

## Euthanasia (including territory rights)

### Current issue

- *There have been increased calls from Territory leaders and others to lift restrictions preventing the Territories from legislating on euthanasia and voluntary assisted dying (VAD).*
- *There have also been calls from States to amend Commonwealth Criminal Laws which potentially criminalise health practitioners who provide VAD-related advice remotely under State legislation.*

### Brief talking points

- States and Territories have highlighted Commonwealth laws as posing challenges to their effective implementation of voluntary assisted dying schemes.
- The Government has committed to taking steps to address this issue.
- Territory leaders and members of this Parliament have also been raising the right of the Territories to self-legislate.
  - Labor has long supported a conscience vote on Territory rights to legislate on voluntary assisted dying, and the Government has committed to facilitating a vote in both Houses of Parliament.
- States have also raised concerns about doctors falling foul of Commonwealth criminal laws when providing advice to patients remotely, particularly impacting services to regional Australians.
  - The Government has committed to look into this point and is seeking legal advice.

### Key facts

- *Victoria passed the first voluntary assisted dying (VAD) legislation in 2017, which took effect in 2019. All of the States have now passed legislation enabling VAD, most recently NSW in May 2022, although only the schemes in Victoria and Western Australia have come into effect.*
- *The Territories are prevented from enacting laws for VAD because of restrictions introduced into their self-government acts via the Euthanasia Laws Act 1997.*
- *States have raised concerns that offences in the Commonwealth Criminal Code for suicide-related material potentially criminalise conduct by health practitioners who use a carriage service (including telehealth) to provide VAD services under State schemes. This is problematic for patients in regional and rural areas who cannot access face-to-face consultations.*

## Sensitivities

- *The Minister for Regional Development, Local Government and Territories, the Hon Kristy McBain MP, has said that Labor will bring a bill within the first week of Parliament's resumption in July 2022 ([The Guardian](#), 5 July 2022).*
- *Media has reported Labor Territory members, Alicia Payne and Luke Gosling, plan to introduce a private members Bill on VAD early in the Spring 2022 sittings. ([ABC news](#), 5 July 2022).*
- *Media has also quoted a spokesperson indicating an Albanese government would seek legal advice on the interaction of Commonwealth criminal laws and state VAD schemes ([Brisbane Times](#), 25 April 2022).*
- *Independent Senator for the ACT David Pocock has said there should not be a conscience vote because members and senators would be voting on whether NT and ACT would have the right to self-legislate, rather than on the issue of VAD ([David Pocock website](#), 6 July 2022). However, while the vote will technically be about allowing territories the right to self-legislate, it is specifically about VAD and the repeal of the Euthanasia Laws Act, and not broader territory rights.*

## Background

- *The issue of euthanasia, or voluntary assisted dying (VAD), has traditionally been a matter for which the States have legislative responsibility.*
- *The Euthanasia Laws Act 1997 (Cth), a private members Bill introduced by the Hon Kevin Andrews, amended the Self-Government Acts for the Australian Capital Territory, the Northern Territory and Norfolk Island to prevent Governments in those jurisdictions from making laws permitting euthanasia.*
- *Previous efforts have been made to introduce private members Bills seeking to overturn the effect of the Euthanasia Laws Act, which have not been successful to date.*
- *The Commonwealth Criminal Code contains offences for using a carriage service (such as the internet) to distribute or access suicide-related material with the intention of inciting suicide, or to provide instruction on a particular method of committing suicide (sections 474.29A and 474.29B, both offences carry a maximum penalty of 1,000 penalty units or \$222,000). A number of States have raised the risk that doctors acting in accordance with State schemes might commit these offences.*

---

Contact Officer:  
s 22(1)(a)(ii)

Contact Number:

s 22(1)(a)(ii)

PDR: MC22-042465

## DEPARTMENT OF THE PRIME MINISTER AND CABINET

PM&C  
Secretary  
Ms Foster  
Ms Frame  
Mr Duggan  
Mr Reid  
Ms Gartmann  
Mr Chisholm  
Ms Dolman  
Ms Quilty  
Mr de Burgh  
Ms McDonald  
Ms McGregor  
Mr Hupalo  
Ms Drake  
Mr Martin

PMO  
CoS

s 22(1)  
(a)(ii)

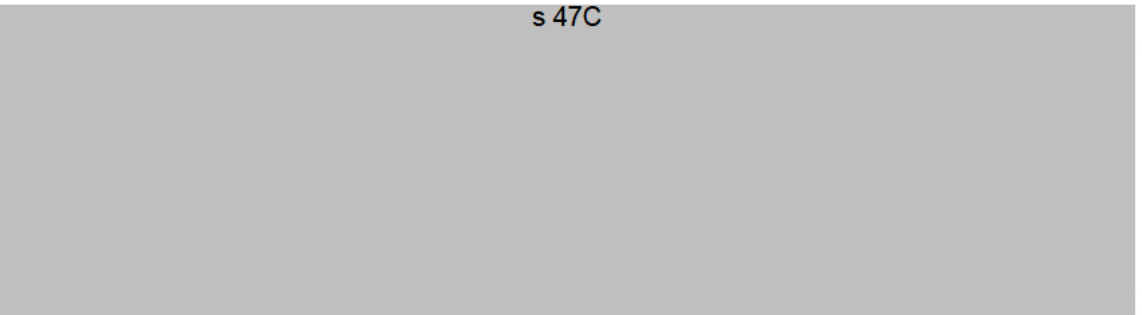
CABINET  
SECRETARY

**To:** Prime Minister (for signature by 14 July 2022 in order to allow advice to be prepared by relevant Ministers ahead of potential debate in Parliament)

**cc:** Cabinet Secretary

## VOLUNTARY ASSISTED DYING

## Recommendations - that you:

1.  s 47C
2. Sign the letter at Attachment B replying to recent correspondence on voluntary assisted dying from the Queensland State Member for Thuringowa, Aaron Harper MP.

s 22(1)(a)(ii)

Signed / Not Signed

ANTHONY ALBANESE

Date:

22/7/22

Comments:

1. The issue of euthanasia, or voluntary assisted dying (VAD), has traditionally been a matter for which the States have legislative responsibility.
  - a. Victoria passed the first VAD legislation in 2017, which took effect in 2019. All of the States have now passed legislation enabling voluntary assisted dying, although some are yet to come into force.
  - b. Amendments made by the *Euthanasia Laws Act 1997* (Cth) to the Self-Government Acts for the Australian Capital Territory (ACT), the Northern Territory and Norfolk Island prevent Governments in those jurisdictions from making laws permitting VAD. This leaves the Territories as the only jurisdictions in Australia without VAD laws.
2. In recent years, there have been vocal calls, particularly from Territory leaders for the Commonwealth to lift restrictions preventing the Territories from legislating on VAD.
  - a. Your Government has committed to facilitating a vote in both Houses of Parliament to restore territory rights to legislate on voluntary assisted dying within the first term.

~~PROTECTED - CABINET~~

- b. The ACT Chief Minister, Andrew Barr MLA has written to you welcoming your Government's support for restoring the rights of Territories to make decisions regarding voluntary assisted dying (MC22-038255 refers).
  - c. ACT Senator David Pocock has committed to moving a private Senator's bill to restore the ACT's right to legislate on voluntary assisted dying in his first weeks in the Senate.
  - d. The Minister for Regional Development, Local Government and Territories, the Hon Kristy McBain MP announced that a Senator's Bill or private members Bill on territory rights with respect to VAD could be introduced in Parliament as early as the first sitting week in July 2022.
3. States have been raising concerns about provisions in the *Criminal Code Act 1995* (Cth) which potentially criminalise health practitioners who use a carriage service (including telehealth services) to provide VAD services (see sections 474.29A and 474.29B). This is particularly problematic for patients who have difficulty attending face-to-face consultations, including those in regional and remote areas.
- a. Most recently, you received correspondence from the Queensland State Member for Thuringowa, the Hon Aaron Harper MP, raising the impact of this issue in regional Queensland (Attachment C).
  - b. The Department is also aware the Attorney-General, the Hon Mark Dreyfus QC MP, has received similar correspondence from the Western Australian Attorney-General, the Hon John Quigley MLA.

s 22(1)(a)(ii)

- 4
5. The Department considers it timely that the issue of the interaction between Commonwealth laws, health policy and service delivery, State VAD schemes and Territory rights be considered holistically along with palliative and aged care more broadly, to inform a consistent Government's response to the above concerns.

s 47C

7. The Department also recommends you respond to the Queensland Member for Thuringowa (draft response at Attachments B) advising that the Commonwealth Government is giving careful consideration to the concerns they and others have raised.

~~PROTECTED - CABINET~~

~~PROTECTED CABINET~~

Petra Gartmann  
Assistant Secretary  
6 July 2022

Policy Officer: s 22(1)(a)(ii)  
Phone no: s 22(1)(a)(ii)  
Consultation: Department of Health, SPD,  
Eco Div, II&E, Cab Div

~~PROTECTED CABINET~~

~~PROTECTED - CABINET~~**ATTACHMENTS**

**ATTACHMENT A    DRAFT LETTER TO THE ATTORNEY-GENERAL, THE  
MINISTER FOR HEALTH AND AGED CARE, AND THE  
MINISTER FOR REGIONAL DEVELOPMENT, LOCAL  
GOVERNMENT AND TERRITORIES**

**ATTACHMENT B    DRAFT RESPONSE TO QUEENSLAND STATE MEMBER FOR  
THURINGOWA**

**ATTACHMENT C    INCOMING CORRESPONDENCE FROM QUEENSLAND STATE  
MEMBER FOR THURINGOWA**

~~PROTECTED - CABINET~~



PRIME MINISTER

Reference: MC22-042465

The Hon Mark Dreyfus QC MP  
Attorney-General  
House of Representatives  
Parliament House  
Canberra ACT 2600

The Hon Mark Butler MP  
Minister for Health and Aged Care  
House of Representatives  
Parliament House  
Canberra ACT 2600

The Hon Catherine King MP  
Minister for Infrastructure, Transport, Regional Development and Local Government  
House of Representatives  
Parliament House  
Canberra ACT 2600

The Hon Kristy McBain MP  
Minister for Regional Development,  
Local Government and Territories  
House of Representatives  
Parliament House  
Canberra ACT 2600

Dear Attorney-General and Ministers

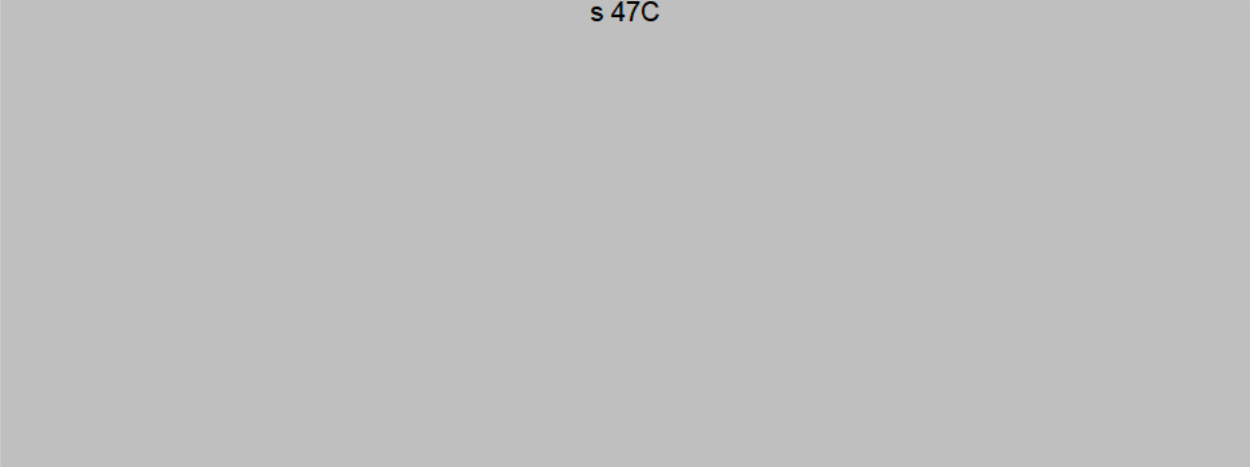
I am aware that the issue of voluntary assisted dying (VAD) has traditionally been a matter for the States and not for the Commonwealth. I understand the State Parliaments have now all passed legislation enabling VAD in their jurisdictions. However, I understand the States have voiced concerns that Commonwealth criminal laws potentially criminalise medical professionals from providing telehealth services related to VAD.

I am also aware the Territories continue to be prohibited from legislating on this matter by Commonwealth laws. I am also aware of suggestions there may be a private members' Bill, or Senators' Bill, introduced in the next sittings to restore Territory rights to legislate on voluntary assisted dying.

Parliament House CANBERRA ACT 2600  
Telephone (02) 6277 7700  
[www.pm.gov.au](http://www.pm.gov.au)

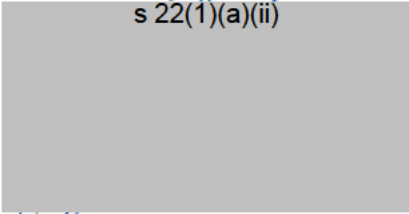
I understand Commonwealth Ministers have received correspondence from the States and Territories expressing their concerns about the operation of Commonwealth laws in relation to VAD in their jurisdictions. I consider it important the Government consider its position on this issue holistically, taking account of laws and policies across the Commonwealth.

s 47C



Yours sincerely

s 22(1)(a)(ii)



ANTHONY ALBANESE

22 JUL 2022



PRIME MINISTER

Reference: MC22-042465

Mr Aaron Harper MP  
State Member for Thuringowa  
PO Box 393  
THURINGOWA CENTRAL QLD 4817

Dear Mr Harper

Thank you for your letter to me dated 7 June 2022 in relation to voluntary assisted dying (VAD).

I acknowledge VAD is a sensitive issue, and also that concerns have been raised about the impact of Commonwealth laws on the States and Territories' ability to fully implement VAD in their jurisdictions, including due to interactions with the Commonwealth Criminal Code.

As the Attorney-General and the Minister for Health and Aged Care have both publicly confirmed, the Government is currently considering the interaction between Commonwealth laws and VAD schemes. The Government will provide an update in due course.

I thank you again for writing on this matter.

I have copied this letter to the Attorney-General, the Hon Mark Dreyfus QC MP, the Minister for Health and Aged Care, the Hon Mark Butler MP, the Minister for Infrastructure, Transport, Regional Development and Local Government, the Hon Catherine King MP, the Minister for Regional Development, Local Government and Territories, the Hon Kristy McBain MP and the Queensland Premier, the Hon Annastacia Palaszczuk MP.

Yours sincerely

s 22(1)(a)(ii)

ANTHONY ALBANESE

22 JUL 2022



# Aaron Harper MP

## State Member for Thuringowa



E: [Thuringowa@parliament.qld.gov.au](mailto:Thuringowa@parliament.qld.gov.au)

Ph: 07 4766 3100

PO Box 393, Thuringowa Central Qld 4817

7 June 2022

Hon Anthony Albanese MP  
Prime Minister  
Parliament House  
CANBERRA ACT 2600

Dear Prime Minister,

In October 2021, a number of Regional MP's including myself wrote a letter to Scott Morrison the then Prime Minister, in relation to the Voluntary Assisted Dying (VAD) Act 2021. Unfortunately Mr Morrison's Government rejected the request from our Premier Hon Anastacia Palaszczuk MP.

As you are no doubt aware the Queensland Parliament recently passed the VAD Act allowing those who are terminally ill to have control over the end of their life. I can advise you as a representative of Regional Queensland, this legislation had overwhelming support across our electorates. People want to be able to make their own end of life choices.

This legislation includes safeguards, developed in consultation with stakeholders. It includes the strict eligibility criteria for terminally ill people to access VAD, including a multi-step evaluation process by two accredited doctors. This means patients will have multiple consultations with doctors over a number of weeks before a decision is made.

I am aware that experience from interstate suggest that only a small number of doctors are expected to complete the necessary training to consult on VAD. In Victoria, 234 medical practitioners are registered via the state's online portal. If Queensland experience is similar then the expectation will be many towns will be without one, let alone two doctors who are registered to be a part of the VAD process.

This is where telehealth will play a vital role in the VAD process for those people living in regional Queensland. It is unreasonable to expect a person who happens to reside in a smaller town or remote location to travel hundreds of kilometres or more on multiple occasions for consultations that could be carried out over the phone or via video conferencing.

Unfortunately for Queensland the Law Reform Commission has identified the current Commonwealth Criminal Code is a potential barrier for people in regional areas, to access VAD. Specifically, the code prohibits use of carriage service to "counsel or incite suicide or attempted suicide or promote or provide instructions on a particular method of committing suicide". Whilst we don't disagree with the intention of this section, it contains no exemption for medical practitioners consulting with patients on VAD in accordance with state laws.

**Office Location:** Thuringowa Centre, Unit 8B, 48 Thuringowa Drive, Kirwan Qld 4817

***Looking after Locals***

Without an exemption, doctors could be prosecuted for talking to their patient by phone or a video conference as part of the VAD process.

Doctors should not have to face the threat of prosecution for discussing lawful procedures with their patients, nor should terminally ill people in regional Queensland face such unfair barriers to accessing their medical and legal rights simply because they don't live in the city.

As a representative of regional Queensland, I am asking you to urgently consider a review of the law so that regional Queenslanders can access their legal rights without this hugely unfair impediment.

I thank you for your time and look forward to your response.

Yours Sincerely

s 22(1)(a)(ii)

**Aaron Harper MP**  
**State Member for Thuringowa**

PDR: MC22-083511

## DEPARTMENT OF THE PRIME MINISTER AND CABINET

PM&C  
 Secretary  
 Mr Williamson  
 Ms Frame  
 Mr Chisholm  
 Mr Reid  
 Ms Steel  
 Ms Dolman  
 Ms McGregor  
 Mr Hupalo  
 Mr de Burgh  
 Mr Neil  
 Mr Martin

To: Prime Minister (for signature by 1 December 2022)

s 47C

s 47C

s 47C

## Recommendations - that you:

1.

s 47C

2. Sign the letter at Attachment A to the Attorney-General to this effect.

s 22(1)(a)(ii)

Signed Not Signed

29/11/22

ANTHONY ALBANESE

Date:

Comments:

## Key Points:

s 47C

- a. States have been raising concerns about these provisions which create barriers to the operation of existing state VAD schemes by potentially criminalising health practitioners who use a carriage service (including telehealth services) to provide VAD services.

b

s 47C

- c. The offences were intended to target individuals who use the internet to encourage others to take their own life, and to promote or instruct on methods of committing suicide. They did not contemplate criminalising medical practitioners providing access via the internet to VAD schemes officially sanctioned under legislation.

3.

s 34(3)

**Sensitivities:**

4. We understand the Attorney-General has received correspondence from state Attorneys-General on VAD and removing Criminal Code barriers. The Attorney-General has the opportunity to consult states and territories at the next meeting of the Standing Council of Attorneys-General on 9 December 2022.
5. There are current proceedings in the Federal Court in which a Victorian general practitioner is asking the Court to clarify the scope of the Criminal Code offences.

s 47C

s 34(3)

8. Vulnerable population groups, including First Nations people and people with disabilities, have poorer access to quality palliative care. It will be important to consider any ramifications the proposed *Criminal Code* changes have on existing safeguards to protect these populations from coercion or abuse through VAD schemes.

**Consultation:**

Social Policy Division, Cabinet Division, Industry, Infrastructure and Environment Division.

Branko Ananijevski  
Acting Assistant Secretary  
Legal Policy Branch  
24 November 2022

Policy Officer: s 22(1)(a)(ii)  
Phone no s 22(1)(a)(ii)

**ATTACHMENTS**

**ATTACHMENT A LETTER TO THE ATTORNEY-GENERAL**

**ATTACHMENT B INCOMING LETTER FROM THE ATTORNEY-GENERAL**



PRIME MINISTER  
The Hon Anthony Albanese MP

Reference: MC22-083511

29 NOV 2022

The Hon Mark Dreyfus KC MP  
Attorney-General  
Parliament House  
CANBERRA ACT 2600

Dear Attorney General

*Mark,*

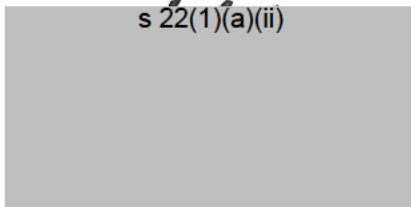
Thank you for your letter of 10 November 2022 regarding the Commonwealth Criminal Code and voluntary assisted dying.

s 47C

I have copied this letter to the Hon Mark Butler MP, Minister for Health and Aged Care, the Hon Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government and the Hon Kristy McBain MP, Minister for Regional Development, Local Government and Territories.

Yours sincerely

s 22(1)(a)(ii)



ANTHONY ALBANESE



## Attorney-General

Reference: MS22-002411

The Hon Anthony Albanese MP  
Prime Minister  
Parliament House  
CANBERRA ACT 2600

By email: s 47E(d)

Dear Prime Minister .

s 47C

States and territories have already raised these barriers with the Commonwealth. In addition, there are ongoing Federal Court proceedings in which a Victorian General Practitioner is asking the Court to clarify the scope of the Criminal Code offences.

s 47C

s 47C

s 34(3)

s 34(3)

If your office requires any further information, the relevant adviser for this matter in my office is s 22(1)(a)(ii) who can be contacted on s 22(1)(a)(ii)

A copy of this letter has been sent to the Minister for Health and Aged Care, the Minister for Infrastructure, Transport, Regional Development and Local Government, and the Minister for Regional Development, Local Government and Territories.

Yours sincerely

s 22(1)(a)(ii)

THE HON MARK DREYFUS KC MP

10 / 11 / 2022

CC. The Hon Mark Butler MP, Minister for Health and Aged Care  
The Hon Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government  
The Hon Kristy McBain MP, Minister for Regional Development, Local Government and Territories

**From:** s 22(1)(a)(ii)  
**To:**  
**Cc:**  
**Subject:** FW: Voluntary Assisted Dying - Standard Words [SEC=OFFICIAL]  
**Date:** Wednesday, 27 March 2024 10:44:55 AM  
**Attachments:** [image001.jpg](#)  
[image002.jpg](#)  
[image003.jpg](#)  
[image004.png](#)  
[image005.png](#)

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## OFFICIAL

Hi s 22(1)(a)(ii)

Our Criminal Law team forwarded your email to our team, as we are the lead on VAD for the department.

We utilise a set of AS cleared standard words when responding to VAD correspondence. Please see below:

### *Background*

The interaction between Commonwealth legislation and state and territory voluntary assisted dying (VAD) schemes raises a range of sensitive and complex issues which may impact health practitioners' ability to use telehealth for VAD consultations.

Under the Commonwealth Criminal Code, it is an offence to use a carriage service (such as the internet or telephone) to distribute or access suicide-related material with the intention of counselling or inciting suicide, or to provide instruction on a particular method of committing suicide. These offences are important to deter ill-intentioned individuals from encouraging vulnerable people to self-harm.

At the most recent meeting of the Standing Council of Attorneys-General (SCAG) on 1 December 2023, attorneys-general discussed the issues you have raised and the impact of the matter on the Australian public. Further information about SCAG, as well as December's joint communique, can be found at the AGD website here: <https://www.ag.gov.au/about-us/publications/standing-council-attorneys-general-communiques>.

The Australian Government is continuing to consider this important matter. Thank you for providing your insight into these issues and for bringing your concerns to the Attorney-General's attention.

### *Carr matter*

You have referenced the legal proceedings brought by a Victorian doctor, Dr Nicholas Carr, against the Australian Government. On 30 November 2023, the Federal Court found that ending one's own life in accordance with the Victorian *Voluntary Assisted Dying Act 2017* constitutes suicide for the purposes of the Commonwealth Criminal Code. You can read the court's judgment here: [Carr v Attorney-General \(Cth\) \[2023\] FCA 1500 \(fedcourt.gov.au\)](#).

### *Nitschke/Requests to prosecute under the 474.29 offences*

The decision on whether to investigate allegations of alleged Commonwealth crimes is a matter for the Australian Federal Police. It would not be appropriate for the Attorney-General or the Attorney-General's Department to intervene in such decisions.

Thanks

s 22(1)(a)

Assistant Director | Criminal Justice Policy & Legislation

Criminal Justice Division

**Attorney-General's Department**

s 22(1)(a)(ii)

s 22(1)(a)(ii) [@ag.gov.au](mailto:@ag.gov.au)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

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**OFFICIAL**

**From:** s 22(1)(a)(ii) @ag.gov.au>

**Sent:** Tuesday, 26 March 2024 4:51 PM

**To:** s 22(1)(a)(ii) @ag.gov.au>; s 22(1)(a)(ii) @ag.gov.au>

**Subject:** FW: Voluntary Assisted Dying - Standard Words [SEC=OFFICIAL]

**OFFICIAL**

Hello –

Could you action please?

Thank you,

s 22(1)

( ) (ii)

s 22(1)(a)(ii)

a/g Director | Criminal Justice Policy and Legislation

Criminal Justice Division

**Attorney-General's Department**

s 22(1)(a)(ii)

**OFFICIAL**

**From:** s 22(1)(a)(ii) @ag.gov.au>

**Sent:** Tuesday, 26 March 2024 1:43 PM

**To:** s 22(1)(a)(ii) @ag.gov.au>

**Cc:** s 47E(d) @ag.gov.au>

**Subject:** FW: Voluntary Assisted Dying - Standard Words [SEC=OFFICIAL]

**OFFICIAL**

Hi s 22(1)(a)  
(ii)

Hope this find you well.

We received the below email from PM&C regarding standard words for VAD. Grateful if you could please action this.

Happy to discuss

Many thanks

s 22(1)(a)(ii)

s 22(1)(a)(ii) (she/her)

Legal Officer | Criminal Law Section

Criminal Law Policy Branch | Attorney-General's Department

Tel: s 22(1)(a)(ii) [ag.gov.au](mailto:s 22(1)(a)(ii)@ag.gov.au)

**OFFICIAL**

**From:** s 22(1)(a)(ii) [pmc.gov.au](mailto:s 22(1)(a)(ii)@pmc.gov.au)

**Sent:** Tuesday, 26 March 2024 1:29 PM

**To:** s 22(1)(a)(ii) [ag.gov.au](mailto:s 22(1)(a)(ii)@ag.gov.au)

**Cc:** s 22(1)(a)(ii) [@ag.gov.au](mailto:s 22(1)(a)(ii)@ag.gov.au); Ananijevski, Branko  
<[Branko.Ananijevski@pmc.gov.au](mailto:Branko.Ananijevski@pmc.gov.au)>; s 22(1)(a)(ii) [@pmc.gov.au](mailto:s 22(1)(a)(ii)@pmc.gov.au); s 22(1)(a)(ii)  
s 22(1)(a)(ii) [@pmc.gov.au](mailto:s 22(1)(a)(ii)@pmc.gov.au)

**Subject:** Voluntary Assisted Dying - Standard Words [SEC=OFFICIAL]

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**OFFICIAL**

Hi s 22(1)(a)

I hope this email finds you. I work with Branko in the Legal Policy team at PM&C. I would be grateful of any standard words on voluntary assisted dying. I am aware of the 1 Dec 2023 SCAG communique which states that the jurisdictions' concerns were discussed.

The WA Premier wrote to the PM on voluntary assisted dying raising concerns about the carriage service restrictions affecting regional and remote Western Australians and the criminal liability risk to health practitioners under the Commonwealth Criminal Code.

Thanks

s 22(1)(a)

s 22(1)(a)(ii) | Adviser, Legal Policy Branch

Department of the Prime Minister and Cabinet

s 22(1)(a)(ii)

Ngunnawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600

e. s 22(1)(a) [@pmc.gov.au](mailto:s 22(1)(a)@pmc.gov.au) w. [pmc.gov.au](http://pmc.gov.au)  
(ii)



The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

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**PRIME MINISTER**  
The Hon Anthony Albanese MP

21 APR 2024

Reference: MC24-042048

The Hon Roger Cook MLA  
Premier of Western Australia  
13<sup>th</sup> Floor, Dumas House  
2 Havelock Street  
WEST PERTH WA 6005

Dear Premier

*Roger,*

Thank you for your letter dated 19 March 2024 regarding voluntary assisted dying (VAD).

I acknowledge VAD is a sensitive issue and that concerns have been raised about the states and territories' ability to fully implement VAD due to interactions with the Commonwealth Criminal Code.

The offences in the Commonwealth Criminal Code for suicide-related material are important to deter ill-intentioned individuals from encouraging vulnerable people to self-harm. However, I also acknowledge the concern you have raised about the potential risk to health practitioners.

At a meeting of the Standing Council of Attorneys-General on 1 December 2023, I understand Attorneys-General discussed these issues and the impact of the matter on the Australian public, including Australians in regional and remote areas.

The Australian Government is continuing to consider this important matter. Thank you for providing your insight into these issues and for bringing your concerns to my attention.

Yours sincerely

s 22(1)(a)(ii)

ANTHONY ALBANESE



## Premier of Western Australia

Our Reference: 60-094762

Hon Anthony Albanese MP  
Prime Minister of Australia  
[dlo@pm.gov.au](mailto:dlo@pm.gov.au)

Dear Prime Minister

### **VOLUNTARY ASSISTED DYING CARRIAGE SERVICE OFFENCES**

Since 1 July 2021, Western Australians have been able to choose the manner and timing of their death through enactment of the *Voluntary Assisted Dying Act 2019* (WA) (the Act). However, the restriction on using carriage services (telehealth, phone or internet services) for communicating voluntary assisted dying related information and issuing prescriptions to patients is a key barrier to timely access to voluntary assisted dying.

In Western Australia (WA), the carriage service restrictions affect regional and remote Western Australians in particular, due to geographical challenges and travel required for patients, their families and health practitioners. I am aware of multiple cases that illustrate the distressing and impractical effect of the carriage service restrictions in WA due to the inaccessibility of VAD information and prescriptions via carriage services.

I am also concerned about the criminal liability risk to health practitioners in WA in using carriage services under the Criminal Code, for actions that are lawful under the *Voluntary Assisted Dying Act 2019* (WA).

A proposed resolution to this is an amendment of the *Criminal Code Act 1995* (Cth) (the Criminal Code). I am aware that the WA Minister for Health and Attorney General have actively pursued amendments to the Criminal Code, alongside other states and territories, since the *Voluntary Assisted Dying Act 2019* (WA) was passed.

I look forward to further discussion with you about amending the Criminal Code to enable equitable, timely access to voluntary assisted dying services for patients across WA.

Yours sincerely

s 22(1)(a)(ii)

ROGER COOK MLA  
PREMIER

19 MAR 2024

2 Havelock Street, West Perth, Western Australia 6005  
Telephone: +61 8 6552 5000 Email: [WA-Government@dpc.wa.gov.au](mailto:WA-Government@dpc.wa.gov.au)  
[www.premier.wa.gov.au](http://www.premier.wa.gov.au)