

THE PEOPLE, THE PARLIAMENT AND THE COURTS

STUDENT LEARNING ACTIVITIES

Module 3: Legal and Social Issues Committee's *Inquiry into end of life choices*

Overview

The Legal and Social Issues Committee is a Standing Committee of the Legislative Council and its functions are to inquire into and report on any proposal, matter or thing concerned with community services; gaming; health, law and justice; and the coordination of government.

A Standing Committee is appointed for the length of a parliamentary term to investigate a number of different issues in particular subject areas. They are made up of members of one House.

Inquiry into end of life choices

In May 2015 this committee was given the mandate to inquire into the need for laws in Victoria to allow citizens to make informed decisions regarding their own end of life choices by looking at:

- How current medical practices and palliative care assist those managing their end of life
- How end of life is managed in other Australian and international jurisdictions
- Potential legislative changes that may be required and the impact of federal laws

This committee's brief is one which can challenge people's emotions, their ethics and their religious views, and is a sensitive and value-laden topic. Current laws around assisted dying are inconsistent. More people were calling for clarity to exercise their preferences for the way they want to manage their end of life, when close to death.

The inquiry provided an opportunity for all Victorians to have their say on assisted dying and palliative care. The committee talked with medical and legal experts, as well as a broad range of interested groups and individuals. The committee had twelve months to undertake their investigations and make their report.

Palliative care means care that helps people live their life as fully and as comfortably as possible when living with a life-limiting or terminal illness.

Palliative care identifies and treats symptoms, which may be physical, emotional, spiritual or social, and is based on the needs of each individual.

How did the committee go about undertaking its work to address and research the terms of reference?

The committee was made of seven members of the Legislative Council representing all political parties and was supported by eight parliamentary staff members and interns. The committee:

- Tabled its terms of reference and advertised its role and progress in state newspapers

- Received 1037 submissions, 925 from individuals in a private capacity and 112 from organisations
- Found the overwhelming majority of individual submissions discussed assisted dying. Only a small number focused solely on palliative care
- Released 19 media releases to inform the public about the progress of the inquiry
- Conducted an extensive program of site visits and public hearings around Victoria
- Held 17 days of public hearings and heard from 154 witnesses, with six regional sittings
- Released four videos of conversations held in public hearings.

In addition, the Committee travelled to the Netherlands, Switzerland, the Canadian province of Québec, and Oregon in the United States to speak to stakeholders about how their jurisdiction has legislated for assisted dying. Each of these jurisdictions has a unique legal framework permitting assisted dying.

The Committee valued the input of many individuals most immediately affected by this inquiry, who in the face of their own imminent death were able to share their insights with the Committee.

All submissions and transcripts from the public hearings are available on the parliament’s website and the Committee produced an interim report in November 2015 and a final report in June 2016.

Review your understanding

Answer the following questions:

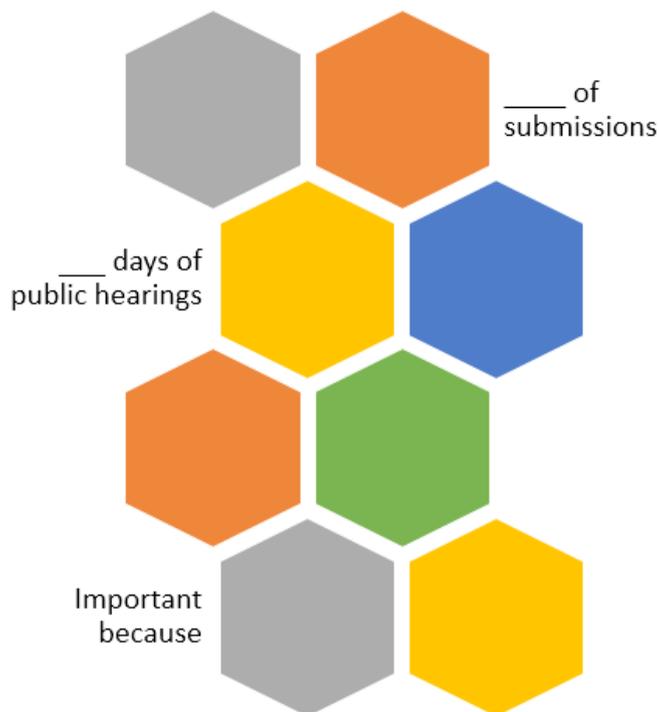
1. Summarise three key ways this committee went about its work. Explain why these avenues of communication are important to the successful functioning of a parliamentary committee.

Method	Importance

2. A range of organisations made submissions and attended the Legal and Social Issues Committee’s public hearing. Go to the committee’s website (www.parliament.vic.gov.au/lisic/inquiries/inquiry/402) and look at the list of public hearings. Find an association or group that interests you and read the transcript of their submission:
- What was their stand on end of life choices?
 - What were three significant points they made to support their view?

Name of association or group	
Did they support legalising assisted dying?	
One significant point they made to support their view	
Another significant point they made to support their view	
Another significant point they made to support their view	
This was interesting because...	

3. Looking at the number of submissions received and the days of public hearings, what does this tell you about the importance of this committee inquiry to the community?



4. Why do you think it was important for the committee to investigate international jurisdictions which have introduced assisted dying frameworks?

They looked at international jurisdictions that had introduced assisted dying frameworks such as

This was important to look at because

It could also have been important because

A recommendation for law reform

The topic of this inquiry is one in which people's values and beliefs are very much engaged. The general perception is that people are either supportive of, or strongly against, allowing individual choice at the end of life.

In a ground-breaking report, in June 2016, the Committee recommended that the Victorian Government should, in certain limited circumstances, legalise assisted dying for people suffering from serious and incurable conditions. The introduction of assisted dying laws should form part of a much broader reform that gives greater prominence to end of life care.

After ten months of investigation, in its final report the committee made 49 recommendations. This included 29 recommendations relating to palliative care and 18 recommendations relating to advance care planning and the need for statutory recognition of advance care directives.

They recommended a focus on improvements to advance care planning, palliative care and end of life choices through the establishment of a new body, End of Life Care Victoria, and enactment of a Future Health Act, which would be new legislation. The Committee's report noted the importance of a patient-centred approach with choice for those who need it and comfort for all.

For more details on the committee's recommendations in its final report go to the committee's website (www.parliament.vic.gov.au/lsc/inquiries/article/2611).

An Advance Care Directive is a document which provides a clear statement that sets out a person's directions, including their wishes and values, that need to be considered before medical treatment decisions are made on their behalf.

Government response

The government tabled its response to this committee report in parliament on 8 December 2016 and was supportive. In its response, the government asserted its belief that all Victorians are entitled to quality end of life and palliative care, which relieves pain and suffering, and provides empowering support to family, friends and carers. The government supported 44 of the inquiry's 49 recommendations.

In fact, on the establishment of the inquiry, the government placed on record its intention to already consider two reforms that related to the scope of the Inquiry. These were to undertake a program of improvements to palliative care and end of life in Victoria and to fulfil its commitment to give statutory recognition to advance care directives.

Further commitment

In June 2016, to show its commitment and support the implementation of the end of life report, the government released Victoria's End of Life and Palliative Care Framework. This framework sets a clear vision and identifies key priorities and actions to provide responsive and sustainable end of life and palliative care. In 2016-17, \$7.2 million was committed to support the framework's implementation.

Of particular significance was the passing of the *Medical Treatment Planning and Decisions Act 2016*, which includes the introduction of a new legal framework for medical treatment decision-making for a person without capacity. This act has received Royal Assent and all provisions are now in force.

Royal Assent: once a bill has passed both houses, the Queen, represented by the Governor, agrees to the legislation and the bill formally becomes an act once signed by the Governor.

Next step

The Government then committed to undertaking further work on developing an assisted dying legislative framework, which is supported by expert legal advice and a Ministerial Advisory Panel. The experts and the panel provided advice on the practical and clinical implications of new legislation for the implementation of an assisted dying framework.

Legislation introduced

In September 2017 the government introduced a bill into the Legislative Assembly, to legalise voluntary assisted dying in Victoria. The Voluntary Assisted Dying Bill delivered on the safe and compassionate framework designed by the Ministerial Advisory Panel, including all 68 safeguards recommended by the panel to protect individuals and the community. The safeguards make Victoria's model the safest, and most conservative, in the world.

This bill set out a rigorous request and assessment process for access to voluntary assisted dying, and includes the establishment of a dedicated oversight body and protections. The safeguards protect the vulnerable from exploitation and coercion, and new criminal offences will be created to protect people from abuse. Safeguards include:

- Only adults with decision making capacity, who are suffering and are in the final weeks and months of life, with an outer limit of 12 months, can access the scheme
- A person may only access voluntary assisted dying if they meet strict eligibility criteria, make three clear requests and have two independent medical assessments that determine they are eligible
- The request must always be initiated by the person themselves, with doctors who raise the issue subject to professional misconduct investigations.

The scheme will be self-administered, with doctor administration only available to those who cannot physically administer or digest the medication themselves. The bill also allowed for an 18-month implementation period.

All MPs had a conscience vote, except the Greens who had to vote in support as this was the party's platform.

A conscience vote means that members are allowed to vote according to their own personal conscience or view, rather than according to an official line set down by their political party. It is sometimes also called a free vote.

Legislation finally passed

While the bill as introduced passed the Legislative Assembly without amendment, a marathon debate took place when it was debated in the Legislative Council. The Voluntary Assisted Dying Bill passed the Victorian Upper House, 22 votes to 18, after 24 hours of heated debate. The government agreed to some amendments to secure cross bench support, including:

- That the scheme will be restricted to residents of Victoria who have lived there for at least one year
- That a death is to be recorded as assisted dying, as well as the underlying disease, on the death certificate
- That terminally ill adults in severe pain with only six months to live can apply to access lethal drugs, but it remains 12 months for sufferers of neurodegenerative conditions such as motor neurone disease and multiple sclerosis
- That funding for palliative care in regional and rural Victoria will get a boost with a \$62 million funding package for better end-of-life choices, including \$19 million for palliative care being approved. The money will be allocated over a five-year period and there will be a review of palliative care funding.

These amendments passed the Lower House, when the bill was returned, and the bill has passed into law. The *Voluntary Assisted Dying Act 2017* (www.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/num_act/vada201761o2017348) will come into force on June 19 2019 if not before.

To see the second reading speech, go to the Hansard website (<http://hansard.parliament.vic.gov.au/isysquery/8708aaa3-0c0b-4073-9c17-a3229bea2c79/62/doc>).

Victoria is now first state in Australia to legalise assisted dying for people with a terminal illness. From the establishment of this inquiry to the passing of legislation took about two and half years. This legislation is a significant example of a recommendation for law reform from a parliamentary committee being successfully transformed into legislation.

To see the legislation in detail go to:
[www.parliament.vic.gov.au/legislation and bills](http://www.parliament.vic.gov.au/legislation-and-bills)

Check your understanding

Answer the following questions:

5. The government was supportive of the recommendations of the Legal and Social Issues Committee's *Inquiry into end of life choices*. The Victorian Government stated it believes all Victorians are entitled to quality end of life care, which relieves pain and suffering, and provides empowering support to family, friends and carers.

Summarise the steps the government initiated to implement this support.

May 2015

November 2015

June 2016

June 2016

December 2016

September 2017

6. What is a conscience vote? Do you think it was important for most members to have a conscience vote for this bill? Explain your reasoning.

What is it?	Was it important? Why?	Why else?

7. One function of the law is to accommodate the changing needs of society. The need for laws around assisted dying have been a topic of community concern and debate for many years.

Why do you think this bill was introduced and passed successfully at this time, but not before?

Why was this bill introduced	
Why was it introduced now?	
What pushes were there for it to pass from society?	
What could have stopped it from passing earlier?	
Why else could the bill have been introduced and passed successfully at this time?	

The government has now introduced the Voluntary Assisted Dying Bill 2017, which provides a compassionate framework mirroring – I believe in the main – the work of the parliamentary committee and the ministerial advisory panel report. I have listened to the debate in the Legislative Assembly, and regardless of members' positions I am proud of the way it was conducted, with well-researched, intelligent and thought-provoking contributions. It was a good demonstration of democracy at work, highlighting the strength of a Westminster system that uses both its houses to maximum effect...

In closing, I will support the second-reading vote, not as a tick-off to the bill but to allow the Legislative Council to do what it does best: use the committee stage to drill into the clauses, debate the merits of potential amendments and be satisfied that at the end of the final third reading vote we have done everything possible to provide the Victorian community with legislation that gives them a framework for a better quality of life when facing the trauma of terminal illness. It is only at that stage that I will feel my work has been done.

(See more: hansard.parliament.vic.gov.au/isysquery/8e255391-50f5-4a3d-a07f-55aa84e02c4b/8/doc)



8. With reference to the legislative process and role of the Legislative Council, evaluate the strength of a committee composed by multiple political parties and the likelihood of success once tabled in Parliament.

Strengths of multiple parties in a committee	
Weaknesses of multiple parties in a committee	
Links to legislative process and role of Legislative Council	

- Very likely
- Most likely
- Possible
- Not very likely
- Unlikely
- Very unlikely