

# ACQUIRED BRAIN INJURY BILL

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the Acquired Brain Injury Bill as introduced in the House of Commons on 16 June 2021 (Bill 28).

- These Explanatory Notes have been prepared by the Member in Charge of the Bill, Chris Bryant MP, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice, provide background information on the development of policy and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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## Overview of the Bill

- 1 This Bill requires the UK Government to prepare and publish an acquired brain injury strategy for improving public service provision for people with an acquired brain injury. It provides for the UK and Welsh Government to issue guidance on the implementation of the strategy to public bodies, under which those bodies have a duty to act.

## Policy and legal background

- 2 An acquired brain injury (ABI) is a brain injury of any cause after birth. This includes traumatic injuries such as following a road traffic accident or a fall, or non-traumatic causes such as stroke, tumours and infection.
- 3 The effects of ABI can be wide ranging, varied in severity and may be temporary or long term. The brain injury association, Headway, groups these potential effects into three groups:
  - physical effects such as fatigue, impaired mobility, weakness/paralysis and speech problems;
  - cognitive effects such as memory problems, impaired reasoning and reducing problem solving ability; and
  - emotional and behavioural effects such as personality changes, depression, anxiety and anger.
- 4 The All-Party Parliamentary Group (APPG) on Acquired Brain Injury and the United Kingdom Acquired Brain Injury Forum (UKABIF) published their report, [Acquired Brain Injury and Neurorehabilitation, Time for Change](#), in 2018. The report made a number of recommendations, including:
  - rehabilitation prescriptions to be made available to all individuals with ABI on discharge from acute care;
  - a national review of neurorehabilitation;
  - ABI should be included in the Special Educational Needs and Disability Code of Practice;
  - criminal justice procedures, practices and processes should be reformed to take into account the needs of individuals with ABI;
  - Government should ensure that there is research to evaluate and improve assessment tools, develop diagnostic markers and gain a better understanding of the recovery and long-term risks of sport-related concussion; and
  - all benefits assessors should be trained to understand the problems that affect individuals with ABI.

The Government published its [response](#) to the report in February 2019.

- 5 The UKABIF has [expressed concern](#) at the pace of progress against some of the report's recommendations. In a [Westminster Hall debate](#) in November 2020, the Chair of the APPG, Chris Bryant MP, drew particular attention to the importance of cross-Government co-ordination on ABI matters. The then Minister for Care, Helen Whately MP, responded:

“I am very aware that brain injury cuts across almost all aspects of an individual's life, from education to work and welfare, and sadly sometimes the justice system, so we need to work on this across Government. I will work with my officials to drive stronger co-ordination for ABI across Government.”

- 6 This Bill has a similar approach and structure to the [Autism Act 2009](#).

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## Territorial extent and application

- 7 The extent of a Bill can be different from its application. Application is about where a Bill would produce a practical effect rather than where it forms part of the law.
- 8 The legal extent of the Bill is the whole of the UK. The Bill only applies, however, to matters which are, under the devolution settlement, within the legislative competence (remit) of the UK Parliament or Senedd Cymru. Clause 1(9)(b) provides that matters within the legislative competence of the Scottish Parliament or the Northern Ireland Assembly are not “relevant services” for the purposes of the ABI strategy.
- 9 That means that the ABI strategy would cover Great Britain with regards to social security and the whole of the UK with regards to defence, but not, for example, the NHS or local government in Scotland or Northern Ireland. Legislative consent motions are therefore not required from the Scottish Parliament or Northern Ireland Assembly.
- 10 Clause 1(6)(a) requires the Secretary of State to consult Welsh Ministers on the strategy. Clause 2 gives powers to Welsh Ministers to set the statutory guidance in Wales on devolved matters. But as the strategy is ultimately in the hands of the UK Government, the Member in Charge will seek legislative consent from Senedd Cymru.

## Commentary on provisions of Bill

### Clause 1

- 11 Clause 1 requires the Secretary of State to prepare and publish a strategy by 1 April setting out a strategy for meeting the needs of persons with acquired brain injury by improving the provision of services to such persons by:
  - local authorities,
  - NHS bodies,
  - NHS foundation trusts,
  - the Ministry of Defence,
  - HM Prison Service,
  - the Department for Work and Pensions, and
  - the Department for Digital, Culture, Media and Sport.
- 12 The Clause further provides for revision of the strategy and for consultation on both the original and any revised strategy.

### Clause 2

- 13 Clause 2 requires the UK Government and the Welsh Government (in areas of their respective competence) to produce statutory guidance on the implementation of the strategy. The Clause makes further provision for revision of the guidance and for consultation on both the original and any revised guidance.
- 14 Subsection (6) sets out a series of matters that must be covered by the guidance.

### Clause 3

- 15 Clause 3 requires public bodies subject to the guidance to act under that guidance.

## Remaining provisions

- 16 Clause 4 defines key terms.
- 17 Clause 5 makes provision for public expenditure attributable to the Bill.

## Commencement

- 18 Under Clause 6(2), the Bill will come into force two months after the day on which is given Royal Assent.

## Financial implications of the Bill

- 19 Depending on the strategy and associated guidance, the Bill potentially makes new and continuing requirements for public expenditure. It therefore requires a Money Resolution to be proceeded with in Committee. Clause 5 makes financial provisions.
- 20 The Bill does not need a Ways and Means Resolution because it does not authorise new taxation or similar charges on the people.

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