



ARAFMI

*Speech to
Annual General Meeting*

The Hon Wayne Martin
Chief Justice of Western Australia

17 October 2006

It is a very great pleasure and honour for me to address this Annual General Meeting of ARAFMI as its Patron.

ARAFMI is this year celebrating its 30th Anniversary of supporting families and friends of people with a mental health issue (and 19 years of incorporation as a charity).

ARAFMI commenced support groups in 1976.

ARAFMI (WA) has been doing its valuable work for 3 decades. From its small beginnings, it describes its current operations in the following terms:

"Today, ARAFMI WA has grown into an organisation that supports over 2000 carers each year with counselling, self-help support groups, psycho-education, information and advocacy. From humble beginnings, it has become a strong voice for carers of people with a mental illness. It is regularly consulted about Government policy and service implementation affecting carers. It has an annual budget in excess of \$1 Million and employs 20 staff and over 70 active volunteers. One thing, though has not changed. It still remains what it has always been, a place where carers come together to learn, to share, to breathe a sigh of relief and to know that they are not alone. Our proposed new Resource Centre will enable more carers to do this more effectively and more often."

One of ARAFMI's "Organisational Key Values" is:

"We believe carers are very important and their role should be acknowledged."

That is a sentiment which I strongly support. It is also the philosophy behind the *Carers Recognition Act 2004*.

Carers Recognition Act 2004

(i) Recognition of Carers

The legislation is intended to help meet the needs of carers: a principal object of the Act is to recognise the role of carers in the community (s 3(a)).

Section 5 of the Act defines "carer" to include an individual who provides ongoing care or assistance to a person who has a chronic illness, including a mental illness as defined in the *Mental Health Act 1996* section 3.

In the 2nd reading speech for this important legislation, Ms Sheila McHale, Minister for Community Development, Women's Interests, Seniors and Youth noted on 1 July 2004 that:

- There are more than 200 000 carers in Western Australia who provide informal or unpaid care to family members, friends or neighbours. Carers provide practical assistance to the frail aged, people with disabilities and people with a mental or chronic illness;
- Extensive consultations have consistently identified that the major issues for carers are (i) a lack of recognition and (ii) consideration by service providers.

To that end the legislation makes provision:

1. to formally recognise "carers"; and
2. to provide a mechanism for the involvement of carers in the provision of services that impact on carers and the role of carers.

(ii) *Western Australian Carers Charter*

The mechanism identified by the Act is to enshrine the Western Australian Carers Charter in the legislation (Schedule 1) and require key organisations to take all practicable measures to ensure that the organisation complies with the Charter (s 6(1)).

The applicable organisations required to comply with the Carers Charter are identified in the 2nd Schedule; they are referred to in the 2nd reading speech as:

"the Department of Health, public hospitals, the Disability Services Commission and the funded services of these two key agencies. These organisations have been identified as those that have the greatest impact upon carers".

The terms of the Charter are:

1. Carers must be treated with respect and dignity.
2. The role of carers must be recognised by including carers in the assessment, planning, delivery and review of services that impact on them and the role of carers.
3. The views and needs of carers must be taken into account along with the views, needs and best interests of people receiving care

when decisions are made that impact on carers and the role of carers.

4. Complaints made by carers in relation to services that impact on them and the role of carers must be given due attention and consideration.

In the 2nd reading speech, the Minister stated:

"The charter provides clear direction on how carers are to be treated and how carers are to be involved in the delivery of services. The Carers Charter will ensure that applicable organisations involve carers in decisions about the provision of care and services, and consult with them on issues that will have an impact on the carer and the caring role".

The Act also provides that an applicable organisation that is a public sector body must involve carers, or persons or bodies that represent carers, in any (a) policy or program development; or (b) strategic or operational planning, that might affect carers and the role of carers (section 6(2)).

(iii) Carers Advisory Council

The Act provides for the establishment of a Carers Advisory Council. This body has a range of functions including working to advance the interests of carers and promoting compliance by applicable organisations with the Carers Charter.

Section 7 of the Act provides for "reporting organisations" such as the Department of Health and the Disability Services Commission, to report annually to the Council on compliance with the Carers Charter. In turn,

the Council is to report to the Minister on compliance by reporting organisations.

It is noted in the 2nd reading speech that other "applicable organisations" (ie those "providing a service to others under a contract with a reporting organisation" and termed in the 2nd reading speech "funded organisations") will not need to provide a report, but will need to demonstrate their compliance with the charter as part of their contractual obligations to the department funding their services.

The Council also provides general advice to the Minister on matters relating to carers and makes recommendations to the Minister on fostering compliance by applicable organisations with the Carers Charter.

(iv) Creates and bolsters carers' access to existing complaint mechanisms

The Act also creates and bolsters carers' access to existing complaint mechanisms through amendments to the *Disability Services Act 1993* and the *Health Services (Conciliation and Review) Act 1995*. As noted in the 2nd reading speech:

"In some cases carers are already able to make complaints on behalf of the person for whom they care. However, this Bill will make it quite clear that carers are able to make a complaint on their own behalf against the Carers Charter. To achieve this, in the second part of the Bill amendments will be made to the *Health Services (Conciliation and Review) Act 1995* and the *Disability Services Act 1993* to provide carers with access to departmental complaint mechanisms and those provided by the Office of Health Review".

(v) Provision for Review

To ensure the Act remains relevant and effective, s 22 provides for its review as soon as is practicable after the expiration of 3 years from its commencement.

(vi) *Legislative developments nationally*

In the 2nd reading speech on the Bill in 2004, it was noted that the legislation was the first of its type in Australia. However, there are welcome developments nationally since - South Australia has enacted the *Carers Recognition Act 2005* and the Carers Recognition Legislation Amendment Bill 2006 (although not stand-alone legislation, it proposes amendments to some existing legislation to better support carers) is currently proceeding through the ACT Legislative Assembly.

The Queensland Government promulgated a Carer Recognition Policy in 2003.

These developments, spearheaded by the ground-breaking legislation in this State, provide entirely appropriate recognition of the vital role played by carers in the health and welfare of our community and its many citizens who wish to remain outside institutions despite significant degrees of disability. ARAFMI and other community organisations have played a significant role in stimulating this recognition by government. ARAFMI's particular area of interest is, of course, in the provision of support to those caring for those affected by mental ill health. This is a group which has grown exponentially with the de-institutionalisation of mental health treatment, and will continue to grow as our population ages. ARAFMI's work assists the carers and their patients in a wide variety of circumstances and situations, many replete with enormous difficulty and stress. Its work is invaluable which is why I am so pleased to support its activities as Patron.

As the head of the judiciary in Western Australia, I would like to declare our commitment to the fair and equal treatment by the Courts of those suffering from disability, including mental health disability, and those burdened with the care of the disabled. I am pleased to advise that I have initiated a major project for the creation of an Equal Treatment Benchbook, to be made available to all judicial officers and to the public in this State, in both hard copy and online, providing information and techniques designed to facilitate and enhance the equal treatment of all appearing in our Courts, including those suffering from mental disability. Judges and Magistrates suffer from many of the same deficiencies in knowledge and experience of those suffering mental disability as the community generally, and the aim of this project is to address any shortcomings in knowledge and awareness of the effect of such disabilities in a courtroom setting. I believe that this is a worthwhile project and am pleased to advise that it has the full support of the Government.