

MEDIA RELEASE

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Justice centre welcome but silence falls on critical legislative reform

WESTERN Australia's peak body for mental health, the WA Association for Mental Health (WAAMH) has welcomed the opening of the first disability justice centre by the State government this week, but calls for critical changes to the Criminal Law Mentally Impaired Accused (CLMIA) Act, which is the legislation which determines who ends up in these Centres and for how long.

Although the disability justice centre represents an important step forward, it does not negate the urgency for legislative reform and the two have to be addressed in conjunction with each other.

WAAMH understands the State government is reviewing the CLMIA Act, however any indications of what it intends to change are long overdue.

WAAMH president Alison Xamon said a Bill with the CLMIA reforms must be introduced into Parliament and debated by the end of the 2015 Parliamentary year in order for the State government to effectively meet its election commitment to reform the Act.

"We are very concerned about the amount of time this review has taken and the absence of the Premier's response to our letter highlighting our concerns," Ms Xamon said. "We have followed all the formal channels, and despite calls from the disability and mental health sectors for years, we are getting frustrated that nothing has been done."

The CLMIA law is in breach of the *International Covenant on Civil and Political Rights*, which stipulates everyone is entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

Ms Xamon said reforming the CLMIA Act would give judges more options to tailor their responses to the circumstances surrounding both the nature of the alleged crime and the person.

"We've needed a safe community-based option for people with disability for many years and we commend the first justice centre, however we'd like to see more options so people with mental illness aren't detained in prisons, alongside convicted prisoners," Ms Xamon said.

"Currently people under CLMIA who have mental illness are sent to Graylands Hospital but once stabilised and on the road to recovery there is no choice but to send them on to prison where they can once again rapidly decline. In addition to urgent law reform, we also need to look at Declared Places for those with mental illness as a matter of priority."

"It is essential we remember these people have not been convicted, and nor are they culpable for their actions – they shouldn't be treated in the same way as prisoners. They deserve the right to access appropriate services, supports and treatment."

WAAMH reiterates recent calls of Judge Denis Reynolds and Chief Justice Wayne Martin to overhaul the CLMIA Act.



WAAMH

Western Australian Association
for Mental Health

“We are clear that wholesale reform of the Act is necessary,” Ms Xamon said. “However as successive governments have failed to implement extensive reforms, the disability and mental health sectors propose a staged approach to occur immediately.”

“WA currently has the worst legislation in Australia for dealing with mentally impaired accused. This law undermines the progressive mental health and disability reforms of this government. It is about time we seek to become leaders in this area instead.”

The mental health and disability sectors agree the five most urgent changes to the Act are:

1. Allow judiciary the discretion to impose a range of options for mentally impaired accused through introducing a community-based order for those found unfit to stand trial, and repealing Schedule 1 to make Custody Orders no longer compulsory for some offences.
2. Limit terms - Custody Orders should be no longer than the term the person would likely have received, had they been found guilty of the offence.
3. Introduce new procedural fairness provisions, which provide for rights to appear, appeal, review, and rights to information and written reasons for a decision in court and Mentally Impaired Accused Review Board proceedings.
4. Introduce a special hearing to test the evidence against an accused found unfit to stand trial.
5. Ensure determinations about the release of mentally impaired accused from custody, and conditions be attached to such release (if any), are made by the Mentally Impaired Accused Review Board, with a right of review before the Supreme Court on an annual basis.

“We’re not asking for anything out of the ordinary,” Ms Xamon said. “These procedures are in place and completely workable in other Australian states and territories.”

About WAAMH

The Western Australian Association for Mental Health (WAAMH) has been engaged in the mental health sector for more than 50 years. WAAMH is the peak body representing the community-managed mental health sector in WA, with more than 100 organisational and individual members. Our vision is to lead the way in supporting and promoting the human rights of people with mental illness, their families and carers, through the provision of inclusive, well-governed community-based services, focused on recovery. WAAMH advocates for effective public policy on mental health issues, delivers workforce training and sector development, and promotes positive mental health and wellbeing. Further info at <http://www.waamh.org.au>

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