



Queensland Advocacy Incorporated

Annual Report

2009-2010

Queensland Advocacy Inc.

T: 07 3844 4200 | **F:** 07 3844 4220 | **E:** qai@qai.org.au | www.qai.org.au

2nd Floor, South Central, 43 Peel Street (cnr Merivale Street)

PO Box 3302, South Brisbane BC QLD 4101

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Management Committee 2009-2010

President	Robert McRae
Vice President	Byron Albury
Secretary	Michael Duggan
Treasurer	Meriel Stanger
Committee Member	Karen Williams
Committee Member	Fiona Kennedy
Committee Member	Madonna Nicoll

Staff 2009-2010

Director	Kevin Cocks
Law Reform Advocate	Ken Wade
Systems Advocate	Rebekah Bradshaw/Melinda Ewin
Justice Support Program	Lynn Barratt/Roy Bunnnett
Human Rights Lawyer	Jim Gibney
Mental Health Lawyer	Rebekah Leong
Mental Health Paralegal	Karen Thorpe
Finance/Office Manager	Deborah Bryzak
Receptionist/Administration Assistant	Erin O'Sullivan/Karlie Marshall/Julie Hearnden

Introduction

Queensland Advocacy Incorporated (QAI) is an independent community based systems advocacy organisation for people with disability in Queensland.

QAI advocates for the fundamental needs, rights and lives and protection of the most vulnerable people with disability in Queensland. QAI does this by engaging in systems advocacy work - through campaigns directed to attitudinal, law and policy change. QAI also provides limited individual legal advice relating to guardianship matters.

In 2008 QAI employed a Human Rights solicitor to specifically provide legal advice to people with disability and to conduct strategic test case litigation focused on upholding the fundamental human rights of people with disability.

The solicitor also provides advice to disability advocacy groups about areas of the law specifically related to disability. These areas include guardianship and care of people under the *Guardianship and Administration Act 2000* and the *Disability Services Act 2008*. QAI supports the development of a range of advocacy initiatives in Queensland and Australia.

The Department of Families, Housing, Community Services and Indigenous Affairs (**FaHCSIA**) under the Commonwealth *Disability Services Act* funds QAI systemic advocacy. Legal Aid Queensland funds the human rights solicitor program. Department of Justice Legal Practitioners' Interest on Trusts Fund (**LPITAF**) funds the Mental Health Legal Service (**MHLS**) and the Justice Support Project (**JSP**). QAI also seeks funding from philanthropic organisations and trusts for projects.

This **Annual Report** covers the period from 01 July 2009 to 30 June 2010. It describes in detail the efforts of QAI to be a strong and effective systems advocacy organisation, committed to its mission of promoting, protecting and defending through advocacy, the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland.

QAI's Mission and Objectives

QAI's mission is:

"To promote, protect and defend, through systems advocacy, the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland"

QAI's objectives are:

1. To affirm and put first people with disability in Queensland;
2. To undertake systems advocacy that strives to promote, protect and defend the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland;

3. To undertake legal advocacy that strives to promote, protect and defend the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland;
4. To take an active leadership role in advocating for the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland;
5. To support, promote and protect the development of advocacy initiatives for the most vulnerable people with disability in Queensland;
6. To be accountable to the most vulnerable people with disability in Queensland;
7. To conduct an efficient and accountable organisation; and
8. To adhere to and constantly reaffirm the following beliefs and principles:
 - ❖ All human life has intrinsic dignity and worth;
 - ❖ People with disability must positively and actively be accorded worth, dignity, meaning and purpose through being included in and with their community;
 - ❖ Social Advocacy is functioning (speaking, acting, writing) with minimum conflict of interest on behalf of the sincerely perceived interests of a person or group, in order to promote, protect and
 - ❖ Defend the welfare of, and justice for, either individuals or groups, in a fashion which strives to be emphatic and vigorous and is likely to be 'costly' to the actor in terms of:
 - time or other resources;
 - emotional stress;
 - bodily demands;
 - social opprobrium, rejection, ridicule;
 - self-esteem, self certainty;
 - socio-economic security, livelihood; and
 - physical safety, life
 -

The essential elements of Social Advocacy are:

- strict partiality;
 - minimal conflict of interest;
 - emphasis on fundamental needs and issues;
 - vigorous action;
 - cost to the advocate;
 - fidelity; and
 - being mindful of the most vulnerable person.
- ❖ Systems advocacy is a particular form of advocacy that focuses on influencing and changing 'the system', that is, the whole of society and the various systems operating within, in ways that will benefit people with disability as a group within society. Systems advocacy includes, but is not limited to, policy and law reform activities.

President's Report

Robert McRae

It gives me pleasure to present my report for 2009/2010 on behalf of the Management Committee.

This year we were fortunate to have Fiona Kennedy and Madonna Nicoll join the Management Committee. Fiona is a solicitor in private practice, being the principal of her own very established firm which employs a number of persons with a disability, all of whom make a valuable contribution to her business environment. She has first hand day to day personal experience with a person with a disability, being her adored late son, Andrew. Fiona's legal background, her passion and her personal experience provide us with valuable input.

Madonna has made a wonderful mature contribution to the Committee throughout the year. As many of you know, Madonna is undertaking a PhD and it is with regret that I report that Madonna has decided to step down from the Committee to apply herself more fully to her studies. We wish Madonna all the best for the future and trust that once she completes her studies, time may permit her to once again involve herself in the work of the Committee.

Also stepping down at this stage is Karen Williams who gave us the benefit of her experience as both a social worker and barrister. Unfortunately, a conflict of interest has arisen due to Karen undertaking legal work connected to QAI. Such conflict means that Karen must stand down. Karen's contributions will be missed.

During the year we lost Vicki McLennan who you may recall lives in Toowoomba and was able to provide a non- Brisbane perspective. Vicki considered that the organisation was unable to progress matters in her locale and other regional areas to the level required.

The subject year has again also been one of growth as well as the continuation of the project work by our wonderful staff. As you will see in Kevin's report, the relatively new staff members are settling in well and current projects are proceeding according to plan.

To all the staff and my fellow Committee Members, I say thank you and best wishes for the New Year.

Treasurer's Report

Meriel Stanger

I am pleased to present QAI's Financial Report for the very exciting year ending June 2010.

I would like to thank Hayward's Chartered Accountants for the preparation of the Audited Financial Reports and for their support throughout the year.

QAI's work continues to rely on its annual funding from Department of Families, Housing, Community Services and Indigenous Affairs. Because of the nature of QAI's work and the increasing demands and competition for funds within the Not-for-Profit Sector, QAI will continue to rely on funding from the Commonwealth. QAI has sourced extra funding for various projects.

Income and Expenditure Statement (as per Audit Report)

Department of Family & Communities	\$391,493.00
Legal Practitioner Interest on Trust Accounts Fund-Justice Support	\$125,900.00
Legal Aid Queensland	\$103,378.00
Legal Practitioner Interest on Trust Accounts Fund - Mental Health	\$149,200.00
Legal Practitioner Interest on Trust Accounts Fund - Pathways	\$69,000.00
Donations – Australian Lawyers Alliance;	\$4,560.00
Jeff Davies;	\$3,000.00
Minter Ellison	\$1,736.00

QAI has continued to review and update their financial policies and procedures and I am satisfied the procedures now in place will enable QAI to continue to function smoothly in the future.

QAI's day to day financial matters are administered by Deborah Bryzak. Deborah provides me with an enormous amount of assistance and I would like to thank her for guiding me through the maze of figures and reports.

I have thoroughly enjoyed working with the Management Committee and the dedicated staff of QAI and I would like to thank them for their support and continued vision. My time as Treasurer has been positive, harmonious and rewarding and I look forward to being passionate about my future as Treasurer of QAI.

Director's Report

Kevin Cocks

This year marks the 23rd year of QAI's existence. A year that can be described as one of building on work that created opportunities to:

- provide leadership at a state and national level ensuring there is strong independent and robust advocacy for vulnerable persons with disability, and
- increase QAI's capacity to promote, protect and defend, through advocacy, the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland.

QAI's overall budget has increased from \$595, 890 in 2008-2009 to \$838,971 in 2009-2010. The increased funding came via Legal Aid, Department of Justice, Legal Practitioner Interest on Trust Account Funds (LPITAF). All of this additional funding in this financial year is for pilot projects and is not recurrent.

There are many challenges to be addressed on a daily basis within organisational life, these challenges are increased when funding increases and in particular when funding comes from alternative sources. To manage this growth and subsequent challenges we underwent a process of organisational reflection, review and change. To assist us in this process we engaged Bob Dick to conduct a vision workshop which required us to reflect upon the past and be prepared to let go of some things that may not be relevant today. However, it became apparent that the tensions and the issues we were dealing with have been in existence, ebbed and flowed from the time QAI opened its doors and commenced its journey 22 years ago. We also engaged Professor Jane Clapton and David Massey to conduct a vulnerable identities workshop and finally Jan Dyke to conduct a Social Advocacy Workshop. I would like to thank Bob, Jane, David and Jan for their wisdom and guidance to QAI management and staff throughout this period.

This is my 12th Annual Report as Director of QAI, and I would like to thank the Management Committee for their leadership, work and support, in particular Robert McRae in his role as President. Additionally, I acknowledge and thank all staff members for their dedication and tireless efforts to carry out the work of QAI over the past year. I thank my family for their love and support.

QAI's work has been strengthened by the support of many people outside of the organisation. In particular I would like to thank people with disability and their families and friends who continue to hold a dream for a better life for all people with disability. The staff and I draw great strength from people's tenacity to face adversity daily yet hold on to the dream of having a better life. Finally, I thank the members of both the Disability Advocacy Network of Australia (DANA) and the Combined Advocacy Groups Queensland (CAGQ) for their commitment and enthusiasm to working

collectively to ensure the continuation of a strong, vibrant and robust advocacy sector in Queensland and Australia.

This Annual Report covers the activities carried out by QAI in the financial year 2009 - 2010. During the past 12 months QAI has continued to focus its advocacy efforts in five areas: (1) Community Living, (2) Law Reform, (3) Human Rights Legal Service (**HRLS**), (4) Justice Support Project (**JSP**) and (5) Mental Health Legal Service (**MHLS**).

On behalf of QAI's Management Committee and staff I extend our appreciation and thanks to Amparo, Gold Coast Advocacy, Independent Advocacy Townsville (IAT), Rights In Action (RIA), Speaking Up For You (SUFY), Sunshine Coast Citizen Advocacy, and people with disability, their families, and concerned citizens for keeping us grounded and informed about the many issues being experienced by vulnerable individuals with disability for whom we are advocating, or just looking out for.

Cultural reform...

Cultural discrimination, rejection and exclusion of persons with disabilities continues in society and is deeply embedded, there is a long history of this. The first reported discrimination legislation protecting and defending people with disability was developed in, India 600 BC. As you can see, the journey for equality and non-discrimination has been a long one.

Across cultures and throughout time people with disabilities have been accepted and nurtured, however predominantly have been feared, oppressed, excluded, and murdered.

The culture of devaluing persons with disability is one very deeply embedded in our society. It is universally across every nation, every culture and every class.

The Convention on the Rights of Persons with Disabilities (**CRPD**) is recognition by the United Nations (**UN**) that the human rights of people with disabilities have not been respected, protected and fulfilled under the Universal Declaration of Human Rights.

For people with disability around the world, the convention promises the cultural reform in attitudes, values and approaches for persons with disabilities to have equal opportunity and live life with dignity. Persons with disabilities will no longer be viewed as objects of pity and charity, subjected to inhumane and degrading medical treatment and social protection.

Rather, persons with disabilities will be seen as subjects with rights who are capable of claiming those rights and making decisions for their lives based on their free and informed consent as well as being active members of society. The convention gives universal recognition to the dignity of persons with disability and the obligation of states to ensure people with disability have equal opportunity and experience life free from inhumane and degrading treatment to be included in everyday life and fully valued as citizens.

The **CRPD** sets an ambitious agenda for cultural reform.

The **CRPD** provides us with that framework to govern the future policy reform and ultimately the cultural reforms that people with disability envision and deserve.

Eleanor Roosevelt in 1936 articulated human rights in a way that sets an agenda for us collectively to go forth and engage in cultural reform, where society respects, protects and fulfils all people's human rights irrespective of their class, race, gender, religion, culture, impairment, and sexual preference.

She said:

“Where, after all, do human rights begin? In small places, close to home – so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person, the neighbourhood he lives in; the school or college he attends; the factory, farm or office where he works. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning elsewhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world.”

Thus, in the challenge of translating what ought to be into what can be is something that affects us all. Successful transformation requires us all as individuals, collectives, communities, nongovernment agencies, the private sector, legal sector and governments to collaborate in genuine cultural reform.

Director's Overview

The following is a brief overview of the work that I have carried out as director, in the financial year 2009-2010, of course this work would not have been possible without the commitment and support of QAI staff and board members.

We were successful with two funding applications via the LPITAF funding round through the Department of Attorney General and Justice. The first submission was for the continuation for the second year of the Justice Support Project, our submission was for \$150,000, we received \$125,000. The second successful submission was the development of a pilot project which is titled Mental Health Legal Service which is to provide support to people with a mental illness who are appearing before the Mental Health Review Tribunal (**MHRT**); our submission was for \$150,000 we received \$149,800.

The Mental Health Legal Service (**MHLS**) is funded for a lawyer and a paralegal and some administrative support. This legal service is the first of its kind in Queensland, Victoria have had these services available for many years. In the financial year of 2008-2009 13,000 people appeared before the **MHRT** in Queensland, only five had legal representation.

At the commencement of this financial year QAI's staff consisted of eight people by the end of this financial year our staffing numbers have grown to eleven people. This growth has required us to examine a number of organisational issues, including our structure, our roles individually and collectively, and the subcultures that exist within the different roles/activities that are required to carry out the work of QAI. To assist us through this process we engaged Bob Dick, who some of you will know. Bob is an academic who is well recognized and respected in organisational culture and structure, futures planning and action learning. Bob is a friend of QAI he designed the action forum process for the conference in 2001.

Bob has labelled the initial process we undertook as an 'organisational diagnosis'. He worked with staff and the board to discuss our needs, our fears and how to move forward operationally and culturally. This was then followed up with a workshop to renew and develop a collective identity and a shared vision for QAI. It was critical for QAI to engage in this process in order for us to understand where we are going and to secure the future reforms to be sustainable.

For me, the continuing progress of QAI's cultural review and reform has progressed in a timely fashion and I believe continues to build a common understanding with staff and committee. David Massey and Jane Clapton's workshop identified how vulnerable identities are developed, and portrayed particularly the use of power in the lives of vulnerable people with disability, how others determined the identity of vulnerable people and how people with disability are viewed and how that impacts upon decision-making by those with power. Jan Dyke's workshop focused on independent advocacy and how the social and legal component complemented each other and how vulnerable people with disability needed a variety of advocacy.

Some staff attended a Michael Kendrick workshop which focused on visioning, how to build a vision for vulnerable people with disabilities, and to understand the power dynamics involved in undermining vulnerable people with disability having a good life, a life based on equality and dignity. Additionally, some staff also attended a two-day Social Role Valorisation (SRV) training workshop. The focus of SRV is to illuminate how vulnerable people with disability social roles are constructed by others with power and who benefit from the continued devaluation of people with disability.

I believe that this is a strong beginning however we will need to continue to provide opportunities for staff and committee to reflect, engage and evolve our individual and collective understanding of why we do, what we do, and how we do it.

At the same time QAI was participating in the Department of Families, Housing, Community Services and Indigenous Affairs (**FaHCSIA**) audit process, which ascertains whether QAI meets the National Disability Services Standards. This audit is critical for us to continue to receive funding from **FaHCSIA**. QAI must continue to meet the applicable National Disability Services Standards, and be audited under Section 14K at least once every five years against those Standards. The Section 14K audit must, amongst other matters, pay particular attention to the extent to which an eligible organisation complies with the applicable standards in respect of the provision of the service. Given the audit process is still structured to focus on

individual service delivery we negotiated with the Department a variation in that it talks to individual stakeholders of QAI for example groups or organisations that we have advocated on issues for or with, or against. We successfully passed the **FaHCSIA** audit.

Office Relocation

Another major event during the course of this term was to relocate our offices. QAI's lease expired in October 2009 we were only offered a month-to-month contract thus, we had to find alternative accommodation. We were successful in locating and moving into a brand-new office facility fitted out to meet our needs. The office is located on the corner of Peel and Merivale Street, South Brisbane. The office building is known as South Central, 43 peel Street. Due to the office design we were able to accommodate all our needs with approximately 35 m² less than our office space in Roma Street. We moved from Roma Street on 19 May 2010.

I would like to acknowledge and thank Deborah Bryzak for planning and coordinating the move from Roma Street to Peel St, this was an extraordinary feat. Additionally, I would also like to thank Karlie Marshall and Julie Hearnden for their assistance to both Deb and myself particularly in respect to identifying important information to be kept for our corporate history. I think collectively (Karlie, Julie and myself) we spent about four to five days sorting out information. We shut the office down from the 17th of May and reopened on the 26th of May. All staff were responsible for packing up their own offices. We were paid a compliment by the removalists in that they were able to complete our move in four hours, once again this was to the credit of a collaborative effort by all staff to do what they needed to do.

During the archiving process there were many significant and important documents found for instance we have three copies of our original typed submission in 1987 plus a plethora of other important campaign documents and photos all management committee minutes, submissions, enquiries etc. There are two major pieces of work to be carried out by August 2012 QAI's 25th anniversary they are, to develop an archive system that will enable us to place all our historical documents in digital form and second to write the QAI story. If you, our members, have ideas of how to progress the above I and the committee would welcome your input.

Disability Advocacy Network of Australia (DANA)

I am able to report that DANA was successful in receiving a one off seeding grant from **FaHCSIA** of \$35,000 for the financial year 2009-2010. This means that individual organisations such as QAI will not have to resource the workings of DANA as well as signifies that the Disability Services Minister and the Parliamentary Secretary for Disability Services recognize the need for a legitimate representative body for the advocacy sector in Australia. The grant was to assist the DANA board

to operationalise its governance role and to plan for and hold a national conference in June 2010.

In this reporting period I have been involved in 6 board meetings via telephone conference and one board meeting face-to-face. Additionally I and two board members had one meeting with the National Disability Advocacy Program (NDAP) CEO and staff in Canberra to discuss a number of issues and to establish an ongoing quarterly meeting schedule. I believe that the existence of DANA will work towards the advocacy sector being strengthened by engaging constructively and strategically with the Department and government of the day. Additionally, I and Andrea Simmons (secretary of DANA) took the opportunity whilst in Canberra to meet with the Governor General, the sole purpose of seeking her support to be DANA's patron. The Governor General welcomed the opportunity and agreed to be the patron of DANA this is an excellent outcome for DANA and advocacy in Australia.

In June, the 3rd National Disability Advocacy Conference - "Strengthening Disability Advocacy Becoming a National Force" was held in Canberra, this was the first time DANA convened, planned and hosted The National Advocacy Conference independently. Approximately 220 advocates from all over Australia participated.

The Conference focused on:

- Advocacy Independence and Integrity
- Advocacy Practice Issues
- Advocacy using the United Nations Convention on the Rights of Persons with Disabilities.
- Quality Assurance for the disability advocacy sector,
- A new Leadership and Administrative Framework for Advocacy,
- Implications of a National Disability Insurance Scheme for disability advocacy organisations and their work and
- Influencing the upcoming federal election for the benefit of people with disabilities.

Keynote speakers included Doctor Michael Kendrick, Bruce Uditski, Phillip French, Doctor Lorna Hallahan.

Other activities of note the board consulted with members and produced a discussion paper and finally a proposal which is twofold:

- to create a new Statutory Advocacy Authority to administer government disability advocacy funding; and
- to support the leadership and development of the non-government disability advocacy sector through the provision of recurrent funding for a national representative body for advocacy agencies.

For further information on DANA activities go to their website on www.dana.org.au

Shadow Report

QAI, People with Disability Australia and New South Wales Disability Discrimination Legal Centre have entered into a Client Agreement with DLA Phillips Fox for the preparation of a Draft Shadow Report on the **CRPD**. DLA Phillips Fox are one of the largest legal firms in Australasia and are carrying out this work on a Pro Bono basis. DLA Phillips Fox has extensive experience in developing such reports to the UN. One of their recent projects was assisting the new East Timorese government to develop a baseline report to the UN. We have established a project working group which membership includes Australian Federation of Disability Organisations (**AFDO**) and DANA. A consultation process was finalised in March 2010.

Why is a Shadow Report necessary? When a government becomes a signatory and ratifies a convention such as the **CRPD** they are obliged to initially provide a baseline report which is to identify to the degree that they are meeting their obligations as prescribed by that convention. And then every two to four years provide further reports to demonstrate their progression to the realisation of the human rights of their citizens. It is standard practice for the non-government sector to provide what is known as a Shadow Report to the relevant UN treaty body. The treaty body then assesses both the government's report and the non-government reports to assist them in their determination with respect to the acceptability of the government's progression to meeting its obligations as specified in the respective convention. If the Nation/State is failing or breached its obligations the treaty body can make recommendations for the State to adhere to.

It is critical that people with disability have an opportunity to have their voices directly heard by the UN treaty body for the **CRPD**. The Shadow Report provides that opportunity and it is an important role for QAI to be involved in particularly in collaboration with our advocacy colleagues around Australia.

Combined Advocacy Groups Queensland (CAGQ)

The annual **CAGQ** Forum was hosted by Toowoomba Advocacy And Support Centre (**TASC**). Vicki McLennan and myself attended both days, Ken Wade presented an excellent overview of restrictive practices. The highlight of the forum was Ken's paper, and the opportunity to continue open and frank dialogue with the Office of the Adult Guardian with the aim of a greater mutual understanding of the legitimate role of advocacy in the lives of vulnerable people, who came under the guardianship regime and guardianship orders. I participated in six **CAGQ** phone conferences throughout the year.

Sunshine Coast Citizen Advocacy, Speaking Up For Your (SUFY) and QAI met four times to plan for the 2010 annual conference to be held in August 2010 at the Sunshine Coast.

Blue Skies

In 2006, a small group of concerned people, including myself, Graham Schlecht, Valmae Rose and Leslie Chenoweth met to discuss 'scenario planning' as an alternative mechanism to responding to meeting the needs of persons with disability in a planned cohesive policy, program and service delivery that leads to, a person's inclusion in community, economic and cultural life. As opposed to continuing in a crisis driven highly flawed policy and funding regime that currently exist.

To advance the work of the small group, we invited key strategic leaders within the disability sector (people with disability, family members, service providers) from across Queensland together for three days in June 2009. We also invited an architect who became an advocate for aged people to remain living in the community as opposed to institutional care, along with the junior ministerial policy adviser and a senior Disability Services Queensland (**DSQ**) staff member (see list at blue skies website). As a result of this three day exercise, blue skies scenario planning document was produced. The Minister for Disability Services and Multicultural Affairs, Anastacia Palaszczuk has given solid support and commitment to advancing the blue skies scenario planning strategy.

Blue Skies launched their vision on the 22nd of September in the botanic Gardens, over 300 people attended the launch. On December 3 around 1500 people participated in Blue Skies conversations on International Day of People with Disability. 138 Queenslanders volunteered to host a conversation in their own workplace, kitchen or community to discuss the parts of the scenario that mattered to them. All 138 conversation hosts sent in their feedback which is still available for download from the Blue Skies website, go to <http://www.blue-skies.info/> for all information regarding Blue Skies activities.

Legal Practitioner Interest on Trust Accounts Fund (LPITAF) Funding

As I identified earlier in this report we were successful in receiving funding to continue the Justice Support Project (see report) and to establish a pilot legal service that will support people with a mental illness, who are appearing before the Mental Health Review Tribunal (MHRT). I would like to introduce members Rebekah Leong the solicitor for the project and Karen Thorpe who works as a paralegal officer for the project. See the MHLS annual report for activities. We were also successful in receiving \$50,000 towards our ongoing work with people with disability in the criminal Justice system (see below).

People with Disability and the Criminal Justice System

QAI has continued its focus on vulnerable people with impaired capacity who are involved in the criminal justice system as offenders. The work of QAI has identified that there is an over-representation in the criminal justice system of people with impaired capacity.

QAI is concerned that failure to identify and support the needs of vulnerable people with impaired capacity can lead to a denial of their basic rights and results in negative outcomes that have ongoing consequences.

This project was made possible with a grant of \$50,000 from the **LPITAF**. The Department of Justice and Attorney-General provided \$13,000 to support the project with its focus on increasing vulnerable Queenslanders' access to the justice system.

Carolyn Mason of Partnering Works and Walter Robb of Analyse Australia are independent consultants who were contracted by QAI for the research project. QAI gratefully acknowledges their contribution well beyond their contractual duties. QAI acknowledges the contributions of Doctor Sally Robinson in the preparation of the application for ethical clearance and Lyndal Hunter for providing comprehensive editorial comment on a draft report. This report can be found on QAI's website.

Queensland Action for Universal Housing Design (QAUHD)

QAI has periodically supported The Australian Network for Universal Housing Design (ANUHD). Margaret Ward in her role as Deputy Convenor of the Australian Network for Universal Housing Design, has asked QAI, if we would support a Queensland working group QAUHD to meet at QAI and support activities for the group to function effectively. The group met monthly at QAI and is successfully progressing its agenda to get government to incorporate universal housing design as part of Queensland's building regulations.

Mental Health Review Tribunal (MHRT) Tender

In December 2009 QAI submitted a tender to the MHRT, for the provision of legal services on account of the MHRT. The legal services will be provided specifically to persons with mental illness appearing before the MHRT on confidentiality matters. QAI was notified in May 2010 that we were the successful tenderer. This is a very exciting development and establishes QAI as a leading agency in defending people's human rights, it also establishes potential opportunities to increase our financial resources once established and determine the full scope of this project.

Staff Restructure

Melinda Ewin resigned from QAI on December 4, 2010 to take up a position at Endeavour. Due to increased obligations for salaries and no additional funding from **FaHCSIA** to cover salary increases we were required to restructure our systems advocacy workforce. Rebekah Bradshaw who has been with QAI as a project support worker commenced as a systems advocate for community living and

Julie Hearnden has been engaged as a graduate advocate to assist in all QAI systems advocacy efforts.

Annual Fund Committee

Annual Fund Committee through the Chair The Honourable Geoff Davies, continues to explore strategic avenues to increase our funding via alternative forms particularly through philanthropic grants. One such example the committee identified a grant fund raiser, Jo Garner from Strategic Grants. Through the financial support of the committee QAI engaged Jo to match our core business with Trusts, Foundations and Government Grants that may fit QAI's priorities. Jo ran a training session for all staff on the fundamentals of writing a tailored submission to Philanthropic organisations and provided strategic advice in building relationships with these groups.

The staff found this event very productive and it certainly raised our level of enthusiasm to be strategic and targeted in our future submissions

Donations and Financial Support

This year, the level of donations and financial support that QAI has received continues to support key projects. Minter Ellison, staff make regular donations through their Workplace Giving Scheme. In this financial year we received \$1,736.00 from Minter Ellison staff.

Further, QAI was the fortunate recipient of Australian Lawyers Alliance's yearly fund raising activities. This year we received \$4,560.00

I would like to thank Minter Ellison and the Australian Lawyers Alliance for their financial contributions and support to the work of QAI.

I would like to thank The Honourable Geoff Davies, Robert Reed (Minter Ellison), Ron Ashton and Robert McRae for their ongoing commitment to the Annual Fund Committee.

Presentations

Byron Albury and myself were invited to participate in the inaugural Aboriginal Disability Network Leadership Forum held in Sydney. I was asked to present an overview of the social model of disability and human rights.

Leaders, from the indigenous disability movement in Australia and non-indigenous leaders within the disability movement gathered primarily to identify and promote the merits and feasibility for the formation of National Aboriginal Disability Network, to represent the interests of indigenous people with disability to the Australian government, the National indigenous community and the disability sector. It was a very successful gathering and a formal motion was moved to proceed with the building of a formal National Aboriginal Disability Network.

I was invited by the Western Australia Disability Commission to come and present to the advocacy sector and the Commission's policy and program staff, an overview and orientation to the **CRPD**. These were two separate presentations, 50 people attended the advocacy sector presentation and 30 people attended the disability commission's presentation. Finally, I ran a one-day training workshop on the **CRPD** and how advocates can use it, this presentation was titled 'Thinking Globally Act Locally'. I believe this was a very successful two days, in that for many people, both within government and the community, it was the first time they had an opportunity to engage in conversation about the **CRPD** and understand how it fits in their world as policymakers and activists/advocates.

Submissions

The productivity commission enquiry into a National Disability Insurance Scheme (NDIS)

QAI registered with the productivity commission to submit a submission and attend hearings. QAI developed a submission and presented at the productivity commission hearing in June 2010. The submission can be found on the productivity commission's website.

Relationship Building with Legal Firms

Minter Ellison

Minter Ellison continues to be an avid supporter of the work QAI carries out. In this reporting period the staff of Minter Ellison provided financial support through the workplace giving scheme. All money donated by staff is matched by the firm for this year's workplace giving donations. In particular, I would like to thank Robert Reed for his ongoing commitment to QAI; this commitment has many forms and particularly I would like to acknowledge his efforts in supporting the operationalisation of QAI's Annual Fund Committee.

Australian Lawyers Alliance

The Australian Lawyers Alliance (ALA) chose QAI to be the Queensland recipient of their fund raising project. QAI was invited to showcase our work and heighten the profile of QAI within the broader legal sector at the ALA. QAI received a donation and this donation went towards the Restrictive Practices Forum.

We extend thanks to Justin Harper, Ian Brown, Eva Scheerlinck and Maja Maunic for contributing to making our participation at the conference successful.

Project Support Worker/Systems Advocacy Worker

Rebekah Bradshaw

Highlights:

Attending the Disability Advocacy Network Australia National Advocacy Conference with Kevin Cocks and Ken Wade.

Working with Jan Dyke consultant to enhance systemic advocacy skills, develop a plan for a campaign to stop the move of people with intellectual disability into authorised mental health units.

Attending a three day Michael Kendrick workshop Living Real Lives in the Community: What does it take and what gets in the way for people who live with disability?

Projects:

People with a single diagnosis of intellectual disability residing at Baillie Henderson Hospital (BHH)

In 2009 there has been renewed interest as well as increased threats to this vulnerable group of people inappropriately residing at Baillie Henderson Hospital (**BHH**) in Toowoomba. In late 2009 and early Feb 2010 QAI obtained two documents indicating plans to close Browne House for accommodation purposes and move this group of people to authorised mental health units at **BHH**. Not only are people with a single diagnosis already inappropriately residing in a psychiatry facility but they were now at risk of being trans-institutionalised further into the system.

The new Minister for Disability Services and Multicultural Affairs since becoming Minister in March 2009 demonstrated an interest in people with disability living in health facilities across the State. In April 2009 she visited **BHH** as well as other health facilities and only months later announced \$250 000 funding for community access initiatives for these residents.

The Adult Guardian and the Public Advocate both visited Browne House and Morris-Mouatt units at **BHH** in 2009. The Regional Director for Department of Communities, Disability Services and Community Care, Peter Hand also visited Browne House and Morris-Mouatt units in 2009.

Community Connections Toowoomba (CCT)

Community Connections Toowoomba (**CCT**) have this year continued to raise the issue of people with intellectual disability inappropriately supported at the psychiatric hospital, **BHH**. The group comprises family members, concerned citizens, hospital staff, service providers and advocates. The group's ultimate aim is to see all people with disability at **BHH** move into the community of origin or choice.

CCT were made aware in September 2009 that a case for change was being proposed by Queensland Health including the closure of Browne House for accommodation and the subsequent move of people with a single diagnosis of intellectual disability into existing accommodation at **BHH**.

The former Community Living Advocate rallied support immediately from a number of powerful stakeholders including Uniting Care and Endeavour Foundation. In early February **CCT** met and welcomed Diana Johnston from Endeavour Foundation in Toowoomba and John Pini Manager of Disability Services, Lifeline to their first **CCT** meeting.

The **CCT** has continued to meet monthly in 2010 and invited Jim Gibney, Human Rights Lawyer to attend **CCT** meetings from March 2010. In 2010, QAI staff have regularly visited Browne House and met people with an intellectual disability who reside at Browne House. This has also been an exercise to develop new and cement existing relationships with staff at both single diagnosis units including nurse unit managers.

CCT met in June with representatives from the Minister for Disability Services and Multicultural Affairs office to highlight concerns around the planned move of residents from an intellectual disability unit to psychiatric units at **BHH**.

a. Partnership agreement

CCT were invited to review the partnership agreement signed with Queensland Health in 2009 when they met in April/May 2010. After reviewing the partnership agreement **CCT** decided not to renew the partnership agreement with Queensland Health and decided the partnership agreement had served its purpose to enable members of both agencies to work collaboratively to raise awareness and improve access to the community for people with an intellectual disability residing at **BHH**.

CCT will continue to work closely with staff at **BHH** to raise these issues and the issue of accommodation and support into the future.

As a result of building on the partnership agreement in November 2009 **CCT** were invited by Queensland Health to have a representative on the Single Diagnosis Steering Committee at **BHH**. David Boden from Breakaway in Toowoomba is **CCT**'s representative on this committee.

b. Meeting with Minister Palaszczuk, Disability Services

In March 2010 the CCT group were invited to visit with the Minister for Disability Services and Multicultural Affairs in Toowoomba. This presented an opportunity for CCT to raise with the Minister the issue of the Browne House closure and question the Minister about her level of commitment to this group of people.

The meeting discussed a number of topics, the focus being on the planned closure of Browne House and removal of residents to authorised mental health units. A copy of the draft case for closure document was handed to the Minister at that meeting. Outcomes of this meeting included; a commitment by the Minister for her representative to attend future CCT meetings and to engage in a dialogue with QAI, CCT and other stakeholders, and for the Minister to receive regular updates about the future of the residents of both Browne and Morris-Mouatt units. QAI's Human Rights Lawyer, Jim Gibney represented QAI at this meeting as the Systems Advocate was on leave.

c. Connection with families

In April 2010 in an effort to recommence connection with family members with loved ones at **BHH CCT** drafted and supplied a letter and contact/information form to the Head of Nursing at Baillie Henderson. This communication has a two-fold purpose:

- to re-connect CCT with family members and plan a future event for families to see their loved ones; and
- to connect families to each other to talk with other family members about 'dreaming' for a future for their loved one.

To receive communication the CCT group opened a PO Box in Toowoomba and created an email account so that CCT has a number of ways to commence connection with families. The CCT group has also made contact by phone with a number of local families to invite them to attend future meetings. To date, a number of families have indicated interest in both attending CCT events and future CCT meetings. CCT's connection with families work will continue into 2010/2011.

Community Safeguards Coalition (CSC)

The **CSC** is continuing to campaign for an end to forced co-tenancy arrangements for people with disability living in Queensland. Disability Services Queensland (DSQ) continues to drive capacity based policy responses in preference to those based on Article 19 of the CRPD (Living independently and being included in the community). Disability Service Upper Limit of Funding guidelines also drive practice including upper limit of recurrent funding for direct support of "65 hours per week plus sleepovers" and "where a person requires 24 hour support on a daily basis they may also receive a maximum of seven sleepovers to be shared in a standard cotenancy of three people" (4.4 Upper Limit of Funding to be Considered in the Budget Proposal, Funding Guidelines, Issued by Grants Management Branch January 2007, DSQ).

The argument that choice is restricted for people with disability due to limited funding and accommodation settings is not a valid argument in a country as wealthy as Australia. Under Article 19 of the **CRPD** people have a right to decide where they live, with whom they live, who provides them service and the right to be included in the community. Article 19 of the **CRPD** is based on article 12 of the International Covenant on Civil and Political Rights (**ICCPR**). Article 12 of the **ICCPR** outlines 'a right to **liberty** of movement and freedom to choose residence with who he chooses'. Thus under the declaration of human rights this right is to be realised immediately thus, a right to choose where you live and with whom you live cannot be denied to persons with disability based on the choice argument. It may be argued the right to social housing and social support is a progressive right under economic rights, thus the provision of social housing and social supports may be progressive or other words depending on the economic status of the country to determine its priority for the provision of rights under social, cultural and economic articles. However, it is the obligation of the state to prioritise the most vulnerable to receive social housing and social support first. Thus, it is argued that people with disability are amongst Australia's most vulnerable and should have priority to social housing and social support systems. Thus, once again the choice argument is invalid when we are operating in a human rights framework. One of the challenges for governments, community services etc is that in the paradigm of charity and welfare limited or restrictive resources were a fact and often denied people real choice. However we are no longer operating in paradigm of charity and welfare, since the ratification of the **CRPD** by the Australian government we are now obliged to have policy discussions in a human rights framework.

The CSC continue to bring to the attention of the Department of Communities, Disability Services and Community Care concerns about the impacts of co-tenancy policy and practice on the lives of people with disability in Queensland and their families.

Carol Holt has provided tremendous support not only as chair of the Community Safeguards Coalition in 2009 and 2010, she has also contributed voluntarily hundreds of hours of support to drive the campaign forward.

Work has continued by the Community Safeguards Coalition members to continue a dialogue with Michael Hogan, Deputy Director, Department of Communities, Disability Services and Community Care and Merrilyn Stroehfeld, Disability Services Purchases, Executive Director and those responsible for the Growing Stronger reforms.

Following a meeting with Michael Hogan and the CSC in November 2009 where the department indicated a *Disability Services' Shared Accommodation Support Policy* would be forthcoming, CSC sent a letter to Michael Hogan asking four key questions in relation to: how the reforms would promote person centred practice, safeguard existing person centred practice, assist in policy development regarding funding arrangements being made individual, portable and accountable, why DSQ had

invested heavily in buildings over individual lifestyles, why haven't changes been forthcoming to eliminate the practice of forced cotentancy?

In response, an offer was made for Helen Ferguson to meet with **CSC** to discuss the development of the Shared Accommodation and Support Policy. Correspondence indicated that this policy would promote person centred approaches to shared accommodation and support arrangements while recognising the provision of "specialist support within finite resources" and provide "a level of portability where possible". **CSC** are yet to be provided with a copy of this policy or a timeline for the development of the policy.

Early in March 2010 **CSC** members met for a half day planning day facilitated by Eric Kiernan where a great deal of brain storming was done and a plan developed for the year ahead. **CSC** met again at the end of April for a half day to further develop and refine the strategic plan for the year. The plans that we have developed include connecting with allies, a political letter writing campaign, public presence, research/education and information, developing media and funding options.

CSC has also been working to finalise a revised position paper and supporter form with the kind support of FSG Australia and Vicki Batten, CEO. The new form will be used to target service providers to build capacity to engage DSQ in a way that allows them to eliminate forced co-tenancy arrangements in funding agreements. A number of CSC members are preparing to share stories of forced co-tenancy at the Australasian Society for the Study of Intellectual Disability (ASSID) conference in September 2010 this has been facilitated through Lisa Bridle (formerly of Queensland Centre for Intellectual and Development Disability (QCIDD), now at Community Resource Unit (CRU)).

The advocate attended meetings with **CSC** during this period. Please note, capacity to participate in **CSC** meetings has been reduced due to the building of the Wasted Lives Campaign.

Hands on Human Rights Indicators

Work resumed on the Hands on Human Rights Indicators (HOHRI) project commenced by the previous Community Living Advocate and Bob Dick (consultant). This work will build on two previous workshops out of which a series of identified topics will be used to develop seven one page Human Rights tools. These tools are anticipated to be similar to QAI's easy English tool in that they will be developed for use by people with a range of disabilities in a range of settings.

QAI plan to develop these tools individually, testing them in a participatory action research method by using a series of workshops with people with disability. This feedback will be used to further refine these tools.

A funding submission was developed and sent to Danks Trust Fund and Colliers Trust Fund to source funding to assist with the costs of running workshops and graphics design for the HOHRI tools.

Website re-development

The website re-development commenced in the previous financial year by the former Community Living Advocate was taken over by the Project Support Worker. An agreement was reached with SauceSoft to re-develop QAI's existing website using a Joomla Template (software) that could be built on with future applications.

The website re-development has been an immense undertaking in conjunction with the web developer, although performed on a limited budget it has delivered on most of QAI's objectives:

- Kept up to date and is accessible to all. Simplicity in navigation yet sophisticated in content and layout.
- A website that promotes QAI as a reputable organisation that successfully advocates for people with disability.
- Provides ease of access to content, information, and QAI publications.
- Raises the profile of the work of QAI locally, nationally, and internationally.

Currently the website does not allow for QAI to sell publications online. This will require future work internally as QAI has decided the cost of using paypal accounts is not feasible. However capacity for this has been built into the website for when QAI requires this feature in the future.

New features of the website include: a donations facility using community online, search facility, separate events webpage, a sector news webpage for updating organisations about recent developments in the advocacy and disability sector. We are currently finalising a list of resources to be placed on the new website, and ironing out any errors in content, usability, navigation, links issues, and accessibility.

Site development included developing the structure of the site and front page design and headings. The first menu tier included: Home, About Us, Projects, Events, Memberships, Publications, Support Us, Whats New, Links. Second tier, third tier and fourth tier menus (include headings such as (Projects, Systemic Advocacy, Convention on the Rights of Persons with Disabilities, people with disability in the criminal justice system, law reform, social/community inclusion, advocacy networking).

QAI's donations link is being managed by community organisation GiveNow with discussions underway for future capacity to include the management of Membership applications and renewals to be made online through GiveNow.

The true test will be once the new site is used for the first time, we will have the opportunity to refine it over time and add resources, links and content easily and quickly.

a. Technical

The brand new look QAI website went live on 10 June 2010 without interruption. It required a complete redirection of the qai's dyndns, server and email systems. QAI's

domain is now hosted and managed through Saucrosoft in conjunction with IT support. Mats Tormond from Saucrosoft and Scott Hutchison from Emu Designs provided invaluable support.

b. Content

The website has not been without challenges, including a technically challenged worker being put in charge of managing domain changes, and liaising with web developers (some of whom speak a different language completely to English).

Systems Advocate for Community Living

In March 2010 after a restructure of the Community Living Advocates position, I took up the position of Systems Advocacy worker. The role of the new Systems Advocacy worker will be to analyse, plan and implement actions and campaigns to achieve positive systemic reform for people with disability in line with QAI's values, goals and priorities. I am looking forward to developing new skills and abilities in this role as well as the future challenges that lie ahead.

The major focus of my role will be developing and carrying out systemic advocacy campaigns. The first of these campaigns will have the focus on "all people with a disability living in a health facility in Queensland to be afforded the right and dignity to live in and be a contributing member of their community".

To commence this work QAI has developed a Project Plan and Position Paper in conjunction with the Kevin Cocks, Director. QAI are also working to develop a group of like minded individuals who have insights and experiences into the de-institutionalisation process who will feed into QAI's campaign. Initial conversations with Jan Dyke commenced in April and we are sure the experience and knowledge she brings to this campaign will be invaluable to QAI. The 2010/2011 Annual Report will detail the development of the Wasted Lives Campaign. The campaign will focus on the issue of people with disability living in health care facilities across Queensland.

Funding Applications:

QAI submitted two funding applications in the January – July 2010 period. The first submitted in February 2010 was to the Gambling Community Benefit Fund for funding for office relocation costs and for the purchase of new office equipment and furniture. The Office Manager assisted with the gathering of quotes and documentation required for application. Online application and letters of support from supporter organisations submitted.

The second funding application submitted in March was a re-submission of the *Disability Services Act Review* application to the Gambling Community Benefit Fund submitted in late 2009.

Meetings attended:

Community Connections Toowoomba	5
Community Safeguards Coalition	7
Hands on Human Rights Indicators	3
Disability Alliance	1
Young People in Residential Aged Care*	0
Launch Disability Services draft 10 Year Plan for supporting Queenslanders with a disability	1

*Due to reduced capacity and the office relocation in May the Systems Advocate for Community Living was an apology at the February and May YPIRAC Reference Group meetings.

Training:

- Jan Dyke Social Advocacy training with QAI Staff and Management Committee
- Living Real Life in the Community – What does it take and what gets in the way for people who live with disability? CRU workshop, presented by Doctor Michael Kendrick
- Third National Disability Advocacy Conference - Disability Advocacy Network Australia (DANA), Canberra - Focusing on issues that have the potential to influence and shape disability advocacy policy and practice into the future
- Strategic Grants Fundraising Workshop – three hour workshop presented by Jo Garner

Law Reform Advocate

Ken Wade

Charles Dickens said the law is an “ass”. In so doing he attributed to a social artefact qualities of character commonly associated with that sturdy creature, namely, stupidity and stubbornness. Given that all artefacts are by definition fabricated by man, Dickens might better have directed his deprecation at lawmakers rather than at their invention.

Much has changed since Dickens’ day, yet much remains the same. In particular, government continues to make decisions that trouble the mind and the soul. More troubling than most has been Government’s decision to abolish the Office of the Public Advocate and transfer its functions to the Office of the Adult Guardian.

Public Advocate

The Office of the Public Advocate was created in 2000 under the Guardianship and Administration Act 2000 (**GAA**). The **GAA** evolved from the recommendations the Queensland Law Reform Commission (**QLRC**) made in its 1996 review of guardianship laws in Queensland. In that review the, **QLRC** acknowledged that a decision-making disability disadvantages people in our society. It also acknowledged that advocacy can help to overcome that disadvantage. It therefore recommended that a statutory body be established to conduct systemic advocacy on behalf of vulnerable people. That body is the Public Advocate.

In its 2009 report, the QLRC went even further. It recommended not only the maintenance of an independent Public Advocate, but also a substantial augmentation of its powers. This ran counter to prevailing government sentiment that the Office of the Public Advocate should be merged with the Office of the Adult Guardian. The government based its decision to merge the offices on criticisms of the Public Advocate contained in *Brokering Balance: A Public Interest Map for Queensland Government Bodies* (the **Weller Report**), and the status of the Public Advocate in other states. The criticisms related to perceived resource inefficiencies and a lack of access to important information held by the Office of the Adult Guardian. In other states, the functions of the Public Advocate and Adult Guardian reside in a single office.

QAI believes a clear conflict of interest will arise if the Public Advocate is merged with the Office of the Adult Guardian. The conflict would occur because the Adult Guardian, in its capacity as guardian of last resort, is a legitimate and essential object of scrutiny for the Public Advocate in the pursuit of its mandated functions to monitor and review services provided to adults with impaired capacity. The Adult Guardian would, in effect, become responsible for monitoring its own performance. This could require from the Adult Guardian an act of figurative self-immolation on the altar of public accountability. This type of self-sacrifice can be hoped for, it cannot be guaranteed.

The law reform advocate drafted detailed correspondence to the Attorney-General outlining QAI's apprehensions about the proposed merger, and requested a meeting to discuss them. Initially, the Attorney-General's office responded by letter only and did not address QAI's request for a meeting. The Attorney-General's response claimed the merger is consonant with the Weller Report's recommendations. It said the merger offered potential resource efficiencies, and harmonised with the position in other states.

In response the law reform advocate drafted an extensive submission to the Premier addressing these and other issues. The submission pointed out that Professor Weller recommended an amalgamation only if the Public Advocate's present structure prevented it from properly fulfilling its role. Even so Professor Weller recommended delaying any decision until the **QLRC** concluded its ongoing review of Queensland's guardianship laws.

To the best of QAI's knowledge, the only submission Professor Weller received supporting amalgamation came from Justice and Attorney-General (JAG). JAG's submission claimed the separation of the two offices denied the Public Advocate access to essential information it needed to perform its systemic functions. JAG provided no evidence supporting this contention. QAI pointed this out in its submission to the Premier. QAI also explained that the **QLRC** in its 1995 review of Queensland's guardianship laws considered amalgamating the functions of the Public Advocate and the Adult Guardian. After careful consideration the **QLRC** abandoned the idea because of the conflict of interest amalgamation presented. The **QLRC** pointed out in its review that the cost of maintaining separate offices would be minimal and that administrative protocols that would ensure the necessary information flow between the offices could be easily established. QAI also revealed that the **QLRC** concluded that the offices of the Public Advocate and Adult Guardian in other states are merged because it is a cheaper option, not a better one.

The Premier's office responded with a recapitulation of JAG's old arguments. QAI subsequently met with the Attorney General and vented its concerns. However, it appears the decision to amalgamate has been made.

As previously stated, the QLRC recommended in its 2009 discussion paper on Queensland's guardianship laws, not only that the Office of the Public Advocate remain independent, but also that it receive an endowment of additional powers to bolster its protective capabilities. Subsequently the QLRC's terms of reference were change so they no longer encompassed an independent Public Advocate. The QLRC was asked only to canvas the options for ensuring the independence of systemic advocacy within a merged office of the Adult Guardian and Public Advocate.

The Attorney General's office asked QAI to consult on this model. We did, advancing a structure that quarantined within the merged office the Public Advocate's powers, staff, budget and direction from the Adult Guardian. The proposal was not

enthusiastically received. It envisaged a Public Advocate that remained too independent.

The situation now sits in limbo. The Public Advocate continues as before, but on a short-term contract. The threat of amalgamation now awaits only its final realisation into reality.

Restrictive Intervention Data System (RIDS)

The law reform advocate also organised and hosted at QAI a seminar about Victoria's Restrictive Interventions Data System (**RIDS**). The presenters were Mr Daryl Lang and Mr Anthony LaSala from Victoria's Office of the Senior Practitioner (**OSP**).

RIDS is the online database the **OSP** uses in Victoria to monitor the use of restrictive practices on people with intellectual disability. The **OSP** is a statutory office established to protect the rights of people with intellectual disability who are subject to restrictive practices and compulsory treatment.

All service providers using restrictive practices in Victoria must use **RIDS** to submit monthly reports to the **OSP** about their use. Information they provide includes the types of restrictive practices used, the frequency of their use, the ages and genders of people experiencing restrictive practices, and the perceived effectiveness of the restrictive practice at controlling the behaviour that prompted its use.

The **OSP** analyses the information to identify trends and issues associated with restrictive practices. It uses the results of its analysis to help drive a restrictive practices model aimed at preventing restrictive practices rather than merely regulating their use.

The purpose of the seminar was to assess whether a similar reporting and monitoring system could benefit vulnerable people in Queensland.

The seminar was well attended. Representatives included the Director and assistant Director of the Queensland Law Reform Commission, the Adult Guardian and the Public Advocate. Senior personnel attended from Disability Services, the Centre of Excellence, and major service providers. Community organisations were also well represented.

Victoria has spent approximately \$250,000 developing the system to its current state. Mr Lang concluded his presentation by offering the system to Queensland free of charge. Pursuing the adoption of a system similar to **RIDS** that is tailored to Queensland's needs will form part of QAI's ongoing campaign to reform Queensland's restrictive practices regime.

Extension of restrictive practices transitional period and short-term approval period

The Law Reform Advocate also drafted an extensive submission opposing Disability Services' proposals to extend two time periods for restrictive practices. These are the transitional period before full compliance with the legislative scheme is required,

and the period for which emergency short-term approvals may be granted for restrictive practices.

The Disability Services Act 2006 (**DSA**) and the **GAA** 2000 grant certain officers the authority to make short-term approvals for restrictive practices. These officers are, the Adult Guardian, and the approved delegate of Disability Service's Chief Executive. It is QAI's understanding that such approvals are to be given in emergency circumstances and on an ad hoc basis only. That is, they are to be granted when the perceived need for restrictive practices is so acute, there is insufficient time to proceed through the normal channels. Delay in obtaining approval is judged to be a greater risk to the welfare of the adult or others, than is a short approval process gutted of safeguards. In lieu of procedural control the relative brevity of the approval's duration is supposed to shield from abuse the rights and person of affected adults.

The proposals were initially to increase the transitional period by six months, and to double the potential length of short-term approvals from three to six months. Within days of the consultation about these proposals, QAI was informed that service providers who had agreed a six-month extension to the transitional period would be sufficient, now thought an extra nine months would be required.

At the consultation QAI was informed that compelling compliance within the periods originally specified would jeopardise the human rights of affected adults by promoting a rushed process over a measured one.

This was an unusual stance for Disability Services to take. In the past it has always argued that adherence to time limits however short is essential to ensure human rights. Short time frames and hasty process have constantly attended the development of Queensland's new restrictive practices regime.

QAI pointed this out in its submission. It also noted that, while QAI has always regarded this haste as a grave threat to the human rights of the people affected, a wider realisation of the threat emerged only when service providers found themselves struggling to comply with their obligations.

Policy supporting Short-term approvals for restrictive practices

Subsequently, QAI was invited to comment on the draft policy and procedure Disability Services was drafting to support the legislative amendments for Short-term approvals for restrictive practices.

QAI raised numerous concerns at the consultation and again supported them with a written submission. Concerns included:

1. The duration of short-term approvals;
2. The inequality between an adult's rights to challenge approvals and the rights of challenge available to service providers;
3. The potential for short-term approvals to be granted over the telephone;
4. The unhealthy and rapidly emerging notion that a short-term approval to use restrictive practices is merely a procedural step in an inevitable

- progression towards long-term Queensland Civil and Administrative Tribunal (QCAT) approval for restrictive practices; and
5. The potential for conflict of interest arising from the close relationships that can develop between decision-makers and service providers.

Guardianship Review

As part of QAI's ongoing involvement with the **QLRC's** review of Queensland's guardianship laws, the Law Reform Advocate attended a series of community and stakeholder consultations hosted by the QLRC. The consultations supported the QLRC's release of its third and final discussion paper on guardianship laws in Queensland.

The first two discussion papers examined the issues of confidentiality, the definition of capacity, and the effect of the general principles and health care principle. Decision makers acting under Queensland's guardianship legislation must consider these principles when making decisions for people who lack capacity. The final discussion paper encompassed all other matters dealt with in the legislation. Consequently, the final discussion paper was very large, comprising 710 pages.

Common themes that emerged at the consultations included;

- the legal difficulty of managing children's affairs when they turn 18;
- fears of statutory authorities obtaining decision-making powers for children when children turn 18; and
- the anxieties of ageing parents, who care for children with disability, about the care of their children once the parents have died.

In response to the consultations and discussion paper, the law-reform advocate collaborated with Jan Dyke to prepare a 40-page submission detailing 35 recommendations. These included:

- Adopting the Convention on the Rights of Persons with Disabilities (**CRPD**) as a compliance bench mark to which all potential outcomes from the review should be elevated.
- Maintaining an independent Public Advocate and confirming its role in systems advocacy.
- Conferring upon the Public Advocate the same investigatory powers as those held by the Adult Guardian.
- Introducing statutory penalties for failure to comply with lawful directions from the Public Advocate.
- Establishing a restrictive practices database similar to the Victorian Restrictive Interventions Data System (**RIDS**) to monitor restrictive practices in Queensland.
- Requiring all service providers using restrictive practices to report through the database to the Public Advocate about their use of restrictive practices.

Restrictive Practices Forum

During the reporting period, the Law Reform Advocate and QAI's Director together with a small reference group formed by QAI undertook the planning and presentation of a full-day forum on restrictive practices. The purpose of the forum is to:

- assess the effects of Queensland's new system for regulating restrictive practices;
- compare this system with alternative models from other jurisdictions;
- develop recommendations for positive change to the system if change is warranted; and
- promote a sector-wide sense of shared enterprise in and ownership of the process of that positive change.

Initially QAI sought to promote a joint venture with Disability Services. Our overtures, which were open and sincere, appeared to inspire concern about our motives for wishing to stage this event. We were clear that the forum would not be used as a weapon to attack Disability Services, but as an opportunity to host an open exchange of ideas about the appropriate approach to the use of restrictive practices. Unfortunately, QAI was not offered the opportunity to co-host an open forum for information exchange. Instead we were invited to advise Disability Services how they might include in their own forums the opinions of adults and families affected by restrictive practices. QAI was dissatisfied with this and decided to proceed alone.

This decision carried with it substantial financial risk, but QAI believed the importance of the topic warranted the assumption of that risk. QAI also believed interest in, and concern about, restrictive practices was so high that this risk could be substantially offset against pledges of support from interested parties. So events proved.

QAI immediately approached Minister Palaszczuk and asked her to petition on QAI's behalf the Speaker of the Legislative Assembly both to reserve the Undumbi Room in the parliamentary annexe for the forum and to waive the room's hiring fee. To her immense personal credit the Minister acted swiftly on our behalf and secured both of our requests. She also agreed to take a personal role in the conduct of the forum and deliver the closing remarks at the end of the day. QAI also secured sponsorship from Endeavour Foundation, Community Resource Unit, Queensland Parents for People with a Disability (QPPD), Mamre, National Disability Services (NDS), the Centre of Excellence for Behaviour Support and McCullough Robertson Lawyers. The sponsorship provided was given graciously and unstintingly, and covered everything from substantial cash donations and pro bono legal advice, to the full audio-visual recording of the day's events. Speakers were equally generous with their time and their efforts.

The forum was held on 23 August 2010.

Statewide Disability Forensic Service Model

During the reporting period, QAI was asked to comment on the proposed Statewide Disability Forensic Service Model (Forensic Service Model). This is the operational model proposed for the service intended to offer custodial care for people on forensic orders who have a primary diagnosis of intellectual disability.

For many years, people with a primary diagnosis of intellectual disability found liable for indictable offences have been detained on forensic orders in authorised mental health services. This is entirely inappropriate. Justice Carter highlighted the

impropriety in his 2006 report on restrictive practices in Queensland. He recommended a secure facility be established at Wacol to house these people. Disability Services was to operate the facility with the ultimate aim of returning residents to the community as soon as possible.

At the time QAI was asked to comment on the Forensic Service Model, we had not been consulted on the design of the forensic accommodation, its operational structure, or the legislation to support it. This lack substantially impeded our ability to comment effectively, a fact the law reform advocate underscored in the submission QAI prepared. The law reform advocate also pointed out the imperative warning given by Justice Carter and Michael Kendrick against designing accommodation, secure or otherwise, on a predetermined template. Yet this appears to be what is happening with the forensic accommodation. At least it does if we can extend to the forensic units, opinions based on a firsthand examination of transitional units already constructed for the restrictive practices system.

Little of what Disability Services representatives said to QAI staff (at a consultation hastily convened in response to QAI's submission) alters that opinion. Person-centred planning, the philosophy purportedly underpinning the forensic service model is difficult to discern. Unless, that is, the person-centred approach is intended to give expression to the anachronistic outlook of the model's designers.

QAI also pointed out the lack of an effective exit process under the current legislation for people on forensic orders. Internment is indefinite. Forensic orders may be revoked only if the affected individual can demonstrate to the Mental Health Review Tribunal they are no longer an unacceptable risk to the community. This reverses the normal onus of proof and places before the forensic detainee an almost insuperable legal obstacle to their release.

Consultation on and argument about the Disability Forensic Service continues.

Combined Advocacy Groups Queensland (CAGQ)

The law reform advocate also accepted an invitation to deliver a presentation about restrictive practices at the 2009 CAGQ conference. The presentation was well received and stimulated discussion about the topic.

Justice Support Program (JSP)

Lynn Barratt/Roy Bunnett

Service Model

In response to the *Disabled Justice* report, QAI proposed and was funded by **LPITAF** to provide a pilot Justice Support Program (**JSP**) based substantially on the New South Wales Intellectual Disability Rights Service (IDRS) support program. The initial **JSP** service model proposed that a police support and court support program would recruit, train, deploy and advise volunteer support persons, who would attend police interviews and court appearances with victims, suspects or defendants and witnesses with disability. It was envisaged that as the program developed volunteers would be on-call 24 hours a day, 7 days a week, through a central 1300 line that would be available to police, legal practitioners, court administrators and the public generally. Additionally, it was proposed a network of volunteer lawyers would also be recruited to act on behalf of suspects with disability.

However in practice QAI's **JSP** service proved to be markedly different to the IDRS support service. The IDRS program provides service only to people with intellectual disability, whereas the clients of QAI's **JSP** service are primarily people with mental illness, cognitive impairment and acquired brain injuries, as well as intellectual disability and some **JSP** clients have dual diagnoses.

JSP clients present with more complex needs and in circumstances which were beyond the capacity of volunteer support workers. The **JSP** service model had to be modified accordingly. In order to provide support to QAI's clients with more complex needs and complicated circumstances, **JSP** staff had to undertake individual advocacy support to resolve underlying social issues associated with the client's legal issues.

As well as the clients themselves contacting QAI for support, referrals came from advocacy and other community based and government organisations and the families of clients. The program therefore developed in response to the need and demand to provide information and support also to the clients' families, carers and service providers. Coordinator's responded by providing individual advocacy including establishing working relationships with advocacy workers and service providers.

Issues presented included but not exclusive of:

- limited or poor disability service support responses
- homelessness
- victim of abuse issues
- neglect and exploitation
- limited or no legal representation
- Inability to access existing legal service

Coordinators were involved both in resolving social issues as highlighted above and in obtaining legal representation for clients through assisting in making applications for legal aid, in appealing refusals of legal aid, and where legal aid was not available, through accessing community legal services or pro bono legal services from the private profession.

There was little demand for court support for victims and little demand for support at police questioning. In relation to court support for victims, QAI attributes this primarily to the expansion of services for victims in conjunction with the development under the *Victims of Crime Assistance Act 2009* of a more comprehensive service and compensation scheme. In relation to the low demand for support at police questioning, the reasons for this are quite complex but include a lack of police support for such a service.

QAI therefore, in the time available for the pilot, focused the JSP service to respond to the need and demand for advocacy support made by people with mental illness, cognitive impairment, acquired brain injury and intellectual disability in the Justice and related systems.

The **JSP** has developed into one which provides individual advocacy and early intervention at the point of crises to marshal legal and community services to support the person with a disability. The **JSP** has sought to ensure the client's were legally represented and that the client had the best possible opportunity to remain in and function as well as possible in the community through strengthening the person's support systems and circumstances.

QAI proposes that the direction we have now taken is the most appropriate and cost effective way to ensure that vulnerable people with intellectual disability, acquired brain injury, cognitive impairment and mental illness have equal recognition before the law (article 12 CRPD) and have effective access to justice (article 13 CRPD).

The key responsibilities of the **Individual Advocate** now are:

- Identify person's immediate needs
- Liaise with service systems to acquire appropriate and responsive supports i.e. housing, personal assistance etc
- Support the person to comply with orders, thus avoiding breaches and further escalation of problems i.e. attend hearings etc
- Identify other support services i.e. counselling, anger management etc
- obtaining legal services for clients through:
 - assisting clients to access timely legal advice and assisting them to understand that advice
 - assisting in making applications for legal aid,
 - appealing refusals of legal aid; and where legal aid is not available, accessing community legal services or pro bono legal services from the private profession.

Case examples

Client No 153 – Client with mental illness was charged with assaulting a police officer. Court support sought originally by mother. Court support provided for first appearance in Brisbane Magistrates Court. After court, client was presented with outstanding SPER fine for failure to vote at the 2006 state election. Client assisted to prepare a statutory declaration for the Electoral Commission which resulted in the fine being withdrawn. Mother engaged private solicitor and court support not required after first appearance.

Client 235 – Client with severe mental illness was the respondent in a domestic violence application brought by police where her mother was the aggrieved. Ongoing court support and assertive case management was provided to the client, her partner and mother to get appropriate Cultural And Linguistic Diversity (CALD) community support services involved for the client and the mother. Assistance provided to draft an affidavit setting out client's circumstances and background. In the circumstances with the court support provided by **JSP** and in marshalling community supports for both the respondent and the aggrieved, the police withdrew the application – which is not usual police practice.

Client 230 – Court support requested by mother for her son with acquired brain injury and intellectual disability. Client living under one roof with estranged wife and had applied for a domestic violence order. Estranged wife constantly locking client out of house, refused to give him keys to one of the cars, verbally harassing and following client. Client was holding down job as truck driver. Court support and liaison with police to have police take over the DVO application provided. DVO application granted and police assisted in explaining terms of DVO to the client's estranged wife and securing his use of the second car which had previously been denied to him. Assistance provided to obtain legal assistance/legal aid to commence family court proceedings regarding property and child.

Client 260 – Mother sought court support for 17 year old son with Intellectual Disability charged with possession of a knife in a public place. Client had been excluded from school. Court support and assertive case management provided to get mother, community agency and DSQ collaborating to provide appropriate services for the client. Assistance provided to instruct duty solicitor to represent client and make submissions for mitigation of sentence for plea of guilty. No penalty ordered nor conviction recorded.

I would like to thank Roy Bunnett and Lynn Barratt for their tireless efforts in responding to the changing requirements for this project particular in light of vulnerable people at risk of being captives of the criminal Justice system.

Human Rights Legal Service

Jim Gibney

The function of QAI's Human Rights Legal Service (HRLS) is:

To provide specialist legal advice and representation services to vulnerable people with disability in relation to protection of their fundamental human rights, particularly where their rights are at risk in the following ways:

1. Risk to Life - including risk of serious injury

- Matters involving abuse and neglect of persons leading or likely to lead to death or serious injury.
- Guardianship matters relating to life sustaining measures and other special health matters.
- Involvement in coronial inquests into the deaths of people with disability, or to deaths caused by inappropriate care of persons with disability.

2. Risk to Liberty

- Matters involving potential admission or re-admission of people with disability into the prison system due to the lack of proper supports to those people to successfully live in the community.
- Guardianship matters and matters under Restrictive Practices Amendments to the Disability Services Act (DSA 2006).
- Matters under the Mental Health legislation relating to detention of persons who have not committed crimes or whose incarceration is an overreaction or an inappropriate response to minor crimes or various non-criminal behaviours.

3. Risk to Fraternity/Property

- Matters furthering the goals of QAI's Community Living projects including matters pertaining to institutional practices
- Child Protection matters
- Guardianship/Administration matters pertaining to financial abuse or poor financial management by Public Trustee and personal decision making.

Background

From the start of the **HRLS** in December 2008, QAI decided

- to provide legal advice services in relation to a wide range of matters within the abovementioned target ambit; but to take on only a small number of strategic test cases likely to have high value systemic impact for vulnerable people with disability in Queensland.

As it turned out, in the first 7 months of operation of the **HRLS**, we selected cases concerning guardianship and restrictive practices (matters in the Guardianship and

Administration Tribunal (**GAAT**) and Queensland Civil and Administrative Tribunal (**QCAT**) jurisdiction) as well as cases concerning Involuntary Treatment Orders (ITO's) and Forensic Orders under the Mental Health Act (in the Mental Health Review Tribunal (MHRT) and Mental Health Court jurisdiction).

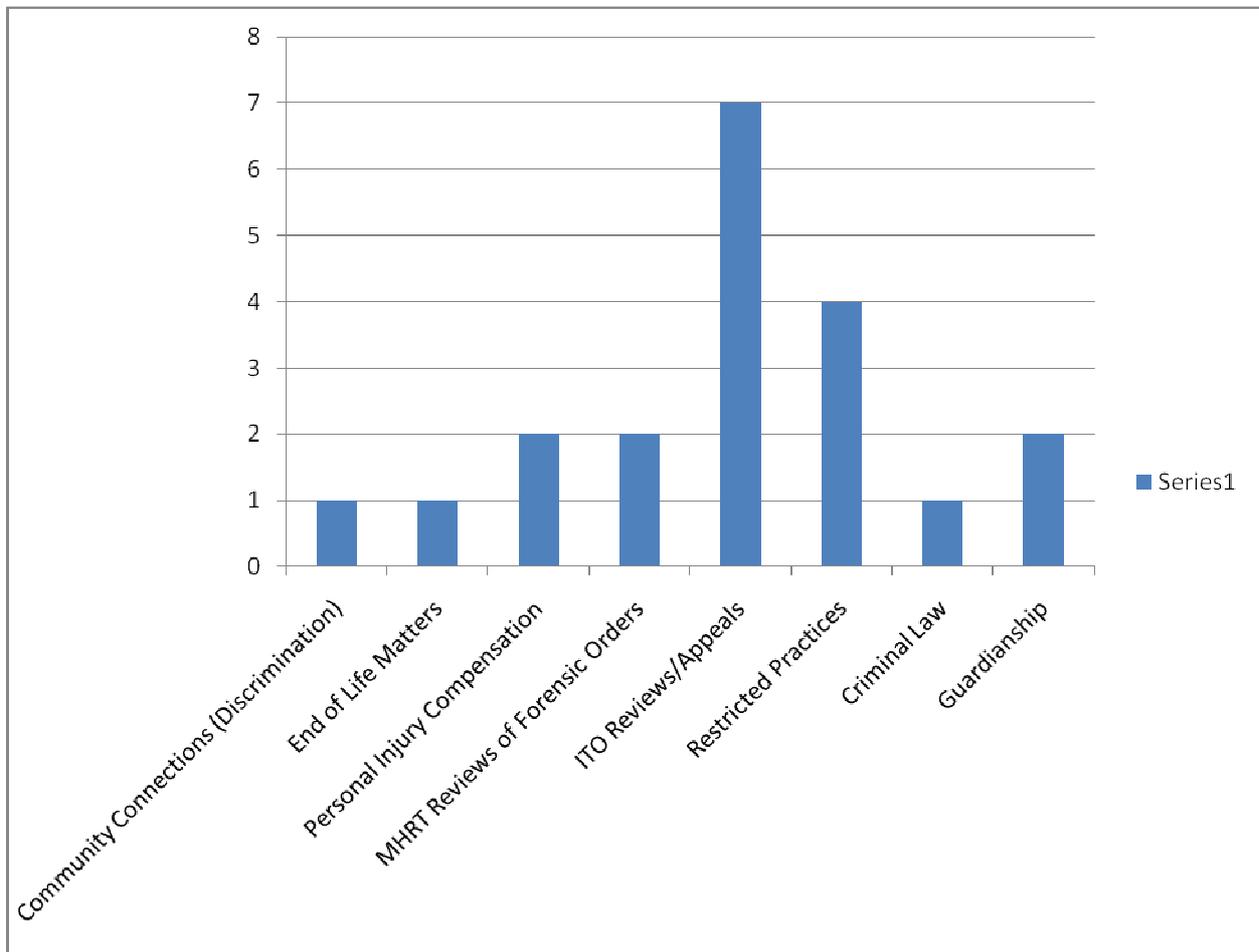
In those first months of operation, the **HRLS** proposed to prioritise cases concerning the new restrictive practices amendments (to the Disability Services Act). Indeed, restrictive practices casework was identified as a priority for the HRLS and we undertook a particularly complex restrictive practices/guardianship case at the outset (this case was successfully brought to finality after 17 months work by the **HRLS**).

But the **HRLS** also noted a very strong demand for casework assistance in relation to people subject to ITO's and Forensic Orders. In response to this demand the **HRLS** took on assisting and representing clients before the MHRT on ITO and Forensic order reviews and initiating an appeal in one of these matters to the Mental Health Court. And the **HRLS** lawyer lobbied and sought funding on behalf of QAI to establish a Mental Health Legal Service (**MHLS**) specifically dedicated to providing legal services for people with mental health conditions who were subject to ITO's and Forensic Orders. This resulted in QAI obtaining a grant to begin the **MHLS** and this new service was commenced operating within QAI late 2009/early 2010.

HRLS Operation in Financial Year 2009 – 10

In 2009–10, the second year of operation of the **HRLS**, we continued with the same basic strategy to provide legal advice on a wide range of topics and to represent clients in selected guardianship and restrictive practices matters, as well as ITO and Forensic Oder reviews before the MHRT. In 2009–10 **HRLS**:

- Provided legal advices to 78 clients about 90 legal matters;
- Opened 35 cases;
- In 20 cases, we provided legal representation to clients in matters before **GAAT/QCAT**, the MHRT and the Courts – the following graph shows the nature of this casework.



HRLS Major Casework 2009-10

It was useful for the HRLS to continue to conduct cases for clients with mental health disabilities in relation to their ITO's in order to obtain and build QAI's legal experience with these matters and to develop QAI's understanding of practice in the MHRT/Mental Health Court jurisdiction. It proved useful to acquire a basic grounding in this unusual jurisdiction. By the time QAI recruited its new staff to commence operation of the dedicated **MHLS** in December 2009. But as soon as the **MHLS** staff commenced work with QAI, the **HRLS** left casework involving representation of people with mental health conditions in their capable hands.

From that time (when **MHLS** commenced operation in December 2009) **HRLS** directed its casework resources to:

- Representation of people with intellectual disability before **GAAT/QCAT** in restrictive practices/guardianship cases; and
- Representation of people with intellectual disability and cognitive impairments before MHRT on reviews of their Forensic Orders; and
- Other matters, such as assisting clients with profound intellectual disability in relation to matters concerning end of life decisions and initiating personal injury actions for people with intellectual disability who had suffered abuse and neglect in institutional care.

Thus, during 2009–10 **HRLS** conducted three high profile cases where we represented clients in relation to one guardianship/restrictive practices application,

and on two occasions the **HRLS** lawyer was appointed by **QCAT** to represent a person with an intellectual disability before the tribunal on hearings when existing restrictive practices approvals were reviewed. **HRLS** also represented another person with intellectual disability in a fourth guardianship/restrictive practice application before **QCAT** in 2009-10 (this case was opened by **HRLS** in 2008-09, and is therefore not included in the graph above).

These cases were demanding but instructive. We believe they had noticeable impact on agencies such as the Specialist Response Team within Disability Services and the Adult Guardian, and perhaps even **QCAT** itself, in connection with the process of obtaining approval to use restrictive practices on a person with intellectual or cognitive impairment. This case work also served to inform QAI's systems advocacy in relation to restrictive practices and one of the **HRLS** cases was used as a centrepiece case study for the whole day Restrictive Practices Forum presented by QAI at the Parliamentary Annex in 2010.

But **HRLS** also continued to represent clients on Forensic Order Review hearings before the MHRT. We continued to represent people with intellectual disability or cognitive impairment who were detained under Forensic Orders in Authorised Mental Health Facilities (psychiatric hospital wards). We represented only two clients on the Forensic Order Reviews within 2009-10, but have taken on more of these cases in the 2010-11 year. Again this casework has informed QAI's systemic advocacy, particularly in relation to QAI's advocacy around the Disability Forensic Bill that was proposed to pass through the parliament in 2010.

Other major cases taken on by the HRLS during the 2009-10 year included:

- Facilitating the commencement of claims under the Common Law and the statute law for awards of compensation to be made to a former resident of the notorious "Bribie Care" residential facility;
- Acting for a man who is labelled as being "profoundly disabled", in relation to a direction given by his **QCAT** appointed guardian (on specialist medical advice) in relation to a special health care matter – where the service provider effectively refuses to abide the Guardian's direction;
- Providing active legal advocacy support in conjunction with QAI's Community Living Advocate in QAI's *Wasted Lives Campaign* concerning residents with intellectual disability and/or an acquired brain injury inappropriately accommodated at Baillie Henderson Hospital and other Queensland institutions.

Mental Health Legal Service

Rebekah Leong/Karen Thorpe

Timeline and summary of outcomes achieved:

- July 2009 – Seed funding granted from the Legal Practitioner Interest on Trust Accounts Fund (**LPITAF**)
- Nov 2009 - Solicitor and paralegal appointed
- Oct 2009 - Commenced legal advice service, with 18 advices provided by the end of June 2010
- Nov 2009 – Commenced legal representation service, with 59 cases opened, 21 appearances before the Mental Health Review Tribunal (**MHRT**) and 2 appearances before QCAT by end of June 2010
- July 2010 - Commenced arrangement with the MHRT to provide legal representation in certain Tribunal matters
- July 2010 – Further funding secured from LPITAF for the 2010-11 financial year
- Collaboration with QPILCH to provide legal advice clinics at the Princess Alexandra Hospital
- 10 training events attended
- 7 seminars/presentations delivered

Background

In 2008-09, the Mental Health Review Tribunal (**MHRT**) received over 13,000 matters. Almost none of the people with psychiatric and intellectual disabilities whose mental health orders were reviewed in that year were represented before the MHRT. The State does not provide Legal Aid Queensland with the resources to grant legal assistance to people whose mental health orders are reviewed by the MHRT and there are virtually no other sources of legal services available to this group of people.

In this context, QAI applied for and received one-year funding to set up the Mental Health Legal Service (**MHLS**) from the Legal Practitioner Interest on Trust Accounts Fund (**LPITAF**) to provide people with legal advice and advocacy services in respect of their MHRT and other related matters. The focus of the service was to provide advice and representation to people who have matters before the MHRT.

The MHLS provides patients with the ability to participate in the review of their own treatment and ensure that the process, in which fundamental human rights are severely restricted, is lawful. Many clients of the MHLS face significant and multifaceted barriers to communication and, without representation, their full story would not have been told.

Staffing

The service commenced in earnest on 14 January 2010, staffed by Rebekah Leong, full time solicitor, and Karen Thorpe, part time paralegal, under the supervision of QAI's principal lawyer, Jim Gibney.

In August 2010, Karen took a 6 month leave of absence to undertake a role with the Mental Health Directorate.

Chantelle Baguley was appointed as the Service's new paralegal and commenced on 30 August 2010.

Legal advice and casework

The MHLS offers advice and casework services for people who are receiving involuntary treatment for mental illness under the Mental Health Act 2000 (Qld).

The MHLS provides instruction driven advocacy. Consistent with this approach, the MHLS will only assist people who are consumers of mental health services. The MHLS is respectful of and encourages the assistance of family, friends and other support people. However, unless exceptional circumstances exist, only a consumer of mental health services can be a client of the MHLS.

Client demographics

The 65 clients who accessed the MHLS in the 2009-10 financial year included patients of the Princess Alexandra, Royal Brisbane and Women's, Prince Charles, Gold Coast, Logan, Caboolture, Nambour and Redland Hospitals, and The Park.

More than 80% of clients had either a low income or no income and more than 90% were in receipt of Centrelink benefits. Almost 10% of our clients were from non English speaking backgrounds. A number of clients had multiple disabilities such as psychiatric illness, intellectual disability and medical problems. Many clients had low levels of education or were disorientated or disorganised due to illness or medication.

Most clients were referred from health professionals, such as doctors, nurses or case managers. The second most significant number of referrals came from Legal Aid Queensland and the third from other community legal centres.

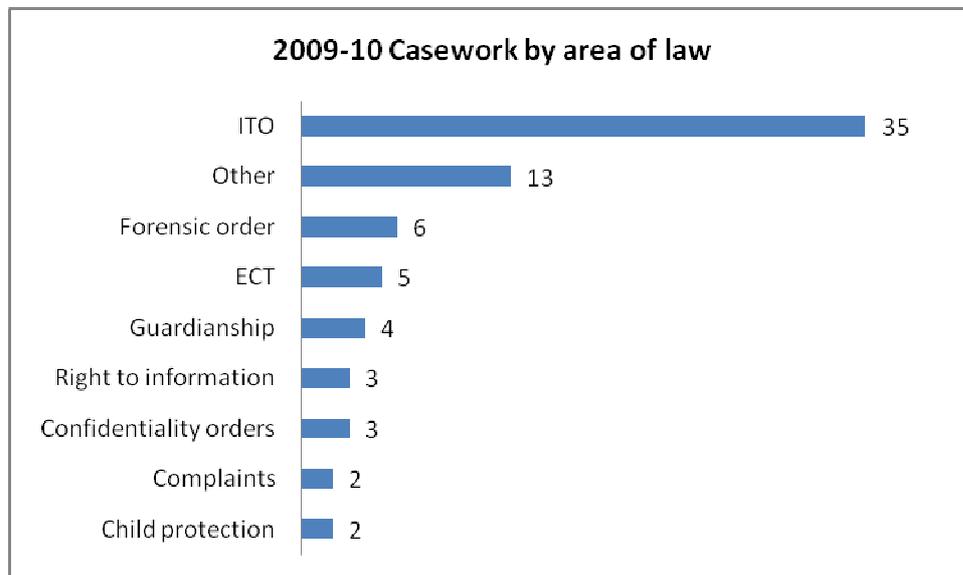
Advice work

The MHLS recorded 18 advices in the 2009-10 financial year. This apparently low figure is because the majority of matters are opened as casework.

Unsurprisingly, the majority of advices related to ITOs, representing 33% of all advices. This was followed by general complaints about mental health services (22%) and child protection (11%).

Casework

Fifty-nine cases were opened in 2009-10, ranging from simple advice to intensive representation and advocacy. A breakdown of casework by area of law is represented in the graph below.¹



Involuntary treatment order (**ITO**) reviews accounted for almost 50% of cases. This was followed by forensic order reviews (8%) and reviews of treatment by electro-Convulsive Therapy (**ECT**) (7%). Other areas of law dealt with included commission housing, Centrelink, confidentiality of hospital records, credit and debt, domestic violence, crime, immigration, property, and transfers between authorised mental health services.

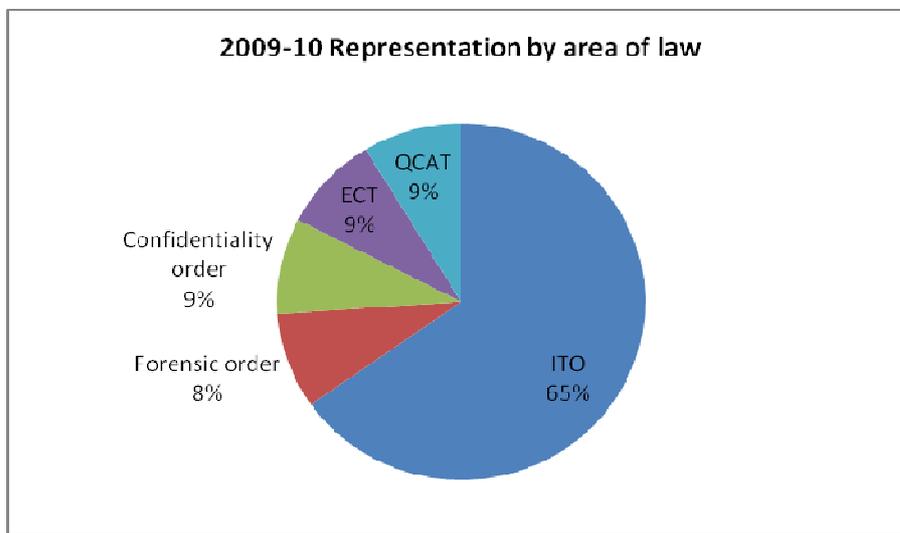
In addition to strict legal work, the MHLS also advocated more broadly for clients' rights to self-determination and dignity. This included discussing with the client's treating team unsuitable or unsatisfactory medication regimes, inappropriate case management or managers, implementation of allied services and future plans, with a view to releasing the client from involuntary treatment.

Representation

In recognition of the limits of a 1.7 staff service, representation services were limited to people under the care of the public health system in the Brisbane metro area, who were to appear before the MHRT and had not been assisted by the service in the past 6 months.

In 2009-10, the MHLS provided representation before the MHRT on 21 occasions and before the Queensland Civil and Administration Tribunal on 2 occasions.

¹ Please note that the sum of all casework by area of law is 73 while the total number of cases opened is 59. This is because a case could be recorded as having more than 1 area of law.



Results of representation were as follows:

- ITO reviews - 14 confirmed, 1 adjourned for a 2nd opinion
- Forensic order reviews – 1 confirmed, 1 adjourned for a 2nd opinion
- ECT applications – 2 approved
- Confidentiality orders – 1 ordered; 1 refused
- QCAT, applications for guardianship – 1 refused; 1 guardianship and administration ordered for a period of 1 year.

In both confidentiality order matters and one ECT matter, the MHLS was appointed by the Tribunal to represent the patient.

Following their hearings, many clients have informed the service that they felt they had adequately participated in the hearing and were satisfied with the outcome. Long term consumers of mental health services have reported feeling that the procedure was more fair with a legal representative present and that “at least they listen to me now, I wouldn’t have a chance without the Service”.

Pro bono assistance

MHLS is grateful to the pro bono assistance of barristers **Stephen Keim SC** and **Simon Hamlyn-Harris** for their opinion on the lawfulness of using depot injections to administer medication under an involuntary treatment order.

We also thank barrister **Karen Williams** for giving up her time to provide training to our MHLS staff on mental health law.

Other outcomes

QPILCH collaboration

The MHLS has been providing staff and support to QPILCH in undertaking a pilot of a legal clinic based at Princess Alexandra Hospital, staffed by 2 solicitors and 6 senior law students. The clinic ran for 2-3 hours on 6/05/10 and 13/05/10 and saw approximately 12 clients. The pilot was very successful and strongly supported by

the hospital's Patient Consumer Consultants. The clinic ran with similar success at the beginning of Semester 2, 2010.

The MHLS is also involved in QPILCH negotiations to set up a legal clinic at Open Minds staffed by pro bono lawyers from a private law firm. It is hoped that the new clinic will help fill the gap in providing general legal advice to people with mental illness and enable the MHLS to focus their energies to providing representation before the MHRT.

Staff training and development

During the 2009-10 funding period, MHLS staff participated in a number of valuable training and development opportunities. These included:

- CLSIS online training
- Attendance at Mental Health Review Tribunal and Mental Health Court proceedings as observers
- In house training with Karen Williams, counsel and specialist in mental health law, who provided her services on a pro bono basis (1 Feb)
- In house vulnerable identities workshop (14 Apr)
- Travel to Melbourne to learn from the long established Mental Health Legal Centre (Vic) and Victoria Legal Aid (30 Apr – 1 May)
- Legal Advice training intensive run by Legal Aid Queensland (4-5 May)
- Queensland Association of Independent Legal Services (QAILS) Conference (10-12 May)
- Completion of Social Role Valorisation 2-Day Theory, presented by Values in Action Association Inc (24-25 May).
- In-house social advocacy workshop (28 May)
- Changes to the Criminal Justice System in Queensland, hosted by Legal Aid Queensland (18 Jun)

Sector and community education

Although direct service delivery is the primary focus of the MHLS, the service is also committed to expanding the knowledge and expertise of the legal and community sector.

The MHLS delivered presentations at:

- Training series for volunteers of QPILCH's Homeless Persons' Legal Clinic (25 Feb)
- Criminal Justice Network (25 Feb)
- Queensland Alliance "Recovery Rave" session (5 May)
- The Queensland Association of Independent Legal Services annual conference (10 May)
- QPILCH's Mental Health Law Seminar Series (13 May)
- People Surviving Psychiatry (18 Jun)
- Seniors Legal and Support Service - Annual Training (24 Jun)

Mental Health Review Tribunal (MHRT) tender

Prior to the commencement of the MHLS, QAI responded to a tender put out by the Mental Health Review Tribunal to provide legal services in Tribunal matters where it was considered necessary by the Tribunal that a patient have legal representation. QAI's proposal was to coordinate a panel of barristers who would provide the legal representation services.

QAI was notified in June 2010 that its tender was successful, with services to commence on 1 July 2010.

In addition to providing people most in need with legal representation, the arrangement provides the MHLS with an opportunity to regularly liaise with other legal professionals regarding their experiences before the MHRT.

Future plans

Pro bono panel

Due to limited resources, we have been unable to provide legal services to people outside the Brisbane metro area or people in the private health system.

In order to fill this gap, the MHLS intends to develop a panel of lawyers who can provide representation before the MHRT on a pro bono basis. Such a referral service has been implemented with much success by the Mental Health Legal Centre (Vic).

Identification of issues for systemic review

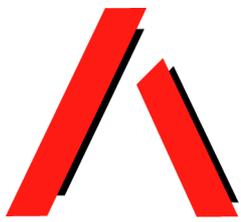
As the only service in Queensland which is dedicated to providing representation before the MHRT, the MHLS is well placed to identify issues which should be targeted for legal or policy reform. For example, the absence of a right to access your own clinical files is, in the MHLS's view, a serious flaw and inconsistent with principles of natural justice.

While these issues may be raised through the normal work of the MHLS on a case by case basis, for real change to occur, these issues need to be addressed in a more systemic way. Funding will be sought in order to pursue this goal.

Evaluation of service

An evaluation of the service should take place at the end of the 2010-11 financial year. This will include obtaining feedback from stakeholders, volunteers and past clients. The results of the evaluation will be used to inform the policy and strategic directions of the MHLS in the future as well as the improvement of services to clients.

Funding may be necessary to enable continuation of services while this evaluation is taking place.



Queensland Advocacy Incorporated

**Attachment One –
Financial Statements
for the year ended 30 June 2010
by Haywards Chartered Accountants**