

JOINT SELECT COMMITTEE ON END OF LIFE CHOICES

**INQUIRY INTO THE NEED FOR LAWS IN WESTERN AUSTRALIA
TO ALLOW CITIZENS TO MAKE INFORMED DECISIONS
REGARDING THEIR OWN END OF LIFE CHOICES**



**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
TUESDAY, 1 MAY 2018**

SESSION ONE

Members

**Ms A. Sanderson, MLA (Chair)
Hon Colin Holt, MLC (Deputy Chair)
Hon Robin Chapple, MLC
Hon Nick Goiran, MLC
Mr J.E. McGrath, MLA
Mr S.A. Millman, MLA
Hon Dr Sally Talbot, MLC
Mr R.R. Whitby, MLA**

Hearing commenced at 9.45 am**Mr MICHAEL JOHN WALKER****Private citizen, examined:**

The CHAIR: Mr Walker, thank you very much for joining us this morning. On behalf of the committee, I would like to thank you for agreeing to appear today to provide evidence in relation to the end-of-life choices inquiry. My name is Amber-Jade Sanderson; I am the Chair of the joint select committee. We have Hon Dr Sally Talbot; John McGrath; Dr Jeannine Purdy, our principal research officer; Hon Col Holt; Hon Nick Goiran; Mr Reece Whitby and Hon Robin Chapple.

The purpose of today's hearing is to examine the adequacy of the existing laws and resources for end-of-life choices from your perspective as an individual member of the community who is willing to share your personal experience. It is important that you understand that any deliberate misleading of this committee may be regarded as a contempt of Parliament. Your evidence is protected by parliamentary privilege; however, this privilege does not apply to anything that you might say outside today's proceedings. I advise that the proceedings of this hearing will be broadcast live within Parliament House and via the internet. The audiovisual recording will be available on the committee website following the hearing. Could you introduce yourself for the committee.

Mr WALKER: My name is Michael Walker. I made a submission earlier to the committee and I thank you for the chance to have some Skype-to-Skype, if not face-to-face, interaction.

The CHAIR: Mr Walker, do you have any questions about your attendance today?

Mr WALKER: No, I do not, thank you. Your staff have briefed me very well.

The CHAIR: Did you want to make an opening statement?

Mr WALKER: Yes, I would like to briefly, thank you.

First of all, on a lesser point, I should repeat, as noted in my submission, that I have made the submission and I appear today on my behalf only, no-one else's. I do not claim to speak for a group. My second point to avoid any misunderstandings is to note that, as I see in looking at other submissions and reviewing a few video links of the sessions that you have had, I am the twin of Stephen Walker, and at least one or two of your members have had dealings with him, I think. He and Murray Hindle, I gather, a couple of weeks ago spoke to your committee, but this is not a tag team; I am speaking only on my behalf this morning.

I just briefly repeat a couple of points that I made earlier in my written submission for your correct understanding. In writing that submission, I did it, again, in good faith to give you my opinions, my views, on the questions left with your committee as someone who has a condition or an illness. It is MS in a progressive form. I have had it for nearly 11 years. I do not say this to seek attention in particular, but rather to say that it seems to me that it could be useful for your committee to have some interaction with a person who does face, who is facing, the questions raised in your terms of reference. As to my condition at present, as I said, although I do not seek particular attention, my condition at the moment confines me to a wheelchair, but it allows me to function otherwise to quite a high level. I suffer from some pain and fatigue, but those things aside—I have been in hospital for various related reasons, but I feel tolerably well in general. Subject to your correction, Chair, I think I am about as coherent as I have been, and I hope so. I repeat that my submission was from one citizen only, but I have thought about the issues in good faith. I might add that although I am no lawyer, unlike my brother, I understand the arguments for and against the possible change

of laws and I presented my suggestions in good faith. I guess my submission in the end was attempting to say that I believe a change of laws is justified because, many people, certainly I, hear stories, sometimes horror stories, of people who have attempted to end their own life in certain extreme circumstances and it has not gone well. The end of their life has been traumatic and difficult for them and for all around. Although with any legislation that was proposed I am sure there would be discussions on conditions, protections and on the terms of which an end-of-life-choice by someone to take his own life, no doubt there would be limits placed, but I repeat that I think it is well justified for the committee and the Parliament to consider strongly and firmly presenting such a law. Whether such law was modelled perhaps on that of Victoria, which was recently enacted, or the bill in New South Wales, which I believe was defeated narrowly or, indeed, on a certain overseas jurisdiction I have not read into, nor will I read into those issues far enough to offer a particular opinion on that, but I feel in my circumstance that there is every justification for the laws to be amended. Those were the principal points I wanted to make, but otherwise, Ms Sanderson, I would like to say that I am quite comfortable to answer any questions that you or members might have for me this morning.

The CHAIR: Thank you very much, Mr Walker. I appreciate that. You mentioned the Victoria laws that were recently passed. Under those laws as they were passed, with the safeguards they have, would you qualify if you wished to in your condition to access voluntary assisted dying?

Mr WALKER: I am not certain. I think perhaps I would not, because I have heard and read that there are very conservative and very narrow limits on the legislation in terms of the legalising of a person ending his own life. You may correct me, but I think it is of the order of months to live as certified by doctors and in conditions of unbearable—anyway, there were certain specifications, I think, to the trauma the patient was suffering. As I say, my own non-lawyerly thought in my written submission was that a person who was permitted under possible WA legislation perhaps might have no more as a term than three years to live or would be close at least within a measurable distance of the natural end of life. Allow me to add that, to me, I think this is arcane stuff—it really does read that way—that legislation in a certain jurisdiction would say that you need to be within spitting distance of the end of life. Although I expressed that written opinion, and I do not resile from it really, still I retain the view that provided a person has an incurable and stressing condition, and I do, and it is confirmed to be on a path that is certain to end in a difficult death, then, without specifying three years, three months, 12 days, I am of the general view that the limits on any legislation should not be too precise and should not be too artificial about a “how many angels on the head of a pin”—type argument. To me, in the end, once the doctors have confirmed that the condition is not going to change and that the person is not a minor and there is nothing in the end that can be done in, we can pick a number. But within the next couple of years, the next few years, that person should have the right, I argue, to take his own life.

[10.00 am]

The CHAIR: Thank you, Mr Walker.

Hon ROBIN CHAPPLE: Thank you, Michael; I really appreciate it. Can I get an idea of your current state? Are you happy with where things are at with you personally at the moment? If options were available to you, would you take them now or would you want that as some option for the future?

Mr WALKER: It would be—I am searching for the word—I am content with it. I am not in unmanageable pain. I do have good support, practical support, at home. In particular, I would like to mention the good work of the MS society. Between medical support and social support, I am in a condition—I hope I will be for another few years—which is manageable. I am not lying awake at

night troubled over, I was initially, but I am no longer troubled by existential thoughts—you know, why me? I am in reasonable shape, thank you.

Hon ROBIN CHAPPLE: Thank you for that. It is very important for us as a committee to be interacting with somebody such as yourself. You would definitely say that in your current condition, you are not depressed?

Mr WALKER: I am sorry, could you repeat that?

Hon ROBIN CHAPPLE: In your current condition, would you describe yourself as being depressed?

Mr WALKER: Yes, I understand the question. I would not. Earlier, for perhaps the three or four years following the diagnosis and having informed myself and having understood the condition, I was in a state of depression. I then asked for and received some psychological support. But at present, although my voice shows some strain, I am told that I am not and I feel that I am not suffering clinical depression.

Hon ROBIN CHAPPLE: Thank you very much for that. I apologise for having asked you some fairly personal questions but it is really important, I think, for us to hear that sort of information.

Mr WALKER: That is fine.

Mr R.R. WHITBY: Thank you, Mr Walker, for your evidence today. I would like to ask you or put to you that people who come to this committee and argue against any change in the law often talk about their concern that people with certain health conditions facing a terminal outcome are in a very vulnerable position and may succumb to feelings that question their self-worth and feel like a burden on those around them. The point made to us is that there is a danger that people in that position would choose voluntary assisted dying in order to accommodate other people around them and make a decision not for themselves but because they feel a burden and are incredibly vulnerable. Do you think there is a danger of that happening, and do you think that as your condition progresses, you could be in that position and be equally vulnerable?

Mr WALKER: Let me answer the latter part first. I am certain that I will not be and cannot be subject to pressures or oppression of that sort. I have reached a point where I am quite clear in my mind as to that. I speak with less confidence about others. As I think about it, I am a little troubled about the situation of younger people. It is impossible to set an age limit, of course, but somebody who is single or has a young family, in that circumstance I could not deny that there might be some danger or risk. Therefore, my answer does not lead, I think, to any suggestion of a reserved condition or anything, but certainly I say with clarity that anyone who has passed 50—pick a number—and is facing questions like these is not going to be pressured to that decision. He or she is going to make a decision surely at the right time and in the right way.

Mr R.R. WHITBY: If you were to have that option and make that decision, I guess it would be based on the fact that you are not willing to be subjected to the condition that you would have to face in the final months.

Mr WALKER: I am sorry, could you repeat that?

Mr R.R. WHITBY: I guess what I am saying is that your motivation or your willingness to take an option would be because of the unbearable suffering towards the end—you would not want to bear that.

Mr WALKER: Yes, it is. I would not decide on what is termed an unofficial death or assisted death because of existential angst or anything like that—I would not. However, if or when my mobility, which is limited but I manage, were to decline to the point where I were confined to a hospital bed and could not roll or manage bodily functions, for me that is one boundary condition. Another is

pain. At the moment, and prospectively, I do not think that will increase terribly. But if either of those things were to change, that would help me decide to make such a decision.

Mr R.R. WHITBY: Mr Walker, I am sorry that these are tough questions, but I really appreciate you answering them.

Hon Dr SALLY TALBOT: Mr Walker, thank you for your insights that you have offered us on the question about the time frame when we were talking about the Victorian legislation stipulating six months or 12 months. Thanks for your comments about that. I wonder whether I could ask you to give us your personal views about the other side of that question, the other side of the coin, which is about a person who makes a clear determination about how they want to end their life but then loses the capacity and intellectual autonomy that we like to think goes along with those decisions. I know this is a difficult question, but have you been able to give that any thought?

Mr WALKER: I am unsure that I have understood fully. I heard your words, but would you mind rephrasing?

Hon Dr SALLY TALBOT: You addressed one aspect of the question about the time frame, which is the six months, 12 months or three years. The other part of that question is what happens to somebody with dementia, for example, when they have crossed that boundary? I think that is a very eloquent way of expressing that, by the way—that you have boundary conditions. At the time when they cross that boundary, they have technically lost the capacity to make that decision. They have lost decision-making capacity.

Mr WALKER: I understand, thank you. By the way, through the Chair, I should say that I really struggle even now for words and I really struggle emotionally. I have surprised myself by feeling more emotional this morning. I was surprised to go that way. To address your question, honestly, I do not think I can give you a good answer. My answer simply is that I have not personally thought deeply about that question. I am aware of the issue, of course, but I suppose the system or the family are okay with the issue of advance directives and guardianship and so on. Simply, I would say it is a very difficult issue. I do not have an answer to it. It happens that in my circumstance, I feel certain—I should not say certain—that I will remain competent mentally. I do not have any cognitive decline. That question is no doubt very important for others but not for me.

Hon Dr SALLY TALBOT: Thanks, Mr Walker. I wonder whether I might also put to you for your response the argument that is frequently used by opponents of legal change that were we as a community able to provide a sufficient standard of palliative care and pain relief, people would no longer want this option of end-of-life intervention. Do you have a view about that?

Mr WALKER: Yes, I do. Again, speaking frankly, that is a choice for an individual and should be so and should not be constrained by the law. For me, as I have said, my pain is controlled and I believe that will continue. I manage, and have managed now for several years, with support, in a satisfactory way and in a way that leaves me content. I digress to say that although I have lived and worked for many years overseas and happened to move back to Perth only a year or two before my illness manifested itself, despite that, I have some close friends in Perth and in Japan and the US and around the world and that level of support—emotional, psychological and the physical support I mentioned—all that, to put it in the negative, does not leave me at present distressed. I think that will continue for a couple of years. Your question was framed, I think, in terms of palliative care, if I am not mistaken.

Hon Dr SALLY TALBOT: Yes.

Mr WALKER: For me, a notion of being placed in—unless it is a rapidly moving disease—palliative care is—the severe, unacceptable problem for me, is that it would leave me, so far as I can

understand, with no dignity, no control, simply as a person approaching death. I do prefer the option of an easily self-administered dose of something, which is fast-acting and humane. That is the best I can answer.

Hon Dr SALLY TALBOT: Thanks, Mr Walker.

Mr J.E. McGRATH: Mr Walker, thanks for taking the time to speak to the committee today. You mentioned and you were very full of praise for the support you have received from the MS Society. Do you ever discuss this with other people who have MS?

Mr WALKER: Yes, not in great depth, but I have. Until a year or so ago, I used to attend the MS Society facility in Wilson and socialise and do physiotherapy and so on. So, I had some discussions in addition—not that you asked—but I have talked in more depth to a peer and psychologist, actually, one of whom is employed by the MS Society.

Mr J.E. McGRATH: Basically, what I can gather from the evidence you are giving us today is you just believe this is about individual choice. It is not about what other people want to do with their lives, but you believe every individual should have that choice.

Mr WALKER: I am sorry; I am getting some distortion in the audio. You asked whether for me it is a question of individual choice only or whether —

[10.20 am]

Mr J.E. McGRATH: Yes. You are not trying to convince other MS sufferers, but you believe that the option should be there for a person whose life has reached the stage where there is no enjoyment and no functionality and they want to make that decision as an individual?

Mr WALKER: Correct. That is well expressed. Yes.

The CHAIR: Mr Walker, we have reached the end of our time this morning. I want to thank you very much for your evidence for the committee. You have been an excellent witness and it has been really valuable for us, so thank you for that, and for being willing to answer some very difficult and personal questions. We really appreciate that.

Mr WALKER: You are welcome. I expected that it would be easier than it proved to be, but I am very happy to have done it.

The CHAIR: Thank you for your evidence before the committee today. A transcript of this hearing will be forwarded to you for correction of transcribing errors. Any such corrections must be made and the transcript returned within 10 working days. If the transcript is not returned, it will be deemed to be correct. New material cannot be added via these corrections and the sense of your evidence cannot be altered. If you wish to provide clarifying information or elaborate on your evidence, please provide this in an email for consideration by the committee when you return your corrected transcript. Again, thank you very much for taking the time to talk to us this morning, Mr Walker.

Mr WALKER: Thank you, Ms Sanderson. I understood all that and I will comply.

The CHAIR: Thank you very much. Have a good day.

Hearing concluded at 10.22 am
