

Hon Stephen Dawson; Hon Helen Morton; Hon Ljiljanna Ravlich; Hon Sue Ellery; Deputy Chair; Hon Dr Sally Talbot; Hon Amber-Jade Sanderson

MENTAL HEALTH BILL 2013

Committee

The Deputy Chair of Committees (Hon Liz Behjat) in the chair; the Minister for Mental Health (Hon Helen Morton) in charge of the bill.

Clause 1: Short Title —

Hon STEPHEN DAWSON: Can I first of all thank the minister for her comprehensive response to the comments made by members in this place, particularly members of the opposition. We did raise a number of other issues, and, as the minister said, although she did not go into those issues in depth, we will have the opportunity to do that over the next few days or weeks as we go through the various clauses of this bill in committee.

In the minister's second reading speech—it is also mentioned in the explanatory memorandum—the minister said that legislative change is only one part of the important reform process that is taking place in the mental health sector. The minister also mentioned the 10-year mental health plan. We have been told previously that this plan was due in mid-2004. Can the minister give us a sense of when we might see that plan, because obviously it is part of the jigsaw puzzle that we need if we are to fix the mental health system?

Hon HELEN MORTON: I was going to say that I do not want to be particularly diverted from the Mental Health Bill, but I am happy to provide the member with information on that issue again because it is of such interest to everybody. As I made clear on radio the other day, I have seen the second draft. I have provided some additional feedback to the Mental Health Commission and it is incorporating that feedback. It will then come back to me either next week or the week after, but there was some additional work that I wanted done. For me there is a once-in-a-generation opportunity to get this right and I am not going to squib on a few weeks. I know people are out there waiting for it, but every time one little change is made, it requires a number of other people to be informed and for there to be agreement around that.

Following that, it has to get the support of my government colleagues before being made public. Most people who have been associated with the parliamentary process in government know that there is something like a 10-day time frame before things get to government for consideration on that basis. We have made the commitment that it will go out to those groups of people who have had feedback, so the presentation or the forums in which that would be discussed will be in that process. At that stage it will still be a draft and those people will have an opportunity to provide feedback and to make further changes to that particular plan if necessary. I hope that the changes will be minor at that stage because to date there has been a lot of consideration and involvement of people in that process. Although I am not giving the member a specific date, I am giving him an understanding of where it is up to, what the process is and when it is likely to be seen within the public arena.

Hon STEPHEN DAWSON: I do not seek to divert the minister. It is important that we have this debate and conversation now so that we all know what lies ahead of us. I appreciate the response of the minister, but I am keen to understand whether the minister might see the need for any amendments to the Mental Health Bill as a result of the 10-year mental health plan or indeed discussions that are ongoing at the moment?

Hon HELEN MORTON: The answer to that is no. The people who have been feeding into both these pieces of work are the same groups of people—not exactly the same—so at all times people have been feeding into the bill and into the mental health services plan as well. Nothing has come up in any of the conversations that I have had that would suggest any likely changes.

Hon LJILJANNA RAVLICH: In relation to the mental health services plan, on 14 November 2012 the minister was quoted in a story in *The West Australian* written by Aleisha Orr entitled “Overhaul of state's mental health services”. I know that the minister does not want to get into the detail of this, but this is a very important issue. After the Stokes report was released, Professor Stokes said that a key finding was the disparity in the way that the services were provided across the state and that there was no cohesive mental health plan for the care of patients. The minister's response was that the major changes that he had identified in the report were the implementation of a clinical services plan, which was to be completed by the end of that year—that is, the end of 2012—and a longer term mental health services plan to be delivered within 12 months, which would have been November 2013. I put it to the minister that the plan is now well overdue. Why has the minister not been able to meet the time frame that she imposed for the development of these plans?

The DEPUTY CHAIR: Before I give the minister the call, I question the relevance of that to debate on clause 1 of the bill. I will perhaps leave it to the minister to decide. That was a little wide-ranging and was not directed necessarily at the bill before the chamber.

Point of Order

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Hon SUE ELLERY: Let us call it a point of order. I seek your guidance, because it is important to how we set the tone for the remainder of the debate. The minister has made the point—quite unusually, not in the second reading speech, which is not unusual, but in the explanatory memorandum—that this bill is part of a much wider reform agenda. That is in the explanatory memorandum, which is a funny place to put a thing like that. Nevertheless, it is the case that the opposition has given a commitment, first, to support the legislation, and, second, that we have no intention to delay the bill, which is why we had only four speakers in the second reading debate. It is not our intention on this side, by raising some of the issues around the fact that this is part of an important reform agenda, to tease out some of the other elements of that important reform agenda. On a purely technical interpretation you, in the chair, would be quite right to draw attention to that, although the clause 1 debate is a wide-ranging debate and, of course, it is about the scope of the legislation before us. However, I do think in the spirit that the opposition is not seeking to hold this up and that the minister has put in the explanatory memorandum that this is part of a broader reform agenda, it would be helpful that in the course of the clause 1 debate we can canvass some of the important things that go along with making sure this piece of legislation is going to work, because a whole bunch of other things are in place as well. I hope there can be some accommodation of that.

Hon Ljiljana Ravlich: In the public interest, of course.

The DEPUTY CHAIR (Hon Liz Behjat): I did not hear that comment. Do you want to repeat it?

Hon Ljiljana Ravlich: Yes, in the public interest.

Committee Resumed

Hon HELEN MORTON: As I indicated before we have over 600 clauses to get through here. I have given an explanation to Hon Stephen Dawson on what stage that plan is at and the process it is going through. I certainly do not intend to go back and canvass all of the issues that various people would like to ask about why it has taken so long and things that in my mind are a bit more irrelevant than just where we are at with the plan and what we can expect to see in the next little while. I am not going to go any further than that.

Hon SALLY TALBOT: I have a couple of clause 1 questions that I think are fairly straightforward. I wonder whether the minister could, first of all, give us an idea, because it is not entirely clear to me, exactly where the genesis of this bill lies. We had some comments during the second reading debate that it goes right back to Professor D'Arcy Holman, but then there is also a popular perception in the community that the Stokes report was the driver of this. I wonder whether the minister could comment, first of all, about where the impetus for change is coming from and, specifically, where the Stokes review comes in that time sequence?

Hon HELEN MORTON: This legislation has come about as a result of a review that is a requirement of the existing act. It got underway in 2003 by Professor D'Arcy Holman.

Hon Sally Talbot: That is the review of the act?

Hon HELEN MORTON: That was the review of the act. I think it was in 2004 that he reported. The government of the day provided an outline of its responses to all of the recommendations that had been made and if I recall rightly, it supported by far the majority of those recommendations. Work on this commenced back in 2005, a long time before the —

Hon Sally Talbot: Will you take an interjection? It is a genuine question.

Hon HELEN MORTON: Yes.

Hon Sally Talbot: Is part of the genesis of this bill the legislating for the recommendations of the statutory review of the 1996 act?

Hon HELEN MORTON: Yes, absolutely.

After the change of government and the establishment of the Mental Health Commission there was a need for us to engage a number of expert groups to consult widely. There was a draft bill before this bill was tabled, and that is the process that we have followed. Somewhere in the middle of that, I think in 2011, there was the Stokes review. Although there have been attempts by some people to rewrite history, it was a Liberal Party election commitment prior to coming into government that we would undertake a warts-and-all review of what the health system looked like and where it was failing. This is the review that Professor Stokes was asked to undertake, and it followed on from a number of concerns that were being expressed at the time. Professor Stokes became involved in 2011; I had become minister at the end of 2010, so, in essence, it commenced in the first year of my term as minister.

Hon SALLY TALBOT: I think it is stretching the bounds of credibility slightly to describe the Stokes report as part of the implementation of the government's election commitment. The minister can say that it is a popular

misconception. I feel a bit disrespectful calling it the “Stokes” report, because we know him so well, but I will keep going with the popular terminology. Stokes’ terms of reference were specifically into a review of suicides of people who had been discharged from mental health services; that is how it starts in the executive summary of the report. The minister may or may not want to make further comments on that, but I do not think it is terribly helpful to refer to the Stokes report as part of the Liberal–National government’s fulfilling an election commitment; it was clearly in response to a crisis that had arisen around the —

Hon Helen Morton: Which had already been recognised, and which we were trying to deal with through the Stokes review.

Hon SALLY TALBOT: I am sure that Madam Deputy Chair will pull me up any second now, but the three comments in the executive summary of the Stokes report refer to the Chief Psychiatrist’s examination of four cases of patients who had died unexpectedly following presentation at Fremantle hospitals. I will go on from there, just to save you the trouble, Madam Deputy Chair. I just make that point.

The DEPUTY CHAIR (Hon Liz Behjat): Thank you, yes; if we could get back to the clause 1 debate.

Hon SALLY TALBOT: In response to the same question I just raised, the minister made reference to the need to consult expert groups. The next part of my question was going to be about the consultations. Who exactly was invited to contribute to the drafting process, as opposed to the people who were invited to comment on previous drafts of the bill? Is that clear?

Hon HELEN MORTON: The expert group was set up around 2010. Its primary role was to update the recommendations of the Holman review. An expert group of people was also involved in bringing international changes, reforms and knowledge into the recommendations, knowing that they had been tabled and commented on by the government of the day seven years prior to that. During that process there needed to be a time frame of updating information in the recommendations. That is what the expert group was doing.

Hon SALLY TALBOT: I think the minister has just clarified what was a misunderstanding on my part. The government did not consult expert groups; it formed an expert group to review those recommendations. Is that correct?

Hon HELEN MORTON: We did both. We brought people in from other countries and other states—people with legal expertise around mental health. These people were recognised as experts in their areas, which ensured that we updated the recommendations that we were working on that helped form the drafting instructions.

Hon SALLY TALBOT: Did that group work as a formal group? Did it have meetings that were minuted? I can see the minister nodding. For the sake of *Hansard*, I have noted the minister’s nod. In that case, can we have a list of the people who were on that expert group? Perhaps the minister has the publications that they put out. Did they issue any sort of consultation documents? Did they provide any advice to government that she is able to make public to give us a flavour of how that process was carried out? Frankly, this is the first I have heard of some kind of expert group being established prior to drafting instructions being issued.

Hon HELEN MORTON: I do not think it will necessarily benefit anybody to suddenly delay processes so that we can get a list of who was part of that expert group. Different people came in and out of that expert group for different reasons at different times. As for providing minutes, that was an evolving process, so the recommendations from the Holman review would be upgraded and updated and then another section of the recommendations would be looked at and they would be upgraded and updated after we drew on some more expertise at some point. I do not know whether there were minutes. I think the work was mostly incorporated into an ongoing and evolutionary upgrade of recommendations for drafting instructions.

Hon SALLY TALBOT: I was not meaning to be at all cute about this. When I look back at some of the legislation that the Labor government passed, the things that we were most proud of, such as waste avoidance and resource recovery legislation, we obviously consulted widely internationally on how that legislation would be framed. It was hailed as world’s best practice legislation. People were very happy to have their names associated with the process of developing legislation. I would have thought that would also be the case here. I am not asking for minutes of meetings, minister. I do not want to delay proceedings tonight or for the rest of this week, I would just ask the minister whether at some stage in the foreseeable future she would be able to give us a list of the people who at various times comprised that expert group.

Hon HELEN MORTON: I just want to make an additional comment about this before I close it off. The development of the legislation obviously commenced in a previous government, and so part of the role of the expert group was again to pick up where that had got to and take it further into the drafting instructions that we now have. The bill had already commenced its development under a previous government. There was a reasonable time frame in which to pick that up, modernise it and bring it up to date with where we were. As to the expert group I am referring to, I am advised that we have the names of those people. I do not have them here,

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obviously, but they can be provided. My concern is that because people were joining at different stages in that expert group process and other people leaving as we needed different expertise at different stages, that by not mentioning them all it might be considered that somehow or other this was not included or that was not included. I am going to get a snapshot in time of who was on the expert group at a particular time —

Hon Sally Talbot: That's fine.

Hon HELEN MORTON: — but the member should not in any way consider that to be totally exhaustive of who was involved at different stages throughout the bill.

The DEPUTY CHAIR (Hon Liz Behjat): Members, we are dealing with the Mental Health Bill 2013, and the question before the Chair is that clause 1 do stand as printed. Before I give the call to Hon Sally Talbot again, could I just mention to members on my right that this is an incredibly detailed debate that we have just entered into, and we are in the committee stage of a very important piece of legislation. It is vitally important that in committee stages Hansard is able to record every word that is taken from members who are questioning the minister and the responses the minister is giving. There is quite a lot of audible conversation happening from members on my right, and if the matters are so urgent that they require you to not pay attention to what is going on with the Mental Health Bill 2013, could I ask you to take that outside the chamber so that we may continue giving the attention we need to the matter at hand.

Hon SALLY TALBOT: May I say, Madam Deputy Chair, you have exactly the spectacles you need to make that kind of remark in the chamber! Very effective.

I thank the minister for that; I think it actually adds gravitas to the bill. Given that various sections of the community are upset about different aspects of the bill, I think the release or publication of those names will help us who want to defend it.

I have a couple more questions under the clause 1 heading. There has been quite a lot of discussion about the very substantive changes that were made between various drafts. The thing that interests me particularly—I thought the minister might like to use clause 1 to comment on this—is that some of those things that changed appeared to be things that the minister personally was quite committed to. I just wondered whether the minister was prepared to comment on what it was about the consultation process. Maybe it was with reference to the expert group that some of those things changed. There are two that immediately come to mind. I am sure the minister will not be surprised to hear me mention the tweaking of that reference to “reputational damage”, which was one of them, and I believe there were also changes to the declarations about conflict of interest. I am particularly interested in the conflict of interest issue, although the reputational damaging is quite serious. We could probably pursue that in more detail when we get to the clause. That is why I wanted to broach it under clause 1 in a more general heading about the way the consultation went to bring about some of those changes. The minister frowned when I said “conflict of interest”. I think at one stage a draft suggested that part of the disclosure to the patient and the patient's family—bearing in mind we are talking largely about involuntary patients—was about any pecuniary interest the practitioner had in a certain form of treatment. I may be wrong, and I am sure the minister will correct me if I am, but I thought I heard the minister express quite open support for that idea and that it was in an earlier draft and then disappeared. The minister might like to use that as an example. Generally, my question is about how the consultations with community stakeholders and the expert group changed the legislation, particularly in the last stages between—did we call it a green bill?

Hon Helen Morton: The last one was a green bill.

Hon SALLY TALBOT: I wonder how they changed between the green bill and the bill introduced to the Parliament.

Hon HELEN MORTON: As a general statement, there may have been one or two others, but certainly none of those the member mentioned. The area I was adamant about and had to push very hard to ensure my view was inserted in the bill was mandatory reporting. That was probably not something people around the table or involved in the Mental Health Bill had considered necessary but I was quite insistent on that matter and pursued it. There may have been some other issues I had a strong view on, but that is one I can recall I was absolutely insistent on. In terms of the issues the member mentioned, the way the process has occurred —

Hon Sally Talbot: That is what I am interested in.

Hon HELEN MORTON: The way the process has occurred is that the draft bill—not the green bill—went out and I think there were 1 200 responses to that in writing, let alone conversations people had. They were all categorised. Dozens of people commented on the same thing so the Mental Health Commission did a tabular approach to make sure all people's comments were captured. Then there was a process of sorting options around each category of issue people raised. The process went backwards and forwards between the people who were doing the drafting and the people who were receiving information. It went back to a number of people in that

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process. That occurred with every area of that work. I guess that also contributed to the length of time it took knowing we did not want to miss any matter that people had raised.

The same process occurred after the green bill had gone out. At the end of the day, where there were totally opposing views on something and options were given to go one way or the other, I would have to make a decision at some point. Two dozen of those kinds of matters were brought to my attention that caused me to listen to all the views and options, get expert advice from various people, weigh up the pros and cons of the various areas and make a decision. At the end of the day we had to make a decision. That was the process. Every one of the areas we had to work through involved that sort of process.

Hon STEPHEN DAWSON: I am on the same track as Hon Sally Talbot. I am keen to get a sense in relation to electroconvulsive therapy and whether it was the minister's intervention that will ensure that the age of 14 is the minimum age for ECT and 16 the minimum age for psychosurgery. Obviously, the use of electricity to cause convulsions in the hope of improving someone's health is quite controversial and there is a lot of concern about it in the community. Where did these ages come from? Was that decision the minister's or did it come from the experts on panels? How have these ages come to be in the bill?

Hon HELEN MORTON: That was one of the issues on which we had opposing views and we had to have a position on it. We consulted professional groups, carers, and people with a mental illness about that issue, and we went backwards and forwards between the consumer groups and other people involved. We received submissions from the Mental Health Law Centre and, of course, the Scientologists were out in their thousands. We had a lot of feedback about that issue and we looked at what was available in other states. In all these areas we synthesised all that information. We would have finally had a meeting in my office with the experts here, with my advisers from the Mental Health Commission and the Department of Health, and we would have involved representatives of the Royal Australian and New Zealand College of Psychiatrists. At some point a decision had to be made and that would have been one of the issues considered in that process.

Hon STEPHEN DAWSON: The minister mentioned then, and in her reply to the second reading debate, that she or perhaps the minister's office or her advisers had undertaken some work on the use of electroconvulsive therapy in other states in Australia. I do not want to delay things tonight, but would the minister consider providing some of that information? I presume the minister may have a chart or something. Could the minister provide us with that chart, perhaps tomorrow, so that we can consider it when we finally get to clause 192 of the bill, which deals with ECT?

Hon HELEN MORTON: I am advised that some of the information that we used was provided to us by other states in Australia on the basis that it was not to be made public. Some public information is available and if that is the level of information that the member wants, I can provide a chart that shows the acts as they apply in each state around ECT and the associated age limit issues. Most of that information is available in the annual reports of the equivalent of our Mental Health Review Board, although it may be called something different in different states. We went further than that to get more information and it is that additional information that we have been advised is not to be made public. I imagine that is because the numbers are quite small and it is considered identifiable to some people.

Hon STEPHEN DAWSON: I am after the chart in particular. I want to look at the states and territories that already have ECT and the age limits attached. I am not looking for identifying information.

Hon Helen Morton: The member would have been given that in his briefing.

Hon STEPHEN DAWSON: I do not think so. I think the chart will make a difference when we get to clause 192. I am not after the number of times ECT has been used.

Hon HELEN MORTON: I am happy to provide that because I know that we already have the information on the ECT issues and the legislation in each state relating to age limits and some of the other areas.

Hon Stephen Dawson: Does the minister also have the age limits for psychosurgery?

Hon HELEN MORTON: We have that. That may not be available tomorrow, but it will be available before we consider that clause.

Hon STEPHEN DAWSON: I am not giving the minister more homework, but on the same issue—ECT—obviously there is some concern about the age limits. Some members in this chamber are calling for no age limit and some are calling for a higher age limit. In the minister's reply to the second reading debate she said that if people wanted the age limits changed in the future, it would have to come before Parliament. Does the minister have anything in train at the moment to change those age limits? We will debate the age limits that are in the bill now, but is there nothing in train? Does the minister support those age limits?

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Hon HELEN MORTON: That is correct; there is nothing in train. There is no amendment coming forward on it, so what is seen in the bill is the government's position on those age limits.

Hon LJILJANNA RAVLICH: I want to go back to the mental health services plan and the clinical services plan because I am not at all satisfied with the minister's response about them, and I will tell her why. Basically, these plans are complementary to this legislation. The legislation is one thing, but these plans have been identified as being really critical to ensuring that every Western Australian with a mental health condition receives the same treatment wherever they are in this state. It is about the consistency of mental health services provided across Western Australia. Professor Stokes was highly critical of the variations in service delivery and the lack of services in certain areas. The timing of these plans is critical because had the time line set by the minister in this press release been adhered to, these plans would already have been in place. They would have been in place on 14 November 2013. That is one part of the equation; the legislation is the other part of the equation. The proposed new act and the plans is part of a holistic approach to the delivery of mental health services. The simple question is: why was that not able to be achieved? I do not think that is too hard a question to ask the minister. I certainly think that the people out there who rely on this legislation and who rely on these plans deserve an answer, and I think their families deserve an answer. For the minister to stand in this place and say, "I'm not going to get into that", is totally unsatisfactory. Why are those two plans not in place as per the minister's promise that they would be by 14 November 2013?

The DEPUTY CHAIR (Hon Liz Behjat): Member, I draw your attention again and also bring into account the comments made by the Leader of the Opposition about the spirit of the debate in front of us and the questions that are being asked by other colleagues from your side of the house related to the bill. Although there is a holistic approach to the matter of mental health, we are all talking about jigsaw puzzles and pieces to it. I would ask you to refrain from seeking commentary from the minister specifically outside the terms of the bill in front of us, as other members are able to confine their questions to that. I will again give the call to the Minister for Mental Health, if she chooses.

Hon LJILJANNA RAVLICH: With all due respect, Madam Deputy Chair, I think I asked a very fair question. Anyone who has any understanding of how this bill will work and how it interfaces with these plans should be able to answer me in a direct and honest way. I do not think that I should be deterred from my line of questioning. I do it on behalf of the stakeholders and on behalf of the mental health patients, and I expect an appropriate response on their behalf.

The DEPUTY CHAIR: If it relates to the bill at hand.

Hon HELEN MORTON: The comment I make is that the legislation will hold good whatever operational planning is undertaken at any particular time after this legislation is passed. The legislation will be applicable to whatever aspect of planning or service delivery is being applied in the community across Western Australia.

Hon SALLY TALBOT: I have a question that arises out of some of my earlier questions about the consultation. Who actually did the drafting? It is not supposed to be a trick question. Does the minister remember that I have asked her some parliamentary questions about this?

Hon Helen Morton: It was parliamentary counsel.

Hon SALLY TALBOT: It was parliamentary counsel. So was nobody in the Mental Health Commission involved in the drafting?

Hon Helen Morton: Absolutely not.

Hon SALLY TALBOT: The minister had better take the call, I think.

Hon HELEN MORTON: If I recall rightly, we have had the same draftsman from whoa to go, or perhaps not quite. Parliamentary counsel has been involved in this entire process. People in the Mental Health Commission do not draft legislation. They provide drafting instructions, but parliamentary counsel is involved, and they are the only people involved in the drafting of the legislation. We had the same draftsman from about 2005 right through to about 2011 or 2012—I am checking with my adviser. The same draftsman in the Parliamentary Counsel's office had been involved in that drafting throughout the majority of that work. From about 2007 to the present, we have had the same parliamentary draftsman working on it—about that time. I am surprised that Hon Sally Talbot would even ask that question because, to the best of my knowledge, there is no ability for the drafting to be done outside of parliamentary counsel.

Hon Sue Ellery: People in Health are involved in drafting.

Hon HELEN MORTON: They are involved in giving drafting instructions.

Several members interjected.

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The DEPUTY CHAIR: Who wants to seek to call?

Hon SALLY TALBOT: Obviously, the recognition of carers and families is a crucial difference between this legislation and the act it is replacing. Has the recognition of carers and families been one of the principles of the new legislation since the recommendations from the review of the 1996 act? If not, when did that become a priority in framing the new bill?

Hon HELEN MORTON: It is fair to say that the Holman recommendations commenced a recognition of carers and family members, but it was not as strong as it is now. It came off the back of the Carers Recognition Act. We made a very strong election commitment to strengthen the voice of consumers around this area of mental health. We put in processes such as Allies in Change, for example, which was a process of building the capacity of carers to voice their interests, wishes, wants and needs et cetera in this process, along with consumers. As the carers and consumers got stronger and started to make their views more strongly felt, that started to feed into the Mental Health Bill as well. I guess we are at a stage now at which we think that the carers and consumers have become quite a strong voice in Western Australia, whereas before that they had not been. There were individuals who had strong voices, but the notion of co-production became a concept that we wanted to make part and parcel of this bill towards the latter stages, when we were dealing with the green bill. That, I think, is where we have got to with it, so consequently we would have seen that being strengthened in the bill as a result of all of that.

Hon SALLY TALBOT: The minister is in an interesting position with respect to that act, because she is the minister with responsibility for that act, although not as Minister for Mental Health. Am I correct in that?

Hon Helen Morton: No, that is not correct. Which act are you talking about?

Hon SALLY TALBOT: The Carers Recognition Act 2004.

Hon Helen Morton: No, I do not have responsibility for that.

Hon SALLY TALBOT: Are there consequential amendments to that act arising out of this bill?

Hon HELEN MORTON: The advisers would have to go and get hold of the consequential amendments, which we are not dealing with at this stage, to check that, but we believe there may be a very tiny modification or amendment in that bill that might relate to some definitional changes or something that we are dealing with. There is nothing of substance.

Hon SALLY TALBOT: So is it the minister's belief that it is still appropriate for the Minister for Community Services to be responsible for that act?

Hon HELEN MORTON: The answer is yes. Obviously, carers cover many different aspects of caring across many different aspects of the community. The mental health area of caring is but one element of that. Carers are involved in child protection and disability services, so across my other portfolios I have a strong association with the Carers Recognition Act as well. Carers meet with me regularly on a variety of issues. However, the carers feel that the way that they have been built into this bill actually strengthens carers' recognition.

Hon SALLY TALBOT: I thank the minister for that clarification. I have only a couple more issues to raise on clause 1, in case people are measuring the time. These things are appropriately raised under clause 1 because they are not mentioned elsewhere.

This carries on from the point about the recognition of carers. It is interesting that the explanatory memorandum makes particular reference to providing clarity and certainty to clinicians. That is right at the beginning of the explanatory memorandum, so obviously it is a very important point. I wonder why that reference to clinicians has been singled out for specific mention, and not clarity and certainty about the rights of patients, families and carers. Is the minister prepared to comment on that? It relates to the point I raised at the end of my second reading contribution about how rights are balanced. I would not necessarily expect the bill to explicitly address that question, but I am intrigued that there is no reference to the balancing of rights, particularly when those rights compete or conflict, in any of the conversations around the bill. I am referring specifically to the explanatory memorandum and the second reading speech, which are clearly the key documents that form the legal base of a piece of legislation such as this.

Hon HELEN MORTON: I do not think it is an oversight. The biggest cultural change that will take place through this bill is probably the way in which clinicians will undertake their work. Consequently, when clinicians are clearer and are more compliant with the act, and their rights are upheld in the way that we anticipate occurring as a result of the bill, the overall outcomes we are seeking will be more likely to be achieved. I think the reference was in terms of where the biggest workload will be. The education and the implementation process will support carers and consumers, as well as clinicians. The mental health network is an example of how people are starting to make that work within the Department of Health, for example. I do not think it is a missed point; I think it is recognition of where the heavy lifting will have to be done.

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Hon SALLY TALBOT: I really appreciate those comments by the minister. She has given us something of a hook to which we can return during this debate. One of the troubling things, and the reason that we did not have an extensive second reading debate before we went into committee, is that all speakers referred to the fact that we looked very closely at the—I do not want to call them penalties—enforcement mechanisms in the bill. It is the way of reflecting to the patient, and now to the patient's family or carer, that when things go wrong, there is the real opportunity for redress. The minister, with her experience of working in the health profession before coming to this place, would perhaps agree that the whole question about the redress of inequity is an important part of people's healing process. I think that applies just as much to people with physical injuries or illnesses as it does to people with mental illness. I still think that there are places in the bill where perhaps we could have gone further, and when we get to those places, I will be very keen to raise those with the minister. I will want to go back to that comment the minister just made; I think she said that the main focus of the bill is to tighten things around clinical practice.

Hon Helen Morton: I said "the heavy lifting".

Hon SALLY TALBOT: Yes, the heavy lifting; I thank the minister for that.

I will raise one more thing under clause 1 that I think is really important. The minister will know that at the start of the Stokes report there is a truly terrifying organogram of the roles and responsibilities of the Mental Health Commission and the Department of Health. It is a truly mind-boggling piece of spaghetti. It makes Barry Jones' Knowledge Nation look like steak and chips, rather than the noodle nation it was accused of being. Is there anything in this bill—if there is, can she point to it because I cannot find it—that in some way streamlines or clarifies those lines of authority and responsibility, or the chain of command, that at the moment look like several pieces of knotted string between the Department of Health and the Mental Health Commission; and, if it is not there, why not? I would have thought that, in taking on the role of the Minister for Mental Health, one of the first —

Hon Helen Morton: Can you just say that again?

Hon SALLY TALBOT: Yes. If it is not there, I want to know why it is not there. I would have thought that one of the minister's priorities as the incoming Minister for Mental Health would have been to try to resolve some of that mess. I am not trying to score political points here. We know it is a mess. One of the pressure points that Stokes has identified so clearly is that there are conflicting responsibilities, or points in that organogram at which the chain of command simply stops. I will leave my question there and wait to respond to the minister's comments.

Hon HELEN MORTON: I am sure that if Hon Sally Talbot were to speak to Professor Stokes now, who has been sitting in the chair as the acting director general of Health, he would give a very much clearer picture.

Hon Stephen Dawson: Would he be less frustrated, minister?

Hon HELEN MORTON: I think so, yes, because it is actually very simple. The Mental Health Commission is the purchaser of services, regardless of whom it is purchasing from. Regardless of whether it is purchasing from the Department of Health, a not-for-profit organisation or a private organisation, the terms of the contract deem the accountabilities and the requirements of that organisation to deliver on the terms of that contract. It is as simple as that, to be honest. All the funding for mental health purchasing across the broad spectrum of agencies that the Mental Health Commission purchases from comes from Treasury. Let me make it very clear. The Mental Health Commission is a department of state. It is an equivalent department of state to the health department et cetera. Funding is appropriated from Treasury to the Mental Health Commission. The commission is a purchaser, not a service provider. It will never be a service provider while I have anything to do with it. The health department, which is the Mental Health Commission's biggest contractor, has its own governance arrangements and its own mechanisms for ensuring that it is able to deliver on the terms of the contract; and so equally has Ramsay Health Care; St John of God Health Care, which the mental health services at Midland will be purchased from; and Richmond Fellowship. They each have their own governance arrangements and operational approaches to deliver the outcomes that we are seeking through the contract. Of course it goes much further, because the Mental Health Commission is now purchasing across many other government agencies and also many non-government agencies.

The thing that makes it a hell of a lot better in this particular bill is that, for the first time, the Chief Psychiatrist will be separated from the direction of the director general of Health and will be independent. That was another area that I had a significant say in, because of the work that was done prior to my getting into the position, whereby people were overly concerned about the suggestion that somehow or other the Chief Psychiatrist was looking after the interests of the Department of Health or of the director general of Health. Therefore, I was at pains to ensure that under this bill, the Chief Psychiatrist's role will be separated from being able to be directed

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or dictated in any way by the director general of Health. So that was made clearer, and I am glad about that, because that was something that I set out to do. I would say that the bill is about the way the mental health services are delivered on the ground, by whomever and however they are being delivered. The biggest contractor by far of the Mental Health Commission is the Department of Health but, equally, services provided by other providers are caught up in the bill as well. I do not find that confusing or difficult and I am certain that right now the acting director general of Health does not either.

Hon SALLY TALBOT: I need to clarify exactly what the minister is saying. Perhaps I can repeat what she said and she can tell me whether I have it wrong. Professor Stokes, before he was the acting director general, misunderstood the relationship between health and mental health. Now he has been in the job for two years, or however long it is, he understands it better and so there is less of a problem. If that is what the minister is saying, that is not how the first couple of chapters of the Stokes report read, because Professor Stokes talks about things such as the enforcement of standards, the uniformity of disciplinary measures within mental health institutions, how they run and how they are actually conflicted between the two agencies. Are we saying that Professor Stokes has had an enlightening experience and that he would now write those chapters of the Stokes report differently?

Hon HELEN MORTON: In the three-year time frame that Hon Sally Talbot is referring to, from 2011 to 2014, the mechanisms that were put in place have matured to ensure that the things that I talked about are well known and well understood by everybody involved. The standards in the bill are the standards that apply—they are in legislation for a reason—and they are coming from the Chief Psychiatrist and will apply to any service provider that has responsibility for anything under the bill. A range of standard documentation is being supplied, developed or promulgated by the Chief Psychiatrist. Again, it is well understood that people are working on this very clearly in the establishment of special purpose accounts in the area health services, for example, so that the funding that is allocated to an area health service for the delivery of mental health services cannot be used for anything else. There are very clear accountability and acquittal processes between the Mental Health Commission and the service provider.

Hon Sally Talbot: Which is one of the things that the Stokes report referred to.

Hon HELEN MORTON: That means that the things that were being sought have come to fruition and are maturing. I am not speaking for Professor Stokes—Hon Sally Talbot might need to ask him through a question on notice to the Minister for Health if she wants to—but those arrangements that people found confusing in the past are getting clearer and have matured. If the member were here at the budget estimates hearings, she would have noticed that the team I brought with me this year was about four people compared with the 20 or whatever it was the year before.

Hon SALLY TALBOT: I am relieved by the minister's answer. I was getting slightly alarmed at the thought that Professor Stokes might have had an aha moment as opposed to the system actually getting better, which is what the minister has just described. That is a relief.

I have a final question. I am not sure—I will think about it overnight and perhaps we will take it up tomorrow—but to describe the Mental Health Commission simply as a contract manager —

Hon Helen Morton: I did not say that.

Hon SALLY TALBOT: What was the expression the minister used?

Hon Helen Morton: I said a purchaser.

Hon SALLY TALBOT: It is an issuer of purchase orders.

Hon Helen Morton: It's a commissioning commission. It's a commission.

Hon SALLY TALBOT: It is a commissioning commission. I am sure it is relieved to know that. It is a bit more than a manager of purchasing orders. Does the Mental Health Commission not devise policy and strategy?

Hon HELEN MORTON: Again, I have been sucked into talking about much broader issues than the legislation. The member happens to be on my favourite topic, but I have to rein myself in and get back to talking about the bill in particular. The issues around the role of the Mental Health Commission in purchasing, commissioning, devising policy, holding organisations to account and governance and with non-government organisations et cetera is not necessarily relevant to this bill. I would love to talk about those things, but I will discipline myself against it.

Hon SALLY TALBOT: I thank the minister for that clarification. I have one final question to ask.

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Hon Helen Morton: That's what you said last time.

Hon SALLY TALBOT: It is the final question of the final subset of the final question. Will the minister issue a new organogram so that it is clear where the changes are taking place in the relationship between the Department of Health and the Mental Health Commission? I ask the minister that because she referred to the estimates hearing that was held in this chamber, and I am sure that the minister followed the equivalent hearing in the other place when her parliamentary secretary was answering questions. The minister will recall the enormous confusion—Hon Ken Travers may be able to jog my memory here because I know that he takes a very close interest in these things—about the way the Mental Health Commission and the Department of Health appeared to be double-claiming their efficiency dividends. The way that the minister has just described the Mental Health Commission as a purchasing authority that regards the Department of Health as its chief client seems to be giving us a free kick for about the first 90 minutes of the next estimates hearing that we get into. I think we almost got the dates today in the 2015 sitting pattern. That seems to be an extremely confusing way to describe the relationship between two government departments. So, will there be no new organogram, minister?

The DEPUTY CHAIR (Hon Simon O'Brien): I have allowed that contribution, and if the minister wants to respond, she can. I remind members that even though with this bill we are talking about a very wide area—indeed, the complete machinery to guide that area—that does not mean that the clause 1 debate is infinite and unlimited. We are spending a great deal of time talking about things that might be related to mental health and mental health organisations, but they are not part of this bill. I will give the minister the call if she wishes and then I will invite members to move on in our Committee of the Whole.

Hon Helen Morton: I have nothing to add.

Hon STEPHEN DAWSON: Mr Deputy Chair will recall that some months ago, in July this year, I tabled some petitions on the Mental Health Bill. As is the norm, those petitions went to the Standing Committee on Environment and Public Affairs. As this bill was before the Parliament that committee decided to finalise deliberations on those petitions and take no further action. However, the chief petitioner, Doug Humphries, raised some important issues. I want to raise the issue of those petitions this evening and get a sense from the minister as to why she has not acted on them or, in fact, whether she has seen them. I will read the first one. I do not propose to take up too much time, but I would like the minister to respond to it and put her response on the record. It reads, in part —

We the undersigned residents of Western Australia would like to commend all those who have worked tirelessly to try to find the balance between freedom of citizens and the involuntary provisions in the Mental Health Bill. We are pleased with the emphasis on “recovery” however we still believe that a balance is missing that many people with “lived experience” of being an involuntary “consumer” understand. The promoter of this petition Doug Humphries, has worked all his life as an engineer, paying his taxes and contributing to the community including fathering 5 children and yet was labelled as being mentally ill and treated involuntarily under the Mental Health Act for 3^{1/2} weeks in 1971 and 10 days in 2003. He contends that, as is the case in every field of human endeavour, error is possible and awareness and mechanisms are needed in perpetuity to protect against it. There are many measures towards this end in the new Bill and this achievement should be reflected in the “Short Title of the Act” as well as the “Objects” of the Act. The proposed addition to the Short Title for the Mental Health Bill 2013 is shown in red below.

An Act —

...

- **to provide for the protection of rights of people who do NOT have a mental illness and who for one reason or another find themselves subject to the provisions of this legislation in error.**

The petition asks us to add an extra object at the beginning of the bill. Has the minister seen this petition, and has she considered it; and, if she has considered it, for what reasons did she not seek to amend the bill?

Hon HELEN MORTON: I can assure the member that people from the Mental Health Commission met with Mr Humphries, I have met with Mr Humphries, and others have met with him to discuss his concerns. I have a feeling that the Chief Psychiatrist has also met with Mr Humphries, so there has been plenty of opportunity for his concerns to be expressed fully to us, and his issues were fully considered. His concerns were mostly around misdiagnosis and that the legislation should in some way contain provisions against misdiagnosis. The legislation cannot guarantee good clinical practice around diagnosis. It can put in place all the things that need to be undertaken and considered, and can make provisions for accountability around those things, but, at the end of the day, whether a person is able to do that well or not do it well comes down to medical training, ongoing

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professional development and good clinical governance. Those things are covered by the requirements of the professional registration legislation that is in place.

For example, the legislation can and must minimise the likelihood that people will be deprived of their personal autonomy without good cause, including as a result of misdiagnosis. I think the bill does that. The process for making an involuntary treatment order involves both an initial assessment by a medical practitioner or authorised mental health practitioner, and an examination by a psychiatrist. For a person to be made an involuntary patient, both clinicians must reach the view that he or she has a mental illness requiring treatment, and meets the other elements of the criteria for involuntary treatment. This two-stage process significantly reduces the likelihood that a misdiagnosis will lead to involuntary treatment. Other protections in the bill include automatic advocacy support from the Mental Health Advocacy Service; the right to challenge an involuntary order before the Independent Mental Health Tribunal; the right to request and obtain a second opinion; and the right to make a complaint to the Independent Health and Disability Service complaints office. I might add that all these comments have already been made to Mr Humphries. These measures will ensure that a person who believes that he or she has been detained or made an involuntary patient on account of a misdiagnosis will be able to challenge the decision.

Hon STEPHEN DAWSON: I thank the minister and appreciate her response. The second petition also relates to misdiagnosis. Mr Humphries called for a clause to be added to the bill stating that all diagnostic interviews, the outcome of which could result in involuntary treatment, be required to be recorded on video and kept on file for future reference by the patient and as evidence that involuntary incarceration was warranted, should it ever be contested. Was this petition considered? Was the suggestion of an additional clause in the bill considered? What are the minister's reasons for not including such a clause?

Hon HELEN MORTON: Mr Humphries made that clear as part of his discussions with the various groups of people concerned. It is worthwhile mentioning that it was one of those situations in which we had to weigh up the practicality of doing that. These assessments take place in many different environments. It is likely that there will be times when that is just not possible. Equally, the issue that I think is as important is that many of these people already have a mental illness that causes them to have great feelings of paranoia. Obviously, they would have to give permission to divulge that information. That video processing could be very distressing for those people.

In weighing up the concerns that Mr Humphries has about misdiagnosis, there would be some process by which these things would be looked at at some point. This is one of those occasions in which the need to do it versus the practicality and the usefulness of it is outweighed by the impracticality and the lack of usefulness of it.

Hon STEPHEN DAWSON: I thank the minister for that response. I did think it was abhorrent, given that Mr Humphries had tabled these petitions in this place, that he did not at least have some record of those petitions having been considered. I do not propose to take this any further but I thank the minister for placing that answer on the record.

Hon LJILJANNA RAVLICH: I would like to ask a couple of questions. When the draft bill was put out for consultation, the minister would be aware that a number of people expressed concern that new functions were going to be performed under the bill et cetera and that there was a cost impost because of an increase in the workload of nurses and other specialist staff at mental health sites. Professor Paul Skerritt has also written about this issue in the *Medical Journal of Australia* on numerous occasions; that is, the need to increase reporting requirements as a result of this legislation being passed. That means that additional resources are required for this bill to be effectively implemented. Has this bill been costed; and, if so, what is the cost of implementing this legislation? If it has not been costed, why has it not been costed?

Hon HELEN MORTON: In going through the requirements of the bill, work was undertaken by the Department of Health through the Mental Health Commission to get a reasonable understanding of the cost implications of the bill. There was an initial allocation of \$15 million in the 2012–13 budget for implementation. As I said, that was done in consultation with the Department of Health before a budget submission was put in for that amount. Again, the implementation pilots are now taking place. They will provide more assurance around the assumptions that we made of what the cost implications would be.

Hon Ljiljanna Ravlich: When will that work be finished; do you know?

Hon HELEN MORTON: The pilot process is being undertaken right through that 12-month process. It is not anything that is ever going to be finished; it is going to be commenced and then rolled out, if the member knows what I mean. So it is not a process of when will it be finished; it is not a pilot that is going to start and stop. The implementation of these pilots will be an ongoing process. But in that process we will get a very good handle on whether the cost implications, as we understand them, are real. We had the best information we could have at the

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time that we put them in place, whether it is for the Council of Official Visitors, the Chief Psychiatrist's office or health service providers; whatever it is, there are all different elements of cost in that. As I say, the government has already put that money into the budget of the Mental Health Commission, and that is being utilised right now in a variety of ways.

Hon LJILJANNA RAVLICH: Just so that we get this straight for the record, \$15 million has already been allocated for 2013-14, and that may increase or decrease depending on the outcome of this pilot process.

Hon Helen Morton: It's recurrent funding.

Hon LJILJANNA RAVLICH: This is recurrent funding. Is it correct that that will vary depending on the final result of these pilot programs?

Hon HELEN MORTON: The \$15 million is a combination of recurrent and capital funding over four years, and that is already loaded into the budget. But there is every understanding that as we get a better understanding of the piloting processes and the clarification around the costs, that will lead into further, if necessary, budget submissions or whatever.

Hon LJILJANNA RAVLICH: I understood originally that it was \$15 million for one financial year—that is, 2013–14. To suggest that \$4 million per annum —

Hon Helen Morton: The bill has not even passed the Parliament yet, so —

Hon Stephen Dawson: It will be soon, minister; it will be soon!

Hon LJILJANNA RAVLICH: Yes, I know, minister, but the point —

Hon Helen Morton: So one year has already gone!

Hon LJILJANNA RAVLICH: Minister, the point is that it seems as though there has been very little assessment of the increase in workload for nursing and other specialist staff as a result of the requirements that need to be adhered to under this bill. As a consequence of that, it would appear that if staff have to stop doing what they currently do in order to fulfil the requirements of this legislation, that means that they will take their task away from patient services and into filling forms and reporting requirements or whatever else is required. I have to say that as this work has not already been done and a fair assessment has not already been made of the workload implications, and therefore the cost implications, that seems most unsatisfactory to me. I am sure Hon Stephen Dawson will follow up with some questions in relation to that. Does Hon Stephen Dawson want to do that now?

Hon STEPHEN DAWSON: Yes. Minister, just on the same point about the \$15.3 million over four years, the minister made the point that one year has almost gone —

Hon Helen Morton: Well, it has.

Hon STEPHEN DAWSON: I guess I am looking for an assurance that that one year's portion of funding will not be siphoned off to things like the 10-year mental health plan or suicide strategies or anything else; it will stay in the budget and go towards the expanded role of the Chief Psychiatrist or go towards the expanded role for the Mental Health Advocacy Service.

The DEPUTY CHAIR (Hon Simon O'Brien): I will give the minister the call, but, again, members have been very good in observing the parameters of the clause 1 debate but they are starting to flirt dangerously with getting well outside that. I need to remind members that this is not an estimates hearing; it is clause 1 of the Mental Health Bill 2013. It is not about other matters that relate to mental health; it is about what may be or could be included in this bill, and we canvass that in the clause 1 debate. Do you wish to respond, Minister for Mental Health?

Hon HELEN MORTON: Thank you, Mr Deputy Chair. I will make a short comment because I agree that this is getting a bit further away from clause 1 of the bill than we would like it to. None of the advisers I have here is an adviser on the financial aspects of the Mental Health Commission; they are advisers on the policy of the legislation in front of us. I have a suspicion that some of that funding went to support the new transport service because that is part of the bill. There are also efficiencies in developing the new reporting system for the Mental Health Tribunal and the Council of Official Visitors, for example. They are legitimate requirements as a result of the new legislation. I am not saying that because we have not yet passed the bill, the whole \$15 million has not been touched. I cannot give the member a detailed overview of where those funds are at the moment, but they are ring-fenced for implementation issues.

Hon STEPHEN DAWSON: My apologies; I was not trying to drag us outside the scope of the bill and I certainly hope that in your previous comments, Mr Deputy Chair, you were not suggesting I was flirting with the minister! I am happy with that answer. It is important; this is the bill in front of us. The minister said that

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\$15.3 million in funding was attached to it and I want to make sure that the money is not syphoned away. I am happy with the answer the minister gave because I think the items the minister said the money has been spent on so far are legitimate uses of the money because they relate to this bill.

Hon LJILJANNA RAVLICH: I want to ask questions raised by the Mental Health Law Centre (WA). The first issue is the right to a lawyer for an involuntary status review. I understand that the act gives involuntary patients the right to have a lawyer represent them at a Mental Health Review Board review. In fact, according to the Mental Health Law Centre, it is unlawful for anyone else to be paid to do so. The Minister for Mental Health stated to the centre that an involuntary patient should be able to have a lawyer for review if they want one. According to the law centre this means that the government has to provide free legal service, so that this right is not ephemeral. This is one of the reasons that the Mental Health Law Centre was established in 1996 on the implementation of the Mental Health Act. According to the law centre, this bill removes the right to have a lawyer and replaces it with permission to have a lawyer. According to the Mental Health Law Centre, that waters down that provision. I am wondering why that change has been made. I am sure that the Mental Health Law Centre has approached the minister about this but it would be good to put on the public record why that change has been made so that there is some clarity around it.

Hon HELEN MORTON: I think the honourable member must have been out of the chamber when I spoke about that in my response to the second reading debate. The existing legislation does not give anyone an automatic right to free representation by a lawyer. Equally, this will be covered in part 21 of the bill.

Hon AMBER-JADE SANDERSON: I also have a couple of questions about consultation. Given the range of increased requirements for a number of front-line and support staff working in mental health hospitals—such as reporting requirements, involvement with carers, and informed consent obligations to provide information, which are all good aspects of the bill—can the minister tell us whether, outside the broader community consultation, any specific workforce consultation groups or consultation were targeted at people such as enrolled and registered nurses, nursing support staff and doctors?

Hon HELEN MORTON: We held forums across the services. For example, there was a forum at Graylands Hospital in which all staff could participate. If the member is asking whether we consulted or had forums specifically with a union group, the answer to that is no. Those people participated as part and parcel of their workplace or in a community forum; especially out in the country, those people participated as part of the community. We met specifically with professional bodies such as the Royal Australian and New Zealand College of Psychiatrists. We received submissions from the Australian Medical Association and the Australian Association of Social Workers. I think Hon Amber-Jade Sanderson is asking almost specifically about what happened with nurses, and I can assure the member that we had nurse representation on the expert group, and nurses from across the board have been involved in one way or another. However, we did not hold a specific forum with the Australian Nursing Federation, for example.

Hon AMBER-JADE SANDERSON: I thank the minister for that. Is it the intention that there will be consultation with front-line staff, such as nursing staff, on the implementation of the bill, because it will impact their workload and working lives significantly; and, if so, what is that consultation process?

Hon HELEN MORTON: As I mentioned in my second reading speech, again, there are various implementation subsets or subgroups as well as an overall implementation group. I understand that one of those implementation groups met today. The general forum for clinicians was held today and a variety of clinical experts attended. Those processes will continue under that general framework that I spoke about in my second reading speech. Does the member want me to go over that again?

Hon AMBER-JADE SANDERSON: I am not seeking that the minister goes over her previous speech.

Hon HELEN MORTON: I covered implementation in my second reading speech and I talked about the implementation group and the subgroups and how they are rolling out.

Hon AMBER-JADE SANDERSON: I think Hon Stephen Dawson or Hon Sally Talbot asked for information about who is on that implementation group, so that is good. What I am trying to get at is: how involved are the nursing staff in designing the implementation strategy, because they will be at the front line of most of the changes that result from this bill?

The DEPUTY CHAIR (Hon Simon O'Brien): I can see that the minister wants to assist the committee with this inquiry, but again we are openly referring to the second reading stage for the detail of this clause. I will quickly remind the member of this point and then move on. I owe it to the committee to keep the debate on clause 1.

Hon HELEN MORTON: I want to make this final comment to Hon Amber-Jade Sanderson: the actual coordinator of the implementation group is a nurse.

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Hon AMBER-JADE SANDERSON: With all due respect, the detail about who is on the implementation group was not covered in the minister's second reading speech. It is great that the coordinator is a nurse. Beyond that, what involvement do nursing staff have in being able to feed back on the implementation and how it is impacting on workloads?

Hon HELEN MORTON: I will add that nurses are on every aspect of this implementation and subgroups that relate to their work. As those pilots are being run in any of the areas, they are involved in that. I do not know precisely what the member is asking, but if I go back and talk about what I covered in my second reading speech, I will talk about the various subgroups of the implementation group and point out to the member that there are nurses on them. There is a professor of nursing in the education section. There is a nurse that coordinates it. There are umpteen dozen ways in which nurses are involved in this implementation. I do not know precisely what more it is that the member wants me to tell her.

The DEPUTY CHAIR: Can I just remind Hon Amber-Jade Sanderson that we are addressing clause 1 of this bill. I am struggling to relate this line of questioning to the bill.

Hon AMBER-JADE SANDERSON: It is around the implementation of it. I have one last question. I take on board what the Deputy Chair has said.

If I can clarify: I want to know how many practising nurses—not nurse managers—nurse practitioners, enrolled nurses and registered nurses on the front line in the wards are in the implementation group. If the minister cannot tell us now, can she provide that information further down the track? I am not talking about nursing professors or nurse managers.

The DEPUTY CHAIR: This is really pushing the boundaries.

Hon HELEN MORTON: I agree.

The DEPUTY CHAIR: Deal with this as briefly as you can, minister, please, or else I am going to interrupt.

Hon HELEN MORTON: I will not go back over the information that I provided in my second reading speech about all the different subgroups. Nurses are involved across the board. We clearly value the role of mental health nurses, enrolled nurses and the whole raft of nurses who work within mental health, whether it is in the hospitals or in the communities. They are involved in the regular forums, in the education sessions and in the pilots. The work that is happening on the ground is the mechanism by which they have some input into the implementation. It will not stop at any one time now. If I gave Hon Amber-Jade Sanderson a list of all registered nurses who are right now on the forum, in two weeks' time, when a new pilot or a new form of education commences, it would increase. I have no mechanism by which to satisfy the member's particular need to know how many nurses will be involved in the implementation aspects of this bill because it is an evolving and growing process. So far, the forum includes nurse educators, registered nurses, enrolled nurses, nurse managers and liaison nurses. There is a range of nursing staff involved in different areas of implementation.

Clause put and passed.

Clause 2: Commencement —

Hon STEPHEN DAWSON: I do not propose to spend too much time on this, but I would certainly like an indication from the minister about the commencement of the operation of the legislation. In her comments earlier this evening the minister talked about a 12-month implementation period. Presuming that, hopefully, this bill passes in September—I am sure it will—is the minister saying that in September, 12 months from now, we will see this legislation fully implemented? I think it is actually the Mental Health Legislation Amendment Bill—the other cognate bill—that deals with the implementation time; however, I will ask the question now and hopefully the minister can answer it. Will the entire legislation come into operation together in 12 months or will it be staggered, as allowed under clause 2?

Hon HELEN MORTON: Clause 2 stipulates that different provisions of the bill may commence on different days, and as the member knows, this kind of provision is not unusual in this kind of legislation. At present, there are no plans for different provisions to come into force on different days—I am not saying that it could not be the case, but at the moment there are no plans for that. Should the bill be passed, as I am sure it will be, it will not come into operation immediately, as we have already discussed. We are looking for a smooth transition; we do not want to burden, overload or make life too difficult for those people having to move from one to the other. Consequently, when we get into the transitional amendments, it will be seen just how complex the work is that needs to take place through transitioning from one to the other. A lot of work has been done to enable that transition to occur in a really smooth way and we are committed to having it happen, but for that reason we do not have a deadline or a date at this stage. Those are things that will come into clarity as the legislation and the pilots progress.

Hon Stephen Dawson; Hon Helen Morton; Hon Ljiljana Ravlich; Hon Sue Ellery; Deputy Chair; Hon Dr Sally Talbot; Hon Amber-Jade Sanderson

Hon STEPHEN DAWSON: Just to be clear in my own head, though, in approximately 12 months we are hopeful that this full legislation will be in operation, the world can move on and we can go on with fixing the rest of the jigsaw puzzle, so to speak.

Hon HELEN MORTON: That is correct. If it could happen earlier, it would be wonderful, but if not, that is the time frame we have given ourselves.

Hon SALLY TALBOT: I think this is the appropriate place to ask about the development of regulations. What regulations need to be developed and is there a consultation process for developing those regulations?

The DEPUTY CHAIR (Hon Simon O'Brien): Order! I am not sure that this is the place to ask about regulations; this is about the commencement of the act.

Hon SALLY TALBOT: It is to do with the timing of the implementation of the bill. I am interested in knowing, assuming that regulations are to be developed, at what stage they will be developed. The minister is talking about a 12-month time frame, but she has not specifically mentioned that all the regulations will be developed during that time frame. I suppose I am asking whether some of the regulations have already been finalised and what the process for finishing them is.

The DEPUTY CHAIR: In so far as that relates to the commencement date, I will give the minister the call.

Hon HELEN MORTON: The regulations will be developed in the next 12 months. None have been commenced at this stage. It will again be a process that involves stakeholders in the development of those regulations. Obviously, regulations are able to be gazetted and made public through this process of Parliament. Examples would include things such as the transport provisions, what constitutes the metropolitan area—we have covered some of these today already—and information-sharing processes. Obviously there are too many for me to list them all, but the work will commence on those almost immediately the bill passes through Parliament, and we will move on it then. Obviously, in that process we will be seeking advice from the reference group, as was covered in my speech. That process is getting ready to gear up now in anticipation that this bill will pass in the next week or two.

Hon SALLY TALBOT: I am interested in this point, and I wanted to give the minister a fairly open-ended question about what regulations needed to be developed, because I notice that at various places in the bill there are references to rules and codes of conduct for the new supervisory bodies. I wonder whether any of that work has already been done, or whether that is to be done in the next 12 months. If it is to be done in the next 12 months, is the commencement date contingent on those rules and codes of conduct being finalised? If so, 12 months seems a long time when we are talking about September 2015, but as the minister knows, with these things trundling their way through the consultation processes, 12 months can go by in the blink of an eye. I am wondering whether a 12-month commencement date is realistic if it is to include all those things.

Hon HELEN MORTON: Some of that work has commenced, particularly the work around the standards and guidelines. We are not waiting for the Mental Health Bill to pass to get that work undertaken. At the moment standards are being developed around consumers and carers, physical health, seclusion and restraint, risk assessment, care planning, and Aboriginal mental health care. That work has already commenced. The Chief Psychiatrist has primary carriage of that work. It is fortuitous that I had a meeting with the Chief Psychiatrist today, and I had my agenda papers sitting in front of me.

Hon SALLY TALBOT: Are those publicly available now in draft form?

Hon HELEN MORTON: The process is that, once they have been drafted up to the stage that they are at now, they go to the consumers' and carers' subgroup and through to the non-government roundtable, which is another subgroup, and then back through the bill implementation reference group to be signed off. Again, this is the process of engaging all interested parties. Once it has gone back through the bill implementation reference group —

Hon Sally Talbot: The what implementation reference group?

Hon HELEN MORTON: The bill implementation reference group. As I said, work has already commenced on these things. We are not sitting around waiting for the bill to go through. Once it has gone through that, it will be made available publicly as a document.

Hon SALLY TALBOT: I have one final point on clause 2. As the minister will know, with complex bills such as this, various stakeholders are frequently given an assurance that they will be consulted during the drafting of regulations and, in the case of this bill, guidelines, practice guides and that sort of thing. Is the minister specifically consulting with any groups prior to the commencement date of this bill?

Hon HELEN MORTON: I imagine that the member will want a bigger picture than I am about to give her. I thought that she would once again want to look at the groups that will be involved.

Hon Stephen Dawson; Hon Helen Morton; Hon Ljiljana Ravlich; Hon Sue Ellery; Deputy Chair; Hon Dr Sally Talbot; Hon Amber-Jade Sanderson

Hon Sally Talbot: It is a bit daunting when the Chief Psychiatrist is telling you what I am asking you!

Hon HELEN MORTON: If the member is asking about the Western Australian Association for Mental Health, Mental Health Matters 2, the Health Consumers' Council WA, the Mental Health Law Centre or Mental Health Carers Arafmi (WA) Inc, they are participating in this process.

Hon Sally Talbot: In the drafting of the regulations?

Hon HELEN MORTON: They are participating in the evolution of those. I am not sure whether they will do any of the actual drafting.

Clause put and passed.

Clause 3 put and passed.

Clause 4: Terms used —

The DEPUTY CHAIR (Hon Simon O'Brien): I refer members to the supplementary notice paper. Although time will be against us, I invite the Minister for Mental Health to at least move the amendment standing in her name.

Hon HELEN MORTON: I move —

Page 4, lines 16 and 17 — To delete “mental health practitioner;” and insert —
other health professional;

Hon SALLY TALBOT: There are several amendments to clause 4. I think that all of them are in the name of the minister, so it is not easy to take one without another, but I will make a start.

Hon Helen Morton: Are you going to say that you support them all?

Hon SALLY TALBOT: No; I have some questions about them.

The DEPUTY CHAIR: If the member has some questions, it might be more convenient if I interrupt the debate now. At that cliffhanger moment, I will interrupt debate and report progress.

Progress reported and leave granted to sit again, pursuant to standing orders.