitive tendering for provision of support for vulnerable people reduced people to the status of commodities, or 'cattle' being 'auctioned off' (Committee Forum with Relatives and Guardians from Identified Services. Sydney. 8 November 1999). NCOSS told the Committee that in their experience, application of competition principles to human services often resulted in price becoming the key determinant of service delivery:

If you move to a significant market-based approach, most of the evidence so far in human services is that price becomes a considerable or sole determinant. It is very hard to specify quality; it is very hard to specify actual security and adequacy of service provision. Therefore you do see a loss of service, often to locations, often to different population groups, potentially a loss of quality, a driving down of price, a flow-out of small providers from the market, a growth of larger providers ...

I should say that many of these initiatives are taken on the back of cuts to budgets as well, so the size of the cake gets reduced at the same time as the introduction of market based approaches (Moore. Evidence. 22 October 1999).

The Committee's attention was also drawn to the second report of the Council on the Cost of Government, which states that:

...it is important to keep in mind that any cost savings through outsourcing public services arise either because contractors are more efficient than public sector providers, or because they pay the factors of production, notably labour in the case of public services, less. Only in the former case is there a true efficiency gain for the community. The latter represents only a transfer of benefits from one group to another (Council on the Cost of Government – Second Report. December 1996:27).

Several submissions, including those of the PSA and NCOSS, stated that the decision to seek tenders for DOCS services was in breach of the Premier's Service Competition Guidelines which state 'competitive tendering should only be considered after in-house improvement has been fully explored'.

The Committee is aware that there is considerable debate about the appropriateness of applying competitive, or 'market-based', models to service delivery for vulnerable people. These views which were expressed in many submissions and by a number of witnesses were summed up by Mr Maurie O'Sullivan, President of the PSA:

I do not believe in competition for the care of a human being (O'Sullivan. Evidence. 1 November 1999).

Whilst the Committee hopes that adoption of the recommendations of this Report in relation to the EOI process will ensure that the process is centred on the needs of people with

disability, it is aware that further consideration needs to be given to the role of competitive approaches in disability services. In this Inquiry there has been considerable emphasis on the need for a client centred approach to services that support people with disability. The Committee agrees that decisions about service delivery should occur through a process that is focussed on the needs of the client, and where possible involves the client in decision-making about life-style options. This issue will be explored in Part 2 of the Inquiry.

## Chapter 10 – Conclusion

This Chapter outlines the Committee's view in relation to the decision of the Government to conduct an expression of interest process for a proportion of the current residents of Department of Community Services group homes.

### 10.1 The way forward

Despite some concerns about the origin of the group homes initiative, the Committee considers that the proposal, as fully explained, has potential to benefit some people with disability. It is possible that provided an appropriate process is in place, some people may choose to move out of the DOCS system to a service that can provide them with better outcomes.

The Committee has therefore decided not to recommend that the current EOI process be abandoned. The Committee has reached this conclusion after considerable hesitation, and Members recognise the extent of deeply held fears about this process. The Committee considers that the concerns expressed in our discussions with clients, relatives and individual advocates are particularly significant and must be fully addressed in order for the proposal to proceed.

However, the Committee notes that the opposition expressed to this proposal mainly relates to the way that it was announced, subsequent consultation, the likely scale and pace of change and apprehension about the motivation for the proposal. Few people or organisations expressed opposition to the concept of allowing people to transfer from DOCS to non-government providers, provided that adequate processes – involving effective consultation and exercise of choice by clients and their families – were in place. The Committee believes that the process which has now been articulated by the Government, in conjunction with the recommendations of this Report, will satisfy many of the concerns raised during this Part of the Inquiry.

In particular, the Committee's conclusion is based on our understanding that:

- The primary objective in carrying out the group home project is to improve quality of service for people with disability.
- Clients of DOCS services are provided with a genuine choice of service provider. This choice includes the genuine option of retaining a permanent placement within the DOCS system.
- Any decision to change service provider will be made by the client, or where the client is unable to exercise choice, by their guardian or advocate.

- In making this decision clients will be provided with fully resourced advocacy support where required.
- Thorough evaluation of any transfers that occur during the first part of the process will take place before EOIs are sought in respect of further DOCS services. The process will therefore be staged over a sufficient timeframe, and will not be rushed, or forced upon people.
- Workable and fully-funded arrangements will be established for people who decide to transfer to the non-government sector to retain access to an equivalent level of casework, clinical and allied health services.
- Effective monitoring and evaluation systems are put in place to ensure that the outcomes of the group homes initiative are successful.
- Adequate resources for training and infrastructure support will be provided to non-government services.
- Adequate systems will be in place to provide for increased funding where support needs of clients who decide to transfer change.
- Any saving to Government which might occur as a result of the group homes initiative will be retained within the disability sector.

The Committee's decision not to recommend that the process be abandoned is also predicated on the Government's adopting the recommendations of the Report. Of particular importance are the recommendations to ensure:

- The EOI and assessment process will be conducted in a transparent and consultative manner.
- Establishment of guaranteed arrangements to ensure that people who choose to transfer to the non-government sector receive the same level of service they would receive within the DOCS system.
- If the placement with a non-government provider breaks down, people who choose to transfer must be guaranteed that they will receive an immediate permanent placement in a DOCS group home, with the same level of support as presently received.
- Establishment of an effective framework for consultation with stakeholders in relation to the long-term objectives of this initiative, as well as future policy initiatives in disability services.

The Committee is aware of the significant distress and apprehension that the announcement of this policy has caused for many people. It is urged that the process be implemented cautiously

and in a measured way, which maximises consultation and input from affected stakeholders, including people with disability, their relatives and advocates, representative organisations and staff.

## **10.2 Part 2 of the Inquiry**

The Committee notes that the group homes initiative raises issues that are of continuing importance to the second part of the Inquiry. The Committee will therefore continue to monitor and evaluate the present EOI processes, and the way it is managed, over the course of Part 2 of this Inquiry.

## Appendix 1 – Submissions Received

No	Author
1	The Cabinet Office, Mr Roger Wilkins, Director-General
2	Confidential Submission
3	Western Sydney Intellectual Disability Support Group Inc, Ms Lisa Stelc, Executive Officer
4	Tamworth & District Respite & Advocacy Group <i>in conjunction with</i> Statewide Disability & Advocacy Coalition, Mrs Marie Cowling, Honorary Co-ordinator
5	Manly Warringah Families and Friends of People with Disabilities, Ms Christine Agius
6	Multicultural Disability Advocacy Association of NSW Incorporated, Ms Barbel Winter, Executive Director
7	People with Disabilities (NSW) Inc, Mr Phillip French, Executive Officer
8	Disability Council of NSW, Ms Leonie Manns, Chairperson
9	Ms Rhonda M Hodges
10	Community Services Commission, Ms Edwina Pickering, Community Visitor Coordinator
11	Inner-West Group Homes Parents and Friends Association, Mr John Eager, President, & Ms Darleen Fawl, Secretary
12	Community Services Commission, Mr Robert Fitzgerald, Commissioner
13	Mid North Coast Area Disability, S J Rooth, Chairperson
14	Action for Citizens with Disabilities Ltd, Ms Ruth Robinson, Executive Officer
15	Westmead Hospital and Community Health Services, Mr Robert Moen, Social Worker & Team Leader FAACT Team
16	Dare to Care, Ms Christine Regan, Chairperson
17	Public Service Association, Ms Janet Good, General Secretary
18	Statewide Disability Coalition (NSW), Mr Jim Laird, Chairperson
19	Family Advocacy: Institute for Family Advocacy & Leadership Development Association Inc, Ms Judy Ellis, Director
20	Far North Coast Disability Action Team, Mr Tom Gorman, Committee Member
21	Jewish Community Services, Ms Freda Hilson, Manager Disability Services



22	Intellectual Disability Rights Service Inc, Ms Melissa Bellanta, Solicitor
23	ACROD NSW Division, National Industry Association for Disability Services, Mr Graham Catt, Executive Officer
24	New Horizons Enterprises Limited, Mr Stephen Kinkead, Executive Manager
25	Autism Association of NSW, Ms Imelda Dodds, Executive Director
26	Uniting Church in Australia, NSW Synod, Ms Lindy Kerr, Disability Education & Services Officer
27	Disability Advocacy Service Hunter (DASH ) Inc, Mr Mark Grierson, Co-ordinator
28	Hunter Intellectual Disabilities Advocates, Ms Yiota Rae, Spokesperson
29	The Samaritans Foundation, Mr Cec Shevels, Director
30	The Housing Connection (NSW) Inc, Ms Anne Louise Hickey, Manager
31	Life Activities Inc, Ms Lyn Dowling, Social Worker
32	Catholic Women's League, Warialda Branch, Mrs A Jones, Secretary
33	Council of Social Service of NSW (NCOSS), Mr Gary Moore, Director
34	The NSW Council for Intellectual Disability, Ms Helena O'Connell, Executive Officer
35	The Disability Safeguards Coalition
36	Baringa Parents and Friends Association, Mr C R Peters, President
37	Stockton Hospital Welfare Association Inc, Ms Lorna Morris, Secretary
38	Confidential Submission
39	Confidential Submission
40	Access Community Education Services (ACES), Ms Beth Sawilejskij, Co-ordinator
41	Blue Mountains Disabilities Forum Inc, Mrs Marilyn Dibbs, Secretary
42	St Anthony's and St Joseph's Centre of Care, Mr Kevin Howard, Chief Executive Officer
43	Confidential Submission
44	Confidential Submission
45	Ms Maria Pappalardo
46	Mrs Dorothy Harrington, OAM & Mr Frederick Harrington
47	Confidential Submission
48	P J Collins

49	Mrs D Sammut
50	Ms Lorraine Yudaeff
51	Ms Marie Heaney
52	D E & M I Allen
53	Mr Ian Firth
54	Mr Garry Hancock
55	Mr A R Williams
56	Ms Yiota Rae
57	Mrs Dorothy Knight
58	no name – address supplied
59	Mrs L S Blyth
60	Lee Francis
61	Mr Tom O’Keeffe & Ms Deirdre O’Keeffe
62	Mr David Baker
63	Mr Terry Fawl
64	Confidential Submission
65	Mr A Holey & Mrs B Holey
66	Mrs Darleen Fawl
67	Miss M W Bowles
68	Checkpoint, Ms Maxine Brem, Convenor
69	Mrs Stephanie Robinson
70	Ms Maree Walz
71	Ms Darrell Evans
72	Mr Laurence See
73	Ms Pamela Morris
74	Confidential Submission
75	Mrs Betsy Hilton

76	Mrs Eva Nagy
77	E de Heer & Sheila de Heer
78	Nardy House Committee, Ms Denise Redmond, Chairperson and Ms Betsy Hilton, Secretary
79	Ms Meryl Harding & Mr Ian Harding
80	Mr Keith Manning
81	Mr Peter Hutten
82	Mr Eric Walters
83	Lower Hunter Temporary Care Inc., Ms Fiona Smith, President
84	Confidential Submission
85	Mr John Collins & Ms Shirley Collins
86	Ms Helen Pitcher
87	Mrs E Studholme
88	B & P Hammett
89	Mr Francis Baker & Mrs Janet Baker (on behalf of Mr Matthew Baker)
90	R E & P Walsh
91	Mr John Eager & Ms Janet Eager
92	Confidential Submission
93	Ms Margaret Gorman
94	Mr Mark Gorman
95	S P O'Brien
96	Bonnie Johnson
97	Mrs Kerry Stratton
98	Confidential Submission
99	Confidential Submission
100	Mrs Wanda Osborn
101	Mr James Condren
102	Mrs M Booth

103	Mrs A Eshman
104	Ms Melissa Athinson
105	Ms Jennie Adam
106	Ms Gaye Essex
107	G Baddock
108	Mr Ian Dunlop & Ms R Dunlop
109	Ms Anne Elysee
110	Mr Christopher Peters & Ms Jayne Peters
111	Mrs Marie T Clair
112	Ms Deborah Maher
113	P H & L L Driscoll
114	Confidential Submission
115	Ms Christine Smith & Mr Scott Smith
116	Ms Thelma Morris & Mr Bert Morris
117	Ms M Brem
118	Ms Dora Perdikaris
119	M Leousis
120	Mr Paul Jones & Ms Anne Jones
121	Ms Jenny Coughlan
122	Ms Barbara Spode
123	Confidential Submission
124	Mr Trevor Carter & Ms Mary Lou Carter
125	Mr Trevor McLennan & Ms Veronica McLennan
126	Ms Yvonne Snow
127	Ms Beverly Buckridge
128	Ms Monica Johnson
129	Mr Mohan Das & Mrs Barbara Das

130	Ms Pascale Carratt
131	Mrs Evelyn Shoemith
132	Mr Bert Redding & Ms Kath Redding
133	Ms Rhonda Brettschneider
134	Ms Maria Heaton
135	Ms Jeanette Moss, AM
136	W G & C R Packman
137	Hunter Region Disabled Lobby Group, Ms Melinda Middleton, Co-ordinator
138	Drs K & R Frank
139	Ms Margaret Shepherd
140	Mr John Collins & Ms Shirley Collins
141	P & D McDonald
142	Ms Shirley Martin & Mr Gregory Martin
143	Confidential Submission
144	Ms Marcia McLennan
145	Ms Joan Marr
146	Mrs R Chapman, Mrs D Woodhill, Mrs T Dyson, Mrs M Dearn
147	Kirinari Community Services, Mr Gary Roberts, Chief Executive Officer
148	Allenby & Marjorie Bolte
149	Mr Richard Radcliffe Walton
150	Confidential Submission
151	Armidale Pathways Committee, Ms Mary Devine, Armidale Community Care Co-ordinator
152	Ms Pamela Pearse
153	Families First Macarthur Parent Support Group, Ms Karyn Ingram, Vice-President
154	NSW Nurses Association Stockton Centre Branch, Mr Andrew Batcheldor, Branch Secretary
155	Access Plus Spanning Identities Inc, Ms Annie Parkinson, President
156	Armidale Disabilities Interagency, Ms Jan Roads, Chairperson

157	J F Brett
158	Mr John M Mowbray
159	Macarthur HACC Forum, Ms Linda Margrie, Macarthur HACC Development Worker
160	Mr Paul Race & Ms Lorraine Race
161	Macarthur Disability Network, Ms Julie Deane, Chairperson
162	Interchange Bega-Eden Respite Care Inc., Pat Jones, Co-ordinator
163	Ms Moya Smith
164	Mr Tom Kenny
165	Rights Forum, Ms Kim Walker, Community Educator
166	The Association of Childrens Welfare Agencies Inc, Mr Nigel Spence, Chief Executive Officer
167	New England Early Childhood Intervention Co-Ordination Committee, Ms Jane Rudd, Chairperson
168	Caring Together Ipswich, Mr Stephen Attwood
169	Ms Jennifer Conden
170	Mrs Frances Lanteri
171	Families In Partnership Committee, Ms Vicki Meadows, Parent Representative, Ms Annamaria Wood, Macarthur District Family Temporary Care, Professor John McCallum, Dean, Faculty of Health, UWS, Macarthur

## Appendix 2 – Witnesses At Hearings

<b>Parliament House, Sydney</b>			
22 October 1999	Ms Marianne Hammerton	Acting Director-General	Ageing and Disability Department
22 October 1999	Mr Brendan O'Reilly	Deputy Director-General	Department of Community Services
22 October 1999	Ms Belinda Epstein-Frisch	Convenor	Disability Safeguards Coalition
22 October 1999	Ms Jane Fraser	Advocate	Disability Safeguards Coalition
22 October 1999	Ms Trudy van Dam		Disability Safeguards Coalition
22 October 1999	Ms Helen Seares	Chairperson & Advocate	NSW Council for Intellectual Disability
22 October 1999	Mr Gary Moore	Director	Council of Social Service of NSW (NCOSS)
22 October 1999	Ms Christine Regan	Policy Officer	Council of Social Service of NSW (NCOSS)
<b>Parliament House, Sydney</b>			
1 November 1999	Ms Darleen Fawl	Secretary	Inner West Group Homes Parents and Friends Association
1 November 1999	Ms Janet Baker	Former Secretary	Inner West Group Homes Parents and Friends Association
1 November 1999	Mr Maurie O'Sullivan	President	Public Service Association of NSW
1 November 1999	Ms Ayshe Lewis	Senior Industrial Lawyer	Public Service Association of NSW
1 November 1999	Ms Jann Jeffries	Delegate	Public Service Association of NSW
1 November 1999	Ms Freda Hilson	Manager, Disability Services	Australian Jewish Welfare Society
1 November 1999	Ms Melissa Bellanta	Solicitor	Intellectual Disability Rights Service Inc
1 November 1999	Ms Paula Rix	Co-Ordinator	Intellectual Disability Rights Service Inc
1 November 1999	Mr Gerard Medaris	Rights Forum Representative	Intellectual Disability Rights Service Inc
1 November 1999	Mr Glenn Gardiner	Chair	ACROD, NSW Division
1 November 1999	Ms Robin Way	Past Chair	ACROD, NSW Division
1 November 1999	Mr Graham Catt	Executive Officer	ACROD, NSW Division
1 November 1999	Mr Robert Fitzgerald	Commissioner	Community Services Commission
1 November 1999	Ms Joanna Quilty	Manager, Service Monitoring and Policy	Community Services Commission

<b>Parliament House, Sydney</b>			
1 November 1999	Mr Gary Dawson	Manager, Complaints, Investigations and Review	Community Services Commission
1 November 1999	Ms Edwina Pickering	Co-Ordinator, Community Visitor Programs	Community Services Commission
1 November 1999	Ms Carmel Robinson	Community Visitor	Community Services Commission
<b>Parliament House, Sydney</b>			
2 November 1999	Ms Lynn Houlahan		Independent Family Liaison Support Worker
2 November 1999	Ms Wendy Potter	President	People with Disabilities (NSW) Inc
2 November 1999	Mr Phillip French	Executive Officer	People with Disabilities (NSW) Inc
2 November 1999	Ms Diana Qian	Project Officer	People with Disabilities (NSW) Inc
2 November 1999	Ms Leonie Manns	Chairperson	Disability Council of NSW
2 November 1999	Mr Terrence Ryan	President	Manly Warringah Families and Friends of People with Disabilities
2 November 1999	Ms Christine Agius	Member	Manly Warringah Families and Friends of People with Disabilities
2 November 1999	Mr Brian Wilder	Member	Manly Warringah Families and Friends of People with Disabilities
<b>Newcastle Workers Club, Newcastle</b>			
3 November 1999	Mr Mark Grierson	Co-Ordinator	Disability Advocacy Service Hunter (DASH)
3 November 1999	Ms Sonia Powazuk	Advocacy Worker	Disability Advocacy Service Hunter (DASH)
3 November 1999	Ms Yiota Rae	Member	Hunter Intellectual Disability Advocates
3 November 1999	Ms Dorothy Harrington	Member	Hunter Intellectual Disability Advocates



<b>Parliament House, Sydney</b>			
4 November 1999	Ms Barbel Winter	Executive Director	Multicultural Disability Advocacy Association of NSW Inc
4 November 1999	Ms Diana Qian	Chairperson	Multicultural Disability Advocacy Association of NSW Inc
4 November 1999	Mr Ljuben Petrovski	Carer	Multicultural Disability Advocacy Association of NSW Inc
4 November 1999	Ms Debbie Coleman	Manager	Central Coast Disability Network
4 November 1999	Ms Danielle McHugh	Advocacy Worker	Central Coast Disability Network
4 November 1999	Mr Gordon Rhodes	Vice-Chairperson	Statewide Disability Coalition (NSW)
4 November 1999	Ms Marie Cowling	Carer	Statewide Disability Coalition (NSW)
4 November 1999	Mr Tom Gorman	Member	Far North Coast Disability Action Team
4 November 1999	Ms Anne McCabe	Member	Far North Coast Disability Action Team
4 November 1999	Ms Joan Paddon	Member	Far North Coast Disability Action Team
4 November 1999	Mrs Dorothy Knight		Mrs Dorothy Knight is the parent of a severely disabled daughter who lives in a group home operated by DOCS
<b>Parliament House, Sydney</b>			
17 November 1999	Ms Marianne Hammerton	Acting Director-General	Ageing and Disability Department
17 November 1999	Ms Pamela Riddiford	Unit Manager, Community Living Development Unit	Ageing and Disability Department
17 November 1999	Ms Carmel Niland	Director-General	Department of Community Services
17 November 1999	Mr Brendan O'Reilly	Deputy Director-General	Department of Community Services

## **Appendix 3 – Committee Site Visits, Briefings, Forums**

### **Committee Site Visits**

#### **Sydney: 2 November 1999**

Committee members visited two group homes in the Sydney metropolitan area. Members talked with residents, family members and staff and viewed accommodation facilities.

#### **Newcastle: 3 November 1999**

The Committee visited two group homes in the Newcastle/Hunter region. Members had the opportunity to discuss the decision and other issues with residents and staff.

### **Committee Briefing**

Community Accommodation Support Team (CAST) Hunter: 3 November 1999

The Committee met with CAST staff and clients in Newcastle and discussed the decision and the impact on clients.

### **Committee Forums for Relatives and Guardians**

#### **Newcastle Forum: 3 November 1999**

The Committee held a forum with parents, advocates and residents from the 41 identified services at the Newcastle Workers' Club. The attendees were invited by the Committee Chair and asked to provide feedback on the impact of the decision. There were 50 attendees. The forum commenced at 3.00 pm and concluded at 4.30 pm.

#### **Sydney Forum: 8 November 1999**

The Committee held a forum with parents, advocates and residents from the 41 identified services at Parliament House, Sydney. The attendees were invited by the Committee Chair and asked to provide feedback on the impact of the decision. There were 19 attendees. The forum commenced at 2.00 pm and concluded at 4.30 pm.

## **Appendix 4 – Independent Consultation**

**INQUIRY INTO RESIDENTIAL AND SUPPORT SERVICES FOR PEOPLE WITH  
DISABILITY**

**STAGE ONE**

**THE DECISION TO TENDER OUT GROUP HOMES CURRENTLY OPERATED BY THE  
DEPARTMENT OF COMMUNITY SERVICES**

**CONSULTATION WITH RESIDENTS AND CLIENTS OF IDENTIFIED SERVICES**

**27<sup>TH</sup> NOVEMBER, 1999**

**MICHELLE O'DEA  
CONSULTANT**

**FOR**

**THE STANDING COMMITTEE ON SOCIAL ISSUES**

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## **1. INTRODUCTION**

The Standing Committee on Social Issues is currently conducting an inquiry into residential and support services for people with a disability (“the inquiry”). As part of the inquiry, in accordance with point 5 of the committee’s terms of reference, there is to be consultation with various stakeholder groups, including people with disability. The committee commissioned this consultant to seek the views of people with disability affected by the decision to tender out 41 group homes currently operated by DoCS.

There are two stages to the inquiry:

*Stage 1. The decision to tender out group homes and support services currently operated by DoCS.*

*Stage 2. Residential and support services.*

This report is limited to stage one of the inquiry.

The group homes and support services currently operated by DoCS that have been earmarked to be tendered out are located in the following areas:

- Northern Sydney
- Riverina/Murray
- South East Sydney
- Hunter
- Nepean
- Central West
- Cumberland Prospect
- South West Sydney
- Central coast
- Southern Highlands
- Far North Coast

The majority of group homes and support services to be put out to tender fall into the Northern Sydney, Cumberland/Prospect and Hunter Areas.

## **2. AIMS**

The project aims to:

- (i) identify how residents and clients feel about the decision, with reference to the issues outlined in the brief to the consultant;
- (ii) report on any issues not identified in the brief which the consultant considers relevant to the inquiry;

provide recommendations, on the basis of feedback from participants, as to how consultations might be conducted in the future.

### **3. DEFINITIONS**

For the purposes of this report, the following definitions apply.

#### **The committee**

The Standing Committee on Social Issues.

#### **The decision**

The decision by DoCS to put 41 group homes and some support services out to tender.

#### **DoCS**

Department of Community Services.

#### **ADD**

Ageing and Disability Department.

#### **Group homes**

A house operated by DoCS which provides support services to people with disabilities.

#### **Residents/Clients**

People with disabilities who receive a residential support service from DoCS which has been earmarked to be put out to tender.

#### **Participants**

Residents and clients who contributed to the group discussions.

#### **The Issues**

Discussion questions for participants outlined in the brief to the consultant.

### **4. METHODOLOGY**

A total of 29 residents and clients took part in consultations, which were held in five areas.

Group consultations with between 6 – 8 participants were held in the following areas:

- Northern Sydney Area,
- Cumberland Prospect Area,

4.

- Hunter Area,
- Central Coast Area.

These four areas were selected due to the high number of people in the areas receiving services earmarked for tendering.

A fifth consultation was conducted by telephone with a resident in the Southern Highlands Area. This fifth area was selected due to its remote location.

Initial contact with residents and clients was made through the house and service managers. This was done for the following reasons:

1. The consultant was unaware of the extent to which residents and clients were aware of the decision.
2. The consultant was not aware of individual responses to the decision and did not wish to cause any increase in anxiety, stress or confusion to residents and clients.
3. To respect the privacy and confidentiality of residents and clients.

House/service managers within the selected areas were asked to extend invitations to residents and clients whom they considered would be interested in attending a group discussion in their area. Arrangements were then made with those who expressed an interest in participating in the group discussions. This was done either directly or by liaising through house staff where appropriate.

Every attempt was made to schedule the discussion groups for a time and day which was most convenient to the majority of participants in each area.

Venues known to the participants were selected for the group discussions. This was done so the participants might feel comfortable within the environment in which the discussions were taking place.

All consultations took place through informal discussions. Participants were asked the following questions to stimulate discussion:

- Whether they had heard about the decision and how they found out about the decision.
- How they felt when they found out about the decision
- What they think or feel about the decision.
- Why they thought the decision was made and what they think might change because of the decision.
- Whether they think they get to have their say in decisions that are made about what happens to the service they receive.
- Whether anyone had asked what they think about the decision or asked for their ideas.
- Whether they would like someone to ask them what they you think before decisions are made about where they live and how things are run.
- How they would like to tell people about their ideas in the future.

#### **4.1 Limitations of Methodology**

The methodology used for this project is limited for the following reasons:

- (i) The project had to be conducted between the 12th and 26th of November. This limited:
  - (a) The participants of the project to those who were available within that two week time frame;
  - (b) The number of people who could be consulted, and
  - (c) The time that could be spent with individuals with high support needs.
- (ii) The residents and clients who participated in the discussion groups were approached (for reasons outlined above) through the house and service staff. This had the possibility of affecting the sample group as staff may have approached people whom they consider might convey thoughts and feelings that reflect the way the staff feel about the decision.

Despite the limitations, it is this consultant's view that the contributions from the participants in the discussion groups should be given considerable weight. Common themes emerged from the five separate consultations which appear to give an indication of the general feelings of residents and clients about the decision by DoCS to put the services they receive out to tender.

#### **4.2 Special Note**

DoCS staff were extremely cooperative and helpful during the organisation of the consultations. Transport to and from discussion venues was provided by house staff. Their prompt cooperation enabled the consultations to take place within the tight time frame of the project.

### **5. PARTICIPANT FEEDBACK ON THE ISSUES**

#### **5.1 The extent to which clients and residents understand the nature of the decision, and the processes surrounding the proposed re-auspice of their service.**

Residents and clients do not understand the nature of the decision. Participants felt that one or both of these outcomes would occur:

- (i) their homes will be shut down and they would have to move, possibly having to find a place themselves to live.
- (ii) the staff will lose their jobs and they will lose their staff or get different staff.



A small number of participants claimed the decision was made so “*the government could save money*”. However the majority of participants stated they did not know why the decision was made.

There was no indication that any of the participants had an understanding of the tendering process, nor was there any understanding that a different service might be capable of providing appropriated services for them. On the contrary, there appeared to be a feeling that if they don’t receive a DoCS service, they won’t receive a service at all. This was demonstrated with comments like:

*“who will mind us if the staff go?”*

*“where do we rest after work if we have nowhere to live?”*

### **5.2 The way in which residents and clients were informed of the decision.**

Participants reported learning of the decision through various means.

- by a letter or newsletter from ADD.
- from ‘a lady they did not know, at a meeting’
- from staff or relatives.
- on the radio whilst on a bus
- on the television.

### **5.3 The effect that being informed of the decision in this way has had on the clients.**

Participants reported various feelings about the decision. Words used to describe their feelings included ‘confused’, ‘upset’, ‘angry’, ‘not good’, ‘scared’, ‘cranky’ and ‘worried’. Some of the participants were visibly upset when discussing how they felt.

Two participants in separate discussion groups, broke into tears when attempting to explain how they felt. One participant, who had recently moved house, found it difficult to speak and appeared emotional as he raised his fears of having to move again.

Confusion and anxiety were reported to have manifested in several ways. Certain participants conveyed the following:

- ‘Feeling like punching people.’
- Visiting a real estate agent to find out which house they would live in next.
- Placing themselves on a ‘housing commission’ waiting list.

Participants wanted to know exactly what was going to happen and when changes were going to take place. There was a feeling that everything had already been decided and was totally out of their hands.

Participants also reported that staff had no information to address their concerns as they arose which was causing further anxiety.

Whilst this report is limited to the information gained from the participants during discussions with them, it may be of assistance to note at this point, comments made by staff to this consultant during the initial stages of organising the discussion groups. Staff members reported that since learning of the decision, residents have shown the following behaviour:

- Stripping and washing bed linen every day in preparation for moving.
- An increase in incidence of challenging behaviour.
- Obsessive interest in the particulars of the staff roster.
- Daily questioning of staff about what is going to happen about the decision.

### **The nature of any consultation processes for residents and clients that have taken place both prior to and following the decision.**

Participants did not feel that any consultation with them had taken place either prior to or following the decision to put their homes out to tender.

A small number of participants referred to a meeting where *‘a lady came to tell them about the decision’* after the decision had been made however, they felt that during this meeting, their views on the decision were not sought.

Although participants indicated that no one had asked them what they think about the decision, they did believe they might get a chance to have a say in the future. It is noteworthy however that certain participants made a distinction between having a say and being listened to. One participant summed up the general mood of the discussion at one point by saying, *“...if changes are made, we will have our say but they won’t listen to us”*.

Despite this view every participant expressed great interest in the possibility of putting their opinions forward and having a say in the decision making process. Further than that, it was considered the *“right thing to do”* and *“only polite to ask what we think”*.

### **5.5 Residents’ and clients’ views on how effective these consultation processes have been, in particular, the extent to which they consider they have an opportunity for genuine input into the decision making processes relating to the re-auspecting process.**

There was a general consensus amongst participants that they had no opportunity for genuine input into the decision making process.

*“the government already organised it, even our parents can’t get a say”*

*“no one gives a stuff about us”*

There was some view that staff do listen to what they have to say but that their views are not considered outside their immediate environment.

### **5.6 Residents' and clients' views on what types of consultation should have taken place.**

Participants stated they would like to have been asked for their thoughts before the decision was made, this was demonstrated with comments such as:

*“someone should ask us before any changes are made”* and

*“...would like people to listen to what we say...they should listen because we have rights and they should respect our rights”.*

Whilst the desire to contribute to the decision making process was expressed by almost all participants, the means by which they indicated they would like to contribute, varied and included:

- talking directly to the people responsible for making decisions.
- talking to the staff, or people familiar to them, and providing feedback through them.
- providing their ideas on tape and sending it to those who make decisions.
- writing letters and faxes.

There was a strong expression, from participants across the five areas, that they would like to be included in the decision making process in the future, especially in instances where decisions directly impact on their lives.

Many are aware of their rights of “decision making and choice” (standard 3, Disability Service Standards (Disability Services Act, 1993)) and believe that government has to listen to what they have to say.

*“the government has to listen to what we say, it is part of their job. If they don't listen they're not doing their job”*

## **6. SUMMARY OF FEEDBACK FROM CONSULTATIONS**

It became evident throughout the consultation process that residents and clients are unsure of their future as a result of hearing about the decision. It became apparent that clear information about the tendering process has either not been given to residents and clients or, if given, has not been understood.

Participants expressed concerns about losing:

- their home or having to move somewhere else,
- staff that work with them (some participants mentioned, by name, particular staff with whom they had built up close bonds),
- their money and personal belongings,

- their social networks (many friendships have been maintained over a long period of time and stem back to pre-devolution - these friendships are often supported by staff who have knowledge of residents' and clients' social history),
- their community networks and support systems.

Many participants appeared visibly distressed when talking about the decision. Participants reported feeling powerless to influence decisions which directly affect the services they rely on for support. The lack of a clear understanding of the decision and the inability to seek clarification on issues surrounding the decision, appear to have contributed to some feelings of anxiety and confusion.

## **7. RECOMMENDATIONS TO ADDRESS CONCERNS RAISED BY PARTICIPANTS**

In light of the contributions made to the discussion groups by the participants, it is this consultants view that the presentation of possible outcomes of the decision to residents and clients serves to confuse rather than clarify the meaning of the decision.

Information given to residents and clients has been non specific and open ended. It is evident that this has contributed significantly to much anxiety and misunderstanding about the decision. For example, participants had grasped the information that staff may no longer work with them but not that they may be replaced by other staff. Similarly, they had understood the possibility that they may have to move, but not that they would have somewhere to move to.

Assuming decisions are made through a process of thorough consultation (such as outlined in point 8 below), the following is recommended to address concerns raised by participants:

- Informing residents and clients in a clear and concise manner (this will include presenting information so residents and clients can understand it).
- Providing residents and clients with a clear time plan detailing when and how changes are to be made.
- Informing residents of progress in the time plan as it is achieved.
- Keeping staff who work with the residents and clients informed of progress so they may assist residents and clients with enquiries.
- Consulting with residents and clients as appropriate during the implementation of a decision.

Prior to the implementation of the above recommendations, and most importantly, in order to reduce the confusion and anxiety currently experienced by some residents and clients, it is also recommended that a communication strategy be developed to:

- Inform residents and clients of any plans to provide them with choices and the opportunity to have their say about the services they receive,
- Inform residents and clients that no further decisions will be made without consultation,
- Address specific fears or anxieties by informing residents that (i) they will not lose their current home and (ii) they will not lose their current staff, without further consultation.

This strategy should be implemented immediately.

## **8. RECOMMENDATIONS FOR FUTURE CONSULTATIONS**

Consultation with residents and clients as part of the decision making process may facilitate a clearer understanding of the nature of a decision once it has been determined.

It is important to residents and clients to feel that they have some control, and play an active role, in making decisions which affect their lives. It is recommended that the right of people with a disability to have a say in the decisions which affect their lives, be strictly observed whenever fundamental matters such as the residential and support services provided to people with disabilities are being considered.

Consultation with residents and clients needs to be a well planned and thorough process. It is recommended that residents and clients in each DoCS unit should be individually consulted in decision making processes in the future. Whilst acknowledging extensive consultation as an expensive and time consuming process, it is important to remember that residents and clients are not a collective unit but a group of individuals each of whom has the potential to express his or her opinion.

In instances where expressions of opinion are difficult to measure as a result of communication barriers, or where a person chooses not to contribute, it is this consultants' view that independent advocates would be of enormous benefit to the consultation process. Having said this, it must also be acknowledged that independent advocacy for people with disability is a scarce resource which needs enormous growth in order to address the advocacy needs of people with disability.

In order to ensure that each individual person is given the opportunity of expressing his or her opinion, it is recommended that, as part of the consultation process, there is an assessment on an individual basis of the ability of each person to gain a meaningful understanding of the issues in question.

Information being presented to residents and clients should be clear and be in a form that will ensure the greatest possible comprehension on the part of the resident or client. It is unlikely that a blanket form of communication to each resident or client (for example a single letter) will ensure that each individual understands the issue at hand.

Ideally the form of communication with the individual resident or client will be tailored to that person. By way of example, a combination of the following methods of communication could be used:

- Group discussions facilitated by an independent person.
- Letters to the resident or client where it is clear that the resident or client will understand the content of the letter.
- Use of alternative communication tools (eg. video).
- Support from an independent advocate to explain the issues and/or speak on their behalf.
- Support from a staff member where appropriate.

It is essential that every reasonable effort to communicate with each resident or client is made and that each resident or client should have every reasonable opportunity to contribute to the process in order to achieve effective consultation.