



# Australian Human Rights Commission

*everyone, everywhere, everyday*

## Complaint Form (Version 2/09)

### Part A – About you (the complainant)

Enquiry reference no:

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Name: ACT Dying with Dignity, (Branch of Dying with Dignity NSW)  
Ms: Jeanne Arthur President, 62 years of age.  
Mr Clive Monty  
Mr Darrel Killen, 85  
Mr John Brook, 80  
Dr Thelma Hunter, 87  
Dr Ian Hughes, 82  
Ms Barbara Mummery, 80

Address for reply: 52 Woralul St, Waramanga, ACT, 2611

Contact numbers: Home: ...(02) 62874703 Business: .....NA.....Fax: ...NA.....

Mobile: .....NA...TTY: ... Email: ...jeanne.arthur@bigpond.com.....

**\*\*If you need help to fill in this form please contact one of our Complaint Information Officers on 1300 656 419 (local call charge) or (02) 9284 9600.**

## Part B – Your complaint

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### Who are you complaining about? (the respondent)

1. Name/organisation:....The Federal Government

Address:. Parliament House PO Box 6022 Canberra ACT.

Post code:..2600...

Contact numbers: Home:.....Business:..62777111.....Fax:.....

Mobile:.....TTY:.....Email:.....

What is this organisation's relationship to you?

The Commonwealth Government maintains the Euthanasia Laws Act passed in 1997. We are older citizens of the ACT who are disadvantaged by this legislation.

2. Name/organisation:.....The ACT Legislative Assembly

Address:.....The Legislative Assembly, Civic Square, London Circuit, Canberra ACT

Post code:....2601

Contact numbers: Home:..... Business:....62050439..... Fax:.....

Mobile:..... TTY:..... Email:.....

What is this organisation's relationship to you?.....

The ACT Government maintains subsection 17 (1) of the Crimes Act 1900 which states "A person who aids or abets the suicide or attempted suicide of another person is guilty of an offence punishable, on conviction, by imprisonment for 10 years".

As older citizens of the ACT this Act disadvantages us.

**If you are complaining about more than two people or organisations,  
please provide this additional information on an extra page.**

## Why are you complaining to the Commission?

We are complaining about Federal and territory government agencies because we believe:

- We are being discriminated against because of our **age**;
- Our human rights are being breached by a **federal** government agency

Please state the reason:

As people over 60 we have now joined that group of people who are called older or senior citizens. Having reached that age we have become concerned about the manner of our dying and deaths. We believe that the laws maintained by the Federal Government and the ACT Government noted above discriminate against us as people whose next phase of life is to die. This could happen at any time, when is in the lap of our genes, but for sure it will happen. These laws prevent us from accessing a quick and pain free death that we would choose if it were available to us and will very likely condemn us to a painful, long and undesired dying.

These laws stereotype us as people who are incapable of knowing what is good for us at the end of our lives. They treat us as children rather than as intelligent people who have lived long and active lives. These laws are tyrannical in that they do not allow mature adults who are dying to ask and receive medical treatment that would benefit them. They apply a blanket rule to all persons regardless of their circumstances or wishes. In a free society mature adults are expected to make appropriate decisions all their lives. We believe that making the decision to have voluntary euthanasia is the act of a mature person which should be available to dying people if they wish it.

We also believe that the manner of dying that older Australians are subjected to is inhumane, and is as described in Article 5 of the Universal Declaration of Human Rights as 'cruel, inhuman or degrading'. We submit the following events as examples of that treatment.

## When did this happen?

Our realization of the possibility of a long, painful and undesired dying has gradually been deepening over the period of many years that we have been involved in the Voluntary Euthanasia Movement.

## What happened?

*Describe the events that you want to complain about. We need to know what you say happened, where it happened and who did it. Please give us all the dates and other details that you can remember. If you are complaining about employment, please tell us when you commenced employment, your job title and whether you are still employed.*

As older people interested in Voluntary Euthanasia we have talked to people about their experiences of the deaths of their loved ones, particularly parents but also friends. We have been told many stories. In addition we have watched programs on television and read books and articles about people dying. We have been deeply affected by the fear, anger, sadness and worry that many older people feel when they think about the manner of their loved ones dying and the dying they will possibly face for themselves. We worry for ourselves knowing what we know about hospitals and nursing homes.

## Events:

### Personal stories

Incident 1: An older man (55) had both his parents die in the same year. His mother died of a heart attack, a quick death; his demented father died in a nursing home. He witnessed his father defecating on the floor in a hall in his demented state and saw that he was about to be hooked up to intravenous feeding to extend his life, like the three other men in the ward with him, when he mercifully died.

Incident 2: An older woman (65) whose mother took over a week to die. She died in a morphine induced coma as her organs slowly collapsed. Her anguish at her mother's suffering was such that she tried unsuccessfully (fortunately for her) to smother her.

Incident 3: An older woman whose father took 9 months to die. She said he became demented and then, 'a vegetable'. He was a man who had run a government department.

Incident 4: A woman successfully assisted a friend to die. The friend had been hooked up to a ventilator. When the ventilator was removed by the woman death occurred before the hospital staff could get to her friend. Until her intervention, the hospital that the dying friend was in, would not allow her friend to die.

Incident 5: A woman had to resist the request of her father to help him die. He took 6 weeks to die.

Incident 6: A woman whose parents had both died in the last year. Her mother died of a heart attack, a quick death, but her father died slowly (over two months) in a nursing home. She saw that he needed oral care and the nurse scraped away the debris in his mouth but did not clear it from the back of his throat. He died two days later; she feared that he had been choking on the debris in his mouth when he died.

Incident 7: A woman whose father died quickly of a heart attack but her mother slowly deteriorated over years, gradually losing her hearing, sight and her mind. "Her quality of life was terrible."

Refusal to allow Voluntary Euthanasia and heavy penalties for assisted suicide have produced a situation where the wishes of older people about their deaths are ignored. They are excluded from a decision which is fundamental to their well being i.e. how they die. Their dying is unnecessarily slow, degrading and painful due to practices of doctors and hospitals. Their lives are in the hands of politicians who have axes to grind about God and the sacredness of life and doctors who parade their own technological capacity to extend life beyond what is kind. This is prejudicial treatment of the many thousands of older people who die every year. (See ABS 3302.0 Deaths, Australia) Those who are dying and who have no chance of recovering should be allowed the option of a quick, peaceful, voluntary death. That is what we want and we believe these laws discriminate against our wishes and our best interests.

We believe that these laws impose upon us practices by the medical profession that are not reasonable and that without their removal they will be likely to have the effect of disadvantaging us. Through personal experience, reading and viewing television programs such as *Compass* (October 2010), *Mademoiselle* and *The Doctor* etc we know that these practices are disadvantaging older people in the manner of their dying now. Their slow dying includes suffocation, starvation, dehydration, morphine induced organ failure, prolongation of life through provision of fluids, ventilators etc. In all other

circumstances of poor health people can expect reasonable medical interventions which are appropriate to their problem but at the end of life we are subjected to unreasonable and inappropriate interventions. The dominant target for life prolonging medical practices is in general older people, because they are over 90 percent of the ones who are dying in their thousands each year.

Doctors across the country are writing articles, producing television programs, writing books which reveal the suffering they are witnessing in their dying patients. They acknowledge their doubts about their treatments. (See *The Long Goodbye* by Julie Robotham.) While these two laws are in place there can be no change in the medical profession's behaviour. When an older person is dying and there is no possibility of life continuing, assisted dying is a reasonable, rational intervention to prevent unnecessary suffering. Medical people do not intend to be cruel towards older people but out of their fear of penalties the outcome of their behaviour is that they subject older dying people to cruel, inhuman, degrading treatment.

Medical practice, as a result of these laws, is deeply hypocritical. If a doctor were to administer morphine and the dying person died s/he would be covered by legislation because it would be accepted that the death was a so-called indirect result of the administration of the medication and the intention was to relieve the suffering of the patient. If the same doctor administered a lethal injection designed to assist the dying person to die quickly and the person died that doctor would be liable for 10 years jail. Doctors are forced by the law to rationalize these practices to in effect 'cover their backs' even though they know full well that administration of the morphine **will inevitably** eventually lead to death; just a slower one than it need be.

The result of these laws is that older people are now taking the law into their own hands. They are going to other countries to buy Nembutal, they go to Switzerland to die, they are helping friends to die. Doctors **are** helping people to die despite the law. Judges are dismissing cases of assisted suicide by ordinary people assisting their loved ones to die. Civil disobedience is now taking place across the country. Because the numbers of people dying relative to the size of the total population is small the extent of civil disobedience may seem small scale in nature nevertheless people are, where they can, flouting these irrational laws; irrational because where a person is dying and there is no hope of recovery, all that is being 'saved' may be a few months, days or hours of that person's life.

These laws cause suffering and confusion for doctors who have to watch patients suffering, the dying person who is being subjected to continuous inappropriate medical intervention, the families who are bewildered by the whole process which is unfamiliar to them and ultimately the general public which does not really know what is going on but has in great numbers indicated its support for voluntary euthanasia. The assisted suicide legislation penalties for doctors are resulting in cruel, inhuman, degrading treatment not only for older people but for those who attempt or succeed in committing suicide as well. The senate report into suicide in Australia estimates that 60,000 people attempt suicide each year 'most of them women' (Chapter 1, page 4 Senate Committee Report *The Hidden Toll: Suicide in Australia*) and those people who are successful are forced by the cruelty of this law to throw themselves off bridges, shoot or hang themselves. Among these successful suicides are older people and this number will increase as older people learn how to commit suicide so that they can be independent of a cruel, abandoning society that does not accept death as an inevitable fact of life which should be supported humanely.

In the ACT, the responsibility for this cruel, inhuman, degrading treatment lies with the Federal Parliament which passed the *Euthanasia Laws Act* in 1997 and the ACT Legislative Assembly which, while it is not in a position to do something about voluntary euthanasia, chose not to modify the assisted suicide legislation in the *Crimes Act 1900* when it had the opportunity to do so in 1997.

In summary, the basis on which we claim discrimination on the basis of age is

- 1) that as older people close to the end of our lives, we are a group with a specific concern about dying.
- 2) We are excluded by these laws from making decisions about our deaths when it comes to the time of our dying.
- 3) We receive poor (irrational and inappropriate) health service as a result of the laws made by the discriminating bodies.
- 4) We are being treated in this way as a result of stereotyping of older people as 'vulnerable' and unable to make decisions for themselves on this matter.

Our human rights are also being infringed because the treatment we receive is not only poor but can be downright cruel, inhuman and degrading.

**Signature:** .....

**Date:** .....

## Part C – Further information

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### Supporting evidence

Please see books, letters, and articles and copies of legislation supplied.

### How has this affected you?

We have become increasingly worried about how we might die. The many attempts to make changes to laws around the country appear to be going nowhere. In the meant time we are sad that many of the thousands of older people (In 2009 140,760 in Australia, 1648 in the ACT) die every year in horrible ways and without change in the laws we expect that we will too. We feel very hopeless about the possibility of change.

### What outcome are you seeking?

We want the rights of older people who are naturally going to face death as their next phase in life to be respected. We believe that *Euthanasia Laws Act* should be repealed and that the ACT law should be changed so that assisted dying is removed from law about assisted suicide and the criminal code. We would like to see a distinction made between assisted suicide and assisted dying. We believe that they are two different things. If a person is old and dying and there is no possibility of anything other than death for the future it is unreasonable to call assisting that person to die, assisting suicide.

We would like an investigation into the current practices in hospitals. We believe that hospitals and nursing homes should only be involved in assisting people to die with dignity and not prolonging their lives unreasonably. Voluntary euthanasia should be an option available to older people. If doctors were not afraid of 10 years jail we are sure that many of them would be prepared to prescribe medication for the dying person to take at home (As they do in Oregon) or administer a lethal injection (As they do in Belgium and Holland) as part of the palliative care of the dying person.

### Have you made a complaint about this to another agency?

(For example a state anti-discrimination or equal opportunity agency, a workers compensation agency, an ombudsman or an industrial relations commission.)

If so, you must provide details of the complaint, the agency it was made to and any outcome. You should also attach copies of any letters you have received from the agency.

No, we have not.

### Have you tried to resolve your complaint in any other way?

(For example through an internal complaint process or your trade union.)

If so, please give details:

We have written letters to politicians and encouraged members of the local Voluntary Euthanasia Association ACT branch of Dying with Dignity NSW to do so also. We have spoken to local politicians over the last few years.