



REPORT OF THE
CONSTITUTIONAL AFFAIRS COMMITTEE

IN RELATION TO

**A PETITION REGARDING THE FUNDING AND CARE PROVIDED TO
PEOPLE WITH ACQUIRED BRAIN INJURY**

Presented by the Hon Murray Nixon (Chairman)

STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS

Date first appointed:

21 December 1989

Terms of Reference (as amended 12/3/98):

1. A standing committee under the name of “*Constitutional Affairs*” is established.
2. The committee consists of 3 members.
3. The functions of the committee are to inquire into and report on:
 - (a) the constitutional law, customs and usages of Western Australia;
 - (b) the constitutional or legal relationships between Western Australia and the Commonwealth, the States and Territories,

and any related matter or issue;
 - (c) a bill to which SO 230 (c) applies but subject to SO 230 (d);
 - (d) any petition.
4. A petition stands referred after presentation. The committee may refer a petition to another standing committee where the subject matter of the petition is within the terms of reference of that standing committee. A standing committee to which a petition is referred shall report to the House as it thinks fit.

Members as at the date of this report:

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Report of the Legislative Council Constitutional Affairs Committee

in relation to

A Petition Regarding the Funding and Care Provided to People with Acquired Brain Injury

1. Introduction

The Standing Committee on Constitutional Affairs was first appointed on 21 December 1989. Under its Terms of Reference, the Committee is required, *inter alia*, to inquire into and report on any petition.

1.1 The Petition

On 26 March 1998, the Hon Barbara Scott MLC tabled a petition (*TP #363 of 1997*) which "concerned the apparent lack of funding and proper care of people with Acquired Brain Injury". In particular, the petition provided that -

"We, the undersigned citizens of Western Australia, wish to petition against the current lack and decreasing number of appropriate care and accommodation available to people with an Acquired Brain Injury. We believe that people are being denied the intensive rehabilitation required. We also wish to petition against the placement of young people with an Acquired Brain Injury into inappropriate beds in nursing homes as the level of care is inadequate and their needs are not being met due to the lack of appropriate funding"

1.2 Issues raised by the Petition

The Petition requests the Legislative Council to inquire into the apparent lack of funding and care for people with Acquired Brain Injury.

1.3 Definition and Nature of Acquired Brain Injury

Acquired Brain Injury ("ABI") is often regarded as synonymous with head or brain injury and acquired brain damage.¹ ABI can occur as a result of trauma, hypoxia, infection, stroke or neoplasm and leads to an impairment in cognitive, physical, emotional, and/or independent functioning. These impairments may be either temporary or permanent and vary in severity from mild to profound disability.

It is estimated that each year in Western Australia, some 2 600 people are admitted to hospital accident and emergency services with a diagnosis of head injury.² The majority of people injured

¹ Acquired Brain Injury State Plan, Western Australia, October 1996, p 2.

² Acquired Brain Injury State Plan, Western Australia, October 1996, p 2.

are discharged home having experienced a minor or inconsequential head injury. Each year approximately 600 people acquire a brain injury for which they require ongoing care.³

Currently, there are an estimated 20 000 people, aged 16-24 years, in Western Australia with ABI. From this figure, approximately 222 die each year, resulting in a nett increase of 400 people per year. Many have physical, cognitive, and/or emotional impairments and require a range of services and supports. A small group (15-20) remain comatose or severely dependent and are admitted to nursing homes.⁴

2. Background to the Petition

In May 1995, the Minister for Disability Services established an *Acquired Brain Injury Implementation Committee*. The Committee's functions were to consult with consumers and service providers and advise the State Government on the priority and implementation of the recommendations in the Stanton Report "*Acquired Brain Injury - Accommodation and Support Needs*". A task of the Committee was also to develop a State Plan for ABI.

In July 1996, a *State Plan for Acquired Brain Injury* (the "State Plan") was released for public comment and was finalised in October 1996. The Report contained twenty-four recommendations which included the need to address the issue of appropriate accommodation and care for people with ABI. The State Plan was then subjected to review by the Health Department's Chief Medical Officer, Dr Bryant Stokes.

In reviewing the State Plan, the Committee has been advised that Dr Stokes and Senior Officers from the Health Department are working closely with the Disability Services Commission to progress the recommendations. The Committee has also been advised that this review is still being carried out and is expected to be completed in about June/July 1998. It is proposed to then place submissions before Cabinet which will address, inter alia, the issues relating to ABI.

The Committee appreciates that the matters raised by the petition are currently the subject of a review by the Health Department. Nevertheless, the Committee considers it both appropriate and reasonable to outline the matters raised in the State Plan, and by other relevant reports, in order to arrive at a conclusion as to the current status of arrangements for people with ABI. The Committee will also briefly address recent reported progress which has been made in the area of ABI.

3. Acquired Brain Injury, State Plan Western Australia, October 1996

Essentially, the State Plan outlines future directions for the development and delivery of services for people with ABI. The State Plan responds to issues raised by people with ABI, their family and carers, the organisations which represent them and other service providers. The State Plan provides direction for the development of accommodation options and service access which will improve the effectiveness of existing systems through increased service integration. The State

³ Acquired Brain Injury, State Plan, Western Australian, October 1996, p 2.

⁴ Acquired Brain Injury, State Plan, Western Australia, October 1996, p 2.

Plan incorporates the recommendations of the *Stanton Report* and other relevant disability trends in Western Australia.

The Committee does not intend to address the State Plan in any detail but would like to make specific reference to a number of issues raised which are as follows -

- A number of the acute and rehabilitation services offered in Western Australia will be unable to meet the long-term and diverse needs of people following the acute phase of their injury. In this regard, reference was made to a range of services within both Commonwealth and State Health, disability and community services, which can be developed to facilitate access to appropriate services by people with ABI. However, it was noted that there still remains a shortfall of resources in terms of flexibility, choice and the ability to develop individualised and specialised programs.
- Community education programs designed to promote the prevention of head injuries should be developed and widely publicised, focusing on the long term effects of ABI.

The Health Department of Western Australia should be funded to monitor the effectiveness of a comprehensive approach to the prevention of ABI, through the identification of high risk groups and targeting specific programs to address those groups.

Health Sector representatives should be engaged in the development of road safety measures. Specific programs should be developed to address the key behavioural and attitudinal factors that are closely linked to road trauma and brain injury. Educational programs should raise community awareness about the serious consequences of brain injury and the link with permanent disability.

- A case coordination process should be established that offers a consistent point of reference for an individual with an ABI and coordinates service access throughout the various stages of recovery and long term support.

A management liaison committee should be established as a mechanism to facilitate the coordinated development of services.

- A range of accommodation options should be developed for people with ABI other than the predominantly institutional options currently available.

Young people with ABI should be accommodated in age appropriate individual options rather than in aged care nursing homes. A funding mechanism which supports an individual's choice is required.

Consideration should be given to the needs and support of individuals with difficult behaviour and/or high support requirements who require an individual service planning approach, with services being designed to meet individual needs. Secure environments maintained through staffing are preferred to locked environments.

People who are medically stable with nursing, therapy and high support requirements should be accommodated in environments appropriate to their support and rehabilitation needs. These options may be interim options whilst the person undertakes further rehabilitation until their functioning can be more reliably assessed and more permanent accommodation options developed.

A range of reliable and predictable respite options, including both out of home respite and in home support, should be available to meet the needs of a person caring for someone with ABI. Furthermore, out of home respite should be available for both planned and emergency respite.

- Funding mechanisms capable of providing ongoing support for people with ABI to maintain employment should be developed. Vocational support for people with ABI should be structured for the length of time appropriate to the individual's rehabilitation requirements. People should be able to access further support at times of employment transition.
- 4. The Right of Choice, Accommodation Options for Younger People with Disabilities with High Support Needs, Head Injury Council of Australia Inc, March 1998**

The Head Injury Council of Australia Inc prepared a report entitled "The Right of Choice, Accommodation Options for Younger People with Disabilities with High Support Needs" ("the Report").

The Report raised a number of issues relating to accommodation needs of people with disabilities which included the following -

- Recent State Government studies suggest that there are at least 2 000 young people with disabilities who are accommodated in aged care nursing homes. Other estimates suggest that there could be a total of 4 000 young people in these homes.
- Evidence suggests that there are about 13 500 people with severe disabilities who are affected by the lack of appropriate accommodation.
- Under the Commonwealth State Disability Agreement ("CSDA"), accommodation needs of people with a disability are a State Government responsibility. However, the administration of aged nursing homes is the responsibility of the Federal Government.

In the light of the above statistics and situation, the Report recommended that -

- There should be agreement on the urgent need for a range of accommodation options to meet the requirements of people with disabilities.
- Commonwealth and State/Territory Ministers should develop a national plan of action. The plan of action would consider the needs of people in rural and remote areas and the Aboriginal population and would require significant additional funding for its implementation.

- A further meeting of Commonwealth and State/Territory Ministers responsible for disability should reach formal agreement on the national plan of action.

5. Recent progress in the area of Acquired Brain Injury

In a letter dated 22 January 1998, the Minister for Disability Services, Hon Paul Omodei MLA, advised of the recent progress in the area of ABI. The Minister said that the Disability Services Commission were managing a project to relocate ninety-five young people with ABI from State Government nursing homes to more appropriate accommodation. This involves twenty-four people from Mount Henry Hospital and seventy-one people resident in the Homes of Peace. As part of this process not everyone will choose, or be able to, reside in an individual option. A congregate care facility is required to provide intensive rehabilitation after hospital discharge.

The Committee has also been advised by the President of the Head Injury Council of Australia Inc, Ms Jan Bishop, that the Commonwealth Government proposed to continue negotiations in the direction of an agreement by Commonwealth and State/Territory Governments on a national plan of action defining a range of accommodation needs.

6. Conclusion

As outlined, it is clear that there is a current lack of appropriate care and associated facilities for people with ABI. The State Plan addresses the concerns raised by the petition and sets out a series of recommendations to improve the present situation of those with ABI. These recommendations include increased funding for appropriate accommodation needs of people with ABI. The State Plan also addresses areas such as ongoing care for people with ABI in the event that they are able to enter the work place and preventative methods of education and advertising.

The Committee accepts that there is a current lack of funding for people with ABI and fully supports the comments and recommendations made by the State Plan. The Committee acknowledges that the State Plan is currently under review by Dr Stokes from the Health Department who is being assisted by the Disabilities Services Commission. The Committee therefore does not intend to carry out further enquiries until the State Plan has been fully reviewed.

Likewise, the Committee is supportive of the negotiations in the direction of an agreement by Commonwealth and State/Territory Governments on a national plan of action defining a range of accommodation needs. The Committee considers that it is extremely important for such issues to be addressed at both State and Commonwealth level and for a plan of action relating to accommodation needs for people with disabilities to be finalised and implemented.