

**NATIONAL DISABILITY INSURANCE SCHEME (WORKER SCREENING) BILL 2020**

*Second Reading*

Resumed from 12 August.

**MR A. KRSTICEVIC (Carine)** [3.56 pm]: It gives me great pleasure to stand here today to say a few words on the National Disability Insurance Scheme (Worker Screening) Bill 2020. Firstly, I put on the record that the opposition is strongly supporting this legislation. I would like to thank the minister for arranging a briefing so that we could get across the finer details of the legislation. I suspect that we will not hold up this legislation for long in this house because I believe it is important for it to go through the Parliament this year. I believe it is meant to be operational by early next year, prior to the next election on 13 March. We will make sure that happens, at least from the point of view of the Legislative Assembly, and I assume that the Council will manage its business accordingly.

The purpose of this legislation is to introduce screening requirements for workers under the National Disability Insurance Scheme. We know that people with disabilities are a vulnerable cohort, and it is important to ensure that people of appropriate character are employed in their service. I will not go through the many examples of abuse that have occurred in this space over the years, but we are all cognisant of that fact, whether it be through people with disabilities, elder abuse or the abuse of children, which we discussed when debating the working with children checks legislation previously.

This legislation will apply especially to those workers who have close contact with people with disabilities, such as those in support and care roles. The legislation will fulfil several roles, one of which is to deter certain individuals from seeking work in the sector. Others are to exclude certain people from working for NDIS providers in specific roles and to reduce the potential for NDIS providers to employ people who pose an unacceptable risk of harm to people with disabilities. The government is implementing this legislation in line with Western Australia's obligation under the intergovernmental agreement. The intergovernmental agreement seeks to put nationally consistent screening in place. It also provides for portability, so that a person who has a valid screening in one state can carry that screening certification with them when they move interstate or wish to continue to do NDIS work elsewhere. This does not mean that the legislation is identical across the country. In fact, a large degree of discretion is offered to the states in implementing the various elements of the policy, such as penalties, enforcements, physical cards or electronic cards, and the ability for workers to commence work in advance of their applications being determined. The National Disability Insurance Scheme (Worker Screening) Bill 2020 appropriately identifies differences between workers for NDIS providers, noting that those in risk-assessed roles will require a clearance. Risk-assessed roles include key personnel in executive roles and those who provide support or are likely to have more than incidental contact with persons with disabilities.

Clause 6 will establish class 1 and class 2 offences, which are listed in schedules 1 and 2. They are fundamentally for determining whether an applicant is a disqualified or presumptively disqualified person. Clause 8 clarifies that those who are convicted of a class 1 offence as an adult will be automatically disqualified from NDIS work. Presumptively disqualified persons include those with pending charges or with a class 2 or class 3 conviction, with some qualifications in those schedules.

Clause 12 provides for the circumstances in which the chief executive officer will determine an application. Importantly, the CEO will have broad scope to consider all matters linked to risk, not just those matters that relate to triggering events such as a criminal record or a disciplinary outcome. In determining whether a person can have a clearance, the CEO of the department must refuse an application if the applicant is a disqualified person, has committed certain offences, or is shown to pose an unacceptable risk after a risk assessment has been conducted.

Clause 13 will provide the CEO with the power to issue an interim bar on an applicant, if the CEO believes that there is a reasonable likelihood that a risk assessment will result in a finding of unacceptable risk. This appears to be a similar process to that under the working with children screening process, whereby an interim negative order can be issued to prevent a person from working with children until a full risk assessment can be carried out.

A 2019 Auditor General's report noted significant issues with the working with children process, whereby the department was hesitant to issue interim orders, and a number of unsuitable applicants were permitted to work with children for an average of seven months. I hope this provision will be used more willingly and has sufficiently greater scope to protect people with a disability than was found by the Auditor General to be the case with the working with children check process.

Under clause 21, once clearances are in place, they will remain in force for up to five years, subject to ongoing monitoring by the NDIS worker screening team. Five years is a long time; in comparison, working with children cards are valid only for up to three years. However, the parliamentary secretary told me earlier today that at some point in the future the validity of the working with children card will be up to five years. That will be an interesting

debate when it comes up, because we know the issues that have been identified recently around working with children cards. I trust the minister will provide some certainty that the department will engage in ongoing, proactive screening of NDIS workers.

Clause 25 will provide the CEO with the power to cancel a certificate if they become aware that the person is disqualified or poses an unacceptable risk. It is important to note that two teams will be set up under this legislation—one team will do working with children checks and the other will deal with the NDIS screening process. It is important that we ensure those people have the right skill set to be able to do the job, and that the department is appropriately funded. I would like the parliamentary secretary to indicate whether there has been any additional funding for the resources that will be required to do these checks. I would also like to know what the process will be for making sure that the checks are managed well on an ongoing basis.

The rollout of NDIS screening will be managed by the Department of Communities. We know from debates in this Parliament and from Auditor General reports some of the deficiencies in the way that the Department of Communities dealt with the working with children card program, including not being able to identify staff who needed a working with children card clearance, and/or whether there were records on its database of who did or did not have a card, or who was or was not working with children.

The working with children card program is extensive. It started back in 2006 and more than a million cards have been issued, including renewals. Roughly one in five Western Australian adults have a working with children card. As I said, there have been significant delays in processing complex cases, potentially leaving children exposed to risk. This is one of the things I want to put on the record. People with disabilities, depending on their disability, are some of the most vulnerable people in our community, and we need to make sure that we have the right checks and balances in place.

The Department of Communities has a very average track record in some of the things it does. It reports to four different ministers, which makes it a bit difficult for it to know who its master is. The Western Australian Council of Social Service's 2020–21 budget submission identified that the Department of Communities was lacking in its ability to appropriately communicate its roles and responsibilities and seemed to be confused by all the complex machinery-of-government changes. It is of some concern to me that WACOSS, in its 2020–21 budget submission, reveals so little faith in the Department of Communities. I have put that on the record previously, and it has been identified by WACOSS on numerous occasions. It is a significant issue and concern if the department is not capable of meeting its requirements, whether through a lack of training, a lack of an appropriate budget or a lack of direction from ministers in terms of priorities. I am sure the department is doing an outstanding job with the resources it has, but we know from the feedback of various individuals that the machinery-of-government changes have caused mayhem in some departments. It has been a difficult transition, with poor leadership, and that has resulted in things slipping through the cracks.

The first Auditor General's report on working with children checks came out in 2019, and found the department to be lacking. Who could forget that six or seven sex offenders had been allowed to work with children for a time? That was quite concerning at the time. That was in 2019, and the minister at the time promised that those problems would be fixed by, I think, June 2020, which is a long time to fix some serious flaws in that process. The minister then made a statement in this Parliament sometime in June 2020, or thereabouts, that the system had been fixed. But then, of course, another Auditor General's report to do with working with children checks came out in July 2020, which again identified some problems with the way the Department of Education, the Department of Health and the Department of Justice in were dealing with that process. It again comes back to the Department of Communities to make sure that other organisations, individuals, not-for-profits and government departments know their obligations under the legislation for dealing with vulnerable people—in this case vulnerable children.

I would like the parliamentary secretary to provide an ironclad guarantee that we will not see the same level of dysfunction in this process and with these checks and balances as we have seen with the working with children checks process. I also ask the parliamentary secretary for an ironclad guarantee that working with children checks are now being done properly so that future Auditor General reports will not identify problems within the Department of Communities and other government departments. If the government cannot set an acceptable standard, what chance does anyone else in the community have? The important part is to ensure that this new legislation, the National Disability Insurance Scheme (Worker Screening) Bill 2020, is done properly. As I have said previously, it is transportable. People can move between states and if we do not have the right checks and balances in place we may allow people of inappropriate character to participate in the NDIS; things can get lost in the system. Therefore, it is critical that we get these things right. People will remember that even with the working with children checks, perpetrators were allowed to go on overnight camps with children, do babysitting and childminding, and provide coaching and private tuition services. That is concerning. A childcare service was also carried out by a person who was not of good character to be given a working with children card. As I said, in some cases, seven people who had been charged and found guilty of sex offences had had access to children for up to six months. That should be disturbing to everybody in this Parliament, and to the

Mr Tony Krsticevic; Mr Shane Love; Amber-Jade Sanderson; Dr Tony Buti; Ms Janine Freeman; Mr Zak Kirkup; Mrs Jessica Stojkovski; Mr Reece Whitby

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community more broadly. Even though another report has come out indicating that things were not being done properly, the Minister for Disability Services has assured us that things will be done properly in the future. The minister has had eight months to make that happen—from October 2019 when we first discussed this matter in this Parliament until June this year. It is concerning that the processes in three government departments were found to be lacking. I would have thought that would have been the first and easiest place in which to fix the problems.

**Mr D.A. Templeman:** What did you do to your hand?

**Mr A. KRSTICEVIC:** Doorknocking.

**Mr D.A. Templeman:** Simply doorknocking?

**Mr A. KRSTICEVIC:** Yes.

**Mr D.A. Templeman:** You're sure it was doorknocking?

**Mr A. KRSTICEVIC:** It was doorknocking. I thank the minister very much for his concern.

**Mr D.A. Templeman:** I am always concerned about you! I have been concerned about you for a long time!

**Mr A. KRSTICEVIC:** The minister is obviously missing me from the local government portfolio, but that is okay.

On a very serious note, this is a critical piece of legislation, and it is supported by the opposition. However, we need to make sure we get it right. We cannot keep letting down the most vulnerable people in our community, on a consistent basis, as we have done until this point. We keep promising that we will deliver better services and that we will do the job properly. I brought a motion to this Parliament on behalf of the Western Australian Council of Social Service and the not-for-profit sector about the fact that 18 domestic and family violence service providers have had their resources cut from 1 July. The government was not interested in giving them the assistance that they need. I believe there may have been some movement since that debate took place. However, it concerns me that the most vulnerable in our community seem to be neglected more often than not.

This piece of legislation is critical for the future safety of every person who is part of the National Disability Insurance Scheme. It is important that the NDIS ensures the quality of life of people with disability into the future. We need to make sure that we do the best we can for these people. We have an obligation to protect them. We have an obligation to make sure they can be confident that the people who will enact this very good legislation will be provided with the necessary resources and training. We do not want things to be shifted every five years. It is concerning that the validity of the working with children card may be increased from three years to five years to align with the NDIS working with children checks. At this time, we do not necessarily have faith that the system is working properly. We have been told that the minister has made the necessary changes. However, when the Auditor General or others investigate what is taking place, we get a different picture.

It is important that we get a commitment from the minister that this process will be resourced properly. It is also important that we get a guarantee from the minister that there will not be large-scale robbing of this system, and also that people will not be subject to abuse. The government needs to provide the department with the support that it requires. The department should not be distracted by the fact that it reports to a number of ministers who have different priorities. All those priorities and portfolios need to be resourced appropriately. For a long time, the government was not spending money in the community services and not-for-profit sector. There was a lot of talk about that fact. The government is now spending plenty of money on infrastructure projects—billions of dollars, in fact—but only a trickle of money is coming into the community services and not-for-profit sector, and the Department of Communities. We know that at this time, people are struggling and suffering like never before. The pressure on people with disabilities was huge prior to COVID. That pressure has grown exponentially because of COVID. There was not enough funding for this sector prior to COVID. That funding is still being held back. There were areas for improvement in this sector prior to COVID. Those areas of improvement are yet to be met.

The Minister for Disability Services is in the other house. The track record of that minister is not as bad as the track record of some of the other ministers involved with the Department of Communities. I assume that the Minister for Disability Services will not let these people down and will ensure that this legislation is implemented with the appropriate level of resources so that the quality of life of people who receive benefits from the National Disability Insurance Scheme is second to none. With those comments, I commend the bill to the house.

**MR R.S. LOVE (Moore — Deputy Leader of the Nationals WA)** [4.16 pm]: Madam Acting Speaker —

Several members interjected.

**The ACTING SPEAKER (Ms L. Mettam):** Thank you! Member for Moore.

**Mr R.S. LOVE:** I have not even started yet. Goodness me!

Several members interjected.

**The SPEAKER:** Member, would you like interruptions or interjections?

**Mr R.S. LOVE:** I have not made a contribution yet, so when the member for Mirrabooka has finished, I will commence. Has the member finished? Good.

I would like to make a brief contribution on behalf of the Nationals WA to the National Disability Insurance Scheme (Worker Screening) Bill 2020. I have a couple of questions that I will put to the parliamentary secretary, and hopefully he will be able to outline some answers. I do not know that we will be calling to go into consideration in detail on the bill if it passes the second reading, which I expect it will.

The Nationals support the bill. The National Disability Insurance Scheme Act was passed in 2013. We are now seven years down the track. The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability was established in April of last year. That highlighted the dire need to ensure that people with disability are cared for by people of good character and are not exploited or harmed in any way. The intent of this bill is to introduce screening for persons who are engaged in NDIS work. I would like the parliamentary secretary to address how far this will go for persons who engage in activities that do not relate directly to the care of a person with disability, and to outline the definition or guidelines that will be drawn around that. I point out that we did have a briefing from the department and the minister's office, and some of these matters were explained to us, but if the parliamentary secretary could outline that to the house, that would be instructional.

I am also unsure about what investigations will be undertaken into persons who have committed serious offences in jurisdictions other than Australia, New Zealand and other commonwealth countries, specifically in countries that might have less of an interchange between law enforcement and justice officials. For instance, if a person came from a country in Eastern Europe, South-East Asia or Africa, where there is no established link between the authorities, how could someone go about ascertaining a record of that person when doing due diligence, if you like, on them? We have seen how difficult it is to investigate some of these matters from overseas, and even in this place.

One of the other issues I want some clarity around is when a conviction for a class 1 or class 2 offence has occurred with a person who might not yet be an adult but would no doubt have been convicted of the offence. I assume they would undergo some sort of risk assessment, but I want the parliamentary secretary to outline how that would be triggered and how that would be carried out. Supposing a 17-year-old committed a class 1 offence, how would we ascertain, 15 years down the track, whether that person should in some way be considered less of a risk than an 18-year-old, who presumably would never be able to undertake this work again? Could the parliamentary secretary explain a little about those types of issues? Also, if a person in a regional area needs to have a clearance, what provisions are there for backup care? In areas with a very small number of people who can undertake work, how can we be assured that people will not be disadvantaged by not having appropriate care for an extended period while some of these matters are done? Will priority be given to people when there is no alternative person who could undertake it, or could some other type of interim arrangement be entered into?

I see there will be some streamlining between the working with children checks and the National Disability Insurance Scheme checks, especially when we are talking about dealing with a child. Another example might be that it is not the person who is receiving care, but other children in the house who might be in contact with the carer. How exactly has the government determined to make those processes run together, yet step back from combining the two? I read in the explanatory memorandum that there was a discussion about the offences being different, but why the heinous nature of class 1, for instance, would not necessarily correlate straight to a similar outcome for working with children cards is beyond me. I wonder why there has not been greater consideration about matching the two checks so that we have only the one card and a one-check system instead of two. It would save expense and would also ensure that we can have better screening of all persons, not just in the NDIS system.

With those couple of questions, I will leave it to the parliamentary secretary in his response to give some answers on those issues. I commend the bill to the house.

**MS A. SANDERSON (Morley — Parliamentary Secretary)** [4.23 pm]: I am very pleased to rise to speak in support of the National Disability Insurance Scheme (Worker Screening) Bill 2020, which aims to provide some protection for some of the most vulnerable people in our community who rely on other people for their care, safety and comfort. We have to do everything we can as a government and a community to ensure that we provide a safe environment for people who rely on care workers and support workers, and also people who work in the sector. This bill is obviously part of an intergovernmental agreement reached under the previous government as part of the National Disability Insurance Scheme. I will talk a bit more about that in detail later, but the starting point in Western Australia is that, historically, we have probably some of the weakest safeguards for the sector. Although we have had one of the best disability sectors in the country, possibly the world, and we have led the way with the local area coordinator model with choice and control for supporting families—before the NDIS it had been on a bit of a ration system, which had come out very clearly as a result of a number of inquiries—the move to the NDIS nationally and in WA was absolutely the right move. Western Australia did not have the strongest protections for

people with disability and there was a call for the previous government to improve those protections prior to the NDIS rollout. It also looked as though the NDIS was not going to be rolled out in Western Australia. The previous government had determined that it would not sign up, so it left the sector wondering what we were going to do to beef up the protections in Western Australia.

In 2015, we saw the previous federal Disability Discrimination Commissioner, Graeme Innes, come and talk to the sector, which was under the previous minister Hon Helen Morton, MLC. He held a forum and said that Western Australia had the country's weakest safeguards to protect people with disability from abuse and there needed to be mandatory screening of support workers. That seems a pretty straightforward request or requirement for people who rely on other people for their care. We have seen some appalling statistics around people with disability experiencing sexual abuse, harm and neglect. They are very likely to experience particularly sexual abuse more disproportionately than any other vulnerable group and certainly other abuse and neglect. It is not as though the case was not made, but, as usual, that particular disability minister was known for her firm and unmovable positions on things despite rationality and commonsense, at times. We saw that with the rollout and with the financial counselling funding as well.

WA Labor went to the last election in 2017 with a clear commitment to introduce mandatory checks. This was also heavily supported by the disability sector: users of the sector, advocates for people with intellectual disability and the union, at that time United Voice, that represents workers in the disability sector. We will not find many more committed workers than aged care and disability support workers. They want their sector to be known as a safe and quality sector; they do not want it to be beset with the issues that we have seen, particularly in some of the larger organisations in New South Wales. They want that credibility, if you like, across the sector. WA was starting from a pretty low base under this government and we have certainly seen that vulnerable people, over many years, in home settings, family settings, government and non-government accommodation, and residential care have been subject to abuse and neglect.

A number of years ago we saw a Senate inquiry that was probably the precursor to the royal commission. There had been a Senate inquiry, inquiries in New South Wales and Victoria, and parliamentary inquiries, because some of those non-government organisations, which frankly lacked transparency, accountability and proper government processes, had some of the most horrific instances of abuse and neglect of people with disability. The terms of reference for the Senate inquiry go almost over two pages and its report is very broad ranging, focusing on abuse towards people with disability very broadly in the community. I think the royal commission is honing in more helpfully for government to come up with a policy response and an appropriate response to funded settings, whether it is in the home or in institutions.

I want to run through a few examples of abuse that were provided as submissions to the Senate inquiry. It makes for pretty harrowing reading. They are not necessarily in Western Australia, but certainly organisations representing people with disability in Western Australia made similar submissions. These are examples of neglect of people with disability in government and non-government cared accommodation —

Three young men in their early 20s, all with severe intellectual disability (ID), and non-verbal, left alone overnight in their group home while the only staff member on shift went out on a date.

Elderly man with moderate–severe ID and early dementia became incontinent. Staff attributed this to the dementia and failed to follow advice to have a GP check to rule out infection. Man developed a serious kidney infection.

Staff failure to heed a 'difficult' parent's request to have a mole on her intellectually disabled daughter's back checked by a doctor. Mole turned out to be a melanoma which resulted in the young woman's eventual death.

Staff in a high support needs group home spending most of their shifts chatting and drinking coffee while the residents were left to their own devices.

Young woman with severe ID —

People with intellectual disability, especially those who are non-verbal, are particularly vulnerable —

and non-verbal tied to a chair when she became agitated and started to throw objects around in her 24/7 staff-supported individual option.

Woman with mild–moderate ID being given prescribed medications not in accordance with medical directions—medications stopped and started depending on staff opinion. In same group home, staff 'borrowed' money from client's bank accounts to tide themselves over to pay day. Also large amount of prescription sleeping pills (Temazepam) unaccounted for.

**Extract from Hansard**

[ASSEMBLY — Tuesday, 8 September 2020]

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Mr Tony Krsticevic; Mr Shane Love; Amber-Jade Sanderson; Dr Tony Buti; Ms Janine Freeman; Mr Zak Kirkup; Mrs Jessica Stojkovski; Mr Reece Whitby

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I do not outline these to frighten people about the sector, because the vast majority of the sector is very well run. There is no doubt about that, and we are seeing that more with the rollout of the NDIS and better governance of those organisations. Certainly, in Western Australia we need these worker screening checks.

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability continues its work and is due to hand down an interim report at the end of October. The second progress report outlines —

People with disability have told us about their experiences of violence, abuse, neglect and exploitation across a range of settings, including education, homes and living arrangements, the health and justice systems and the NDIS.

...

People with disability say that it can be difficult to report violence, abuse, neglect and exploitation, and that they feel that their complaints are often unheard or do not receive appropriate action.

In a system in which a client depends upon a support worker and has limited access to other people, their ability to make complaints and report abuse is quite limited. Often there is fear in families who are desperate for respite and have finally received funding for support, so they do not want to rock the boat necessarily; they do not want to criticise the organisation that is providing support and respite. It is really important that there is independence of reporting, and that is what the independent body will provide. Victoria has this system. The Victorian Ombudsman has provided a similar role. When we were in opposition, we looked very seriously at this system and how we would implement it in WA and beef up the role of the Ombudsman. As it happened, we signed up to the National Disability Insurance Scheme and we will be shifting to this system.

It is important to understand that abuse and neglect are not always intentional or vindictive in nature. Although this is not appropriate and is no better—it is all completely unacceptable—sometimes it is because of people's ignorance or a lack of training or employment mechanisms such as staffing ratios and appropriate hours. All those things can lead to a client getting suboptimal care and, at times, being neglected. Training is really important for those who work with people with disability. Before I entered Parliament, I sat on the workforce development working group as part of the development of the NDIS, so I feel I have a strong attachment to the NDIS, as many people do. The workforce issues were flagged early with the previous Labor government and they are consistently flagged with the current federal government. The pricing and reflection of the workforce is an ongoing issue. The federal government has not continued to do the work that it needs to do to ensure that the pricing under the NDIS is appropriate and reflects good pay and conditions and solid continuity for clients. That will continue to be an ongoing challenge. Choice and control is front and centre of delivery of the NDIS, as it absolutely should be for people with disability—choice and control over their own lives and their own support workers. There is an inherent tension between choice and control and stable, permanent and ongoing employment for people who work in that sector. I think that is well acknowledged. No-one has come up with an answer to that as such. Obviously, larger providers can implement more plans and therefore have the financial means to provide more permanent positions for people. A support worker who is required for one hour in the morning or one hour in the afternoon is left with the rest of the day; there is little flexibility and there are no minimum hours. However, someone who is on a plan, with a finite amount of money to spend, wants to make sure that they get everything they can out of that plan. It is a very difficult tension to resolve. It is one of the reasons the previous WA government did not sign up to the NDIS, apart from the fact that it was a good model, and there were no commitments from Canberra that we would have a localised bureaucracy, if you like, for the NDIS, which was very reasonable. When we came to government in 2017, we looked at how we could bridge that issue with the workforce and provided \$20 million of funding to the sector to help support that workforce issue that we felt was lacking in the NDIS.

It is about having a consistent workforce so that people with disability have good support workers with whom they can build a rapport and a relationship and who understand their individual clients. They quite appropriately should be paid reasonably and have a sense of permanency and security in that employment, because people with permanent disability require ongoing support. There is no reason why they should not have a sense of permanency and the ability for career progression in that employment. It requires training to be a support worker and a social trainer. It is not an easy job, particularly when dealing with people with complex support needs. That is one of the great challenges of what I think is an incredible social reform and one of the greatest things the Labor government has done for this country. Managing that workforce issue to flow through as good quality, consistent care and support for people with disability to improve their social, working and home lives is really going to be challenging.

This is obviously part of an intergovernmental agreement. I note that those people who are on a plan and choose to use unregistered organisations will be going it alone a bit, and I think that that probably could have been resolved a little better nationally to provide more safety, but, again, it is about choice and control, and that was driven by the sector. I think the intergovernmental agreement is very good. It is a national scheme, but there has been a disparate disability sector across the country for a long time. If a person with a National Disability Insurance Scheme plan

moves from Western Australia to New South Wales, the level of support should not change despite the jurisdiction they are living in. That is the beauty of the national scheme. Likewise, it should not change for a worker under the scheme, so, nationally, people will be able to move between jurisdictions and their clearance will go with them.

Some really important principles are set out in the IGA that I think are worth reminding ourselves of, for people both working in the scheme and who have plans in the scheme. Essentially, the plan sets out a new nationally consistent approach for regulation, particularly around the workforce and safeguards.

[Member's time extended.]

**Ms A. SANDERSON:** The framework is designed to support the rights of people with disability by ensuring they have access to quality and safe services under the NDIS. A nationally recognised approach to worker screening is an important element of this framework that minimises the risk of harm to people with disability from the people who work closely with them. Although the primary responsibility for recruiting and providing a safe environment for people with disability rests with employers, a worker screening outcome is one source of information that can support employers in fulfilling this responsibility. It also has a preventive effect in deterring individuals who pose a high risk of harm from seeking work in the sector and in reducing the potential for employers to employ workers who pose an unacceptable risk.

It is important to note that this is just one tool in a range of mechanisms needed to lower the risk of harm to people with disability. As we know, this is not a panacea; it will not fix everything. There is a whole range of issues and, as I said, it is around training, appropriate ratios, appropriate staffing and appropriate attitudes towards people with disability. When they are unwell they need access to doctors and health care that other people who are verbal and able to advocate for themselves have.

The objectives and principles are to have nationally consistent worker screening to protect and prevent people with disability from experiencing harm arising from poor quality or unsafe supports or services under the NDIS by the following —

- a) demonstrating that the rights of people with disability to be safe and protected are a high community priority
- b) reducing the potential for providers to employ or engage individuals who pose an unacceptable risk of harm to people with disability
- c) prohibiting individuals who have a history of harm against people with disability from having more than incidental contact with people with disability when working for a registered NDIS provider
- d) deterring individuals who pose a high risk of harm from seeking work in the NDIS sector.

The principles are, essentially, that the NDIS worker screening is human rights based and people with disability are free to live their life free from abuse, violence, neglect and exploitation. The onus for duty of care is on the provider, the people who are rolling out the plan and those who employ those people. The screening is risk based to ensure that decisions are made based on the potential risk of an individual. Another principle is proportionality to ensure that only workers whose role poses a significant opportunity for harm are required to be screened. I think that has been worked through quite well, which I am sure the parliamentary secretary will outline. Those people who come in to do incidental work in a house, for example, would not necessarily be required to be screened unless they were possibly employed by a large provider and that was their sole role.

Another principle is consistency; screenings must be consistent across jurisdictions. There must be privacy and the appropriate use of information. There are data-sharing mechanisms in the agreement, particularly around criminal convictions, which is appropriate for a national scheme. The data is shared among jurisdictions. There must be a sense of national justice, procedural fairness and transparency to ensure that worker screening processes and decisions will be independent and fair. There are appeal processes. For efficiency and effectiveness, there are streamlined simplified screening processes for workers and providers who operate across jurisdictions, with a single screening process for all NDIS worker roles. That obviously provides consistency of quality in those screening processes.

Under the roles and responsibilities of the state and territories in this agreement, Western Australia is fulfilling its obligation under the IGA—that is, to introduce or amend legislation in establishing a scheme for screening NDIS workers. We are debating today the establishment and operation of the NDIS worker screening units, which may include the expansion of existing worker screening units. The states and territories will fund and manage the administrative and system support costs of NDIS worker screening units; take enforcement action in relation to an applicant who provides false or misleading information; and facilitate effective information sharing.

Some of the automatic exclusions around the screening process and clearances have been very well laid out. If an applicant does not have a relevant criminal history, disciplinary or misconduct record, any issues identified through self-disclosure or any other relevant records and has not previously been issued an NDIS worker screening check

exclusion will automatically be issued an NDIS worker screening check clearance. An applicant who has a conviction for a specified offence within the following categories will be issued automatic exclusions provided the applicant was at least 18 years of age at the time of the offence. The disqualifying offences include murder and attempted murder; serious assault against a child or vulnerable person; sexual assault of a child or vulnerable person, including incest; child pornography-related offences; abduction or kidnapping offences against a child or vulnerable person involving a sexual or abusive element; bestiality and serious animal cruelty offences. These are all, appropriately, automatically cause for exclusion. An applicant with a conviction or pending charge for specific offences within a number of categories is also excluded, and those include manslaughter, assault and sexual offences not captured in clause 61b; dangerous or negligent acts; abduction or kidnapping; animal cruelty offences; drug trafficking; fraud and deception; offences against a child or vulnerable person; national security offences; and pending charges for offences captured in clause 61b.

It is pretty clear that it is at the very, very serious end. We do not always make the best choices when we are under 18 years of age. We hope that the choices we made then do not limit our choices in the future—certainly those of us with children hope that. Those of us who have made it past 18 years of age and have reasonable prospects are over that fear, but we certainly do not want to limit people from being able to enter this incredibly important sector.

I want to say, finally, that WA's engagement in the NDIS has been, I think, a great development for the sector. There was a lot of anxiety in the sector around movement into the NDIS. However, I think we have shown a willingness to talk to and engage with the sector about how we can manage some of the policy issues. Last week, the minister announced another \$14 million worth of spending to help manage some of the policy issues that are coming out of the rollout. Western Australia has unique geography. It costs a lot more in Western Australia to deliver government services such as health, education, justice, mental health and disability support—all of those things. We are listening. I think the Department of Communities is just about to host, or has just hosted, a forum with key stakeholders to hear their experiences and how the NDIS is rolling out.

From a local member's point of view, I was very excited that we were going to sign up to the NDIS. Many of us will have constituents or relatives—I have a relative with a very significant intellectual disability—who are concerned about the future of their family member with a disability when that person's immediate family passes on. I meet many elderly parents whose adult children—sometimes in their 60s or 70s—are still at home, so they are deeply anxious and concerned about what will happen to them. The National Disability Insurance Scheme will help to provide a kind of certainty, instead of being in the lottery on the ration system under some of the previous funding schemes we have seen. Feedback is that it can be tricky to navigate the NDIS. It is a federal bureaucracy, which is not known to be easy to navigate. However, once they get there and their plan is in place, the feedback to me as a local member of Parliament is that it has been truly life changing for families. It is really incredible for them to have access to that kind of support, which they never could have dreamt of before. I commend the bill to the house. It is an important move for Western Australia's transition into the NDIS. It is great to see it is supported and that generally very legitimate and reasonable questions have been asked by the opposition. I am sure that the parliamentary secretary will answer them ably.

**DR A.D. BUTI (Armadale)** [4.50 pm]: I would also like to make some comments on the National Disability Insurance Scheme (Worker Screening) Bill 2020. My presentation will be divided into three sections: one will be about the bill, but a lot of that has been adequately described by the member for Morley, so I will not spend too long on it; in the second part, I will talk a bit about the National Disability Insurance Scheme; and in the third part, I will talk about the Royal Commission into Aged Care Quality and Safety and people with disability.

As has been mentioned, this bill is all about trying to improve the way governments regulate the protection of people with disabilities against neglect, abuse and exploitation. As we know, people with disabilities can be very vulnerable to such neglect, abuse and exploitation. It is therefore important that the bill before the house becomes law to provide for the implementation of a robust worker screening scheme for the disability sector. This is a state government responsibility. Although the NDIS is set up as a national framework, obviously, it interplays with the various jurisdictions, including Western Australia, and we have the responsibility for the screening process. So it is very important that this bill is debated and passed.

As was mentioned, and I will go into it a bit more shortly, the commonwealth NDIS came into law in March 2013. In December 2016, the Council of Australian Governments Disability Reform Council endorsed the NDIS quality and safeguarding framework. The NDIS Quality and Safeguards Commission was established to implement the commonwealth's obligations under that framework and it set out a nationally consistent approach to regulation of services and supports delivered under the NDIS. A key element of that includes worker screening to minimise the risk of harm to people with disabilities. This is an important piece of legislation before us, which is necessary for the continued development of the NDIS. I see the NDIS as a development because, as was mentioned by the member for Morley, there have been issues and some issues remain. I speak as not purely a member of Parliament, but also a person who currently has experience with the NDIS.



The idea of a nationally consistent screening process includes that it will be portable, so it will have validity between jurisdictions. Obviously, at the moment, transportation around Australia has been affected by the situation that we find ourselves in with the COVID-19 pandemic. It is also important to realise that one of the issues and difficulties in the disability sector is trying to retain staff and carers. It is a reasonably low paid occupation. It is hard to obtain quality staff who will remain and that is a real problem. It can often take a considerable period to build trust between a person with disability and a carer, and also family members and the carer or worker. Parents are often primary carers, but workers also come into play.

The legislation is trying to establish a high standard of screening for people who are engaged in NDIS work. This is incredibly important, as we found out from the situation in Victoria. There is a need for reform of workers in the aged-care sector. We have heard stories of aged-care workers spending two days at one aged-care facility and then moving to another aged-care facility and so forth, which obviously has been ripe for the spread of COVID-19. There are similar issues with NDIS workers—the inability to remain with one service agency or one client for any considerable period. The legislation before us aims to contribute to the protection of people with disabilities from harm by deterring individuals who pose a risk of harm to people with disabilities from applying to work in the sector, reducing the potential for providers to employ workers who pose an unacceptable risk of harm to people with disabilities, and establishing consistent standards for worker screening.

The National Disability Insurance Scheme was a Labor government initiative that came out of a 2011 Productivity Commission inquiry into disability care and support. The inquiry and push in this area was driven by the Parliamentary Secretary for Disabilities and Children's Services at the commonwealth level, who was Bill Shorten. People have different views about Bill Shorten, but I consider this as one of his greatest achievements in politics.

**Ms J.M. Freeman:** A legacy!

**Dr A.D. BUTI:** It is a legacy. There is no doubt that this is a legacy he should be very proud of. He has taken up this issue in opposition, having lost the last federal election. The Productivity Commission, which is not known for its left-wing credentials, seeks to provide rational analysis of various public policy concerns. It recommended that an Australian system of inequitable, fragmented and inefficient disability services be overhauled and replaced by a national scheme of insurance cover for all Australians with a significant disability. It was the first of its kind in the world and it truly is a legacy. At the heart of the NDIS is the principle of choice and control, with the scheme aiming to empower consumers with disability to use funds to purchase services that reflect their lifestyles and aspirations. In itself, that presented some problems for the disability sector industry because some of the providers saw this as usurping their authority or control. Rather than the money going to a provider or a service that then sought out clients, the money goes to the client—although there are some modifications—who then decides how that money should be spent under the plan.

To participate in the scheme, a person's disability has to be significant and enduring. That definition has created debate about who should be included. There is an issue of whether people who have mental illnesses should come within the provisions of the scheme and whether that would then overrun the scheme. There have been blowouts because demands have been underestimated regarding who can access the NDIS. There was an underestimation of the number of children with autism and people with mental illnesses who would apply for NDIS funding. To fully roll out the NDIS, the government set up the independent National Disability Insurance Agency. It has to be said that the initial feedback from a study of trials around the country was mixed. A study conducted by the Melbourne Social Equity Institute at the University of Melbourne found that —

Participants' expectations and experiences of the NDIS appeared to be strongly influenced by their circumstances. Parents of young children tended to have high expectations and be strongly motivated to obtain comprehensive packages of services and support. Parents of adult children were more likely to note little difference in levels of support for their children since transitioning to the NDIS but significant increases in administrative requirements and hurdles. People living with cognitive disabilities tended to report few changes in their everyday situations, while people living with physical disabilities had a range of views, from positive changes associated with increased independence to deep frustration with ongoing struggles to gain access to crucial resources.

In its ideals, the NDIS is an absolutely brilliant system, but issues and teething problems remain. There needs to be a greater injection of funding. The state government, of course, provides some funding, but the bulk of funding has to be provided at the commonwealth level. I remember a debate some years ago about this. I think a federal conservative government wanted to increase the Medicare levy to help fund an increase, but the position taken by the Labor opposition of the time was initially not to agree with that, which I thought was disappointing. I not sure whether that changed later on, but I know that was the initial view. Although it is a fantastic scheme, unless it is properly funded, it will not achieve its laudable ideals and goals, which are to provide independence to people with disabilities.

[Member's time extended.]

**Dr A.D. BUTI:** The teething problems in the rollout of the NDIS resulted in a \$1.6 billion reduction in NDIS payments for 2019–20 due to people having problems accessing the scheme. I will stand corrected if I am wrong, but I think the federal government used that as part of its way to achieve a so-called budget surplus. It was a very dishonourable calculation to use that reduction in NDIS payments to boost its surplus.

When the NDIS was set up, people who applied initially had to go to Centrelink to obtain NDIS funding. I can tell members that that was soul destroying for many applicants or family members who made applications. Funding the disability sector should not be seen as a welfare payout. That is why the Productivity Commission thought that we should have the NDIS, which it saw as very important to the overall economic benefit of Australian society. It should not be seen as a welfare payment. It is not that welfare payments should necessarily be seen in a negative manner, but people who are seeking NDIS funding should not have to go through a Centrelink process. The conversation that was had between the Centrelink official and the parent and/or the person with disability was often undertaken in full view of other people and issues that should be confidential could be overheard. That is something we should not be proud of.

A review of the NDIS undertaken by the former secretary of the commonwealth Department of Finance, David Tune, which was released in January 2020, found that many of the intended benefits of the NDIS are yet to be consistently realised. Many participants found the scheme overly complex and difficult to understand, and they experienced lengthy delays in being able to access the scheme. The time factor is of particular concern, with it being reported that more than 1 200 Australians had died while waiting to receive the NDIS package between July 2016 and September 2019, with wait times ranging from four to seven months. Of those who died waiting for support, 65 were children. The federal Minister for the National Disability Insurance Scheme, which was and I think still is Stuart Robert, has to ensure that he puts his full energies into addressing those shortcomings. As I said, the NDIS is a brilliant scheme, but it has not been properly funded at the federal level, which has resulted in problems that should not be taking place.

Those who were in the house at the time will remember that when it came to Western Australia, there was debate because the previous Premier, Colin Barnett, was not prepared to join the NDIS at the time. There were arguments on both sides that that was meritorious. It was generally the view that Western Australia had one of the best state structures for the provision of funding for disability services, and there was concern that that might be lost if we went to a commonwealth scheme. However, there is no doubt that the Western Australian scheme could not match the potential of the NDIS. Members will remember that we had trials. I cannot remember the name, but we had a state-run system, a state-run NDIS trial and a federal-run NDIS trial in various geographical areas of the metropolitan region and one or two country regions.

In the lead-up to the last election, I am sure that many of us were lobbied by people who wanted to remain in the state system or wanted to remain in the federal system. That lobbying was interesting. I found it quite difficult and stressful. As I said, I had some personal experience with it. I am only generalising here, but the majority of people who came to see me who wanted to remain in the state scheme were parents of adult children who had severe intellectual disability. They thought that the Western Australian scheme was better placed to help them. I think that was because some of those children were residing in care facilities that were directly funded. Those parents were concerned that if the funding was removed from the places where their children were being attended to, the ability of those facilities to properly service their adult children would be compromised. However, there is no doubt that the federal NDIS had many potential attractions. We have had experience with both the state and federal schemes—that is, the current NDIS scheme.

The member for Morley, I think, mentioned the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. When Prime Minister Scott Morrison launched the royal commission in April 2019, he stated —

... people living with disability have faced the most difficult of circumstances. Because of their own condition, but worse than that, it's the lack of a culture of respect towards people with disability. That leads to abuse and mistreatment.

I could not agree with him more on that. It is interesting that we are debating this bill before the house today, which I think is fantastic because we do not debate issues around disabilities enough in this chamber. We had a major bill that took up most of the second half of last year on which very few people talked about the disability sector, which I found incredibly surprising. When the Prime Minister said those words back in April 2019 as he announced the royal commission, he was choking back tears when he spoke about his brother-in-law, Gary, who had multiple sclerosis. The Prime Minister added —

“We have to establish a culture of respect for people living with disabilities and the families who support, love and care for them” ...

But just a week later, the Minister for Home Affairs, Peter Dutton, showed little respect for his leader's call and even less respect for his Labor Party opponent for the seat of Dixon in Queensland, Ali France, who is an amputee.

He criticised France for not living in the electorate, telling the media that there were plenty of people with a disability living in Dixon. Seeking to excuse this, he added —

“A lot of people have raised this with me. I think they are quite angered that Ms France is using her disability as an excuse for not moving into our electorate.”

Ms France lives just outside the electorate and her house had to be modified to take into consideration her disability. To expect her to move and live in the electorate when she was just a candidate was pretty rough, and it was a terrible comment by Mr Dutton, particularly when his Prime Minister said only a week earlier that we should have a greater culture of respect for people with disabilities. Unfortunately, the Prime Minister did not rebuke Dutton for his comments, but I will leave that be.

The royal commission that was announced by Prime Minister Morrison was expected to provide an interim report no later than 30 October 2020, and a final report was due no later than 29 April 2022. However, obviously COVID-19 has resulted in delaying the public hearings, which had commenced but were postponed. I think they started recently by video. I am pretty sure they have. Former Federal Court judge Ronald Sackville is leading the royal commission, which includes five other commissioners. They are to examine the conditions and experiences in all settings, including schools, institutions, workplaces and the National Disability Insurance Scheme. The public hearings of the royal commission that commenced in Townsville in the first week of November 2020 had an initial focus on education. Across the four days of hearings in Townsville, the commissioners heard harrowing stories from two parents of students with disabilities. As reported in *The Guardian* —

The Queensland mother of a 13-year-old girl with Down’s syndrome was the first witness. Known as witness AAA, she described her daughter as a “great learner” who was “happy” and “independent”. She does have vision and intellectual impairments but she can also cook half a dozen meals from a recipe and do her own washing.

When her daughter reached year two at school, things changed. Witness AAA became emotional as she told how her daughter became “petrified” of her teacher. The teacher regularly yelled at the child, forced her to sit on a bathmat, and once dragged her down a flight of stairs.

After three years the family was left with no choice but to withdraw her from the school.

The royal commission heard more harrowing and sad stories with regard to education and health and also the workplace and other activities.

Western Australian Greens senator Jordon Steele-John basically had been the political and public face of calling for the royal commission. Members may know that the senator has cerebral palsy.

**The ACTING SPEAKER (Mr I.C. Blayney):** Members are getting a bit loud and are starting to distract the member and the Acting Speaker.

**Dr A.D. BUTI:** In an emotional speech to the Senate on the night of 18 September 2018, he said —

Tonight, I’d like to read a passage from a speech given by my fellow disability activist and advocate Craig Wallace, who, in 2015, as part of the White Flower Memorial to commemorate all those who died in institutional and residential care, spoke to the sorrow and pain of our community. In concluding, he said, ‘I call for those who have left us to be remembered, for their names and stories to be said out loud in the sunlight and amongst the people who love them.’ Tonight, I seek to speak their names, and though the sun does not shine in this place I hope that their stories will move the hearts of those who have it within their power to see justice done. The following names are those who have died in the lead-up or subsequent to the Senate inquiry which called for a royal commission.

The senator then read out the names of 34 Australians with disabilities who had recently died. He said —

These are the names that don’t get spoken. These are the reasons. These are the human beings. These are the loved ones, the mothers, the fathers, the sons and the partners who need justice, who demand justice, whose lives were worth living, in whose memory I tonight wear a white flower and whose passing fills me with an ironclad determination. I will not stop and I will not rest until they find the justice that is so desperately owed them.

Previously, the senator had criticised the Morrison government for not calling for a royal commission into the abuse of people with disabilities when the Prime Minister announced in September 2018 a royal commission into aged care. The Prime Minister, in announcing a royal commission into aged care, said that although the focus would be on residential and in-home aged care for seniors, the inquiry would also cover care for young people with disabilities who live in aged-care homes. Just think about that, members. Young people with disabilities have been forced to live in aged-care facilities. That should not be happening. That actually brought me back to an inquiry that I was part of in 2013–14 when I was a member of the Community Development and Justice Standing Committee,

which was chaired by the member for Girrawheen. Our inquiry examined family support funding for people with disabilities, which at the time was the responsibility of the state government prior to the NDIS.

I will relay just one of the stories that is chronicled in our report—the story of Kell. The report is called “Client Driven? Or Driven to Despair?” Kell had an accident as an 18-year-old that rendered him disabled. At age 21, he moved into a nursing home. He could not do anything for himself. He was able to open his mouth slightly to indicate “yes” and to say “no”, he would cry. That was the only control that he had over his body. One of the female residents of the nursing home, who had dementia, developed a soft spot for Kell. Kell could not chew because he had no chewing muscles. He could only swallow food that had been pureed to almost a thick liquid, and so he existed on a diet of slop. Because the woman was fond of Kell, she thought that he would enjoy some chips from the canteen so she would buy potato crisps and give them to him. She would crush the crisps into pieces and place them in his mouth. However, because he could not chew, pieces would end up in his lungs, which contributed to him developing pneumonia. Nursing home staff decided that the only way to keep him safe from the caring woman was to lock Kell in his bedroom. He could not unlock the door, call for attention to go to the bathroom or ask for the television to be turned on or for the channel to be changed. Kell stayed locked in his bedroom between meals, and only then would someone go in and feed him his slops. Sometimes someone would remember to turn the television on but not usually take the time to find out what he wanted to watch. That was Kell’s existence. Because there was no funding to relocate him to an age-appropriate nursing home, he remained trapped in his bedroom with the door locked.

We heard other gloomy stories of distress and desperation from people seeking to find adequate accommodation for their children. The member for Morley talked about the fact that one of the greatest fears and concerns of parents of children with disabilities is what will happen as they get older and will one day no longer be around. That is an incredibly important issue.

The National Disability Insurance Scheme (Worker Screening) Bill 2020 is important, but we must remember that although it is very important to have a more rigorous national scheme to reduce the possibility of exploitation, neglect and abuse of people with disabilities, we have to do a lot more in this space—a lot, lot more. The Prime Minister talked about the need to change the culture; that culture should also change in this house, and it might be a good idea to pay a bit more attention and give greater priority to the issue of disability and providing proper services and care. As other speakers have said, this issue affects the most vulnerable sector in our population. Thank you.

**MS J.M. FREEMAN (Mirrabooka)** [5.20 pm]: I rise to speak to the National Disability Insurance Scheme (Worker Screening) Bill 2020 and about the nationally consistent worker screening process that it will introduce. At its core, this legislation is not about treating people as victims or treating people with disabilities as people who are necessarily always under threat. Instead of looking at people with other abilities, disabilities and impairments in our society as people needing our help, this is primarily about addressing the interaction between people living with a physical or mental impairment and their carers. This legislation will ensure that those interactions will be appropriately accommodated and that a safety net for people will be provided.

This legislation simply constitutes an acceptable workplace reform. It will ensure that workers are fit to do the work they are required to do for the people who are, effectively, their employers. It will ensure that people seeking to be employed by people with impairments or disabilities will have appropriate background checks to show that they are able to meet care needs and that the people they care for will not be exploited, abused or undermined in their care. This is not an institutional or paternalistic response; it is an industrial response. The NDIS provides a payment to a person with a disability so that they can get the care they need in an appropriate manner. This is an industrial solution that is based on the philosophy that these people are effectively procuring a service under contract. In that situation they are basically saying, “I am contracting you to meet my impairments and provide care for me so that I can meet my day-to-day living requirements and live in the community in a manner that gives me accessibility and acknowledges my other abilities.”

At its core, this legislation was brought about through a campaign by workers in the industry. I remember being in this place some years ago when workers from what was then United Voice but is now United Workers came here to demand that quality of care for people with disabilities be ensured by these sorts of security checks and screens. As workers, they effectively were saying, “We value the work we do. We value the people we work for. We understand that we, effectively, have a contract of employment to care for them in a manner that ensures they have the capacity to live their lives in the best possible way, and we want to make sure that that quality of care is protected. We want to make sure that that capacity is not undermined by unscrupulous people in the industry.”

That has become more of an issue under the NDIS, because people can procure services from different and much smaller organisations. The capacity to ensure that workers have adequate training and knowledge and appropriate backgrounds to be able to deliver appropriate care to people with disabilities is at risk. Therefore, this legislation is a risk-based response to an issue confronting people with disabilities in our community. The screening provisions will strengthen identity requirements and the framework for disqualifying workers. Therefore, it will actually make sure that workers are capable and qualified to come in and take up these positions, and to deliver for people with disabilities.

It is completely anathema to me that we currently disqualify security workers for offences that make them unsuitable for security work, yet we do not have similar provisions in place for people working in the disability sector. Primarily, people with disabilities are vulnerable. Again, this is not about treating vulnerable people as victims; it is simply acknowledging that vulnerability and putting in place proper safety nets and screening procedures to ensure that they can make good choices about who they employ to deliver their services. The legislation will establish a framework for considering a broad range of information to ensure quality of care, and it is only one part of what is necessary to ensure that people are safe.

We all know about the recent case of the death of Ann Marie Smith in South Australia; it was a terrible situation, and really a travesty. She was 54 and had cerebral palsy. She had for many years been very sociable and active in the community, but suddenly in 2018 she became isolated. I am not fully aware of the circumstances, but I know investigations are currently being carried out. In becoming isolated, her carer basically left her to rot in her chair. She died on 6 April 2020 of severe septic shock, multiple organ failure, severe pressure sores, malnutrition, and issues connected with her cerebral palsy. She lived in an upmarket area in Kensington Park. There is a complex web of reasons for abuse. We usually think of the abuse of people with disability as being a socioeconomic issue. That is because we tend to have biases and make assumptions. This was not the case in her situation. Would the security screening proposed in this legislation have assisted her? That will obviously come out in the current investigation into her death. However, what is clear—I have said this in this Parliament about the working with children checks—is that just because a person holds a working with children card that says they do not have a prior conviction does not mean they may not offend subsequently. It does not mean that we do not have a responsibility, as people who regulate the system, and we do not have to worry about that person anymore, because we have checked them, and off they can go. It is just one tool, of many, to ensure that people in our community with disability can live the life that they should expect, and that their life is not one of abuse, lack of care and degradation, as Ann Marie Smith had to suffer. That is very important.

One of the recommendations from the federal investigation into Ann Marie Smith's death was that participants in the National Disability Insurance Scheme should be given more than one careworker. That makes sense. It is a bit like the childcare system. A childcare worker may have a working with children card, but if they are the only worker who is looking after a child, that places the child at risk. We reduce the risk for vulnerable people if we ensure that workers are accompanied by other workers who are able to report inappropriate behaviour or abuse. There is often a failure of oversight when governments believe that services can be provided by just one person in an organisation. The regulator needs to be aware that this legislation will not provide a panacea for these issues. This is simply one of the tools to address criminal behaviour in our community.

The NDIS also needs to identify care recipients who are vulnerable. The situation of Ann Marie Smith took place over two years. For all intents and purposes, she had been quite social until that point. How was it that the company that provided the service—I think it is called Integrity Care—did not have some sort of understanding of its client's social setting? One would hope that part of the process of preparing an NDIS service plan would be to collect the person's social history and how the person operates in the broader world, so that when that changes, some sort of flag is raised. How do we see those flags? Is a flag for people with disability not important to us? Is part of the issue that we see people with disability not as part of our society, but as part of an institutional model under which we are the healthcare providers to these "poor people", and we are simply providing them with a necessary service so that they can live their lives in the best way possible? That model has gone. We should not do that any longer. This legislation should be part of the flag. But it is a flag to prevent. It is not a flag to see. We still need the methods and capacity to see when people are at risk.

I also want to talk about how this legislation may impact on people with disability and workers in culturally and linguistically diverse communities. There is not a lot of research in Australia about the life experiences of people with disability who come from non-English speaking and culturally diverse backgrounds, about their capacity to obtain services, and about the expectations of their community about their capabilities. That is very important. The NDIS needs to focus on that. I acknowledge that I see only a small part of the culturally and linguistically diverse community, but I am seeing a lot of very small and niche NDIS providers popping up all over the place. I have a couple of concerns about that. One of my concerns is based on the history of the family day care system, under which people acted, not in a manipulative manner, because I do not think they did it to manipulate —

**The ACTING SPEAKER (Mr I.C. Blayney):** Members, the conversations seem pretty loud and distracting.

**Ms J.M. FREEMAN:** That is because the opposition spokesperson for disability services should be listening to me, on the basis that I could give him some extremely good policy ideas.

**Mr A. Krsticevic:** You should be facing this way, then.

**Ms J.M. FREEMAN:** Sorry. I take that back. I thought he was the spokesperson.

**Mr Z.R.F. Kirkup:** We should all be listening to you, nonetheless.

**Ms J.M. FREEMAN:** I thank the manager of opposition business. I often think that myself.

[Member's time extended.]

**Ms J.M. FREEMAN:** This may be a bad analogy, and I am willing to be told that it is, but what happened in the family day care sector is that some people in the culturally and linguistically diverse community saw an opportunity to work and gain an income, which of course is very important to be able to operate in Australian society, by caring for the children of other people who were also working in the family day care sector. They would just swap their children, so they were effectively looking after each other's children. My concern with the NDIS system is that it is a source of income for people who are in need of establishing themselves in Australia. Sometimes their language skills mean that they are not equipped to work in retail or other areas where they feel confident or that employers feel confident about their capacities and abilities, so they start working as careworkers for other people in the community who have a disability, without proper qualifications and training in this area. I do not want them excluded, because it is a really important thing. If someone with a disability is from a culturally and linguistically diverse community and they can have a carer who can make sure they get to live life as they want and that person speaks their language, all the better. This should not be an exclusion. This needs to be an improvement, so that their capacity to gain education and training through the regulators and the system is improved so that people get the quality care that they need, but culturally appropriate. The other thing that often happens with some culturally and linguistically diverse communities is that, frankly, they have trouble with the police. Let us be honest: there are cultural biases in our community. Someone who looks different from me might be driving a battered old car or something happens when they are out, they can suddenly find themselves in trouble with police. They could talk back, because they might question how they are being treated by the police, and suddenly find that they have been charged with resisting arrest. They would then head into our court system and the duty lawyer who is given to them says, "Look, this isn't much, just plead guilty; you'll probably get away with community service or a warning." But I know that they would not get told to ask for a spent conviction and they will end up with a conviction on their record that they have agreed to. When they then seek work, they cannot get work because an employer will do a police check on them, which will then disqualify them. We have to be really mindful of how we do this screening and there has to be capacity for review and appeal so that there is some sort of procedural justice.

I want to thank the careworkers who worked during the uncertainty of COVID-19, particularly in Western Australia through the phase 2 measures. People were ringing my office about the lack of masks, but, generally, people with disabilities and careworkers were probably quite neglected in the overall plan of how we would deal with that. That has certainly been the evidence to the disability royal commission, as reported in *The Guardian* in a recent news report of 18 August 2020 titled "COVID-19 terrifies Australians with disabilities, who feel they are 'expendable'". In it, a New South Wales woman talked about her fears. One of the people in the article talked about how the pandemic was taking away access to support services and a client's access to a supermarket. Our office had a phone call from someone with a disability who previously had deliveries from Coles. Suddenly, deliveries stopped, because Coles got overwhelmed and decided to stop its delivery service. This person who always got their food in this way suddenly did not have food. That was easily fixed; she rang us and we did the shopping for her at that point in time and then Coles clicked over again. But if I were someone with a disability in that fearful time—because no-one is thinking about the impact on people with disabilities—and suddenly my food stopped coming, I would feel vulnerable. The article states —

Tammy Milne, an educational interpreter who lives with arthrogryposis multiplex congenita, spoke about the hard lockdown in north-western Tasmania earlier in the year.

Milne told the commission about a time when her support worker did not appear for an appointment, with no explanation. She said that later that night, she received a call that her support worker had suddenly "been put in a situation where she may have been exposed to Covid".

People were vulnerable and fearful. I want to thank them and the carers for the work they did. I want to point out to the house how disgraceful the federal government's response has been. An ABC news article from 21 August 2020 revealed that people with disabilities were not mentioned in the coronavirus plan, they were just put in the summary of vulnerable people. Simon Cotterell, the assistant secretary from the Department of Health, told the commission that there was no plan, the department had admitted it and that it probably should have taken that into account. He also said that there has been no exact data on the number of people with disabilities who have contracted COVID-19 or who have died from the virus; however, the commission heard evidence that 76 people with disabilities have contracted the virus and eight have died.

My thanks go to people with disabilities and their carers for their good work in this area. I am fully assured by the fact that we have such a competent and capable Minister for Health that should Western Australia have COVID cases in the community again —

**Dr A.D. Buti:** We have a very good disability minister as well.

**Ms J.M. FREEMAN:** We have a very good disability minister as well, that is true.

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I am assured that we will be able to ensure that these people feel safe, secure and not neglected in the response. The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability illustrates the requirements for these screening changes. It absolutely illustrates the abuse of people living with disabilities and points out that it is a major risk. Issues coming out of its reports include that 90 per cent of women with a disability have been sexually assaulted—I find that enormous—and that the disability watchdog for New South Wales and South Australia received almost 1 500 reports of serious incidents such as sexual assault against participants in the six months that it obtained figures until 10 April 2019, and many of those were sexual abuse allegations. We have to wonder why there is this abuse. One theory leans towards victim blaming. These people are dependent on their carers, and there is often stress in aspects of that, but in an article published on The Conversation website on 22 February, Margaret Nixon states —

More compelling is the idea that increased risk of victimisation is a combination of factors in the environment ... the motives of the offender ... and characteristics of the victim ...

This legislation will increase reporting capacity, but we also need police awareness about how to address these things, because many reports show, for example, if someone with an intellectual disability reports theft, they are less likely to have their crime reported. The royal commission is doing a great job to identify many of these things. I want to talk about why this happens. On 27 September 2017, the then Australian Disability Discrimination Commissioner, Alastair McEwin, said that as a society we often view crimes against people with disabilities as less serious. They are very serious and this legislation is about ensuring that people know that we take them very seriously.

The royal commission is releasing discussion papers, and one asks why the community thinks this violence, abuse and neglect happens and what changes could make people safer. In supporting this bill, we do so with the conviction that people will be safer. But I call on the disability community and the broader community to make sure that this bill has the effective outcome that we, as legislators, are trying to achieve. It is no good legislating for something like this if the result is not something we want to achieve. I congratulate the National Disability Insurance Agency for recently making changes to the scheme to allow for one contact person and for draft plans to be assessed. These things need to be inclusive. We want people with disability to feel that they belong and that they are valued in our community. We know that they have other abilities that we will never have.

**MR Z.R.F. KIRKUP (Dawesville)** [5.51 pm]: I, too, rise to speak to the National Disability Insurance Scheme (Worker Screening) Bill 2020. A couple of much more positive things are worth noting. I commend the parliamentary secretary on his second reading speech in this place in the last sitting week, and the members for Armadale and Mirrabooka and, of course, the member for Carine for their contributions. I am always particularly interested to hear from those who have had lived experiences in a sector that, to be perfectly frank, I am not that familiar with. It is not something that I have had a whole lot to do with to this point in time. It is only since becoming an elected member of this place that the issue has become more front of mind for me.

When I was in my early 20s, my best friend —

**Dr A.D. Buti** interjected.

**Mr Z.R.F. KIRKUP**: Sadly, not last year.

My best friend, whom I grew up with and went to primary school with in Forrestfield, was hit by a car and went from being otherwise able bodied to having an acquired brain injury. He was severely disabled. The strain that that has had on his family has been significant and immense emotionally and physically. They continue to make what I think is a valiant effort to ensure that this person has a very full life. From what I experienced, the support from the government at the time was remarkable. One of the greatest benefits of our country is that a family that I care a great deal about was supported by impeccable health services through the Disability Services Commission at the time. There was a process by which a package was put together to support that family.

**Dr A.D. Buti**: How long ago was that, roughly?

**Mr Z.R.F. KIRKUP**: I was in high school, so I think it was in 2005 or 2006.

**Dr A.D. Buti**: Of course, someone was held responsible and he would have got the insurance from the state insurance commission, unlike the Proudloves. He was driving down to Albany and the horse came out. That is why the member for Riverton brought in that no-fault legislation.

**Mr Z.R.F. KIRKUP**: The member for Armadale is quite right. I think they had to go through a civil litigation process to get that support, which was obviously not ideal, but it was a situation that existed so at least some mechanism could be in place. I remember being in the then Premier's office at the time it was debated and moves were made to put in place the no fault insurance. I think it was funded through adding costs to car registration.

**The ACTING SPEAKER (Mr I.C. Blayney)**: It is \$99.

**Mr Z.R.F. KIRKUP**: Indeed, Acting Speaker; you remember it well. There was debate at the time about the impact it would have on families. The cost of living was a concern. It was universally recognised that it was an important measure. If no fault insurance could be funded through a vehicle registration cost, everyone would be willing to

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effectively share the collective burden. It was a really good reflection of Australian and Western Australian societal values of trying to look after those who are vulnerable and at risk and, in this case, those who most need support.

Turning to the National Disability Insurance Scheme (Worker Screening) Bill, the Gillard government should be praised for its work on bringing on the NDIS. I do not want to verbal the former Premier, but the only criticism that was laid at the time was about the terminology—the National Disability Insurance Scheme. It was not a traditional insurance scheme that the state would otherwise run in the form of SGIO or something like that. Obviously, in this case, the insurance was a safety net to ensure that there was ongoing funding for support services for those who need them.

I was really pleased with the 2012 incarnation of the My Way model. The member for Armadale may have touched on it briefly. I think it was really important to have a state-based system. As you know, Acting Speaker, we are some thousands of kilometres away from our capital and Geelong on the east coast, where this scheme is now administered. I really liked the idea that a person who needed support could go into the local office on Anstruther Road in Mandurah, go through the process and get a package put together. I understand that the government has made a decision to move it across as part of the national model, but I quite liked the idea of having local contact. From what I can recall from my early days in this place, a concern was raised by the Liberal Party's spokesperson for disability, Hon Peter Collier, in the other place about this government's delay and not being sure about what model it would proceed with—whether it would continue to run the state-based service or hive it off to the federal system, noting of course the complex bureaucracy that we have to deal with. Most people have reflected on that. Ultimately, I think we all would prefer a system whereby the NDIS in the Peel region could have been administered from Anstruther Road in Mandurah rather than in Geelong. That would have been preferable. But, to their credit, the governments have worked earnestly to put together something to work with the NDIS. Legislation like the NDIS worker screening bill shows that there is a need to constantly improve and for governments on both sides to make a commitment to a very important scheme that will help a lot of people put together packages so that they can get the support and services they need.

I have not had the same experiences that other members in this place have had, which makes their contributions much more valuable than mine, but more recently, I have had occasion to go to dwellings and facilities through my work as a volunteer ambulance officer and see high-dependency care services being provided. Those environments were completely foreign to me. On some occasions, they were quite confronting in the sense that I realised it involves a very complex effort. So much effort is put in to ensure that those who are vulnerable and need support get the right level of service and care. Unfortunately, there are situations like those that the member for Mirrabooka spoke about in which that care can be severely lacking in some instances and somebody can be left for days or weeks—I do not know the exact circumstances—and then go into septic shock or toxic shock. Obviously, they had been left for some days without any care or concern. That is an unfortunate situation that can arise in these types of environments, but, on the whole, it is amazing to see how many people go all in to make sure that the most vulnerable are helped.

I return to where I began. The NDIS reflects the best of Western Australian and Australian values. We are very lucky. As I said, it is not something that I have any particular familiarity with, except for my experiences with my friend and through my work as a member of Parliament when advocating for individuals. In my volunteer capacity working with St John Ambulance, I have become more familiar with health-related concerns and I have come across people from all walks of life. As a young able-bodied person in this place, I find it of great comfort to know that these schemes exist. More importantly, I do not disagree with the member for Armadale. Although I think things could be done better by the commonwealth from time to time, such as by bringing forward the expenditure in the federal budget, there is, on the whole, a genuine bipartisan effort to make sure that we provide the best services for those who need them the most.

I commend the bill to this place. I commend the work of the state and federal governments, which continue to do their best to improve the situation.

*Sitting suspended from 6.00 to 7.00 pm*

**MRS J.M.C. STOJKOVSKI (Kingsley)** [7.00 pm]: I rise tonight to make a short contribution on the National Disability Insurance Scheme (Worker Screening) Bill 2020. Having listened to all the remarks made by various members, I think everybody in this chamber will agree that people with a disability are some of the most vulnerable people in our society. That is due mainly to their dependence on others for care and the support they need because of social isolation, their place of residence or the nature of their disability. I will take a moment to pause here and observe that not everybody with a disability falls into this “vulnerable” category. My husband, for example, has, luckily, a very mild case of cerebral palsy, and I would not say that he falls into the category of being a vulnerable person, because he is quite able to advocate for himself and fight his own fights and be a person to stand up for his own rights. However, there are lots and lots of people inside this category of people with a disability who are vulnerable and, as a society and community, we need to put things in place to protect them. I think we all



agree that safeguarding the rights of vulnerable people—whether those with a disability, young people or the elderly—are the responsibility of an entire community, and this is a great step towards safeguarding the rights of people with a disability.

I would like to refer to an article written in 2015 by Nicolas Perpetch which states that Western Australia has the country's weakest safeguards for protecting people with a disability from abuse. Nicolas Perpetch highlighted a claim made by Graeme Innes, a former Disability Discrimination Commissioner, that there should be mandatory screening for support workers. Unfortunately, at the time, the then disability services minister, Hon Helen Morton, rejected this criticism saying that we already had a robust system in place in Western Australia for protecting people with a disability. I personally found this to be a really disappointing response that undermined the importance of and necessity for us to protect some of the most vulnerable people in our community. The Victim Support Service has a little blurb on its website that states —

According to a 2018 study by the Australian Bureau of Statistics, 1 in 5 Australians or 4.4 million people, are living with some form of disability. A disproportionate amount of people with disability, as compared to those living without disability, will experience some sort of crime. While only 10% of people without disability report experiencing physical or threatened violence, 18% of those living with disability do.

I highlight “report” because a lot of the time people with a disability do not actually report. I will get to that a little bit later.

The website goes on to say —

People with disability are also more likely to experience crimes like assault, sexual assault, robbery, and bullying. Up to 90% of women with disability have been sexually assaulted.

Ninety per cent is a horrific statistic and one that we should be ashamed of. I think that, in part, this bill takes some steps towards helping with this issue.

Fear of reporting crime is not a new revelation. On its website, the WA Police Force actually acknowledges that there are issues that may prevent people with a disability from engaging with police, including fear that their disability will be used against them and fear of retribution. I know that a lot of women feel strongly that they will probably not be believed when they report a crime committed against them. They also fear going to court and being cross-examined and are afraid that their disability will be on display for everybody to see and will be used against them. They also lack confidence in the justice system. I know that in the past, people with a cognitive disability have been reluctant to report crimes of theft committed against them for fear that they would not be believed because maybe they just misplaced it or it was an accident. They have a fear of their disability being used against them. This has obviously resulted in a significant reluctance by people with a disability to report crimes perpetrated against them. I feel that if society makes it uncomfortable for our most vulnerable people to stand up and say, “Something is being done against me and I am not happy about it”, we need to look at changing that.

We are very fortunate in my electorate of Kingsley because there are a number of disability service providers—Community Vision is one and Kira Community Services is another. These two community disability service providers are amazing in the way they deal with the people in my electorate and surrounding electorates. Their whole ethos around how they deal with people is not just about supporting them to live; they are supporting them to experience life. I know that both of these community service providers take pride in what they do and are very strict about who they employ to look after their clients, as they say. They are very supportive of this step towards professionalising and regulating this sector because although they have very high standards, they acknowledge that that is not the case across the entire sector, and safeguarding individuals who are vulnerable should not be optional. We should have stringent safeguards around them. I spoke to both providers today and they both agree that the steps in this bill are good steps towards making sure that their industry is professional and the people who work in that industry, who have pride in what they do, can be out in the community and reflect the values and ethos of not only supporting somebody to live but also supporting somebody to live their best life. As I said, many organisations already have these good practices in place to ensure their workers are vetted and are suitable for the job they are being employed to do and that they have the capacity to provide assistance safely to people with a disability.

I am very fortunate also to have a number of education support centres in my electorate, including Creaney Education Support Centre for the primary school years and West Coast Secondary Education Support Centre for the high school years. I am lucky because over the last few years since West Coast moved into my electorate, I have had a lot of interactions with the students and teachers there, so I know just how engaged, clever and enthusiastic these young people are about life. They never let their disability get in the way of achieving their dreams. They have hopes and dreams just like the rest of us have hopes and dreams. The reality is that they need somebody to assist them to achieve them. This step towards screening people to become those support people is great, but it is just one step in many strategies that we need to employ to make sure that the most vulnerable people in our communities have the capacity to thrive.

This is not about giving people a handout; it is about giving them a hand up to make sure that they can achieve at their highest level. Although I absolutely support this bill, I think it is one of a number of steps that needs to be taken to ensure that we provide the best level playing field we can in our society. I commend the bill to the house.

**MR R.R. WHITBY (Baldivis — Parliamentary Secretary)** [7.10 pm] — in reply: First of all, I want to acknowledge all who spoke on the very important National Disability Insurance Scheme (Worker Screening) Bill 2020. It is fair and accurate to say that all members who spoke did so strongly in support of this legislation. I really appreciate the bipartisan support on this important bill. The support has been strong and across the board. The house has a united position on this legislation. It is one of those times when we can, all together, do a good thing for the community. We all want to be part of this Parliament to contribute to the state. Rightly, we can walk away this evening knowing that we have done a good thing for the people of Western Australia.

This legislation, of course, is about protecting the most vulnerable in our community. It is so important that those people who otherwise may not be able to protect themselves have the protection of the system that is there to support them and that they are protected from carers whose job it is to care for them. I will start by saying that the vast majority of people involved in caring for people with a disability in Western Australia are overwhelmingly passionate and professional. They do it for the love of the job and they do an extraordinarily good job. However, as we all know, occasionally things go wrong in life, and sometimes very badly. As a Parliament, we have to do as much as we can to guard against that. A number of questions and issues were raised, as well as strong support given by all speakers. I want to commend the members for Carine, Moore, Morley, Armadale, Mirrabooka, Kingsley and Dawesville, who all spoke very passionately in support of this legislation. During the comments, some very good and reasonable questions were asked and I have some good and reasonable answers. I will go through and pick out those questions as we go along, but feel free to remind me if I miss any. I think we will cover the bill very adequately tonight.

The member for Carine offered the Liberal Party's strong support for the legislation, for which we are very grateful. He acknowledged there was a timeliness requirement for Western Australia to sign up for the legislation to begin in February next year. The member said this was about the vulnerable cohort and protecting people with a disability from abuse. Of course, we know that abuse takes many forms, including physical, sexual, psychological and financial, which is sometimes overlooked. This legislation is about deterring certain people from applying in the first place and protecting clients from people who may be in the system. The intergovernmental agreement was signed by all states, including Western Australia earlier this year. It is about a couple of key issues. Portability was mentioned and how important it is to have one system for the country and people moving between jurisdictions, of course after the COVID restrictions are lifted, to be able to take clearance to other states to make things simpler and cheaper for people in the sector. It was pointed out that there was some discretion between how jurisdictions implement this legislation concerning whether a physical card or electronic clearance is involved, and the amount of fees or penalties et cetera.

One issue raised by both the member for Carine and the member for Moore was about who needs to apply. What is the definition that would require someone to apply for a card? The member for Moore raised the example of a gardener at a facility.

**Mr R.S. Love:** The other aspect of that is about who needs to supply a working with children card. They may be in contact with children in their homes—not the client, but children may be present in the care environment.

**Mr R.R. WHITBY:** Sure. I think a comment was made about why we cannot combine this system to be one process and one application. Both clearance systems perform separate jobs and there are separate cohorts. People will often be required to pass both assessments, obviously if there are disabled children, but not always. It is important to maintain the differentiation of process. I will get back to that eventually.

Regarding who needs to apply for a card, it would be wrong to provide a list of occupations because it is not about the role someone has, but the amount of contact they may have with a person with a disability. The risk assessed roles include key personnel such as those holding executive and senior management positions in an organisation and those roles for whom normal duties include the direct delivery of specified supports or services, or are likely to require more than incidental contact with a person with a disability. I think the key line is “more than incidental contact”. In some organisations—for instance, in the member for Moore's example of a gardener—they really have no more than incidental contact because they are doing the lawn or looking after the garden beds in a particular establishment. If there was a program at that facility in which residents got involved in the gardening or came into “more than incidental contact” with the gardener, there would be a requirement for that person to apply for a clearance. I can also give some more information on that. The other point to remember is that if a gardener or a handyman, for instance, is funded by the NDIS and engaged by a registered NDIS provider, it is very likely that they would require a clearance if they had more than incidental contact with people with a disability. It will depend on whether the handyman met the definition of risk assessed role provided in the national legislation contained within this bill.

**Mr R.S. Love:** There are two aspects to that. One aspect is what a person does with a particular individual. But if a person is providing a range of services to a number of individuals, even though that contact may still be quite incidental, does the fact that most of their business is in providing services to people with disability mean that they then fall under that definition?

**Mr R.R. WHITBY:** Is the member talking about an individual within an organisation?

**Mr R.S. Love:** Yes.

**Mr R.R. WHITBY:** I guess one would have to take each individual and work out whether their contact is more than incidental. It would depend. I imagine that the vast majority of people, especially direct carers, would certainly have “more than incidental contact” and would obviously have to apply, but employees at the periphery who might walk past someone and have no more than that sort of brief contact would not be required to. I guess the other option would be that people would be able to apply to remove any doubt, and some organisations may encourage all employees to be part of the process.

I will continue. The member for Carine noted that, in the past, vulnerable people have been exposed to incidents of abuse. Before I go on, the member for Carine also mentioned the working with children card. He rightly observed that that card currently lasts for three years, and the proposal for this new screening clearance is five years. The question was how we will align those two systems—that is, separate, but held by people at the same time. On that issue, the member drew my attention to clause 2, which states that parts of this legislation will come into operation at different times, depending on movements in other legislation, in order to coincide. At this stage, once it is gazetted, it does not all come into force, because we are waiting for some other things to happen to align with this legislation. This bill does not amend the Working with Children (Criminal Record Checking) Act 2004 to extend the duration of the working with children check. Clause 23 is not intended to commence until such time as relevant amendments to the working with children act may be enacted. But the Royal Commission into Institutional Responses to Child Sexual Abuse recommended that a five-year duration for working with children checks come into force, subject to continuous monitoring. The government has accepted this recommendation in principle and the matter is currently being put under active consideration.

We want to make it simpler and easier for people in the sector who are required to have both clearances. There will be a period when the working with children card is increased from three to five years, and everyone will apply at a different time. We are trying to make those times line up with each other so that an individual is not faced with a situation in which one card falls due to be renewed two and a half years into the period of the other card, meaning that they have to face the application process every two and a half years. We think that it is better to let both of those clearance applications or renewals happen at the same time. To do that, there will be a transition period. When we start the process set out in this bill, there is the facility to allow an earlier conclusion so that the disability worker screening clearance is ended earlier and a new one issued that can align with the start of the working with children card. That shortening of some applicants’ screening clearance would apply only until we can align them both up; then, going forward, each card would fall due for renewal at the same time for that individual, with a five-year duration. It would simplify the system and make it easier on those involved in the sector.

**Mr A. Krsticevic:** How far have you got down the track of doing that at the moment?

**Mr R.R. WHITBY:** With the working with children card? I do not have that information, but I think we are actively pursuing that. It is under consideration with the Minister for Community Services and the intent is for that to happen. That is why clause 23 exists in this bill.

**Mr A. Krsticevic:** Thank you.

**Mr R.R. WHITBY:** I think I was also asked why both the working with children and NDIS worker screening checks are required.

**Mr R.S. Love:** It is more about why it could not be aligned to defence categories because, basically, they are all horrible offences. I would have thought that murder would have wiped somebody out from working with children as well as working in the NDIS.

**Mr R.R. WHITBY:** Can I get back to the member on that? I will find my place on that one.

I think that the member for Carine asked about the additional funding requirements and was seeking an assurance that there would be enough funding for this process to occur. That is why the scheme is largely one of cost recovery through the fees of \$145 for self-employed applicants and \$11 for volunteers. That is forecast to recover almost 80 per cent of the cost. That is a significant portion. The rest would be met out of the normal budgets of the organisations involved. The process is largely self-funding to that degree.

**Mr A. Krsticevic:** How many applications are processed each year?

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**Mr R.R. WHITBY:** I am not aware of that. It would not be everyone at once; I think there is a requirement for people to apply in a staggered approach, but I do not have that information in front of me, I am sorry.

The member for Moore also spoke in support of the bill, which we appreciate. He said that this would be an important piece of legislation. He also raised the question of who needs to apply, and I think we have covered that.

I will go back to the member for Carine, because he also mentioned his concerns that if the clearance periods were extended to five years, that is a long period between checks. I just want to make it very clear to the member that both processes—the working with children card and the new approval system we are implementing under this legislation—involve ongoing checks all the time. There is a live, updated feed of offences that the Western Australia Police Force record; not only prosecutions, but also charges are considered under this legislation. That is something that happens all the time with the WA police criminal information data. At the national level, the NDIS commission has a national database that is updated every few days, and it covers not only criminal information from the national police databases, but also other issues that may be reported to the commission. If someone is part of this system, it is not the case that they are checked at the beginning of the process and then checked five years hence when they want to renew; it is ongoing and updated virtually daily.

**Mr A. Krsticevic:** The issue there was really about working with children checks. We know from Auditor General reports and other advice that things were slipping through the cracks. How do we make sure that that does not also happen with this?

**Mr R.R. WHITBY:** The working with children checks are also linked to the Western Australia Police Force criminal database, so that is an ongoing, almost daily, live feed.

**Mr A. Krsticevic:** The issue was that the Department of Communities and other government departments were not actually doing the checks and balances that they needed to do. Now that we know that has happened in the past, how are we going to fix that?

**Mr R.R. WHITBY:** As I say, there is live information coming into the system now. That is the situation today. I cannot detail issues in the past for the member, but I am talking about the process that exists now and that will exist with this new workers' screening legislation. It will be live and the national information feeding into the system will be updated every couple of days. I think it is a very effective tool to keep up to date. It is not just about waiting for someone to have gone through a court case and be convicted of an offence; a charge that may be brought is also listed and available to the CEO to look at and consider. That is very important.

**Mr A. Krsticevic:** So you are saying that we will not have the same problems in the future that we had in the past?

**Mr R.R. WHITBY:** I think the member is asking for an ironclad guarantee that there will never be a problem in the future.

**Mr A. Krsticevic:** A systemic problem.

**Mr R.R. WHITBY:** I do not think anyone in any jurisdiction with any piece of legislation could ever do that, but this is a significant step forward and has significant safeguards. It is part of the recommendation that all Australian states have agreed to. It will represent a real advance in protection for people with a disability. I would love to be able to give the member an ironclad guarantee, but I do not think anyone in this place could ever do that.

**Mr A. Krsticevic:** I think the legislation is good, but it is a question of whether the department is funded appropriately to make sure it happens.

**Mr R.R. WHITBY:** Yes. The processes of and the information available under this legislation will make the job a lot easier for people to check the credibility and the legitimacy of applicants and people in the system. It also gives extra powers to the CEO to act against those people. It is a big improvement.

The member for Morley spoke about her experiences in the sector, how it was important to have training and qualifications and that this represented a crucial social reform. She also spoke about how important it was to have good-quality and consistent care. The intergovernmental agreement calls for people to have self-funding choice under the National Disability Insurance Scheme, which this system also provides. She also talked about national consistency and portability and the safeguards that that brings to the rights of people with a disability. Screening national workers protects people with a disability. She said the bill was not a panacea and would not solve every problem or remove every risk, but it would and does represent a lowering of the risk—a substantial reduction of the risk. She spoke in detail about aspects of the legislation, including the schedule 1 and 2 offences, and how some offences were automatic exclusions from consideration and others in schedule 2 were presumptive exclusions. The member for Morley said that the NDIS was overwhelmingly seen as positive for Western Australia, notwithstanding the fact that Western Australia's special geography in delivering services and the need to cope with the distances involved means that we need some special consideration under the NDIS to recognise that. She also spoke from a personal perspective, as many members did this evening, of being impacted by disability and the concern, which

many people would recognise, about ageing parents who are seniors with children with a disability. They wonder what their future protection will look like after they are gone.

The member for Armadale talked about the legislation protecting the vulnerable. He said it was an important law and he also detailed the background of the NDIS being established. He admitted, as a number of people did, that there have been issues in transition, but that was inevitable with such a fundamental change that had such a deep impact on so many Western Australian and Australian lives. He said that high standards of screening were important. He likened the reforms to those in the aged care sector in terms of the workforce and the issues that were still being worked through. The NDIS has shortcomings at the federal level because of a lack of adequate funding, and I think every member here has had some contact with someone dealing with changes to this system. Often for many people they are big changes to a way of life, and when big changes occur, there is a certain amount of anxiety.

The member for Mirrabooka talked about not treating people as victims or as always facing a threat. Rather, it is about addressing a person who has an interaction with their carer. It was not about being paternalistic, but really dealing with an industrial provision to ensure that the carer was tested. It was not about vulnerability, but acknowledging the situation and putting up a very good screening program to protect those people. She spoke about the tragic death of Ann Marie Smith in South Australia. It was a shocking case that serves as such a sobering reminder of why we are here tonight. Thankfully, that was a very rare incident, but it is not non-existent, and we need to be mindful that in a system that is overwhelmingly positive and has great contributions from many hardworking carers, we occasionally see very tragic and outrageous situations. That is another reason that this legislation is so necessary. The member also talked about the possible scenario of having the protection of not just one carer, but multiple workers; that is, there is a built-in protection of having more than one carer for a person. I guess those issues of staffing have been and are being looked at by recent and current royal commissions into this issue. I imagine that also applies for the aged care sector as well. Of course, extra challenges are being faced in the sector during the time of COVID-19.

The member for Dawesville spoke about a personal experience, as many others did, of a school friend who was very seriously injured and disabled after he was hit by a car. When we think of those personal experiences and about how loved ones or friends are impacted, it brings home how important this legislation is. The member for Dawesville observed that the Parliament was united on this legislation, as we were for the no-fault insurance bill that was introduced by the previous government, which required a \$99 levy on car registration. It was a similarly good thing to do for the community that we knew was needed and would deliver a very positive outcome for people who are either born in a very vulnerable position or find themselves through accidents or incidents in a very vulnerable position. The member mentions the concern about the NDIS having its administration centre in Geelong. Many of us have that concern about a federal bureaucracy always being a distance from Western Australia and there perhaps being a lack of understanding about the differences we have here in Western Australia, especially with geography.

I can point out to the member for Dawesville the good news. Similar to the previous state-based system, the NDIS has a system of local area coordinators. Once someone signs up to a package, they have that one link, that one same person and one point of contact. I think that has brought a lot of relief to people who are transitioning to the NDIS from the old system, because it is similar to the operation of the old system. People really valued and got to know their local area coordinator. They were a very important link and it meant that people did not have to deal with organisations like Centrelink, which often meant having to be on the phone for extended periods. It may put the member's mind at rest knowing that people will not have to deal with big bureaucracies; it will be done through a single person.

The member for Kingsley talked about the community supporting vulnerable people in WA and about the high proportion of people with a disability in Australia and Western Australia. She also talked about the crimes that are committed against people with a disability, including the fact that 90 per cent of women with a disability have reported a sexual crime against them. I think the member for Morley also mentioned that pretty disturbing figure.

Members, this is important legislation. It is being introduced right around Australia and we in Western Australia have a responsibility to do this. The bill caters for our local conditions. It will provide certainty for people who are working and being cared for in the sector. They will be protected and there will be a level of investigation in caring for them.

I also point out that part of the central ideal of the NDIS is to put control in the hands of the client. Quite often people with disability want to run their own lives and those who are able to make decisions for themselves have the right to do so. The screening process will protect the vast majority of people with a disability in Western Australia, but people who are self-funded will have the option to run their own NDIS package and be cared for by someone without a worker clearance. The member for Moore talked about regional issues and the difficulty in more remote localities of finding people to provide a service. This is always an issue in Western Australia in almost every area. Whenever either the state or federal government tries to provide a service, it is often difficult to find people who

**Extract from Hansard**

[ASSEMBLY — Tuesday, 8 September 2020]

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Mr Tony Krsticevic; Mr Shane Love; Amber-Jade Sanderson; Dr Tony Buti; Ms Janine Freeman; Mr Zak Kirkup; Mrs Jessica Stojkovski; Mr Reece Whitby

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can provide that service. Under this bill, a self-funded client will have the option to not use a registered provider. They can opt to use someone who does not have the worker screening clearance to provide care for them. Although that would happen on a minority of occasions, I think it will give people the opportunity to get someone who can provide a service. I am not saying that they would knowingly choose a person who is not suitable, but that due to certain circumstances they may not want to be part of the system that requires them to apply for a clearance and they could still get that service provided to them.

With that, I remind members that 30 000 Western Australians now use the NDIS. The worker screening requirements under this bill will serve to protect those people and prevent people with disability from experiencing harm from unsafe supports or services under the NDIS. I commend the bill to the house.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to the third reading.

*Third Reading*

Bill read a third time, on motion by **Mr R.R. Whitby (Parliamentary Secretary)**, and transmitted to the Council.