

CARERS RECOGNITION BILL 2004

Second Reading

Resumed from 1 July.

MR P.D. OMODEI (Warren-Blackwood) [10.20 pm]: I rise to indicate the Opposition's support for the Carers Recognition Bill 2004. We understand that there are more than 200 carers in Western Australia who provide informal or unpaid care to family members, friends or neighbours, as was mentioned in the minister's second reading speech. The Bill formally recognises carers as partners in the provision of care for the frail and chronically ill and persons with a disability, and to reflect this formal recognition by requiring key organisations to comply with a Carers Charter.

Part 1 of the Bill provides the definition of "carer" and enshrines the Western Australian Carers Charter in legislation. Part 2 sets up a number of other provisions relating to the compliance of organisations with the Carers Charter and their reports to the Carers Advisory Council. Part 3 sets up a Carers Advisory Council consisting of 10 persons who need to have knowledge of and experience in matters relevant to carers. Clause 8 provides that the members appointed by the minister to the Carers Advisory Council are chosen to reflect the interests of carers. Subclause (3) requires that the minister appointing persons to the Carers Advisory Council consult with the ministers administering the Disability Services Act 1993 and the Hospital and Health Services Act 1927 on who is to be selected. That will allow the ministers with the portfolios of health and disability services to have input into the selection process for members to the Carers Advisory Council. Clause 9 sets out the functions of the council that are -

- (a) to work to advance the interests of carers and promote compliance by applicable organisations with the Carers Charter;
- (b) to make recommendations to the Minister on fostering compliance by applicable organisations with the Carers Charter;
- (c) to provide general advice to the Minister on matters relating to carers; and
- (d) to carry out other functions as directed by the Minister.

Clause 10 sets out the reporting procedure to the minister, clause 11 sets out all the general powers that the advisory council needs to perform its functions and clause 12 deals with ministerial directions. The latter provides for the minister to give written directions to the council on the performance of its functions, and that the council give effect to any such direction. Other clauses specify that the minister must provide the text of any direction given under that provision to each House of Parliament and the process whereby this will occur, and that that text is to be included in the annual report submitted by the accountable officer of the department responsible for administering the Act. Like many other Acts, this legislation also gives the minister access to information. Division 2 deals with ancillary and procedural matters, including the term of office for a member on the council, casual vacancies, the chairman, remuneration and allowances, presiding at meetings, procedure at meetings and minutes.

Part 4 of the Bill deals with the miscellaneous items of regulations and a review of the Act, which will occur three years after its inception or as soon as practicable after three years from the date of its commencement. Part 5 of the Bill contains some amendments to the Disability Services Act 1993 and the Health Services (Conciliation and Review) Act 1995, and schedule 1 sets out the Western Australian Carers Charter.

This is a fairly straightforward Bill. I am concerned to some extent and will seek clarification in consideration in detail on the definition of a "carer". Clause 5(1) states -

Except as provided in subsection (2), a person is a carer for the purposes of this Act if he or she is an individual who provides ongoing care or assistance to -

- (a) a person with a disability as defined in the *Disability Services Act 1993* . . .
- (b) a person who has a chronic illness, including mental illness as defined under the *Mental Health Act 1996*;
- (c) a person who, because of frailty, requires assistance with carrying out everyday tasks; or
- (d) a person of a prescribed class.

I want the minister to tell me who is a person of a prescribed class. "Prescribed class" appears elsewhere in the Bill obviously.

I am also concerned about clause 5(2), which reads -

However a person is not a carer if he or she -

- (a) provides the care and assistance under a contract for services (other than an agreement entered into under the *Disability Services Act 1993* section 25) or a contract of service; or
- (b) provides the care or assistance while doing community work as defined in the *Volunteers (Protection from Liability) Act 2002* section 3(1).

Clause 5 (3) reads -

A person is not a carer for the purposes of this Act only because -

- (a) the person is a spouse, de facto partner, parent or guardian of the person to whom the care or assistance is being provided; or
- (b) the person provides care to a child under an arrangement with the chief executive officer of the department principally assisting the Minister administering the *Child Welfare Act 1947* in the administration of that Act.

Although the Bill refers to the meaning of a carer, it refers to people who are not carers. The minister's second reading speech referred to 200 000 carers in Western Australia. My statistics indicate that 70 per cent of people with a disability are cared for by a family member. If family members receive an allowance or stipend in any way under any of the Acts outlined or under clause 5(2) or (3) of the Carers Recognition Bill 2004, they will not be recognised as carers. I find that hard to understand. I hope the minister will clarify that matter at a later stage. Hundreds of thousands of people in Western Australia would be recognised as carers - they are obviously carers. Such people may receive some small recompense as a carer. I do not believe that people need be voluntary carers to be recognised under this legislation. Further discussion will be held on that point.

I remember my wife looking after her father for many years after he returned to the farm from Rockingham. He had chronic arthritis and she cared for him for many years without receiving any allowance. I suspect that such carers will not be referred to in the legislation. I remember my father being cared for by my mother without recompense for more than 30 years when he was blind. The definition of "carer" refers only to pure volunteers. Yes, I agree that there should be a carers' charter and the recognition of carers. However, without this legislation, we recognise the significant contribution made to society by carers over many years to the benefit of people disadvantaged by a disability or requiring some assistance because of frailty, as defined under this Bill. Those people should not only be volunteers. Many thousands of carers are inadequately compensated for the work they do in the community. That work may be with a family member or relative, or a person who is not related to the carer at all. The question is should we give more recognition to a person who is a volunteer than to a person who is a family member or who is providing care or assistance while doing community work as defined in the *Volunteers (Protection from Liability) Act*. I wonder where that leaves us. The second reading speech states that there are 200 000 volunteers in Western Australia. Clause 5, which deals with the meaning of "carer", states in subclause (2) -

However a person is not a carer if he or she -

- (a) provides the care or assistance under a contract for services (other than an agreement entered into under the *Disability Services Act 1993* section 52) or a contract of service; or
- (b) provides the care or assistance while doing community work as defined in the *Volunteers (Protection from Liability) Act 2002* section 3(1).

Subclause (3) states -

A person is not a carer for the purposes of this Act only because -

- (a) the person is a spouse, de facto partner, parent or guardian of the person to whom the care assistance is being provided; or
- (b) the person provides care to a child under an arrangement with the chief executive officer of the department . . . administering the *Child Welfare Act* . . .

It seem to me that we are saying that under this Bill the only people who will be recognised as carers are those people who are carers of a person with a disability, a person who has a chronic illness, including a mental illness, a person who because of frailty requires assistance in carrying out everyday tasks, or a person of a prescribed class. There is no doubt in my mind that all carers should be recognised, regardless of whether they are recompensed. It is just a question of degree. Some carers will be paid properly. The vast majority of carers will not be paid properly. However, they should all be recognised under this legislation.

I ask the minister to do some homework on my rationale to see whether I am barking up the wrong tree or there is some substance to what I am saying. It seems to me that the Government is not giving due consideration to carers in this State. It is not before time that carers are recognised. As I have said, I believe that everyone

appreciates the work that carers are doing in a range of institutions, private homes and voluntary organisations around the State. However, if a carers charter and this Carers Recognition Bill will enhance their reputation and cause them to feel that the Government of Western Australia does care about them, then that will be a good thing and something that I applaud. However, we need to look carefully at the definition of “carer” to ensure that it covers as many carers in the State as it possibly can. With those few words, I ask the minister to investigate some of my comments and respond appropriately, either when she sums up the second reading debate or when we examine these matters again during consideration in detail.

Debate adjourned, on motion by Ms S.M. McHale (Minister for Disability Services).

House adjourned at 10.33 pm
