

# Terms of Reference - Expert Advisory Panel

## Voluntary Assisted Dying legislation in the Northern Territory



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## Expert Advisory Panel

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### Background

The provision of compassionate, high quality and accessible palliative care for persons at their end of life is a fundamental right for everyone living in the Northern Territory. The Northern Territory community is entitled to make choices to manage their end of life care, as are all other Australians.

The Northern Territory was the first jurisdiction in Australia to introduce voluntary assisted dying (VAD) with the *Rights of the Terminally Ill Act 1995* (NT) (the ROTI Act).

The ROTI Act involved a lengthy application process to determine mental competence and a terminal illness. It required assessment by three independent medical practitioners including a specialist to confirm the terminal nature of the illness and a psychiatrist to confirm the patient was not clinically depressed. It was followed by a nine day 'cooling off' period.

Four people with terminal conditions accessed the legislation and were supported through VAD. These people were also able to access palliative care services from the Department of Health.

The effect of the law was overridden in 1997 by the passage of the *Euthanasia Laws Act 1997* (Cth). The Commonwealth legislation amended the *Northern Territory (Self-Government) Act 1978* (Cth) by removing the Northern Territory Legislative Assembly's power to make any law permitting euthanasia. The Commonwealth legislation also removed this power from the Legislative Assemblies of the Australian Capital Territory (ACT) and Norfolk Island.

### Current situation

The ROTI Act remains in force but with no legal effect. On 1 December 2022, the Senate passed the *Restoring Territory Rights Act 2022* (Cth) which repealed the 1997 amendments meaning the Northern Territory can now enact modern legislation to allow VAD.

All other Australian state jurisdictions have enacted or are developing modern VAD legislation customised to their community, with Victoria's law operating since 2019. The ACT is currently progressing with their legislation, having completed a public consultation process ahead of reporting back to the ACT Legislative Assembly for the introduction of a Bill in late 2023. VAD is now a standard treatment option throughout Australia and in many other countries.

The laws around Australia are similar, with criteria for eligibility, including being over the age of 18 years, being an Australian citizen or permanent resident, having competent decision-making capacity, and having a life-limiting illness. Criteria vary between jurisdictions on the definitions of eligible diseases or medical conditions, and the process for assessment and administration.

The Northern Territory will now embark on an extensive consultation process to listen to the views of our community, address concerns, and develop safeguards so that Territorians can make informed choices about their end of life.

## Governance of the Consultation

An independent Expert Advisory Panel (the Advisory Panel) will be commissioned to lead the consultation process under the Inquiries Act 1945.

The Advisory Panel will be co-chaired by eminent persons with specific knowledge of the Northern Territory. Panel members will be selected based on their expertise in the fields of end of life health care, Aboriginal and Torres Strait Islander cultural matters, justice, and social welfare policy.

The Advisory Panel will advise on the development of a discussion paper, lead the consultation process and make recommendations for the potential development of VAD legislation.

The Advisory Panel will report to the Chief Minister.

## Terms of Reference

The Advisory Panel is tasked with providing advice to Government to assist in the consultation and potential development and implementation of a new statutory framework for VAD.

Specifically, the Advisory Panel will provide advice to the Government on an appropriate legal framework for VAD in the Northern Territory by answering the following questions:

- i. What can the Northern Territory learn from the VAD experience in other jurisdictions, including overseas?
- ii. Who should be able to access VAD?
- iii. What process should a person follow to access VAD?
- iv. What models of care should be adopted so that VAD can effectively be delivered in the Northern Territory context?
- v. What are the legal and ethical obligations of Health Practitioners who provide services relating to VAD?
- vi. What safeguards need to be put in place for those accessing or providing VAD?
- vii. How should compliance be monitored? and
- viii. Any other question the panel considers appropriate.

The Panel must report on its findings to Government by end of July 2024.

## Discussion guides

To inform the community-wide discussion and to provide guidance for those wishing to provide feedback and input into the consultation process, a number of Discussion Guides (the Guides) will be released. The Guides will outline a range of health, social, community, and legal issues to be addressed by the consultation process.

The Guides will include information on VAD, possible eligibility and processes, and pose questions to seek input from the public on ideas, concepts and types of measures that could be adopted to ensure any VAD legislation is suited to our community.

## Consultation

Broad public consultation will be undertaken, with multiple avenues for interested people and groups to put forward their views, which may include the following:

- a dedicated website;
- an online survey;
- public meetings in the major centres;
- meetings with key stakeholders;
- meetings with community groups;
- written submissions; and
- any other methods as considered appropriate by the Panel.

Wherever possible, consultation will be undertaken with the assistance of appropriate interpreters.

## Timing of the consultation

This is a crucial piece of public policy, with the potential to reshape end of life outcomes for Territory individuals, families, and communities.

The Panel will commence its work in late 2023.

Public consultation will occur through to the end of April 2024, enabling the preparation of a report with recommendations to Government by the end of July 2024.

