

Voluntary assisted dying research: a policy briefing

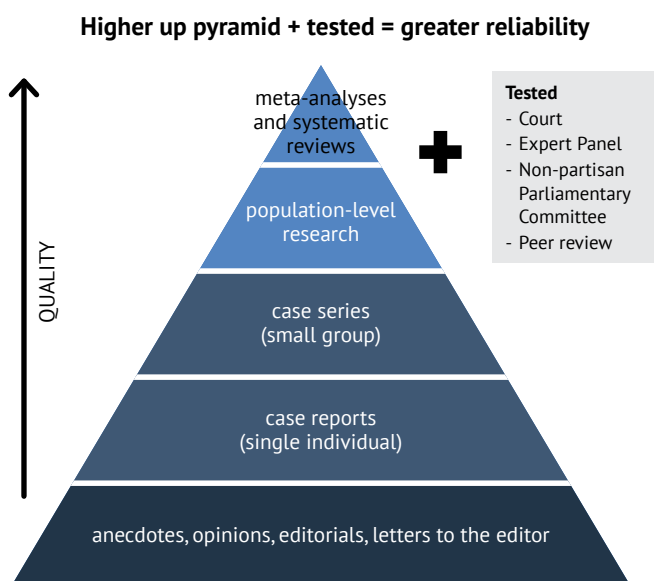
This briefing summarises research about voluntary assisted dying (VAD) conducted by Professors Ben White and Lindy Willmott (with colleagues).

1 Australia should have VAD laws: they are ethical and VAD can be safely regulated

- » There is a strong ethical case for allowing a limited cohort of patients, who are already dying, to choose VAD.
- » Reliable evidence about VAD systems internationally and now in Australia shows that VAD can be safely regulated.
- » Politically, legalising VAD has been challenging. Only narrow and conservative VAD models have passed in Australia.

2 VAD laws must be evidence-based and consistent with intended policy goals

- » Law reform must be based on reliable evidence (see the “reliability pyramid”).
- » VAD laws must be designed to meet their intended policy goals.



3 There is now a broad “Australian VAD model” but each jurisdiction should pass a law most appropriate for its circumstances

- » Although based on the same model, Victoria, Western Australia, Tasmania and South Australia have all taken slightly different approaches to regulating VAD.
- » Jurisdictions should learn from how existing laws work in practice and design a law that is most appropriate for its circumstances (e.g. unique geography and population distribution).

4 Designing VAD laws requires seeing how the entire legal framework operates

- » Evaluating a VAD law must be based on how it will work as a whole, and not by considering individual provisions in isolation.
- » For example, numerous eligibility criteria for accessing VAD work together in these laws. Concern about one criterion when considered in isolation may resolve if all criteria are considered as a whole.
- » The process of designing VAD laws should include testing how eligibility criteria affect who can access VAD and for what medical conditions.

5 “Piling on” ad hoc safeguards to already sound VAD laws does not make laws safer and can make them worse

- » Ad hoc safeguards have been added during parliamentary processes to already sound proposals for VAD laws.
- » This led to inconsistency and incoherence in those laws without improving patient or community safety.

6 VAD systems must be workable so eligible patients can access VAD

- » The complex Victorian VAD law and system make patient access to VAD challenging.
- » Key problems include:
 - doctors are not allowed to raise the topic of VAD with patients
 - the need to obtain a government permit to access VAD, and
 - the complexity of the administrative process when applying for VAD.

7 The Commonwealth Criminal Code must be changed: it is an unjust barrier for patients seeking VAD and their doctors

- » The Code makes illegal using a “carriage service” (e.g. email, telephone, fax, telehealth) in relation to “suicide”. This creates risk for doctors and others who are otherwise acting legally under State VAD systems.
- » This means some steps in the VAD process must be done face-to-face. This is causing hardship and delay for patients and doctors.
- » For constitutional law reasons, States cannot resolve this issue.
- » The Commonwealth Government should amend this law so it will not apply to lawful VAD systems.

8 Institutions should not have power to prevent their patients or permanent residents from accessing VAD

- » There is some limited evidence that institutions are blocking access to VAD in Victoria. Some institutions in other States have also indicated they will block access.
- » Legislation should permit an institution to not participate but must ensure eligible patients and permanent residents can still access VAD.

9 Effective implementation of VAD is challenging but very important

- » How a VAD system operates depends not only on the law, but also system design, including factors such as IT, navigation and support services.
- » Sufficient time and resources are needed to effectively implement VAD laws. And once implemented, VAD systems should be kept under constant review.
- » VAD laws are complex so implementation should aim to make the patient, family and doctor experience as smooth and simple as possible.
- » Effective training for practitioners involved in VAD (and others) is critical as is a user-friendly IT system.

A compilation of the 37 research papers this policy briefing is based on is available here:

<https://research.qut.edu.au/voluntary-assisted-dying-regulation/other-resources>

Professor Ben White
bp.white@qut.edu.au

Professor Lindy Willmott
l.willmott@qut.edu.au



Australian Centre for
Health Law Research

www.research.qut.edu.au/achlr