

DRAFT MENTAL HEALTH BILL 2011 — ELECTROCONVULSIVE THERAPY — RECOMMENDATION
BY COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE

163. Hon SALLY TALBOT to the Minister for Mental Health:

I refer to the draft mental health bill 2011, which provides that when a child or adolescent is so unwell that electroconvulsive therapy is recommended by the treating psychiatrist, 12-year-olds can give informed consent to the treatment.

- (1) Can the minister explain how a child so mentally unwell that they are in need of ECT as a treatment of last resort is expected to have the capacity to comprehend information and advice on the nature and effect of the treatment in order to give informed consent?
- (2) Does the minister support the recommendation of the Commissioner for Children and Young People that electroconvulsive therapy should be banned on all persons under the age of 18 years?
- (3) Has the minister made up her mind already or will she genuinely reconsider this based on the concerns in the submission?

Hon HELEN MORTON replied:

- (1)–(3) Again, that question was without notice. There were some similarities to the question asked by Hon Sue Ellery around ECT. The issue about how can a person so incredibly unwell give consent —

Hon Sally Talbot: A 12-year-old.

Hon HELEN MORTON: Yes. How can a person of any age, let alone a 12-year-old, give consent? If the member does not understand the concept of mature minor or competent minor, she will not understand how that overlays anything that she has just said. The concept of mature minor or competent minor applies in every jurisdiction in Australia, not just Western Australia. It basically says that if a person—I am just paraphrasing it in my own words—has sufficient understanding and competency to understand both the process and the consequences and is obviously able to exercise sufficient judgement under those conditions, then a general practitioner may take consent from a mature minor. Of course, that happens at the moment across the board in every area of health. It happens when young people go to a GP and ask for an abortion without their parents being involved, for example, or it happens when young people ask to go on a contraceptive pill. For all sorts of procedures and medical treatments, medical consent can be given by a mature minor.

The member asked how a person who is 12 years old and so unwell as to require electroconvulsive therapy could be in a situation of giving consent. My answer to that is that if a person is so unwell that they need ECT, it is very unlikely that they would be able to achieve the requirement to meet the eligibility of being a competent minor.