



Simon Corbell MLA

ATTORNEY-GENERAL
MINISTER FOR POLICE AND EMERGENCY SERVICES
MINISTER FOR THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT

MEMBER FOR MOLONGLO

Ms Jeanne Arthur
President
Dying with Dignity ACT
PO Box 55
WARAMANGA ACT 2611

Dear Ms Arthur

Thank you for your letter of 17 July 2012 regarding the concerns of Dying with Dignity ACT for the human rights of people who wish to die with dignity.

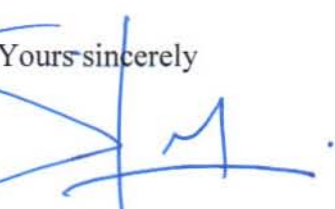
As you may be aware, the Australian Capital Territory does not have the constitutional capacity to permit the form of intentional killing of another called euthanasia (which includes mercy killing) or the assisting of a person to terminate his or her life. In 1997, the Commonwealth Government enacted legislation that removed the power of the ACT Legislative Assembly to make laws permitting assisted death. Amendment of the *Crimes Act 1900* to allow the assisted death of a patient would likely amount to an unconstitutional exercise of legislative power.

If the legislative capacity of the Territory to make such laws were restored, any future legislative proposal on the question of euthanasia would present to members of the Legislative Assembly an opportunity to examine all of the available information and vote according to their responsibility to the people of the ACT.

You request that I refer the relevant sections of the *Crimes Act 1900* to the ACT Law Reform Advisory Council (LRAC) for consideration. Given the constitutional barriers mentioned above, it would be inappropriate to refer this matter to the LRAC as these matters are currently beyond the legislative power of the ACT.

Thank you for bringing your views on this issue to my attention.

Yours sincerely



Simon Corbell MLA
Attorney-General

8.8.12

ACT LEGISLATIVE ASSEMBLY

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The ACT Attorney General
Mr Simon Corbell MLA
GPO Box 1020
Canberra
ACT 2601

To: The Attorney General
CC The Chief Minister
The ACT Human Rights Commissioner
The Health Services Commissioner

Thank you for letter in reply of 8 August 2012 to Dying with Dignity ACT Inc.'s request to have the sections of the Crimes Act sections relating to suicide examined for their compatibility with the ACT Human Rights Act 2004. We are dissatisfied with your response. We did not ask the Government to amend the Act but merely to have its compatibility with the Human Rights Act assessed.

We are aware that the 97 Euthanasia Laws Act does give the 'Assembly the 'power to make laws with respect to: (d) the repealing of legal sanctions against attempted suicide.'" We believe that our proposal for an elective death and Peaceful death unit resolves the issue of assisted dying for the terminally ill and provides for a much more effective method of suicide prevention than currently exists while also allowing for a peaceful death for adults who know their own life circumstances. Sections 16, 17 and 18 of the Crimes Act are in our view legal sanctions against attempted suicide which lead to horrible deaths for those who want to die.

However what we asked you to do was to examine the relevant sections of the ACT Crimes Act 1900 for their compatibility with the ACT Human Rights Act 2004. All laws in the ACT are subject to scrutiny by the Federal Government, not just laws to do with death. The Federal Government has allowed the ACT Assembly to pass the ACT Human Rights Act 2004. It therefore must be constitutional for the ACT Government to ask for any law to be scrutinised for its compatibility with the Human Rights Act.

This is all we have asked for. If the Assembly gets advice that the sections in the Crimes Act 1900 are incompatible it can take whatever steps are then required to bring this to the attention of the Federal government if necessary. However given the powers the Federal Government has given the ACT Assembly to repeal legal sanctions against attempted suicide it should not be necessary to discuss their repeal with them. If the ACT Legislative Assembly then wished to put in place legislation which would allow assisted dying then it would face the constitutional problem your letter refers to via the Australian Capital Territory (Self Government) 1988 Act and the Euthanasia Laws Act '97.

As we see it, this step is a great deal further down the track. We understand that the Law reform Advisory Council is engaged on another area of law that will take it eighteen months to complete. In the meantime surely it would be possible for the ACT Government to refer the matter we have drawn to your attention to them to look at when they have finished their current work.

The ACT Government has taken considerable steps to support the gay members of the community despite the constitutional issues surrounding the issue of gay marriage and civil unions. Over one fifth of the ACT population is over fifty five. How we die is of vital importance to this group who are closer to death than any other group statistically. We are a much larger group than the group wanting gay marriage. We believe that we are entitled to more consideration as members of the ACT community than your letter reflects. We ask you to reconsider your decision.

Yours sincerely,

Jeanne Arthur
President
Dying with Dignity ACT Inc
PO Box 55 Waramanga
ACT 2611
26 September 2012



Ms Jeanne Arthur
President
Dying With Dignity ACT
PO Box 55
WARAMANGA ACT 2611

Dear Ms Arthur

I refer to your letter addressed to the Attorney-General, Mr Simon Corbell MLA dated 26 September 2012.

The ACT Government has entered its Caretaker period, which will continue until a new government is formed. During this period it is a convention that only the minimum of correspondence is to be answered by ministers to avoid binding an incoming ACT Government to a policy position. For this reason, your correspondence has been forwarded to me for a reply.

The type of work that you ask the Government to undertake in your letter would require significant time and resources. It would be inappropriate during the Caretaker period to commit to a decision about whether to direct time and resources to this work.

I regret that I cannot be of further assistance.

Yours sincerely,

Sandra Georges
A/g Deputy Director-General, Justice
Justice and Community Safety Directorate

22 October 2012