

CARERS RECOGNITION BILL 2004

Consideration in Detail

Leave granted to take clauses 1 to 34 together.

Clauses 1 to 34 -

Mr P.D. OMODEI: I have only just had a chance to look at the second reading debate and the minister's response to my inquiry about when a person is a carer and when a person is not carer, as defined in clause 5, subclauses (1), (2) and (3). I am pleased with her comments. The definition of "carer" is much broader than I thought when I first read the legislation. Obviously the legislation is drafted in that way for a specific purpose. Perhaps the minister will outline why that is the case. I am very much in favour of this legislation; it is certainly not before time. However, I want to make sure that, as a member of Her Majesty's Opposition, this is not token legislation, and that it will set up not only the advisory council, but also a charter that will finally recognise carers. I have with me a letter written by Mr Roger Huband from Carers WA, who expressed his support for the legislation. It reads -

The Carer Recognition Bill will be the first legislation for carers in Australia. Family carers provide three quarters of all care in our community and yet they have consistently said that they do not feel recognised, consulted, included and that the impact upon them for caring is not taken into account.

Remedy of this situation is long past time and this Bill is an important first step as it seeks to bring about a change in the way that carers are viewed and included in the community. This is an important start and one that can be strengthened with the three year review date.

I wholeheartedly concur with Mr Huband. The Opposition is happy to support the legislation. However, during the second reading debate the minister said that there are 200 000 carers in Western Australia, and I wonder how accurate that figure is. I suspect it is greater than that, because a person who looks after a disabled, aged or frail person, or someone who is mentally, visually or sensory impaired - whether they receive some kind of recompense or not - bearing in mind that many people receive a carers' allowance or assistance from the various non-government organisations to assist in being a carer - should be considered a carer. We should recognise all carers and not differentiate between them. I can understand why a differentiation was made in the Bill when a 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. Anything to do with the Family Court and the Child Welfare Act is more complex. A number of organisations provide care for children under sponsorship and are obviously under some kind of stipend. Surely family members, whether they receive some kind of recompense or not, should be regarded as carers. I support the legislation, but I ask the minister to respond to my concerns. It seems strange that clause 5 sets out when a person is a carer and when a person is not a carer. I wonder why that is so. However, I support the legislation.

Ms S.M. McHALE: I thank the member for Warren-Blackwood for his question, which was articulated during the second reading debate. The figure of 200 000 carers in Western Australia is a 1998 Australian Bureau of Statistics figure. I agree with the member that that figure is probably higher. New data is coming out in September.

Mr P.D. Omodei: It seems as though the Bill differentiates between voluntary carers and carers who receive some kind of stipend. Why not lump them all in together?

Ms S.M. McHALE: I was trying to answer the member's question about the 200 000 carers in WA first. We have endeavoured to make the definition as broad as we can so that the net is as wide as possible to attract carers. Broadly speaking, it will apply to unpaid family members who may receive carers' allowances or carers' payments or, in the case of a foster parent, a subsidy. The clause is a bit difficult to understand at first. It defines who will not be included. We have tried to maximise the number of people who will be covered. Paid carers and people who do voluntary work with an organisation will be excluded. They usually do that work by choice and work limited hours. They could walk away from the person to whom they are providing the service. That is very different from a mum, a dad, a sister or a brother - or even the member for Warren-Blackwood - who cares for a family member, and not necessarily on a full-time basis.

The definition will also exclude people who see themselves as foster carers. They might think they are carers, but if they do not care for a person with a disability, a mental illness or a chronic illness, they will not be covered. Just the fact that they are foster carers will not make them carers under the definition in this Bill. I wanted to ensure that a foster carer who cares for somebody with a mental illness, a disability or a chronic illness is seen as a carer, so that foster carers who might have a legitimate caring role were not excluded. The important word in clause 5(3) is "only". If the person is a spouse or parent of somebody with a disability but that person is not doing the caring, that person will not be covered by this Bill. However, in most cases that person is a carer in reality. I do not think any carers will be excluded by virtue of this definition because it is so broad.

Clauses put and passed.

Schedule 1: The Western Australian Carers Charter -

Mr P.D. OMODEI: Will the minister outline the carers charter and when it will be made available? As the Carers Association of Western Australia has indicated, this is the first step. We will see how it develops over the next three years, because the Bill provides for a review after that time. Obviously the explanatory notes roughly detail what will be in the carers charter. I expect that it will be more expansive than is contained in the schedule. How will the charter be distributed to the community and what is the expectation from that? When will the Bill come into operation?

Ms S.M. McHALE: I thank the member for Warren-Blackwood for the question. The Bill will come into operation on the day fixed by proclamation. It is my intention to have the Bill proclaimed as soon as possible. It is all ready to go. Unless I am advised otherwise, I do not think anything will prevent its proclamation.

Mr P.D. Omodei: Is this Bill one of the priority Bills for the Government during this session?

Ms S.M. McHALE: The speed at which the Bill has gone through the lower House and the bipartisanship that has been shown by members gives me great hope that it will get through the upper House. I cannot speak for the upper House. It is one of the Bills that the Government regards as a priority. It was an election commitment. I think there will be an appetite in the upper House to pass it. It is my intention to proclaim the Bill as soon as possible.

The charter is contained in the Bill as a schedule, and for good reason. It is very central to the Bill and will ensure that any complaints that may arise are dealt with. If a carer feels that any of the four elements of the charter have been breached, there is a very sound basis, among other things, on which to lodge a complaint. The Bill will be reviewed in three years. At that time we may be more adventurous in what may be included in the charter. I indicated to the member for Alfred Cove that user-friendly material would be published. Clearly this is an essential tenet of the Bill. A carers symposium will be held in October this year, which will provide us with the opportunity to promote the charter to carers. The Office for Seniors Interests and Volunteering, the carers secretariat, Carers WA and the organisations that were involved in constructing the Bill will work together to promote and raise awareness of the Bill and the charter. There is no point having a charter or a Bill if people do not know it is there and do not know that they have recourse to a complaints mechanism.

The member expressed the hope that the Bill will be more than tokenism. I certainly believe it is a Bill of substance and significance. As I said yesterday, it is a fairly simple Bill. However, it achieves what carers have indicated they want in a first piece of legislation; that is, an advisory council, a complaints mechanism, a charter and recognition for carers. In three years we will have learnt a lot and we will be able to strengthen the Bill. That happened in the United Kingdom. Its first Act was fairly symbolic but, nevertheless, incredibly strong in that symbolism. We have delivered legislation that will provide tangible outcomes. It will be monitored, and when it is reviewed, we will be able to strengthen the legislation to continue to improve the rights of carers.

Schedule put and passed.

Schedule 2 put and passed.

Title put and passed.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by Ms S.M. McHale (Minister for Community Development, Women's Interests, Seniors and Youth), and transmitted to the Council.