

# Submission to the Parliamentary Committee on the HCCC by:



**The Australasian Birth Trauma Association**

September 2024

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## About the Australasian Birth Trauma Association

The Australasian Birth Trauma Association (**ABTA**) is pleased to contribute this submission to the Parliamentary Committee on the Health Care Complaints Commission (**HCCC**), relating to its annual review of the HCCC and its consideration of the HCCC's 2021-22 and 2022-23 annual reports.

We understand that the Parliamentary Committee is responsible for monitoring and reviewing the HCCC's exercise of its functions and for reporting to Parliament on these matters. We have provided background information about ABTA, its mission and objectives below, so that our submission answering HCCC's survey questions can be placed in context and some of our members' voices can be heard.

ABTA is the peak not-for-profit in Australia exclusively dedicated to supporting women, partners, families and health professionals affected by birth-related trauma. Our mission is to lead the way in amplifying the voices of consumers and health professionals to drive the prevention, diagnosis, management, and treatment of birth-related trauma.

As the leading organisation in this space, we are committed to setting the standard for excellence in advocacy, education, and support. We are proud of our role in championing this holistic approach and aim to be recognised as the peak body, ensuring that birth trauma is not only acknowledged but effectively addressed across all levels of healthcare and policy.

As a committed advocate for a multidisciplinary approach to maternity care, we collaborate actively with a diverse range of health professional groups and highly value each group's unique contribution and strong commitment to maternity care. Through these partnerships, we aim to enhance our services and provide comprehensive support to birthing families.

Since ABTA's establishment eight years ago, we have gained unique and valuable insights into the nature, scope, and impact of birth-related trauma through:

- Working directly with families;
- Conducting community and stakeholder engagement activities;
- Undertaking research activities; and
- Implementing our highly successful peer-to-peer support program.

ABTA innovates and delivers birth-related trauma prevention and recovery programs and solutions that empower people, organisations and policy-makers nationwide to make informed and safer choices.

## Our Impact

The following quote is from one of our community members. This shows the importance of the kind of support that we provide to maternity consumers. Such support can be, and has been, be life saving for many of our community members:

*Women go through some of the worst times of their lives, and society tells you, 'You had a baby, you should be happy.' The reality is that birth trauma affects women long after... the day they deliver. I still carry pelvic floor damage, PTSD and depression from my experience. We rely on support from those who understand, care and recognise the battle we have faced. If I did not have the ongoing support from the ABTA team, I don't know that I would be writing this letter to you today. I don't know that my daughter would have me as her Mum."*

*ABTA Community Member*

Over the past eight years, ABTA has achieved the following:

- Facilitated 4,675 peer-to-peer discussions both in-person and online for parents experiencing birth-related trauma.
- Participated in over 50 conferences throughout Australia, reaching and engaging over 5000+ people involved in maternity services and allied health professions.
- Facilitated and organised conferences, summits and forums at the state (NSW, QLD) and national levels.
- Reached an audience of over 4,000 health professionals through activities aimed at building awareness enhancing education and training in birth-related trauma.
- Developed and distributed over 30 resources and multimedia videos, created in collaboration with clinicians and consumers, widely utilised by both consumers and health professionals, with downloads in the thousands.
- Distributed birth-trauma-focused resources to hospitals, allied health professionals and birth centres in every state and territory.
- Successfully run Birth Trauma Awareness Week annually for seven years since its inception in 2018, reaching and impacting thousands of consumers and healthcare professionals.
- Influenced policy and practice through contributions to consultations and submissions on crucial topics such as the LEAPP National Guidelines for Pregnancy and Postnatal Care, South Australia Obstetric Emergency Training, RANZCOG Caesarean Delivery at Maternal Request Working Group, NSW Ministry of Health Blueprint for Action - Maternity Care, Clinical Excellence Guidelines Queensland, and the Qld Maternity and Neonatal Clinical Network's Birth Trauma Working Group.

## Executive Summary

To address the questions raised by the HCCC survey, we contacted ABTA community members and asked for their response on their experience with the HCCC's processes, its transparency and its compliance with time-limits.

Our submission highlights the key issues surrounding the pervasiveness and devastating impact of birth injuries in NSW. It also outlines the difficulty our members have experienced in having complaints about their treatment during the birthing process heard in a transparent and timely manner. Physical birth trauma and the ongoing pain that women suffer following childbirth remain significant issues affecting thousands of individuals across NSW, and an effective health care complaints system is crucial for a democracy like ours to function properly.

For clarity, we define "birth-related trauma" as any injury or trauma, whether physical or psychological, sustained at any time in connection with all stages of the birth journey - from conception and pregnancy, through to labour and birth, and in postnatal care - and can affect the mother, birthing parent, fathers or non-birthing parents. However, for our response to the HCCC survey, we will be focusing on birth injuries that impact women.

We understand that many of our members have made complaints to the HCCC. This has related to their treatment in hospitals, and the care they received from medical, maternity and nursing staff during their birthing process. In many of our members' experience with the HCCC complaint process, there has been a significant failing and/or a lack of good faith and reasonableness shown by the HCCC. This is due to the lack of both information and of transparency provided to complainants during each step of the review and assessment process.

This lack of transparency is especially relevant given the specific legislative Principles which should be followed by the HCCC, set out in the *Health Care Complaints Act (NSW) 1993*. These principles include the HCCC being accountable to the New South Wales community and for the HCCC's decision-making processes to be open, clear and understandable for clients and health service providers.

Our inquiries of ABTA members have pointed to systemic failures in the health systems that do not adequately prepare women for birth; routinely ignore, dismiss, or misdiagnose injury and dysfunction; and leave women feeling isolated and abandoned, and yet expected to shoulder the burden of caring for their newborn children and families.

Addressing birth injuries and the subsequent complications in NSW requires a collaborative effort from healthcare professionals, stakeholder groups, policymakers, and, most importantly, women

with a lived experience of birth injuries/pain. By prioritising physical health, mental health and emotional well-being, we can pave the way for a safer, more supportive, and trauma-informed approach to how we care for new mothers.

Thank you for considering our submission. ABTA would welcome the opportunity to discuss this further with the Parliamentary Committee on the HCCC.

Yours sincerely



Amy Dawes, CEO and Co-founder



Amanda Turnill, Board Chair

## HCCC Committee Survey - Benchmarks and performance measures: Response from the Australasian Birth Trauma Association (ABTA)

1. Under section 22 (a) of the [Health Care Complaints Act 1993](#), the HCCC must carry out its assessment of complaints **within 60 days** after receiving the complaint.

Is 60 days an appropriate timeframe for assessing complaints?

- **ABTA response:** *Yes, we believe that 60 days is an appropriate time limit for ACCC to assess each complaint, given the complexity of many complaints.*

In your experience, has the HCCC consistently assessed complaints within its 60-day timeframe?

- **ABTA response:** *No. In many of our members' experience, this has not been the case at all. It has taken much longer than this time limit prescribed in section 22(a).*
- *We have been told by some members that each stage of the complaint process was handled within a 60 day time limit but **not** the entire process.*
- *Some members have said that the HCCC took some weeks to make even the initial contact with the complainant.*

2. The HCCC aims to complete reviews of assessment decisions **within 60 days**.

Is 60 days an appropriate timeframe for completing reviews of assessment decisions?

- **ABTA response:** *Yes. 60 days is an appropriate time frame in which the HCCC should complete their review and assessment decisions.*
- *However, in many of our members' experience with this process, there has been a significant failing and/or a lack of good faith and reasonableness shown by the HCCC. This is due to the lack of both information and of transparency provided to complainants during each step of the review and assessment process.*
- *This lack of transparency is especially relevant given the specific legislative Principles which should be followed by the HCCC. See section 3A (5B) of the **Health Care Complaints Act 1993 (the Act)**, including particularly:*

“(a) the Commission and those government agencies [with functions in connection with health care complaints under this Act] **are to be accountable to the New South Wales community**; and  
(b) the decision-making processes are to be **open, clear and understandable for clients** and health service providers” [*our bolding*]

- Our members have not found the HCCC's decision making processes to be "open, clear and understandable". We would ask the HCCC to comply with these key principles going forward.
- The HCCC should realise that our members' complaints will inevitably concern a difficult time in their lives. This is given the highly personal and traumatic nature of their complaints relating to obstetric, midwifery and/or nursing treatment during the birthing process.
- Our members who have issued complaints have suffered physical and/or psychological injuries, often life threatening or life altering, as well as possible injury to their baby or in worst cases, death of their baby.
- This crisis in the lives of some NSW community members postnatally should be treated by the HCCC with empathy, and information, rather than a closed wall and lack of support or information.

In your experience, has the HCCC consistently completed reviews of assessment decisions within its 60-day timeframe?

- **ABTA response:** Yes, in our very limited experience of this further step, this review of assessment time limit has been complied with.
- However, we understand that some of our members are mentally affected or injured by their medical experiences during birth and do not have the emotional capacity to continue with a further review process.

3. Complaints are referred for investigation by the HCCC in situations where an initial assessment raises a potentially significant issue of public health or safety; significant departures from clinical treatment and professional conduct standards; and/or where there may be grounds for disciplinary action. The HCCC aims to complete all investigations **within 12 months**.

Is 12 months an appropriate timeframe for completing investigations?

- **ABTA response:** 12 months is an appropriate time frame **in theory**, but this will depend on the particular complaint.
- If the complaint concerns a medical process which potentially will affect public health and safety or a professional mistreating patients, 12 months is a long time in which more people could be placed at risk.
- An important issue when considering the time frame is that many of our members have experienced ongoing silence from the HCCC (other than about simple procedural issues), and have had no substantive information or support provided during the waiting and investigation period.
- This should be changed to help the mental health of these members of the NSW community.
- The HCCC's silence makes it appear to our members as though nothing substantive is happening about their complaint and it is not being taken seriously by the HCCC.
- This may not be the case, but in the absence of information, it is a reasonable conclusion to draw.
- We have heard from many members about the lack of support they have received after serious medical incidents at various hospitals, including obfuscation of issues and opacity at debriefings postnatally by hospitals, obstetricians and midwives.
- One of our members said that at a debriefing postnatally, their doctor left out information (later obtained by the member), and it appeared to her like the HCCC "was protecting the hospital/doctors and not the patient, which made [her] mental health even worse".
- Such instances are a regular occurrence that are reported to us, not an isolated one.



- *Such de-briefings (and the follow up process by the HCCC) should be transparent with the aim of providing the birthing woman and family with information to help understand what occurred during their birthing process.*

In your experience, has the HCCC consistently completed investigations within its 12-month timeframe?

- **ABTA response:** *This is difficult to answer due to a lack of information.*
- *Our members have informed us that not enough information or disclosure of documents have been provided to them as complainants.*
- *Thus it is impossible to know if an investigation has been completed thoroughly within the prescribed time limit.*
- *In conclusion, we are not clear if all **relevant** information is provided in a timely manner to the HCCC by medical providers and would like this issue to be considered further.*

4. In its 2020-21 annual report, the HCCC assessed its performance against a number of key indicators.<sup>1</sup> Some examples of indicators and targets listed in the report are contained in the box below.

Should the HCCC report on additional performance measures? If so, what additional performance indicators are important to capture?

**ABTA response:** *we suggest that detailed satisfaction surveys should be undertaken after a complaint is made.*

- *Statistics should be recorded on this issue and released to the NSW community.*

#### Statutory indicators

- 100% of complaints assessed within 60 days (86.6% achieved)
- 100% of decision letters sent within 14 days (84.3% achieved)

#### Non-statutory indicators

- <10% of finalised assessments subject to review (6.5% achieved)
- 90% of reviews completed within 6 weeks (37.7% achieved)
- 70% of resolutions completed within four months (59.3% achieved)
- 90% of investigations finalised within 12 months (80.3% achieved)
- <5% of requests for review of investigation outcome (0% achieved)
- 80% compliance with deadlines - courts, NCAT and Professional Standards Committees (68.4% achieved)

#### Indicators without targets

<sup>1</sup> The use of key indicators was discontinued in the reports of 2021-22 and 2022-23.

- Complaints resolved during assessment of complaint
- Complaints acknowledged within 7 days of receipt
- Publishing of disciplinary decisions

## Stakeholder engagement

The HCCC reports that it is developing resources and expanding outreach to improve accessibility and awareness of its functions, in particular among First Nations and culturally and linguistically diverse (CALD) communities.

5 Is the HCCC and the services it provides accessible to the community, including First Nations and CALD communities?

**ABTA response:** *Many of our members have said that as “middle class educated white women, the process was not easy or straight forward”.*

- *Therefore, we expect that First Nations and CALD women will inevitably experience many challenges during this process, in addition to the challenges (listed above) which are experienced by women who speak English as a first language.*

6 Do you believe there is wide and strong community awareness of the role and functions of the Commission?

- **ABTA response:** *Not at all.*
- *It is clear to us that the status, powers and availability of the HCCC for medical complaints needs to be publicised much more.*
- *Several of our members were not aware of this complaint route as being an option for them.*
- *Other members thought that the way to make a complaint was to AHPRA, although they were not sure how to do that either.*
- *One member said that, “it was through sleepless nights and countless searches for answers [that she] came across this [HCCC] option”.*

7 How can the HCCC improve engagement with, and provision of services to, First Nations and CALD communities?

- **ABTA response:** *Through simple steps, information sheets, information from maternal child health nurses, hospital staff, information at de-briefings and at obstetric hospitals.*
- *In summary, by making the entire complaint process much more transparent and accessible to all potential complainants, no matter their race, gender, disability, sexuality or minority status.*