

Queensland Advocacy Incorporated

ANNUAL REPORT 2008 – 2009

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Management Committee 2008-2009

President	Robert McRae
Vice President	Byron Albury
Secretary	Michael Duggan
Treasurer	Meriel Stanger
Committee Member	Victoria McLennan
Committee Member	Karen Williams
Committee Member	Julie McStay [March 2009]

Staff 2008-2009

Director	Kevin Cocks
Law Reform Advocate	Ken Wade
Community Living Advocate	Melinda Ewin
Project Support	Rebekah Bradshaw
Justice Support Program	Roy Bunnnett
Human Rights Lawyer	Jim Gibney
Finance [Consultant]	Deborah Bryzak
Office Administration	Renee Treml [March 2009]Erin O'Sullivan

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 provided 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 Qld and Australia.

The Department of Family & Community Services under the Commonwealth Disability Services Act funds QAI systemic advocacy. Legal Aid Queensland funds the human rights solicitor program. QAI also seeks funding from philanthropic organisations and trusts for projects. A Management Committee, the majority of whom are people with disability, runs QAI.

This **Annual Report** covers the period from 01 July 2008 → 30 June 2009. 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

I am very happy to present my report on behalf of the Management Committee for the 2008/2009 year.

This year we were fortunate to have Karen Williams and Victoria McLennan join us on the Management Committee. Karen is a barrister at the private Queensland Bar with a strong interest in guardianship and disability. Her legal background and her previous experience as a social worker, which involved mental health services, community mental health services and aged care services, provide us with valuable input.

Vicki, is a psychologist with in depth experience in disability, which has included working at the disability units at Baillie Henderson in Toowoomba. Again, Vicki's contribution has been substantial.

Unfortunately, during the year we lost Julie McStay who entered into partnership at a new law firm with time demands precluding her carrying on as a committee member.

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

Growth wise, I am pleased to advise that we now have a Human Rights Lawyer position. The position has been ably filled by Jim Gibney whose experience and ability has ensured that in a short space of time, he has hit the ground running.

Jim has also taken a leading role in the establishment of the Mental Health Legal Service project. A lawyer and paralegal have been selected and are scheduled to continue duties shortly.

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

Robert McRae

PRESIDENT

Treasurer's Report

Meriel Stanger

I am pleased to present QAI's Financial Report for the year ended 30 June 2009. The Report was prepared by Hayward's Chartered Accountants and is attached hereto.

QAI's work continues to rely heavily on its Annual Funding Agreement with the Commonwealth Department of Family and Community Services and Indigenous Affairs (DFaCSIA). Due to the nature of QAI's work and the increasing demand and competition for funds within the Not-For-Profit Sector, it is more likely that QAI will continue to rely on funding from the Commonwealth. This income has been supplemented from other sources, such as Friends of QAI, as detailed in the Financial Report.

I have been pleased to assist QAI with the operation of their accounts, allowing Director Kevin Cocks and his staff to focus on their important work. I have thoroughly enjoyed working with the Management Committee and Staff of QAI.

Director's Report

Kevin Cocks

This year marks the 22nd 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 to ensure there was strong independent and robust advocacy for vulnerable persons with disability and to increase QAI's capacity to defend and promote vulnerable people with disability human rights, their fundamental needs and lives. With that growth in capacity came challenges to continue to operate effectively on many fronts, and the realisation of a limited resource base in which we were starting from and to manage the tensions that arise with growth. However, in the recent Vision Workshop it became apparent that the tensions and the issues we were dealing with today have been in existence, ebbed and flowed from the time QAI opened its doors and commenced its journey 22 years ago.

This is my 11th 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 your 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 2008 - 2009. During the past 12 months QAI has continued to focus its advocacy efforts in three areas: (1) Community Living, (2) The Law Project, (3) Human Rights Legal Service, (4) Equal Access to Justice, for Victims and Offenders in the Criminal Justice System and the growth of independent advocacy in Australia.

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), and 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 you are advocating, or just looking out for.

We cannot allow the legacy of the past to shape the future lives of people with disability.

In our society some people with disability are fortunate to benefit from personal, community and government networks that work. However many persons with disability are subject to multiple and aggravated forms of human rights violation, including the neglect of their most basic survival related needs. Virtually every Australian with disability encounters human right violations at some points in their lives, and very many experience it every day of their lives. In 2009, in one of the most enlightened and wealthiest nations in the world, it is possible for persons with disability to die of starvation in specialist disability services, to have life-sustaining medical treatments denied or withdrawn in health services, to be raped or assaulted without any reasonable prospect of these crimes being detected, investigated or prosecuted by the legal system, and to have their children removed by child protection authorities on the prejudiced assumption that disability simply equates with incompetent parenting.

Kofi Annan in an address at the Franklin Delano Roosevelt International Disability Award Ceremony held at the United Nations in New York in 2007 stated:

“that the needs and rights of people with disabilities have been overlooked for many years”. And he adds, “that while that is changing, much more must be done. Let us remember that equal participation requires not only dismantling barriers, but creating opportunities. Let us stress that societies that neglect the integration of persons with disabilities deprive themselves of the valuable contributions such individuals make.”¹

¹ www.un.org/esa/socdev/enable

We often think that Human Rights are located in the realms of officialdom, Governments, Statutory agencies, Human Rights Advocacy agencies, to be resolved through arduous legal, and or political conflict. It's easy to say it's the Governments fault, or its systemic failure due to globalization. Well I share the view of Eleanor Roosevelt who was one of the architects of the Universal Declaration of Human Rights. I quote her:

"Where, after all, do universal 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 anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world." Eleanor Roosevelt 1946

The CRPD provides a framework for a paradigm shift away from a social welfare response to disability to a rights-based approach. The CRPD provides a framework for us all to engage in and contribute to cultural change within legislative, policy and practice. I commenced with a statement highlighting human rights abuses experienced by people with disability in our society. International research suggests that 44% of human rights abuse is conducted not through malice but by lack of knowledge and understanding. Thus, through cultural change the CRPD will help prevent abuse just by being an educative tool.

We also must remember the CRPD is a tool and on its own will not be a panacea to right the wrongs of the world. What it does is articulate how people with disability should experience life The CRPD does not develop any new human rights, but applies existing rights to the particular circumstances of persons with disability. Accordingly, the CRPD has been conceptualised as 'an implementation convention'; one that 'sets out a detailed code [for how existing rights] should be put into practice with respect to persons with disability.'

As Eleanor Roosevelt stated unless it has meaning in our everyday lives it has no meaning at all. It is up to us as individuals to use it strategically and diligently and to hold governments at all levels, and the community accountable to meeting their obligations to respect, protect and to fill persons with disabilities human rights.

Director Overview

The following is a brief overview of the work that I have carried out as director, of course this work has been supported by the staff of QAI.

1. Human Rights Indicators publication, launch and human rights seminar.

QAI made its opening move in the current phase of the human rights indicators campaign when we published and launched in August 2008, the *Human Rights Indicators for People with Disability: A Resource for Disability Activists and Policy Makers* (the Human Rights Indicators). The Human Rights Indicators sets out a preliminary set of human rights indicators for persons with disability, which are based on the elements of the CRPD. It is both a reference that describes the human rights of people with disability, and a tool for measuring the extent to which those rights have been met.

Numerous entities including government departments and NGO's have begun to draw upon the Human Rights Indicators as a means against which they will measure their efforts to promote the rights of people with disability. Recently the World Bank has requested permission to include it in its *Inter-Agency Disability Knowledge Sharing System* a web-based disability toolkit for UN Agencies and public entities.

Now the UN CRPD and the Optional Protocol has been ratified by the Australian Government, the rights of people with disability are firmly on the human rights agenda. There is a significant opportunity and need for people with disability, their representative organisations and disability advocacy organisations to use the CRPD to "protect, fulfil and promote the rights of people with disability, as outlined in the CRPD, as well as to lead the human rights sector in engaging with human rights mechanisms, such as the UN reporting process. However, we have

traditionally been marginalised from the human rights sector and / or have not prioritised or valued engagement with human rights mechanisms. It is critical that we build the skills and capacity of the disability sector to understand and apply CRPD in our work, to understand and develop local, State and national processes for reporting on human rights and to engage in the UN reporting process. To this end QAI and PWDA have scoped out a proposal for the development of a training curriculum for a CRPD intensive professional development program. It is essential that disability activists and advocates and policy makers have a strong understanding of how to apply and draw upon the CRPD in their daily work.

QAI presented a one-day seminar at Parliament house 20th of August, the seminar focused on monitoring and implementing the CRPD in the Australian context. The Honorable Don Mackay *Chair of the United Nations Ad Hoc Committee that negotiated the Convention on the Rights of Persons with Disabilities* presented the keynote address. Kerri Shine MP, former Queensland Attorney-General and Minister for Justice, was host and a speaker, other speakers included The Commonwealth Attorney General Robert McClelland, the Commonwealth parliamentary secretary Disabilities and Children, Bill Shorten; George Williams, Anthony Mason Professor, Faculty of Law, University of New South Wales; Mr Graeme Innes, Australian Human Rights Commissioner and Commissioner responsible for Disability Discrimination; Ms Susan Booth, Queensland Anti-discrimination Commissioner; Professor Gerard Goggin, University of New South Wales; Professor Andrew Byrnes, Australian Human Rights Centre; Dr Lorna Hallahan, Phillip French and myself. Graeme Innes, Australian Human Rights Commissioner, launched the Human Rights Indicators after the seminar presentations concluded. People with disability, family members, social and legal policy makers, disability service providers, and all in all 100 people participated in this forum.

We had significant feedback congratulating QAI on bringing together such eminent people to discuss human rights for persons with disability. Effectively placing people with disability at the centre of mainstream human rights discussions on significant outcome of this event QAI were asked to be came a member of the Australian human rights group (AHRG) who are campaigning for a national Bill of Rights (which appears to be essential if we are to facilitate an overall mechanism of realising the articles in the CRPD in Australian law).

They recognise the need to have disability at the centre of debate and have asked us to bring our networks into a campaign, hi-lighting case studies of the lived experience of people with disabilities.

One other significant outcome for QAI was the new relationship established with the wider human rights sector as well as lawyers and barristers who we may be able to draw up on to a pro bono for us in future challenges to state and federal legislation, and policy and practice that heightens the vulnerability of vulnerable people with disability.

2. Shadow Report to the CRPD and a Bill of Rights for Australia

Other measures QAI is taking to encourage full implementation of the CRPD include building a coalition to write a 'shadow report' to the 'baseline report' for the CRPD. The 'baseline report' outlines Australian compliance with the CRPD. The Australian Government must, within 2 years of ratifying the CRPD, prepare the 'baseline report' and present it to the United Nations Committee on the Rights of Persons with Disabilities. The 'shadow report' serves the same purpose, but it is written by NGO's from the perspective of people with disability and their advocates. The shadow report consultations will commence in the next financial year it is anticipated that the shadow report will be finalised by August 2010.

In addition, QAI collaborated with its membership and other advocacy groups to develop a comprehensive submission supporting a national Charter of Rights for the National Human Rights Consultation. QAI believes the development of an Australian Charter of Rights to be essential to enhancing the integrity of Australian democracy, and as fundamental to the identification, prevention and remedy of the human right violations that are a feature of the life experience of many Australians, most particularly, persons with disability. A copy of our submission can be found on our web-site. www.qai.org.au

3. Human Rights Lawyer

As part of its effort to secure justice for people with disability who were at risk of being subject to restrictive practices regime, QAI, in 2008, sought and secured recurrent funding (Legal Aid Queensland) for a specialist legal service for people with disability at risk.

The service provides general assistance to people in this population. However, particular focus areas include criminal justice, restrictive practices in the Guardianship and Administration Tribunal (GAAT), and matters before the Mental Health Review Tribunal (MHRT) involving people with intellectual disability. There is currently no Legal Aid available for GAAT or MHRT matters. The Disability Legal Assistance Forum recently nominated these omissions for special action. It tasked QAI, as the best placed organisation, to seek LPITAF grants to fund legal services for people with disability whose matters appear before the GAAT and the MHRT. These applications have been made. (See Jim's report for a detailed outline of the work carried out to date)

4. Justice Support Program

QAI established the Justice Support Program, a pilot scheme to provide non-legal assistance to people with disability involved in the criminal justice system. Trained volunteers will provide support, which is given regardless of whether persons are witnesses to crime, victims of crime, or charged with an offence. Support is available in police stations during interview, and in the courts. A panel of volunteer solicitors is available to provide telephone advice to volunteers. Resource constraints have confined the initial program to the Brisbane North metropolitan police region. A reference group of interested parties supports the program. Group members include representatives from Queensland Police, Legal Aid Queensland, Aboriginal and Torres Strait Islander Legal Service, and other organisations that support the target group. (See the Justice Support Program report for the detailed work carried out).

5. Annual Fund Committee

Donations and Financial Support

This year, the level of donations and financial support that QAI has received has risen dramatically compared to previous years. We receive from the legal firm, Minter Ellison, regular donations from their staff through their Workplace Giving Scheme. Further, QAI was the fortunate recipient of Australian Lawyers Alliance's yearly fund raising activities.

On behalf of QAI, 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 Hon Geoff Davies, Robert Reed (Minter Ellison), Ron Ashton and Robert McRae for their ongoing commitment to the Annual Fund Committee.

6. Disability Advocacy Network Australia (DANA)

QAI has played a significant role in developing DANA. In this reporting period DANA planned for and delivered a national advocacy conference in Melbourne in October. At this conference it was resolved that DANA seek to formalise itself and become a legal identity. Also at the conference, an interim board of directors was elected. Post conference, the board of directors elected myself as the inaugural chair of DANA. DANA board meets monthly by phone conference and conducted one face-to-face planning meeting over two days on the fifth and sixth of March 2009.

Disability Advocacy Network Australia (DANA) Ltd. Incorporation as a company limited by guarantee was completed on 15 May 2009. The new entity commenced operating with 22 foundation members. The members of the interim Board agreed to continue as the inaugural Board of Directors.

A funding submission made to FaHCSIA for seeding funding was successful. We are delighted to report that DANA received a one-off grant of \$35,000. This FaHCSIA grant is to provide financial assistance to DANA with a range of activities including:

- Secretarial support
- A national advocacy conference
- Web site development

The DANA website is 'under construction' however there are documents, such as the strategic plan, membership information and forms, communicate etc available for viewing and download. Take a moment and have a look www.dana.org.au

7. BlueSkies

A group of committed people with disability, family members, advocates, public servants, service providers, peak body representatives and academics met for 3 days in June to undertake the Blue Skies Scenario. This resulted in the development of a 10 year vision for an alternate future for people with disability, and strategies for achieving that vision. It sets out expectations of the roles of people with disability and their support networks, service providers, government and the broader community in achieving the vision.

The vision is underpinned by implementation of the United Nations *Convention on the Rights of Persons with Disabilities*, needs-based universal entitlement to support; a strengths-based approach to support; early intervention and person-centred service responses; capacity-building focusing on community; and urban planning based on universal design principles. Ultimately, through the combined efforts of all stakeholders, a truly inclusive society is achieved.

8. Presentations

- July 2008 & February 2009: Director presented 2 workshops to the barrister's course '*Disabled Justice: the barriers to justice for persons with disability in Queensland*'. These presentations are attended by 30 to 40 lawyers training to be barristers.
- August 11th 2008: Director presented QAI Overview of the CRPD for consideration by Legal Aid management and policy offices when developing their new disability Action Plan. Legal Aid invited QAI with the specific intention of drawing upon our critique of the barriers faced by people with disability in accessing Legal Aid, highlighted in the disabled Justice report 2007. In addition, our understanding of what positive action is required in order for Legal Aid to respect, protect and fulfil persons with human rights in accordance with the CRPD. It is understood that Legal Aid action plan will be made public in the next financial year.

- December 5, 2008: Director presented a half-day workshop *'Dignity and Justice for All'* the workshop gave an overview of the CRPD, its philosophy, and examined the indicators. Group work using indicators was facilitated to develop advocacy strategies and influence policy reform. 18 people participated.
- December 7, 2008: Director keynote address at the Anti-discrimination Commission Queensland Far North Queensland (ADCQ FNQ) Talking books celebrating International Human Rights day. 100 people participated.
- February 17, 2009: Director presented at the Australian Human Rights Commission (AHRC) forum on national and international monitoring of CRPD and its implementation. 40 people participated.
- April 3, 2009: Director presented a keynote address *'A Call for Cultural Change'*: the CRPD providing a framework for a paradigm shift away from a social welfare response to disability to a rights-based approach. Approximately 250 people participated.
- May 2009: Director and the CEO of PWDA delivered a joint presentation titled *'UN Convention on the Rights of Persons with Disability (CRPD) Monitoring and Implementation'*; at the *'Policy About Us, For Us! A Practical Revolution in the Lives of People with Disabilities'* conference on 28th and 29th May 2009. 60 people attended.
- May 27, 2009 Melbourne Australian Federation of Disability Organisations (AFDO): Director presented a half-day workshop *'Dignity and Justice for All'*. The workshop gave an overview of the CRPD, CRPD history, underlying philosophy and milestones to it entering into force in Australia. Outlined the QAI Human Rights Indicators Project - development of human rights indicators; examined the indicators; Group work in using indicators to develop strategies. 20 people participated.
- June 1, 2009 *"A Fair Go for Australians, A fair go for Queenslanders - Human Rights at the Crossroads"* Symposium, Brisbane City Hall. Director presented a keynote address *'Why we need a Bill or Charter of Rights in Australia'*. 300 people attended the symposium.
- June 2, 2009 ACTU NATIONAL CONGRESS: A critique of the ACTU draft Social Inclusion Policy. Director provided a critique of

the draft policy resulting in 2 significant changes to the policy document.

9. Submissions

- QAI coordinated on behalf of DANA a submission to the National Disability Strategy Consultation. Which QAI fully supported. November 2008
- Submission to the National Human Rights Consultation April 2009

10. 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. All donations totalled \$3981. 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 Australian Lawyers Alliance. QAI received a donation of \$4,600.00. This donation went towards the final development of the '*Human Rights Indicators for People with Disability*' publication.

We extend thanks to Justin Harper, Ian Brown, Eva Scheerlinck and Maja Maunic for contributing to making our participation at the conference successful. Additionally, the Secretariat of ALA agreed to assist QAI with the promotion, registration management and administrative support on the day of the launch of the 'Human Rights Indicators' seminar and launch.

Blake Dawson Pro Bono Support

QAI engaged Blake Dawson on a pro bono basis to prepare and deliver to counsel a brief requesting a pro bono opinion on the prospects of successfully challenging legislative amendments introduced by the Disability Services and Other Legislation Amendment Act 2008 (QLD) relating to the use of restrictive practices on adults with intellectual or cognitive disabilities.

Blake Dawson instructed counsel on QAI's behalf and we are awaiting counsel's opinion. We thank Blake Dawson for their generosity and look forward to continue this pro bono relationship in the future. One cannot place a value on pro bono support from law firms, however to say that it adds significant capacity to QAI in ensuring vulnerable people with disability rights are not diminished further .

Community Living Advocate Melinda Ewin

Achievements and Highlights

- Seminar and Launch of Human Rights Indicators for people with disability.
- Disability Alliance State Election 2009 Campaign
- Pending announcement for Community Access funding for people with intellectual disability at Baillie Henderson Hospital
- Community awareness and fundraising sausage sizzle at Bunning's Toowoomba for people with intellectual disability at Baillie Henderson Hospital.
- Completion of the Snapshot Report "Are we there yet?"

Projects – Campaigns

1. Community Connections Toowoomba
2. Disability Alliance
3. Human Rights Indicators Project
 - a. Snapshot Report – "Are we there yet?"
 - b. Hands on Human Rights
4. Australian Bill of Rights (please see Director's report)
5. Younger People in Aged Care Alliance

1. Community Connections Toowoomba

2008-2009 has been a year of outstanding achievements for the Community Connections Toowoomba Group. Community Connections Toowoomba (formerly Coming Out), has been raising the issue of people with intellectual disability inappropriately supported at the psychiatric hospital, Baillie Henderson, for over 8 years. The group comprises family members, concerned citizens, hospital staff, service providers and advocates, Rebekah Bradshaw also assists with this group. The group's ultimate aim is to see all people with disability at Baillie Henderson Hospital (and in the broader context, all people in institutions in Queensland) move into the community of origin or choice. Part of this process is to also seek community access funding.

a. Partnership Agreement with Baillie Henderson Hospital

Discussions towards seeking a formal partnership agreement with the hospital and Community Connections were initiated in late 2008 culminating in the signing of the agreement in early 2009. This agreement is to provide a collaborative working partnership to facilitate a coordinated and planned approach to developing approaches for community inclusion activities for people with intellectual disability.

b. Meeting with Minister Palaszczuk, Disability Services

At a meeting requested by the new Minister for Disability Services, Annastacia Palaszczuk, in April 2009, QAI were given the opportunity to raise the issue of people's inappropriate placement at Baillie Henderson Hospital. The Minister was unaware that people with disability still lived in institutional facilities and promised to visit with a view to providing community access initiatives. The Minister has also committed to visiting all institutions in Queensland that provide support for people with disability.

c. Fund raiser sausage sizzle at Bunnings

Community Connections Toowoomba has spoken long and hard about having fund raising events to raise the profile of people at Baillie within the local Toowoomba community as well as raising funds towards providing some form of access to the community.

In June this year we finally pulled it off. Community Connections Toowoomba were given the opportunity to hold the sausage sizzle fund raiser at Bunnings.

Bread (60 loaves), onions (25kg) and sausages (70kg) were all purchased from local businesses, and Woolworths donated \$200.00 which purchased drinks, condiments were donated by Community Connections members. The day started at 8.00am and should have finished up at 4.30pm only we were sold out by 3.00pm, the weather was perfect. We really appreciated two people, Kathy and Russell, who live at Baillie dropping in to lend their support for the activity. Despite the hard work and smoke everyone had a good fun time, and all agreed it was worth the effort. We raised over \$1,700.

2. Disability Alliance

The Disability Alliance started planning for the Queensland State Election in October 2008. The stage was set in December 2008 by supporters throughout Queensland signing and sending Disability Alliance Christmas cards to their local politicians. Similarly, the Disability Alliance sent personal letters to each state member identifying the number of people with disability in their electorate and highlighting some of the current issues, in particular personal support, for people with disability.

The action plans that were initially developed for the State Election Campaign were sent into “all systems go” when the Premier called an early election for March 21st 2008. The three issues the Disability Alliance lobbied for inclusion into all political party policy platforms were:

- Full personal care support for all Queenslanders with disability
- Reform and equality in the Medical Aids and Subsidy Scheme
- Reform Queensland Hospitals and Community Health Care to better accommodate the needs of people with disability.

The strategies employed were:

- State Election campaign launch 28th January 2008 – please see Rebekah Bradshaw’s report for further information
- YouTube video “Why Vote?” – please see Rebekah Bradshaw’s report for further information
- Media event outside Parliament House on 8th March 2009
- 5,000 post cards with three issues signed and sent to the Premier, Treasurer, Minister for Health, Minister for Disability Services, Leader of the Opposition, Shadow Treasurer, Shadow Health and Shadow Disability.
- Letters were sent to every candidate in the election raising the three key issues and seeking their inclusion into the candidate’s election policy agenda.
- Media releases were sent every day, sometimes twice a day.
- Meetings were sought with the relevant Ministers, meetings were held with the Minister for Health, Mr Robertson.

The Election Campaign was successful in getting disability issues into the election policies of the Liberal National Party and the Greens. The Disability Alliance sought meetings with the new Minister for Disability, Anastacia Palaszczuk. The Disability Alliance has met with the Minister twice in 2009, first meeting was to introduce the Disability Alliance and discuss the key issues, the second meeting was to facilitate people with disability to talk with the Minister about what the funding they receive has achieved in their lives. The Disability alliance was asking the Minister “We want more of the good stuff”.

3. Human Rights Indicators Project

a. Snapshot Report – “Are we there yet?”

The Snapshot Report was completed early 2009 and is now available. This publication sets out the findings of consultations conducted with persons with disability, family members and other associates about the degree to which they perceive their human rights are respected, promoted and fulfilled in the Queensland context.

This project was undertaken with two objectives. First, to obtain insights into the state of observance of international human rights obligations in relation to persons with disability in Queensland utilising a preliminary set of human rights indicators developed for the ultimate purpose of supporting a human rights monitoring initiative in relation to persons with disability. Second, to refine the initial suite of human rights indicators developed in light of operational experience with their application.

People with disability experiencing the same human rights as other people in our society is dependent on the willingness of governments, councils and the general community to see people with disability as the same as themselves.

Many people commented that having a positive attitude was part of the key to also having your human rights met. In particular, personal responsibility was a strong theme, in part expressed as “you can’t expect the government to do for you what you can do for yourself” similarly “with rights comes responsibility”. There was almost unanimous belief that the general community were very supportive of people with disability, and any hostility experienced was put down to ignorance and lack of understanding.

People in regional areas believed they had their rights met because they felt they could personally advocate for change in their local area, and with persistence, it would happen. People in Regional areas felt more listened to than people in metropolitan areas. The lack of “being heard” has made people living in metropolitan areas feel like there is no hope. Most people felt that access could be improved when requiring medical or dental treatment. Some felt the attitude of medical professionals was a breach of human rights; especially where medical professionals would support their peers prejudicing their treatment of a person with disability. Others felt that people with disability did not receive the same level of treatment afforded to others in the community, and in some cases resulting in deaths. People with disability were seen as having less worth by the medical profession.

For some people the Criminal Justice system was a major concern and in much need of widespread change and systemic reform to gain equality and justice for people with disability.

A concern raised consistently was around unmet need and lack of funding; and in cases where funding was available, lack of trained and “good” support workers was a problem.

In a similar vein people also raised concerns about the right to choose where and who a person wanted to live with were identified as being a “downside” to receiving funding. Concerns were raised about the violence experienced between resident to resident where people are forced to live together despite experiencing violence all justified by funding restrictions.

Others also believed that constraints of funding led to inadequate service models, such as those proposed for people with disability residing in nursing homes. Inter-department funding boundaries and eligibility criteria were seen as compounding the difficulty accessing services. This lack of funding, for some, made them feel like second class citizens, having no right to live and participate in the community.

Every person consulted said they were subject to some form of harassment, either verbal or physical at school, in both mainstream and special schools.

Employment was expressed as a desire. Many people expressed their deep desire to find a permanent and meaningful occupation. Whilst financial reasons were mentioned, many felt that the self esteem and self worth gained from employment was more important and valuable. Dissatisfaction with government employment schemes was prevalent. Many felt dignity and personal freedoms were lost to bureaucratic “red tape” purported to be for transparency and accountability. Many felt that the government didn’t offer them the same trust they gave to professionals and service providers.

There were varying degrees of satisfaction with transport experiences and accessibility. People in regional areas expressed more dissatisfaction than their metropolitan counterparts.

Similarly varying experiences with the Medical Aids Subsidy Scheme (MASS) some felt the scheme was good, just about all responded about the prohibitive cost and availability of aids.

Many people felt that the additional cost of living with disability made self expression and full participation in community difficult if not impossible.

To all the people who freely spoke with us, sharing their very personal experiences, we are deeply grateful, and without whom this report could never have been written.

b. Hands on Human Rights

Phase 4 of the Human Rights Indicators Project is to produce a “hands on” set of indicators that can be used in particular situations to gauge to what extent a person with disability is having their rights met.

The way QAI has decided to produce this piece of work in the HRI trilogy is to be guided by Bob Dick, an expert in Action Research who also played a significant role in the Forum QAI conducted in 2001. A number of workshops were conducted with people with disability, family members and individual advocates. The information gathered from those workshops showed that the term “indicators” was problematic, so the finished tool will be constructed as an “Evaluation” tool. The workshops identified 7 strategic situations that QAI can develop an Evaluation Tool for identifying if a person is enjoying their human rights. One very clear message that came from the workshops was for the Evaluation Tool to convey was that “if it’s not good enough for you it’s not good enough for a person with a disability”. We are very excited about the development process of the indicators as well as the potential this tool has for educating both people in the disability sector and the broader public as well. QAI will be conducting a series of workshops with various demographic groups as part of developing each of the Evaluation Tools.

5. Younger People in Aged Care Alliance

The group met once during this period. The purpose of this meeting was to discuss the relevance of this Alliance and whether younger people in aged care remained an issue that warranted the continuation of the group. The group decided that YPACA still needed to continue in a monitoring role to examine and influence where necessary the Queensland State implementation of the COAG initiative.

Meetings Attended

Community Connections Toowoomba	12
Hands on Human Rights	3
Disability Alliance	21
Australian Bill of Rights	3
ADCQ Disability Advisory Team	1
Young People in Residential Aged Care	2
Younger People in Aged Care Alliance	1
Baby Bridges	2

Law Reform Advocate

Ken Wade

Persuading lawmakers and their bureaucratic agents to reform policy and legislation in ways that improve the lives of people with disability is one of QAI's core activities. On 1 July 2008, QAI engaged a new part time employee as a Law Reform Advocate to bolster QAI's efforts in this area.

One of the Law Reform Advocate's first major tasks was to engage with the Queensland Law Reform Commission and participate in the Commission's ongoing review of Queensland's guardianship laws. The Commission began its review in 2006 in response to a report produced by Guardianship Reform Drivers (GARD) that outlined deficiencies in the existing system. QAI was a founder member of GARD.

The first phase of the Commission's review examined confidentiality issues and concluded at the end of 2007. The second phase began in the second half of 2008 and examined two matters: the principles decision makers must apply when making decisions for people who lack capacity; and the way capacity is defined in the legislation.

The Law Reform Advocate took over QAI's involvement in the second phase of the review. He conducted extensive research to familiarize himself with the guardianship system in Queensland and other jurisdictions. He consulted widely with community organizations to elicit their concerns. He participated in the Commission's reference group meetings of key stakeholders and provided with the Director extensive feedback to the Commission's discussion paper in a private consultation initiated by the Commission. Finally, he drafted a comprehensive submission making more than twenty recommendations for change.

In collaboration with the Community Living Advocate, the Law Reform Advocate also drafted a submission for the review of Queensland's Coroners Act. The Act prescribes the circumstances under which the state Coroner must investigate the cause of a person's death.

QAI has long believed that the extreme vulnerability of people with disability requires greater than usual levels of vigilance and action to protect their rights and persons. This applies to the circumstances of their deaths as well as to the circumstances of their care and support during life.

In Queensland, a person must report and a Coroner must investigate a reportable death. A death is reportable for the purposes of a person with a disability if the death occurs in care. The definition of a death in care includes a person with a disability mentioned in section 11 of the *Disability Services Act 2006* (Qld) who was receiving services, or living in a place, defined in the Coroners Act. A Coroner must hold an inquest if there was a death in care in circumstances that raise issues about the deceased person's care.

Private dwellings and aged care facilities are specifically excluded from the list of prescribed dwellings that fall within the definition of a death in care. This is unfortunate because many people with disability live in private dwellings, either alone or with family or friends as support. Notoriously they have also been housed in aged care facilities. The definition also excludes all those people with disability who receive services from non-government providers who do not receive government funding.

QAI believes that where a person with a disability lives or what type of services they receive, if any, should not determine whether their death is reportable. The sole criteria used to make this determination should be the existence of a disability. Consequently, QAI recommended numerous legislative amendments to the Coroners Act, and drafted sample provisions to guide the reform process. QAI also recommended the establishment of an independent statutory body tasked to maintain a register of the deaths of all people with disability. This authority would be required to review, analyse and report on all deaths of people with disability.

The Law Reform Advocate drafted a submission supporting a clemency petition for Frank Williams an intellectually disabled man in Arkansas. Mr Williams was convicted of murder in 1993 and sentenced to death.

He has been on death row since, awaiting execution. His final judicial appeals have concluded unfavourably and he was scheduled to die by lethal injection in September.

Mr Williams's intellectual disability is proven. In 1993, just after the conclusion of Mr Williams' trial, Arkansas state law made capital punishment illegal for people with 'mental retardation'. In 2002, the US Supreme Court declared it unconstitutional. At trial Mr Williams' counsel failed to inform the jury he was intellectually disabled. At appeal when the issue finally was raised, the Court would not consider the evidence. Mr Williams' last chance is a petition for clemency made directly to the Arkansas State Governor. The petition is still to be heard. Mr Williams' execution has been stayed pending an investigation of the legality of Arkansas' method of execution. QAI supported this petition because of our long fight to secure equity for people with disability in the justice system, and because of our total opposition to capital punishment for people with intellectual disability.

In collaboration with the Director, the law reform advocate drafted instructions for law firm Blake Dawson to prepare a brief to counsel about the legality of Queensland's restrictive practices legislation. Restrictive Practices is the term used in the Disability Services Act 2006 to describe the legal detention and restraint of the people it encompasses. The legislation was introduced on 1 July 2008 as a major amendment to the Disability Services Act 2006 and the Guardianship and Administration Act 2000. It applies to people with an intellectual or cognitive disability who display challenging behaviour and who receive services that are from or funded by Disability Services. The legislation is purported to be the embodiment of the recommendations contained in Justice Bill Carter's review of restrictive practices in Queensland.

Justice Carter's report detailed a litany of abuse and poor practice. Its recommendations for change were extensive. Its central pier was the development of individualized support plans aimed at reducing and eliminating the need for restrictive practices through positive behaviour support. The approach would be person-centred and focus heavily on identifying and addressing the antecedents of challenging behaviour.

These could be various, including environmental, biological and historical causes. The use of restraint to manage behaviour was acceptable only as a short-term last-resort measure.

Similarly, the development of a legislative regime to regulate the use of restrictive practices was always secondary and entirely complementary to improving the quality of life of the affected adults.

QAI feared from the outset that the high principles and noble ideals expressed in Justice Carter's report would be subverted by lack of resources, cultural barriers and a focus on procedural compliance rather than person-centred support. Tragically, it is emerging that this is the case. However, the regime is new and its early difficulties are not irremediable. Consequently, QAI has nominated restrictive practices as a priority project. The project's aim is to assist service providers and government agencies to realign their tack, where deviation is identified, with the approach outlined in Justice Carter's report.

To this end, QAI has established a Restrictive Practices Reference Group that meets regularly to discuss reform of restrictive practices in Queensland. **The group has identified two core projects to support this reform:**

- a restrictive practices forum advertised nationally to compare Queensland's system with those in other jurisdictions and investigate ways Queensland's system can be improved; and
- researching and authoring a comprehensive submission to support the 2010-2011 review of the Disability Services Act 2006, which will include a review of restrictive practices.

These projects will require intensive ongoing resourcing and will continue to consume a substantial portion of the law reform advocates time. The law reform advocate has begun collecting case studies to form the foundation examples for the submission for the Disability Services Act review. He has conducted extensive research to familiarize himself with the subject of restrictive practices. He has attended numerous meetings with key stakeholders including community organizations, the public advocate, the adult guardian, Tribunal members, service

providers and government agencies to establish the relationships and information conduits that will support his work.

The Law Reform Advocate also assisted QAI's Human Rights Lawyer with research tasks for casework involving restrictive practices.

The Law Reform Advocate attended the following workshops and conferences:

- Social Role Valorisation (3 day training programme), staged by Values in Action and presented by Jane Sherwin, one of Australia's leading authorities on Social Role Valorisation theory.
- Positive Behavioural Interventions for People Using Challenging Behaviour (1 day seminar), staged by the Functional Assessment Behavioural Interventions Clinic (FABIC), and presented by Tan Curtis, a Clinical Behaviour Manager and Counsellor with FABIC
- National Disability Advocacy Conference "Strengthening Disability" (2-day conference).
- Protecting Human Rights – Train the Trainer workshop (1 day), staged by the Public Interest Advocacy Centre.

Project Support

Rebekah Bradshaw

Legal Training Project

The last leg of the Legal Training workshops took place throughout the end of 2008 with the Outcome Report being submitted the following year. In July 2008 QAI's Director presented to the Barristers Course at the invitation of Dan O'Gorman.

As part of QAI's ongoing relationship building with Queensland Law Society, Kevin attended the Employment Law Conference held here in Brisbane and chaired a session entitled: Discriminatory Work Environments and Employer Liability in July 2008.

QAI hosted a Disability Discrimination Legal Training workshop in November 2008. Dr Larry Laikind from the Disability Discrimination Service was guest speaker at the workshop. Kevin Cocks provided an introduction to disability, while Larry discussed Disability Discrimination – conciliation conferencing, writing discrimination complaints and representing clients with disability. Twenty one lawyers, barristers, human service workers and advocates attended.

An interim Outcome Report was submitted in October 2008 and final Outcome Report was submitted to LPITAF in April 2009. This brings to an end the LPITAF funding for the Legal Training Project.

Community Connections Toowoomba

The Project Support worker attended monthly meetings along with Melinda Ewin, the Community Living Advocate for the period July 2008 thru June 2009.

Exiting developments for the CCT group this year included developing an MOU between Community Connections Toowoomba and Baillie

Henderson Hospital, quarterly meetings with Baillie Henderson Hospital, first ever CCT fundraiser to raise community access funding for residents with an intellectual disability living at Baillie Henderson Hospital.

The most exciting development for the Community Living Advocate and CCT was the announcement of community access funding for people with an intellectual disability diagnosis living at BHH in July this year. Without doubt, this announcement along with the team spirit and cooperation displayed by the group at the fundraiser have been the highlights of my year.

It was a pleasure to be part of the Community Connections Toowoomba team whose first fundraising effort: the Bunnings BBQ in Toowoomba on the 20th June 2009 was a huge success. Every member of the group worked tirelessly the whole day to make sure that every sausage was sold. Two key outcomes were: \$1,700 raised and will be used for residents of Baillie Henderson with a diagnosis of Intellectual Disability and an increased awareness in the community about disability in general and that people with an intellectual disability are living in an institution in Toowoomba.

The Community Living Advocate, and all staff and Management Committee were also very happy to receive a letter on the 21st July 2009 from the Minister for Disability Services and Multicultural Affairs, Ms Anastacia Palaszczuk to inform QAI that recurrent funding has been approved and has been allocated to Warrina Services in Toowoomba for the purpose of providing community access support to people with an intellectual diagnosis living in Baillie Henderson Hospital.

Community Safeguards Coalition

The Project Support worker attended monthly meetings of the Community Safeguards Coalition. Following on from the My Life, My Home, My Solution Campaign, the CSC are focusing on the issue of forced co-tenancy for people with disability. During 2009 the CSC were fortunate to engage with two post-graduate Social Work students from Griffith University with supervision from Carol Holt from QPPD.

Hugh Rose-Miller and Curt Singleton were welcomed by the CSC during their placement and assisted with developing material in support of the position statement, attending meetings, producing rally posters, and a host of support and behind the scenes work for the CSC.

The students spent time at QAI as well as a range of advocacy agencies throughout Brisbane learning about advocacy and current projects of each organisation.

QAI had the pleasure of participated in and assisted with organising a rally to launch the CSC's Position Paper at the Minister for Communities, Disability Services,

Aboriginal and Torres Strait Islander Partnerships, Multicultural Affairs, Seniors and Youth, Ms Lindy-Nelson Carr's office on 17th March 2009. A key outcome of the rally is that the Senior Policy Officer met with 10 members of the CSC including families who have children being forced into co-tenancy arrangements. Within days a letter was received from Paul Lucas promising dialogue with members of the CSC on this issue and a clear commitment to practical outcomes.

The Community Safeguards Coalition has been continuing to seek a dialogue with government regarding the issue of forced co-tenancy and reinforce the commitment made by Paul Lucas and the Bligh Government prior to the March election. Members of the Safeguards Coalition and parents of families wanting resolution to co-tenancy issues met with the new Minister for Disability Services and Multicultural Affairs in early May 2009. The Coalition had a productive meeting with the incoming Deputy Director General – Disability, HACC, and Community Mental Health Services, Bruce Milligan in July 2009. Mr Milligan has committed to regular future meetings with the CSC in 2009/10. Members of the Growing Stronger team will also participate in future meetings conducted with Mr Milligan. Mr Milligan promised to respond by the end of August 2009 to CSC.

Disability Alliance Campaign Launch

The Project Support worker commenced coordination and administration support for the Disability Alliance State Campaign in late October 2008.

From October 2008 I attended regular meetings with the Community Living Advocate on behalf of QAI. A campaign strategy had already been developed and I assisted with the coordination of a Campaign Launch.

QAI's involvement in the Disability Alliance launch was significant and the group was really driven by the work undertaken by QAI during the month of January 2009. Speakers for the launch were organised by QAI and John Mayo of Spinal Injuries. The launch was held on Wednesday the 28th January 2009 at 3:00pm. In my role as coordinator for the Alliance I drafted, edited and compiled the Campaign Lobby Kit. The design and layout was produced by Renee Trembl here at QAI.

QAI staff and Management Committee supported the launch by attending, and Madonna Nicoll and Kevin Cocks were guest speakers.

As well as guest speaking Madonna Nicoll performed the role of spokesperson for the Disability Alliance and has signed letters to MP's, performed media and radio interviews, we thank her for her tireless efforts.

Other guest speakers included Marg Ward and John Mayo. Marg spoke about daring to dream and having a big vision for our children and people with disability, leadership, how the time for change is now, how their family would rather place their daughter's health at risk than allowing her to enter the public hospital system. Kevin spoke powerfully about how change comes about and the historic abuse suffered by people with disability at the hands of programs and policies. Kevin also spoke about the government suffering from amnesia, and that the current service model in Qld being costly and ineffective.

The Launch was well attended and included Shadow Minister for Social Inclusion (including Communities, Disability Services, Multicultural Affairs, Seniors and Women's Policy) Rosemary Menkins,

Parliamentary Secretary for Disabilities, Rachel Nolan, Dr Nic Lennox, people with disabilities, family members, support organisations, advocacy organisations and more.

You Tube Video

Kevin and Ken also starred in a You Tube video produced, directed and edited by Cameron Gledhill and supported by QAI. I am really proud that QAI participated in and supported it. QAI's lawyer Jim Gibney prepared a brief to counsel to give pro-bono advice on the legal liability that could arise from publishing the You Tube Why Vote video on the website and distributing it via email. The video is now on the Disability Alliance website and available for public viewing. QAI are also sending links to the video to our networks.

Spinal Injuries Association hosted a forum on the 28th April 2009 with the aim of introducing new individuals and other disability and carer groups to the work the alliance has done since its inception.

The Project Support worker continues to take incoming phone calls on the mobile and check incoming email correspondence and file all received correspondence from the post office box. The Community

Living Advocate and Project Support worker continue to attend regular disability alliance meetings.

National Human Rights Consultation

Attended NHRC – Bill of Rights Submission workshop around QAI's submission to the National Human Rights Consultation with Phillip French hosted by QAI.

Worked with the Director and Community Living Advocate to develop a simple one page submission form letter, edited by Pauline Heaney at Lettuce Create and distributed via email to all QAI members, QAI newsletter recipients, QAI networks, CAGQ organisations and various service providers, Disability Alliance, Qld Division of the National Disability Service and other groups around the State.

Professional development, workshops and training

The Project Support worker attended:

- CLSIS Training (Community Legal Services Information System) Modules 1 and 2 -Legal Aid Queensland (14th October 2008).
- The Public Interest Advocacy Centre (PIAC) – Protecting Human Rights – Train the Trainer workshop — Trilby Misso Lawyers – QAI’s Project Worker, Rebekah Bradshaw attended with Ken Wade, Advocacy Worker- Law Reform, and Jim Gibney (16th October 2008).
- Web-ex training with Jim Gibney, Julie Howes from QAILS and other QAI staff members. This technology will allow QAI to host meetings and legal training sessions, via the internet and can be used both with microphone and video capability (11th February 2009).
- Human Rights Charter Roundtable Meeting at Minter Ellison on with Ken Wade the Legal Systems Advocate. QAI provided a list of resources and answered questions about what QAI as an organisation could contribute to a Qld Charter/Bill for Rights and the National consultation process for a Bill/Charter of Rights (11th February 2009).
- QAI’s Annual Planning day along with QAI Staff and Management Committee (28th February 2009).
- Youth Advocacy Network Queensland meeting. YANQ are looking at the possibility of setting up a Youth Disability Advocacy Project in Queensland. This would be a first for Queensland and the group is looking at setting up two reference groups: a youth reference group and an adult reference group (16th February 2009).
- Public Consultation, National Human Rights Charter Consultation (23rd March 2009).
- Bill of Rights Workshop, hosted by QAI, re: QAI’s submission to the National Charter of Rights (1st April 2009).
- Consultation on Qld Plan for Community Mental Health Sector, Peak Organisations (4th June 2009).
- CRU Workshop: Self-directed Support and Personalised Budgets in Qld (17th June 2009).
- Qld Shelter Forum: Health, Housing and Disability Forum (23rd July 2009)

Justice Support Program

Roy Bunnett

JSP has recruited and employed two part time Justice Support Program Coordinators,

- Identified and taken up training opportunities for the coordinators.
- Publicised the development of the program through meetings with relevant agencies and through speaking at forums and conferences.
- Established a Reference group to oversee the development of the program; held one meeting of the reference group, and scheduled another three.
- Developed promotional material.
- Developed a training package for volunteers.
- Instituted a 1300 telephone number which is answered twenty-four hours a day, seven days a week.
- Registered with Volunteering Queensland.
- Held discussions with other organisations about recruitment of volunteers.
- Held discussions and arranged an understanding of Service with Legal Aid Queensland concerning legal support during business hours.
- Begun recruiting solicitors with experience of criminal law practice to provide legal advice by telephone out of business hours on a voluntary basis.
- Provided support and/or guidance about how to get legal advice to a number of people who have heard about the service which is being developed.

We have attended and offered direct Court Support at the:

- Brisbane MAG Court,
- Family Court,
- District Court,
- Wynnum Court,
- Richlands Court,
- Holland Park Court.

We have attended and offered direct police Support at:

- Brisbane Central Watch house,
- Fortitude Valley,
- Inala,
- Holland Park.

The After hour phone service for JSP has been running since March and receives around 12 calls a week. The calls generally are for:

- QAI general advocate information,
- QAI Human Rights Legal Service,
- General information on receiving legal help for somebody with a disability which is normally referred on to Legal AID or one of the Pro-bono Legal services,
- In need of Police/Court Support (these are dealt with as much as possible over the phone which has been success. Then personal attendance as needed. Police attendance is treated as a high priority in service delivery. Court dates are booked in with a follow up call during business hours),
- Referrals to other organizations.

JSP attended LAW week and VOLUNTEER week with a great success:

- Met with Volunteering Queensland and Dr Jo Barraket which allowed JSP to be introduced and to meet the key stakeholders in Queensland and 45 affiliated volunteer bodies in Brisbane.

- This night allowed us to give our spiel regarding the over representation of people with a disability in our justice system and were JSP fits in to it all.
- Met the QPS volunteer training team and exchanged details.
- Gave a series of presentations to interested organisations, e.g. the 60 and Over Association in Wynnum with the event being sold out. This was a good event allowing for me to practice my JSP spiel while reaching a large network of people in the community. It went very well and for thanks we received a club pen.
- Attended the One in a Million volunteer breakfasts at the Broncos leagues club this sit down event was attended by over 400 representatives of volunteer bodies in Brisbane.
- This event allowed me to network for JSP and also get time with 4 ministers with an extended discussion with the police minister. Who I could not help but let him know I felt that he should be funding the program. Who knows if they even remember my name but I guarantee after three meetings with him and some of the other ministers during the rest of the week they at least know of JSP and the pesky man who wants better funding for people with a disability
- Attended the LAW panel for the Supreme Court which allowed me to meet a combination of Judges and Magistrates. This did give us the opportunity to network and explain what we may be doing in their courts. This was a particularly successful engagement with the benefits being seen the next week in the District Court with the Judge allowing us to sit in the box with our clients.
- Met for a one on one with the police commissioner to explain what QAI and JSP hope to achieve.
- Met several Ministers and put the case forward regarding the needs of JSP and our clients.
- Was interviewed by Julie MaCrossan for the ABC.
- Gave a brief talk on JSP for the Law week training DVD to be put out by the DJAG

*The following table outlines key outcomes, performance measurement, performance achieved and month on completion with relation to the JSP

Outcome	Performance Measurement	Performance Achieved	Completed? (Month)
<i>Establish reference group, membership of reference group will be drawn from key stakeholder groups</i>	<i>Active reference group established</i>	<i>The reference group has been formed from all Key stakeholders including the QPS</i>	<i>March 2009</i>
<i>Develop work plans and Marketing of police & court support project to Key Stakeholders as a Working Support program</i>	<i>Support workers attendance to clients when needed</i>	<i>The program offers full support in Court and Police Stations, including several tribunals.</i>	<i>March 09</i>
<i>Program offers a 24 hour 1300 number</i>	<i>On line and operating 24 hours</i>	<i>From mid March the service has become 24 hours</i>	<i>March 09</i>
<i>Awareness raising throughout target group networks</i>	<i>Pilot project being utilized by police, court workers, target group; for example 'vulnerable persons' card initiate uptake of service by target group and police.</i>	<i>Referrals are being logged from community networks and Government departments, e.g. QDS, QPS</i>	<i>Ongoing</i>
<i>Build networks with key NGO agencies who may have a direct or indirect role in vulnerable person with disability life.</i>	<i>Key NGO's have a strong understanding of project and actively engage with project objectives</i>	<i>Can be seen from participation in the reference group.</i>	<i>On going</i>
<i>Training of Key staff in delivering Support in Police Station situations</i>	<i>Training completed to a high standard</i>	<i>Both Coordinators have completed training in NSW in specifically delivering Police Support for Clients</i>	<i>December 08</i>
<i>Training of Key staff in delivering Support in Court and tribunal situations</i>	<i>Training completed to a high standard</i>	<i>Coordinator for Volunteers has completed training in NSW in specifically delivering Court and tribunal Support for Clients</i>	<i>January 09</i>
<i>Developing Volunteer training program and resources</i>	<i>Stage 1 of resources developed</i>	<i>Training has been completed in specific needs of Volunteers</i>	<i>March 09</i>

Human Rights Lawyer

Jim Gibney

1. Commencing a dedicated individual legal advocacy service at QAI

In March 2008 QAI applied through the Queensland Attorney-General for funding under the Community Legal Service Program (CLSP) to conduct a legal service dedicated to provide specialist legal advocacy and advice services for vulnerable people with disability. In its funding submission, QAI:

- Noted that persons with disability are over-represented as victims, suspects, defendants and prisoners in the criminal justice system.
- Referred to QAI's *Disabled Justice* report of 2007 in which the lack of access to legal services and the substandard quality of legal services available to persons with disability are identified as two of the most significant barriers to justice for persons with disability.
- Identified the concern within the community that implementation of the 2008 Restrictive Practices amendments to the Disability Services Act was anticipated to result in an increased "risk to life" and "risk to liberty" for a significant number of vulnerable people with disability.
- Cited the UN Convention on the Rights of Persons with Disability (CRPD), drawing attention particularly to one of its key focus areas, that persons with disability have the right to recognition everywhere as persons before the law (Article 12) and that parties who are signatories to the convention, such as Australia, are to ensure that persons with disability have effective access to justice on an equal basis with others (Article 13).

QAI applied for funding to respond by establishing a specialist legal service to facilitate increased access to justice by persons with disability. In July 2008 QAI received advice that its funding application had been granted – QAI had been granted **recurrent funding** under the CLSP to operate the specialist legal service.

In September 2008 QAI advertised for a “Human Rights Lawyer” to commence the newly-funded specialist legal service and recruited Jim Gibney to the position. Due to other commitments, Jim was not able to commence work with QAI until November 2008.

During the following three months Jim worked (in consultation with Kevin Cocks, QAI’s Director) on ***two initial tasks***:

1. Consultation & scoping exercise with relevant agencies and key players such as Legal Aid Queensland, Guardianship and Administration Tribunal (GAAT), Office of Adult Guardian, Office of Public Advocate, Disability Services Queensland, Caxton Legal Centre, Queensland Public Interest Law Clearing House (QPILCH), Office of Senior Practitioner (within DSQ Victoria), Human Rights Legal Centre (Victoria), Mental Health Legal Centre (Victoria), Legal Aid Commission Victoria, and certain legal practitioners at the private Bar and lawyers within private firms connected with QAI by way of pro bono legal work.

By means of this work we marketed the new service to relevant people. We listened to what they had to say about the needs of persons with disability for legal services and overcoming barriers to justice for persons with disability. We also clarified the objectives of QAI’s new “Human Rights Legal Service” – it’s essential objective was clarified & better defined as:

“ To provide specialist legal advice & 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:

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;*

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.*

Risk to Fraternity/Property

- *Matters furthering the goals of QAI 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.”*

2. Research and establish administration and client data systems suited to conducting the new legal practice at QAI. This involved researching the:

- Requirements of legal practice prescribed under the *Legal Profession Act (Qld) 2007*
- Requirements of QAI’s professional indemnity insurer
- Reporting requirements of the CLSP funder.

This work resulted in our establishing a client information system at QAI which is used widely by CLSP funded community legal services around Australia. This client data/filing system allows QAI to operate its legal practice efficiently and to meet all of the above mentioned requirements.

As will easily be appreciated, establishing an individual client information system suited to conducting a legal practice within QAI, which has operated very effectively for the last twenty years as a “systems advocacy” agency, has been challenging.

It has required considerable discussion, training and change in workplace practices within QAI’s office. All staff and management Committee members involved in this change process are to be congratulated for their tolerance and work to achieve incorporation of this new client/financial/administration system into QAI’s office systems.

2. Legal Advice Service

QAI’s Human Rights Legal Service began providing legal advices in January 2009. Advices were given to a range of people with disability. On occasions we also provided legal advice to individual advocates for people with disability and sometimes to the family or carers of people with disability.

In the 6 months to 30 June 2009 the service provided:

- 51 legal advices; and
- 108 legal informations; and
- 15 referrals of client matters to other legal services.

The service provided legal advices in relation to a wide range of matters including:

- Restrictive practices
- Review of appointment of guardians
- Health Care Plans & Statutory Health Attorneys
- Personal injuries claims (for neglect and as victims of crime)
- Wills & probate
- Criminal law charges (rape, assault, obstruct police, robbery, wilful damage, drug offences, theft, dangerous operation of motor vehicle causing death etc)
- Criminal law procedure – including legal aid process/ procedure
- Discrimination (race, impairment & other discrimination)

- Tenancy
- Detention & involuntary treatment under the Mental Health Act 2000
- Child protection
- Freedom of information
- Other matters eg re offences under the Trade Practices Act, Defamation....

3. Legal Casework Service

QAI's legal service commenced providing casework services from 2 January 2009.

In its first case we represented a client before the Guardianship & Administration Tribunal (GAAT) on an application for review of an appointment of a guardian for a young man with a number of intellectual disabilities and cognitive impairments. The newly appointed guardian had removed the young man from his home (where he had resided with our client's family for 13 years) and placed him in an institutional residential facility. The legal service briefed counsel on the matter and instructed counsel at the GAAT hearing on 15 January 2009. GAAT removed the guardian and appointed the Adult Guardian instead.

Subsequently the legal service acted for the same client in relation to review of decisions made by the Adult Guardian to continue to accommodate this young man in institutional care.

In the first six months of casework service (to 30 June 2009), the Human Rights Legal Service opened 15 case files. As at 30 June 2009, 8 of those case files were still active.

The cases undertaken during the first six months to 30 June 2009 included the following:

- Assisting a young woman with acquired brain injury who was unexpectedly admitted to Brisbane Women's Prison – regarding her treatment at prison & assisting her to obtain legal aid and emergency assistance with a bail application;
- A case where I act for family of a man with Down Syndrome in respect of (a) restrictive practices application and (b) review of the appointment of the Adult Guardian and (c) criminal charges of assault occasioning bodily harm;

- Representing a man with intellectual disability (but no psychiatric disability) who has been detained in an acute psychiatric hospital under a forensic order for the past 9 years – GAAT and Mental Health Review Tribunal hearings and advocacy to DSQ;
- Representation of a man before the MHRT regarding an involuntary treatment order review – and submissions to Queensland Police not to proceed with criminal charges and referral of criminal proceedings for alleged assault on his treating psychiatrist;
- Submissions to LAQ concerning several clients – eg for a client with speech impairment & profoundly deaf who had been refused legal aid representation to respond to an application for domestic violence order;
- Representing client in Rockhampton who is in advanced stage of MS – regarding discriminatory treatment by private lawyer funded by Legal Aid to represent him in defending serious criminal charges – we were successful in having the conduct of this work transferred to another solicitor;
- Representing intellectually impaired client before the Children Services Review Tribunal (at preliminary conference) regarding decisions to cut contact time she is allowed with her intellectually impaired infant (who is under a Care & Protection Order) – assisting client to obtain a grant of legal aid – warm referral to a particular firm (Delaney & Delaney) with the grant of aid;
- Applying for guardianship order for the purpose of mother of a person with serious intellectual disability to act as litigation guardian in respect of applications for **restricted practices**
- Briefing counsel for a legal opinion concerning a systemic advocacy campaign that is proposed to be conducted by QAI – obtaining advice about the legal possible legal ramifications to QAI.

The feedback from the clients to whom the legal services have provided legal casework service is very strong. There is no doubt that our individual clients have been provided with considerably enhanced access to justice by reason of the legal advocacy of QAI's Human Rights Legal Service.

But this casework has also affected players other than our individual clients. We believe QAI has also made positive impacts on some agencies of the State with which we have engaged in the course of conducting this casework. A number of the cases already undertaken have achieved systemic changes which serve the interests of people with disability generally. The casework is also serving to inform and support the systemic advocacy work undertaken by QAI, particularly the work on Restrictive Practices being undertaken by Ken Wade.

4. The Mental Health Legal Service Project

In January 2009 the Human Rights Legal Service lawyer had various contacts with QPILCH regarding development of the QAI legal service and also in relation to obtaining pro bono assistance with casework undertaken by our legal service.

QAI's Jim Gibney has worked collaboratively with the Director of QPILCH, Tony Woodyatt, on a number of projects over the last twenty years and this collaborative relationship proved useful during this first period of development of QAI's Human Rights Legal Service.

The two legal services quickly found a common interest in providing legal services to people with mental health impairments and undertook to work together in relation to this. Of course, some of the QAI lawyer's earliest casework involved representing clients before the Mental Health Review Tribunal regarding their involuntary detention in mental health facilities.

In February 2009 Jim and Tony travelled to Melbourne together and met with various agencies there related to their respective QAI and QPILCH enterprises. We also held joint conferences with the Director of the Mental Health Legal Centre of Victoria (and another joint conference with the newly established Victorian Human Rights Legal Centre).

Subsequently the Human Rights Legal Service lawyer participated on behalf of QAI in the Disability Legal Assistance Forum (DLAF) convened by Legal Aid Queensland. During meetings of DLAF, the establishment of a Mental Health Legal Service for Queensland was identified as a matter of priority by a number of legal advocacy agencies making up the forum.

In fact, DLAF looked to QAI as the most suitable agency in Queensland to auspice such a legal service and those involved in DLAF indicated they would provide support to an application by QAI to establish a Mental Health Legal Service in Queensland.

In March 2009 Jim Gibney consulted the Director of QAI and QAI Management Committee members regarding this and with their support submitted an application on behalf of QAI to the Legal Practitioner's Interest on Trust Accounts Fund (LPITAF). In July 2009 QAI was advised that the application was successful and we have since then undertaken work to establish the Mental Health Legal Service within QAI. We look forward to reporting more on this new enterprise in QAI's next annual report.