

## Better Off Dead

Transcript for season 2, episode 13: Unintended Consequences

**DISCLAIMER:** A heads up: this episode of Better Off Dead contains references to suicide and self-harm. These include discussions about how some terminally ill people have tried to end their lives in the absence of voluntary assisted dying laws. We are aware of the Mindframe guidelines on appropriate language around the discussion of suicide and self-harm, and we have endeavoured to limit this detail.

If you are likely to be distressed by this material, we recommend that you proceed with caution. Please have a self-care plan in place and let others know that you may be upset.

If you or someone you know needs support, please contact one of the following 24/7 support services: Lifeline on 13 11 14, The Suicide Call Back Service on 1300 659 467, MensLine Australia on 1300 789 978, or Kids Helpline on 1800 551 800.

If you are at risk of harm to yourself or others, contact emergency services immediately by dialling Triple 0.

*[PRAYER BELL CHIMES]*

**Ethereal female voice:** Death is the last intimate thing we do.

**Kristin Cornell:** So, this morning the palliative care team have been around and doing their usual dance of midazolam, morphine, and he'll be unconscious, I'm sure, soon, and then that'll be it, then, won't it?

**Andrew:** This is Kristen Cornell. She's a doctor but, when she recorded this, she wasn't speaking about one of her patients. She was speaking about her father.

**Kristin Cornell:** This isn't what he wanted. He didn't want it like this. Neither did Mum. That was the point.

**Andrew:** Allan Cornell was 74 and in the last, excruciating stages of Motor Neurone disease. He'd applied for voluntary assisted dying, been found eligible, but after almost 100 days, that life-ending medication still hadn't come.

**Kristin Cornell:** And everyone will tell me that he didn't suffer, but I'll know that there could have been a better way.

**Andrew:** When Victoria's VAD law was passed in 2017, it was touted by Premier Daniel Andrews as 'the most conservative in the world.' True. Its 68 safeguards made it a far more daunting law for terminally ill people to access than similar laws in other countries. Too daunting? In this episode, the unintended consequences of Victoria's law. A law so secure, even some for whom it was designed struggle to use it.

I'm Andrew Denton. You're listening to the final episode of Better Off Dead.

*[OPENING TITLES. VOICES OVERLAPPING]*

**Andrew:** Throughout Victoria's assisted dying debate, opponents in parliament made much of the dangers of 'unintended consequences' should such a law be passed. 'What if there are wrongful deaths?' they asked. 'What if the doctor-patient relationship is damaged? Palliative care diminished?'

Now, almost two years later, none of these concerns have turned out to be true. The small number of people who've used the law have all been clearly eligible. Palliative care has been unaffected. In fact, almost all the people who used VAD also benefited from its help. And doctors who have practiced under the law report that, if anything, it has strengthened the relationship with their patients.

But there have been unintended consequences. Only they've turned out to be – not, as opponents argued, of a law that would be too easy to access – but its opposite.

Throughout this series, you've heard the voices of those who've been directly impacted by voluntary assisted dying in Victoria: families of people who've died, doctors, pharmacists, and the terminally ill with life-ending medication in their keeping.

In this episode, you're going to hear something you haven't heard before: a father and daughter as they actually go through the process of applying for that medication, a process which – as you'll hear – brought, at first, deep gratitude, then frustration, then fear, then anger.

*[SOMBRE MUSIC]*

**Allan Cornell:** Oh look, I'm just a different person since the VAD decision.

**Kristin Cornell:** When did you start thinking about it? Soon, after you knew, or...?

**Allan Cornell:** Oh, the VAD? [Yeah.] Oh, shit, as soon as I – you know, and I just sort of went, 'Fuck, lucky as – it's fallen into Victoria, might as well...' You know, I thought, 'You're in here, because you definitely qualify,' you know.

**Andrew:** There's a good Australian word that describes Allan Cornell.

**Kristin Cornell:** Someone described him as the ultimate depiction of a country farmer larrikin.

**Andrew:** That's the youngest of his two daughters, Kristin, speaking. It's funny, sometimes, what we remember about our parents.

**Kristin Cornell:** My dad used to smell like diesel, and I thought that smelled nice. He was that kind of guy, you know? Big, rough hands, big, big man.

**Andrew:** Allan left school young. Not even a secondary education.

**Kristin Cornell:** He was a truckie, he was a blocky, as we call farmers up in Mildura. He was a gardener, he was a taxi driver. He was, yeah, a very generous man. If I could make him laugh, I felt like I'd really made it in life. [CHUCKLES]

**Andrew:** There's another great Australian expression: 'kicked up the backside by a rainbow.' That's how Allan felt when he met a PE teacher called Pam.

**Kristin Cornell:** She fell in love with Dad over a game of golf up on the Murray River, and he always thought he was batting above his average.

**Andrew:** And he thought the sun shone out of both his girls: Heather, a secondary school teacher, and Kristin, obstetrician and gynaecologist.

**Kristin Cornell:** He was very proud, but it wouldn't matter what you were doing, really.

**Andrew:** In March 2019, Allan's world began to come unstuck.

**Kristin Cornell:** Mum said they were walking down the GP clinic and she heard this thud, and he was flat on his face. And I said, 'Oh, Mum.' I knew that there was something going on.

**Andrew:** It wasn't till November, in a neurologist's rooms, that what was going on got a name.

**Kristin Cornell:** I'll never forget, he took off all Dad's clothes and his muscles were twitching. And he was this wasted man, and I looked at the neurologist, and he just looked at me and he goes, 'Well, your daughter knows what it is.' And he said, 'Have I got permission to speak frankly?' And Dad said, 'Please do, because I'm so sick of this.' And he said, 'Oh, well you've got Motor Neurone Disease, Allan. And this is going to significantly shorten your life.'

**Andrew:** Larrikin Allan seemed to take it in his stride.

**Kristin Cornell:** But Dad was just so grateful and relieved, he tells me. It was just one of the best days of his life because he finally had a reason to not be able to chop the firewood for Mum anymore.

**Andrew:** But his doctor daughter could see things were moving fast.

**Kristin Cornell:** I spoke to my other half at Christmas-time. I'm like, 'He's out in six months, don't you reckon?' And he's like, 'Yeah, I do.' You know, just every week would be step down, down, down.

**Andrew:** 'The Beast,' they call it. Motor Neurone Disease. No cure; just a curse that takes and takes.

**Kristin Cornell:** For Dad, it was all his limbs that went first, and there was no plateau. Just this constant downward trend.

**Andrew:** Four months after his diagnosis, Allan told Kristin he was thinking of applying for voluntary assisted dying.

**Kristin Cornell:** I just thought, 'How am I going to let you do this to yourself?'

**Andrew:** A few weeks later, Allan confided to his daughter that the inevitable march of his disease had made him realise how few options he had. His body would shut down completely, including his ability to breathe. Kristin recorded their conversation.

**Allan Cornell:** This is as melancholy as I've been, because now I'm not capable. I have to ask for someone to help me, and I can't. [Mmm.] 'Cause there is no one who will. And, y'know, I'm talking about in illegal ways. [Mmm.] I went through the dilemma of blowing my brains out, but I don't own a shotgun or a rifle. Okay, the ute's still there. 120k into a very sturdy tree. It's very common. That's messy. It's messy on the people who find you. It's a very badly thought-out plan. It's desperation at its worst. It's got to be soon, otherwise you won't be physically capable of doing anything.

**Kristin Cornell:** Mmm. You had thought about it?

**Allan Cornell:** Oh, yeah. I just didn't want that shit hanging on, and it's a fucking – not often I sook, but you end up in tears, you know? You sorta shouldn't be thinking this, and then you start thinking about your wife and your kids and it's very fucking uncomfortable. Fucking horrible place to be.

**Andrew:** He asked Kristin if she'd help him through the VAD process.

**Kristin Cornell:** I said, 'Of course I'll help you. Of course.'

**Andrew:** With her doctor's eye, she could see that time was of the essence.

**Kristin Cornell:** I just felt like I was shaking everyone, going, 'This is happening. This is happening quickly. Help me. Help me!'

**Andrew:** Allan asked his GP to assess him for VAD eligibility. As he spoke with Kristin, the good fortune he felt at living in the right state was palpable.

**Allan Cornell:** Oh look, I'm just a different person since the VAD decision. It's just been so much better. And I'm sure there's a lot of people out there who go all the way with this horrible thing, to a horrible end. Now I don't have to do it. I can pick the day. I can talk to you, I can talk to Pam, I can talk to anyone if I need to. And so, I'm now having a whole lot better period of pre-mortality now than I could ever possibly hope to live with this shit hanging on you, because all these lovely people have said, 'We can solve that.' And they do it lovingly, you know?

**Andrew:** It was March 2020 when Allan approached his GP, who needed to do the training so he was qualified to assess him. By the time that was done and he'd found Allan eligible, it was early April. Almost immediately, things became difficult. Victoria's law states that two doctors must assess a person for eligibility – one of them a specialist in Allan's disease. Allan reached out to his MND clinic to help find a specialist who might, but no one wanted to get involved.

**Kristin Cornell:** They made a decision as a unit not to encourage or discuss voluntary assisted dying.

**Andrew:** While within their rights not to participate – by law every individual has a right to conscientiously object – Kristin felt judged by her more cautious colleagues.

**Kristin Cornell:** Which we found difficult, because you're not trying to judge people for their ethical decisions, but when they directly affect your access something that is legal, it's a tricky pill to swallow.

**Andrew:** The clinic directed them to the regional Voluntary Assisted Dying Navigator, one of a small group of nurses and social workers who help guide people through the law's multiple steps.

**Kristin Cornell:** She was amazing, accessible, informative, and she's like, 'Great news! All the paperwork from the GP is through. Just got one little problem: there's no accredited neurologists in the entire Barwon region.'

**Andrew:** So, an availability issue, and a geographic one too. Allan lived 90 minutes' drive from Melbourne.

**Kristin Cornell:** Part of all of this is that telehealth is not allowed to be used when you're having these appointments, and Dad was really struggling to be able to sit up in a car anymore.

**Andrew:** But then, a stroke of luck.

**Kristin Cornell:** We ended up being saved inadvertently by a visiting neurologist that was able to help us with our accreditation.

**Andrew:** He gave Allan a prognosis of six to 12 months to live, making him eligible for VAD. But, by law, this was still not enough.

**Kristin Cornell:** The neurologist said, 'Look, we need a second neurologist now to confirm that prognosis,' because with a neurological disorder, if you're given a prognosis of six to 12 months, you need a second neurologist to support that.

**Andrew:** For Kristin, herself a specialist, this seemed like an excessive caution.

**Kristin Cornell:** Neurologists train for years, subspecialising in these diseases. We don't think they're able to make these decisions about prognosis that they're doing every day? It's beyond me why we would need two opinions.

**Andrew:** Still, Kristin hoped it would be straightforward.

**Kristin Cornell:** That neurologist doesn't actually need to be VAD-accredited. So, all they need to do is go, 'Oh, yeah, that sounds about right. Yep, six to 12 months.'

**Andrew:** But the neurologist they approached to confirm the prognosis declined.

**Kristin Cornell:** I was absolutely stunned. Obstructing someone from doing what they're trying to legally do.

**Andrew:** This was the end of May. When Allan got the news on his 74<sup>th</sup> birthday, it was crushing.

**Kristin Cornell:** I told him, and he described them as 'effing bureaucrats,' and, 'Why do they get to decide this for me?' And, and I said, 'It's all right. We'll get there.' And he said, 'It's like I've got a carrot dangling in front of me, and I can't reach it.' And he cried, and I reckon that's about the second time I've ever seen him cry.

*[SAD MUSIC]*

**Andrew:** For Allan, the rabbit hole of VAD was about to get deeper. He did, eventually, find a neurologist who supported the prognosis, but the law says this second opinion must fall within seven days of the first. And because of the delay...

**Kristin Cornell:** We had to go back to the first neurologist, physically, in person again.

**Andrew:** Nearly ten weeks had passed since Allan first approached his GP. With her father's condition deteriorating, Kristin decided to start recording her thoughts.

**Kristin Cornell:** So, I've just arrived at Mum and Dad's. Take three of part one of seeing the neurologist for the formal request for VAD. Ah, the first time we went and saw this neurologist, it was probably about over four weeks ago, and Dad's really went downhill since then. His breathing's really struggling and he's certainly far less mobile. So, it will be interesting to see what kind of prognosis he gives him this time. Previously it was six to 12 months, but we'll be lucky to be six to 12 weeks at this stage, or even days. But, ah, look, the main thing is that we're here and hopefully able to do it. A lot of hurdles, and in MND, time is everything. So, yeah, really stressful to be in this position again.

**Andrew:** The neurologist re-confirmed his original prognosis. This was early June, after two requests – both verbal – for assistance to die, and Allan still needed to make a final, written and witnessed request: another challenge.

**Kristin Cornell:** So today, the doctors went around to Mum and Dad's house to organise the final signing of the paperwork, and then he's got to make another final declaration of, 'Yes, please, I'm definitely sure about this.' And you need these witnesses, which can't be a family and can't be the doctor. And so, you've then got to find two people who you are okay to tell about, 'This is going to happen.' We ended up asking some neighbours, and thankfully, even though it may not have been their preference of things that they would like to do that day, they signed the paperwork.

**Andrew:** Nearly three months since Allan first asked about VAD, finally, all the i's and t's of the law were dotted and crossed, and he was found eligible. A date was set for the pharmacists to deliver the life-ending medication to which he was now legally entitled. But Kristin was beginning to doubt if he would live long enough to use it.

**Kristin Cornell:** Called Heather yesterday, and things are getting bad, and he's talking about actually doing it on the day the pharmacist is there, and I'm sort of thinking to myself, 'Is he gonna make it?' And then this morning he was in pain, and he was uncomfortable, and he was grunting, and he was desperately short of breath, and sort of muscles... well, there's no muscles. They're just... his ribcage trying to breathe, and skin on it, and twitching muscles. And I think he would have... he would have done it this morning if it was there, but it's not there. It's not there. [VOICE BREAKING] Because of all the logistics and mucking around and face-to-face crap. And I'm cross about that. [CRYING] Because this isn't what he wanted. He didn't want it like this. Neither did Mum. That was the point.

**Andrew:** As Allan descended into greater and greater pain, the palliative care team did their best to help.

**Kristin Cornell:** So, this morning, the palliative care team have been around and doing their usual dance of midazolam and morphine, and he'll be unconscious, I'm sure, soon, and then that'll be it, then, won't it? And everyone will tell me that he didn't suffer, and I'll know that there could have been a better way.

**Andrew:** Although a doctor, Kristin told me she'd been unaware of the historical opposition to assisted dying within palliative care.

**Kristin Cornell:** I had no idea. Like, you either choose palliative care or you choose VAD, and it's so completely wrong. I mean, without palliative care, we would have been completely stuck. Palliative care was a huge part of Dad's end of life. We're so grateful. They were wonderful. But it's a spectrum. We literally palliated him for 36, 48 hours waiting for the VAD medicine to come through the door. And I don't know how long it would have gone on for, but to say that without palliative care that you shouldn't need VAD, it's just not true. Dad didn't want to lie there breathless for 48 hours before his end. He was like, 'I've been able to extend my life with my family, living in a way that I never expected, and being okay with all of that. But now here's my point where I'm not okay with this anymore.'

**Andrew:** June 16<sup>th</sup> – the day before the pharmacists came – was the worst of all.

**Kristin Cornell:** He was terrible. He was dying. He was suffering. He was begging me the entire day prior to finish it. 'Where are they? Kristin? Where are they? Where are they?' He was exhausted. He was like, 'I don't want this anymore.' We didn't think he'd survive that night.

**Andrew:** By the next morning, Kristin was emotionally drained.

**Kristin Cornell:** I didn't think he'd make it through the night. But we gave him more infusions and more doses, and he slept, and looked like he might just keep going on. But he was just a skeleton, and he looked so uncomfortable, and he kept asking me where the tablets were, and that was hard for me. I know that I hadn't failed him, but I felt angry for him and annoyed for him.

**Andrew:** Finally, the pharmacists arrived.

**Kristin Cornell:** And they were so amazing. They walked in and Dad's incredibly breathless. He can barely speak, and he's struggling because I'd withheld a lot of medication because we didn't want him to be so drowsy.

**Andrew:** Throughout the entire process, Allan had had to demonstrate that this was his rational wish. Once again, the pharmacist asked him.

**Kristin Cornell:** He said, 'So, you're Allan Cornell, and I need to go through a few things with you, and one of them is that you understand what's going to happen to you if you choose to take this liquid.' And so, then they said to Dad, whose pet peeve was the phrase 'pass away' – he hated it. He was like, 'I'm dying, Kristin, I'm not passing anywhere. I'm dying.' And so, they said to him, 'Oh, so Allan, you know, we just want you to understand what will happen to you if you take this medication.' And Dad started, 'Well, I'm probably gonna fall off the twig.' And he said, 'So, um, okay, so from what you're saying, I think you're saying you're aware that you're going to pass away if you take this medication.' So, my sister and I just erupted in laughter, which is incredibly inappropriate at a time like this, and they kind of look at us, and I'm like, 'Ah, look, I'm sorry, he just hates that phrase.' And Dad said, 'Mate, you know, I am...' And then the guy realised that Dad was waiting for him to say something, and he's like, '... dying?' And he's gone, 'If I drink this, I will be...' And the guy's gone, '... dead?' [LAUGHS] And then he's gone, 'Well, Allan, considering you've managed to turn this around into a quiz for me, I can only assume that you know exactly what's happening.'

**Andrew:** How long was it between when your father got the medication and he decided to use it?

**Kristin Cornell:** About 30 seconds. Do you want to know what he said? Because it tastes pretty bad. And we had some beer and other things and icy poles to sort of wash it down with. But when he took it, he took a couple of sips and he put it down and he goes, 'Oh, this shit'll kill you.'

**Andrew:** A larrikin to the end, an end that had been so hard earned.



**Kristin Cornell:** We just hugged, and my sister was a bit agitated because he was so unwell. So, it was a different death to, I think, a lot of people's deaths that it could have been if he hadn't been so unwell. So, it was hard. But it was a relief. It was a relief. And I think he felt very looked-after, and he knew he was at home, and he knew we were with him. And he was at peace. The struggles were gone.

[PEACEFUL MUSIC]

**Andrew:** It took almost 100 days for Kristin's dying father to get the life-ending medication he so desperately sought, each one filled with anxiety and suffering. For Kristin, this was inexplicable.

**Kristin Cornell:** All the worry that people have that people are just gonna jump on this option unless we get 50 people to double check that you're of sound mind and body, that we're all going to be wanting to do voluntary assisted dying or something. Like, are they out of their minds? I'm a doctor, and if someone tells me that they want a hysterectomy, I don't think that they're mucking around and that they haven't thought about it. You know, these are very rare circumstances we're talking about. To safeguard against it, to make it so hard for everyone else... People aren't going to just be doing it for fun. This is the end of their lives we're talking about. I don't get it. I don't get it. [SNIFFS, SHAKY BREATH]

[CALM MUSIC]

**Andrew:** Allan Cornell's story is not an isolated one. Reg Jebb's wife of more than 30 years, Helen, also had an aggressive form of Motor Neurone Disease. As her condition worsened, Helen was crystal clear about what she wanted.

**Reg Jebb:** They were insisting that she go into hospital because there was a lot of pain at this point in time. And basically, she'd be in a nappy, they'd dose her up and, yeah, then she'd wait to die, which is exactly what she didn't want. The fact that voluntary assisted dying existed gave her a feeling that she had some say in her own destiny. It was a great relief that, whether you used it or not, this option was available.

**Andrew:** Helen had been found eligible for VAD by her GP and a neurologist specialising in Motor Neurone Disease. But, like Allan, the nature of Helen's disease meant a second neurologist had to confirm the prognosis of between six and 12 months to live. Even though she and Reg lived central to Melbourne's major hospitals, their challenge proved no easier than it had for Allan. Their GP reached out for help.

**Reg Jebb:** She wrote numerous letters and made numerous phone calls to – it seemed like –30 neurologists, but nobody would do it, and Helen's doctor said, 'I think this is going to be a race between us getting the approval for the VAD and you dying.'

**Andrew Denton 43:16** Did I hear you correctly? You said that the GP had approached something like 30 neurologists?

**Reg Jebb:** Yes. That's a lot, isn't it? A lot of them didn't even answer. And Helen was starting to give up hope.

**Andrew:** Helen's GP kept trying.

**Reg Jebb:** So she persevered and – two months, this took – eventually a professor at Royal Melbourne Hospital agreed to do it.

**Andrew:** A dying woman, desperately reaching out for the most basic form of help: confirmation of disease, and likely time until death. Yet, for two months, Melbourne's medical establishment largely turned its back. The delay meant that Helen – like Allan – must endure another trip to be re-examined by the neurologist who'd already assessed her as eligible.

**Reg Jebb:** The first step in the process would have been, say, in April, I think, and went from there to October.

**Andrew Denton:** Wow. So, we're talking six months?

**Reg Jebb:** Yeah, pretty well.

**Andrew Denton:** That's a long time for somebody with a significantly deteriorating condition.

**Reg Jebb:** Yes. And the proof of that is what happened in the end, which was – so, for the VAD, there were three syringes with stuff in them. The first one is a relatively light sedative that puts you into a light sleep. The second one knocks you out cold. And the third one is the one that ends the life. So, the doctor administered the first needle. Helen went quiet... [DEEP BREATH] and she was already gone.

**Andrew Denton:** So, it was simply the administration of that first light anaesthetic?

**Reg Jebb:** Yes. She was that far gone.

**Andrew:** In its 2020 report on the first 18 months of Victoria's law, the Voluntary Assisted Dying Review Board revealed almost a third of the people who had been issued permits for life-ending medication had either not used it or died before they could.

**Betty King:** We've never had a complaint about it being too quick. Only ever had complaints about it taking too long.

**Andrew:** This is former Supreme Court Justice, Betty King, Chair of the Board, whose job is to review each case and ensure the law is operating as intended. I asked her what complaints they'd received from families.

**Betty King:** A number relate to having to have a second doctor who is a specialist in the area of the patient's illness. The other is about those who have to seek the third independent

person for the neurodegenerative if the prognosis is under 12 months. Telehealth, not being able to use that is a constant complaint.

**Andrew:** Betty acknowledges the law isn't easy to access.

**Betty King:** It takes determination to take all of these steps.

**Andrew:** She also points out it was never intended as an emergency procedure.

**Betty King:** It's not an easy process, but neither it should be. This is the ending of a life.

**Andrew:** At this stage, it's worth remembering the political environment in which Victoria's VAD law was passed back in 2017. Almost 50 attempts in other states over the previous twenty years had failed. Opposition from the Church, elements of the media, and many in the medical profession was intense, and I saw firsthand the pressure that was brought to bear on politicians who chose to support it.

Several in the Liberal party were threatened with their careers. Labor MPs had their cars plastered with ugly pamphlets at their state conference. One Labor Minister was personally attacked from the pulpit while attending her local church, while one Liberal MP, under intense pressure from her own party not to vote for the bill, was rushed to hospital during the debate with a panic attack – though returned later that night to make sure to vote her support. It was politics at its most brutal and emotional.

Faced with this political reality, the Government tabled legislation with more safeguards built into it than anywhere else in the world – 68 of them. And in the end, the law did pass by just four votes.

Its passing was revolutionary, changing the conversation about end-of-life care in Australia and paving the way for other states to do the same. But Victoria's necessarily cautious approach came at a human cost, as you've heard in the stories of Allan Cornell and Helen Jebb. It's there, too, in the numbers of people who were found to be legally eligible but who didn't live to use the medication.

Throughout this series, I've asked doctors I've spoken with about what unintended consequences of the law they've experienced. Four main ones kept coming up. One: requirement for assessment by a specialist.

**Greg Mewett:** One thing I would change is that the consulting doctor should not have to have done the Voluntary Assisted Dying training.

**Andrew:** Two: the inability to use Telehealth to consult with patients.

**Nola Maxfield:** You're asking people who are quite unwell to travel long distances to access that care because it can't be done over telephone or video link.

**Andrew:** Three: the prohibition on doctors raising the subject of VAD.

**Andrea Bendrups:** You can talk about palliative care, but you're not allowed to tell them about VAD. So, for the ordinary man on the street, how do they find out about it?

**Andrew:** And four: residency requirements.

**Nick Carr:** Despite the fact that he was a taxpayer, he was on the electoral roll, he had all his utility bills to show that he was a Victorian resident, he wasn't an Australian citizen, so he was ineligible.

**Andrew:** If you'd like to hear the longer conversation with those doctors, and Betty King, go to the episode webpage.

One of the tasks of the Review Board is to make recommendations about the functioning of the law when it comes up for review five years after its commencement. Here again is Betty King.

**Betty King:** What we're doing is noting what's coming in, and trying to work out what are the common factors that cause people the most trouble in terms of access, so that when we do make the recommendations, they are informed.

**Andrew:** Perhaps one of the things that will help inform those recommendations are the VAD laws since passed in Western Australia and Tasmania. Similar, but differing from Victoria's in crucial elements. For instance, while both require assessing doctors to have considerable professional experience, neither insist, as Victoria has, that the second assessment be done by a specialist, the unintended consequence of which was the traumatising delays faced by people like Allan and Helen.

And, unlike Victoria, it will be legal in these states for doctors to raise VAD, as long as they discuss other treatment options in the same conversation.

Of course, the great risk of 'improving' Victoria's law was that it would trigger the usual cries of 'slippery slope' from the familiar sources.

A bit like 'fake news', the phrase 'slippery slope' is a ready-made, one-size-fits-all attack on ideas or values you oppose. We've seen it used many times down the years: for example, by big tobacco against bans on cigarette advertising in the 1970s and, more recently, by Christian lobby groups and politicians against same-sex marriage. Remember how people were going to end up marrying bridges?

If, for religious or other reasons, you are fundamentally opposed to assisted dying, then everything to do with it – even one death – is a slippery slope.

But if you are at the other end of the argument – seeking law reform – then change is not a slippery slope. It is more like a 'merciless mountain' of seemingly endless parliamentary inquiries and debates to be scaled; each one requiring volumes of solid evidence to support even the slightest advance.

And even then, as history has shown, change may come imperfectly, or it may not come at all.

It is now late May 2021. Since I began working on this series almost a year ago, Tasmania and New Zealand have legalized Assisted Dying. So, too, has Spain. New Mexico became the 11<sup>th</sup> US state to do the same and, after their constitutional court overturned a ban on Assisted Dying, Germany's government is now planning to legislate.

Two weeks from now, on its 17<sup>th</sup> attempt, it is likely that South Australia's parliament will follow suit, with both the Premier and Opposition Leader voicing their support. And, in September, for the first time, Queensland's parliament will debate legislation drafted by the Queensland Law Reform Commission and put forward by the Government.

Upon its release, the Chair of the Commission, Supreme Court Justice, Peter Applegarth, said that the law they were putting forward was not 'constrained by similar laws in other states,' but was, instead, 'the best legal framework for a voluntary assisted dying scheme in Queensland.'

Not only will Queensland follow Tasmania and Western Australia's lead when it comes to assessment by specialists, and doctors being able to initiate a conversation about VAD, they are also proposing that a person can be eligible if they are expected to die within 12 months. In all other states, the law says six months, unless you have a neurodegenerative disease, in which case it can be 12.

Their argument? That, firstly, it's hard to justify having different time limits to access VAD depending on the nature of your illness.

And second, a longer eligibility period allows a person who is dying to start the application process earlier. This can reduce the likelihood they may die before using, or even receiving, the medication, as have almost a third of those found eligible in Victoria.

Pre-emptively addressing the cries of 'slippery slope' that will come from the Church and others in opposition, Justice Applegarth wrote:

'In a federation like ours is the notion that the states are "laboratories of democracy" in which different policies can be enacted and tested in a state. If the policy is a failure, it does not affect any other state. If, however, the policy is a success, it might be expanded to another state. If improvements are made in the next state, they might be adopted in another.'

Whether Queensland's parliament passes this law remains to be seen. If it does, it will only be after many months of consultation, built on years of peer-reviewed research, and nearly a quarter of a century of examples of similar laws working effectively overseas.

And whatever assisted dying law it may pass, as with others that now exist around Australia, its fundamentals will be the same:

It will be conservative. It will contain many, proven safeguards. It will not be easy to access. It will be voluntary for all involved. It will be more heavily scrutinised than any other area of medical practice. It will only be for those whose suffering as they die is such that they would rather drink that lethal draught and step into the unknown than be forced to endure hell, and it will only be for the courageous few.

As Oregon doctor, Peter Regan, put it when asked about the vanishingly small numbers of people who use their law:

'I cannot imagine why they would expect an avalanche anywhere. It just turns out that people don't want to die!'

*[MUSIC: 'LOYDIE'S ANGEL' BY JORDAN LASER]*

**Andrew:** My thanks to everyone who has contributed to this series, in particular those families who have been through the VAD process, and to Ron Poole, Peter Jones, and Fiona McClure, who each had the life-ending medication in their possession. The bravery, intimacy, and honesty of all these conversations will remain with me always.

Legalising voluntary assisted dying is not easy. And, as the first year of Victoria's law has shown, passing a law does not mean the work is over: that some pursuing their legal right to VAD are still being harassed or blocked is wrong. Equally, there is much to be done to promote the idea of genuine patient-centred care across the medical community.

If these things concern you – because, as Jim Morrison said, no-one here gets out alive – then you may like to support the work of Go Gentle. You can find us at [gogentleaustralia.org.au](http://gogentleaustralia.org.au).

You may also like to seek out, and support, the work of your state's Dying with Dignity organisation.

While this is the end of Better Off Dead, look out for a sneaky bonus episode – a replay of Radio National's Big Ideas program – recorded recently at Melbourne's Wheeler Centre. It features former VAD conscientious objector, oncologist, Dr Phillip Parente; Chair of the Assisted Dying Review Board, Justice Betty King; terminally ill Shepparton man, Ron Poole, and myself in discussion, expertly moderated by Paul Barclay.

It's a fascinating conversation, made all the more poignant by the knowledge that Ron had chosen to spend some of the very little time he had left to help us to understand what the choice offered by Victoria's law had meant to him.

*[CLOSING CREDITS]*

**VO:** Season two of Better Off Dead is created, written, and presented by Andrew Denton, with Beth Atkinson-Quinton, Martin Peralta, Kiki Paul, Steve Offner, and production assistance from Alex Gow. It is a co-production of Go Gentle Australia and The Wheeler

Centre. Follow [wheelercentre.com/betteroffdead](http://wheelercentre.com/betteroffdead) to learn more about the people and ideas from each episode.

*['LOYDIE'S ANGEL' CONTINUES]*