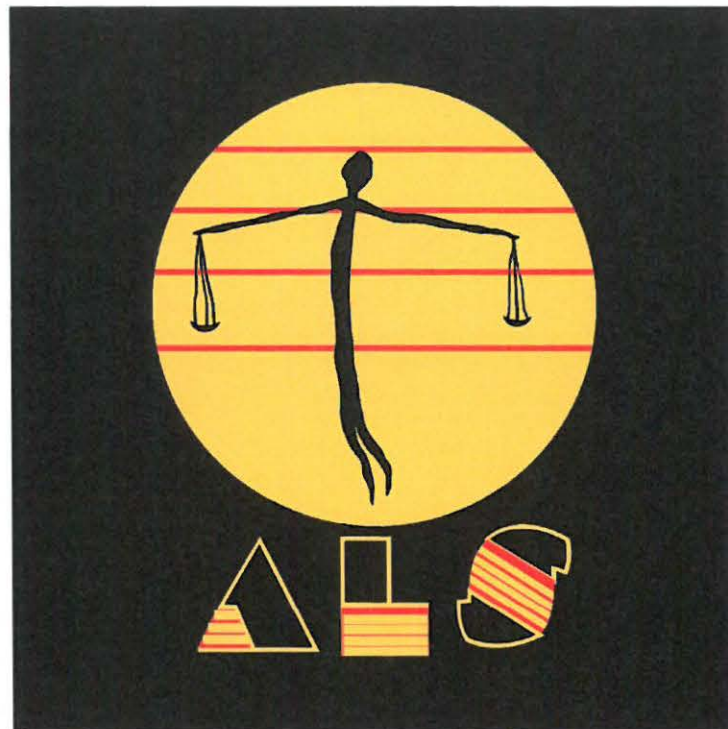


Aboriginal Legal Service of Western Australia Limited



**Submission to the Joint Select Committee on End of
Life Choices Inquiry into the Need for Laws in
Western Australia to Allow Citizens to Make Informed
Decisions Regarding Their Own End of Life Choices**

30 October 2017

About the Aboriginal Legal Service of Western Australia

ALSWA is a community-based organisation, which was established in 1973. ALSWA aims to empower Aboriginal peoples and advance their interests and aspirations through a comprehensive range of legal and support services throughout Western Australia. ALSWA aims to:

- Deliver a comprehensive range of culturally-matched and quality legal services to Aboriginal peoples throughout Western Australia;
- Provide leadership which contributes to participation, empowerment and recognition of Aboriginal peoples as the First Peoples of Australia;
- Ensure that Government and Aboriginal peoples address the underlying issues that contribute to disadvantage on all social indicators, and implement the relevant recommendations arising from the Royal Commission into Aboriginal Deaths in Custody; and
- Create a positive and culturally matched work environment by implementing efficient and effective practices and administration throughout ALSWA.

ALSWA uses the law and legal system to bring about social justice for Aboriginal peoples as a whole. ALSWA develops and uses strategies in areas of legal advice, legal representation, legal education, legal research, policy development and law reform.

ALSWA is a representative body with executive officers elected by Aboriginal peoples from their local regions to speak for them on law and justice issues. ALSWA provides legal advice and representation to Aboriginal peoples in a wide range of practice areas including criminal law, civil law, family law, child protection and human rights law. Our services are available throughout Western Australia via 14 regional and remote offices and one head office in Perth.

Background

The Joint Select Committee observed that there is strong community interest in and demand 'for laws to allow citizens to make informed decisions regarding their own end of life choices' in Western Australia.¹ The Western Australian Parliament established a Joint Select Committee of the Legislative Assembly and Legislative Council on 23 August 2017 to inquire and report on the need for laws in this area.

The terms of reference for this inquiry are to:

¹ Joint Select Committee on End of Life Choices, 'Media Release' (Media release inviting submissions, 12 September 2017) 1
<[http://www.parliament.wa.gov.au/parliament/commit.nsf/\(Inquiry+Names+by+Com+ID+Lookup\)/702507C2CB8742824825818700247E53/\\$file/170912+Media+release+inviting+submissions.pdf](http://www.parliament.wa.gov.au/parliament/commit.nsf/(Inquiry+Names+by+Com+ID+Lookup)/702507C2CB8742824825818700247E53/$file/170912+Media+release+inviting+submissions.pdf)>

- assess the practices currently being utilised within the medical community to assist a person to exercise their preferences for the way they want to manage their end of life when experiencing chronic and/or terminal illnesses, including the role of palliative care;
- review the current framework of legislation, proposed legislation and other relevant reports and materials in other Australian States and Territories and overseas jurisdictions;
- consider what type of legislative change may be required, including an examination of any federal laws that may impact such legislation; and
- examine the role of Advanced Health Directives, Enduring Power of Attorney and Enduring Power of Guardianship laws and the implications for individuals covered by these instruments in any proposed legislation.

ALSWA Submission

ALSWA does not wish to make a submission directly in response to each term of reference primarily because ALSWA does not have the capacity to provide legal advice in relation to Advanced Health Directives, Enduring Powers of Attorney and Enduring Powers of Guardianship. Nor is ALSWA directly aware of the current practices being used within the medical community in relation to end of life choices. Furthermore, Aboriginal people² in Western Australia hold diverse cultural, spiritual, and/or religious views and these views may influence individual opinions about appropriate laws concerning end of life choices.

Instead, the purpose of this submission is to emphasise the need for Aboriginal people to have access to culturally competent services to enable them to make informed end of life decisions.

The Parliament of Victoria's Inquiry into End of Life Choices noted the underrepresentation of Aboriginal people in palliative care,³ and difficulties in accessing services.⁴ Recommendations were provided corresponding to these issues, such as supporting programs and carers to underrepresented groups.⁵ Likewise, the Canadian Special Joint Committee on Physician-Assisted Dying report recommended that the government 'ensure that culturally and spiritually appropriate end-of-life services, including palliative care, are available to Indigenous patients'.⁶

It has been observed that there are a number of barriers for Aboriginal people accessing palliative care services in Western Australia including that many Aboriginal people distrust mainstream health care services; that there is a lack of knowledge and understanding about palliative care; and that mainstream palliative care practices may conflict with cultural practices and beliefs concerning death.⁷ It was suggested that culturally appropriate information and resources may assist

2 In this submission ALSWA uses the term 'Aboriginal people' to refer to 'Aboriginal and Torres Strait Islander people'.

3 Parliament of Victoria, Legislative Council Legal and Social Issues Committee, *Inquiry into End of Life Choices*, Final Report, (June 2016) 21.

4 Ibid, 44

5 Ibid, 65

6 Special Joint Committee on Physician-Assisted Dying, *Medical Assistance in Dying: A Patient-Centred Approach*, Report (February 2016) 42nd Parliament, 1st Session, 33 [Canada].

7 Shaouli S et al, 'Improving palliative care outcomes for Aboriginal Australians: Service providers' perspectives' (2013) 12 (26) BMC Palliative Care.

and that palliative care should be delivered to Aboriginal people 'through the involvement of Aboriginal Community-Controlled Health Services'.

ALSWA agrees that Aboriginal Community-Controlled Health Services and other culturally competent services should be involved in the provision of health and related services to Aboriginal people experiencing chronic or terminal illnesses. In addition, it is vital that Aboriginal people have access to Aboriginal language interpreters. Many Aboriginal people who do not speak English as their first language will be unable to understand their options or communicate their wishes without an interpreter. ALSWA has been advocating for a statewide Aboriginal language interpreting service for years; such a service is not only urgently required for justice issues but also for health and many other service systems.

Finally, it is emphasised that if Aboriginal people are to receive access to legal services to provide advice and assistance in relation to end of life choices, additional resources specifically for this purpose should be provided to ALSWA to increase its capacity in terms of staff and expertise to provide this service across the state.

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