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**Subject:** Correspondence from the Hon. Shannon Fentiman MP, Attorney-General  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[210122 Letter to Senator the Hon. Michaelia Cash Attorney-General and Minister for Industrial Relations 5815154.pdf](#)

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Good afternoon

Please find attached correspondence from the Hon. Shannon Fentiman MP, Attorney-General.

Kind regards

**Office of The Hon. Shannon Fentiman MP**

Attorney-General and Minister for Justice

Minister for Women

Minister for the Prevention of Domestic and Family Violence

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Attorney-General and Minister for Justice  
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Our ref: 600902/1, 5815154

22 OCT 2021

Senator the Honourable Michaelia Cash  
Attorney-General and Minister for Industrial Relations  
[attorney@ag.gov.au](mailto:attorney@ag.gov.au)

Dear Attorney-General

*Michaelia*

I am writing further to my correspondence to the South Australian Deputy Premier and Attorney-General, the Honourable Vickie Chapman MP, dated 8 October 2021 and copied to State and Territory counterparts and you.

In my correspondence I sought the South Australian Attorney-General's agreement to placing the issue of the need for the Commonwealth to amend the *Criminal Code Act 1995* (Cth) to expressly exclude participation in lawful state voluntary assisted dying (VAD) schemes as an item on the informal meeting of Attorneys-General to be held on 22 October 2021.

The South Australian Attorney-General has responded, indicating that whilst the issue is worthy of national discussion, it would be more appropriately considered as part of a formal meeting with recommendations such as the Health Ministers' Meeting Forum, or alternatively by the formal Meeting of Attorneys-General (MAG) in November 2021, with papers to be prepared.

These amendments to Commonwealth legislation are important for the reasons outlined in my correspondence dated 8 October 2021.

Whilst I appreciate these amendments are currently not a priority matter for MAG, I seek your agreement for this matter to be discussed under the MAG 12 November 2021 agenda item "Other business". Subject to your agreement, and to assist discussion, I will arrange for a paper to be prepared outlining the issues as discussed in my correspondence dated 8 October 2021.

Separate to the VAD issues I have raised, I note that both our Australian Capital Territory and Northern Territory counterparts wrote to the South Australian Attorney-General following my correspondence dated 8 October 2021 indicating that they wanted to discuss the differential treatment of the territories in respect of VAD laws at the informal meeting of 22 October 2021. I understand the South Australian Attorney-General has replied in similar terms to her abovementioned reply to me.

(2)

If your office have any questions in relation to the above, I invite them to contact my Chief of Staff, Laura Fraser Hardy, on (07) 3719 7400 or at [laura.fraserhardy@ministerial.qld.gov.au](mailto:laura.fraserhardy@ministerial.qld.gov.au).

I have copied our State, Territory and New Zealand counterparts into this correspondence.

I look forward to your early reply in response to my request.

Yours sincerely



**Shannon Fentiman MP**

Attorney-General and Minister for Justice  
Minister for Women and Minister for the Prevention of Domestic and Family Violence  
Member for Waterford

cc The Honourable Vickie Chapman MP  
Deputy Premier and Attorney-General  
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Attorney-General, Minister for Consumer Affairs, Minister for Water, Energy and Emissions  
Reduction and Minister for Gaming  
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**Subject:** Correspondence from the Attorney-General  
**Date:** Friday, 8 October 2021 9:08:53 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[211008 Letter to the Hon. Vickie Chapman MP Deputy Premier and Attorney-General of South Australia 5795005.pdf](#)

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Good morning

Please find attached correspondence from the Hon. Shannon Fentiman MP, Attorney-General.

Kind regards

**Office of The Hon. Shannon Fentiman MP**

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Our ref: 584764/2, 5795005

08 OCT 2021

The Honourable Vickie Chapman MP  
Deputy Premier and Attorney-General of South Australia  
[attorneygeneral@sa.gov.au](mailto:attorneygeneral@sa.gov.au)

Dear Deputy Premier

  
I am writing to seek your agreement to putting an item on the informal meeting of Attorneys-General to be held on 22 October 2021.

As you may be aware, the Voluntary Assisted Dying Bill 2021 (the Bill) was recently passed by the Queensland Legislative Assembly.

Queensland's Voluntary Assisted Dying (VAD) scheme in the Bill is based on the advice of the Queensland Law Reform Commission's (QLRC) report, A Legal Framework for Voluntary Assisted Dying, Report No. 79, May 2021, which was tabled in the Queensland Parliament on 18 May this year. The QLRC report made 197 recommendations for a legislative framework for VAD in Queensland and its effective implementation.

The QLRC identified the need to amend relevant Commonwealth laws to clarify that VAD, which is authorised and lawful under state or territory law, does not constitute 'suicide' for the purposes of sections 474.29A and 474.29B of the *Criminal Code Act 1995* (Cth). Recommendations 20-1, 20-2 and 20-3 of the QLRC report refers specifically to this issue.

The Health and Environment Committee that examined the Bill also made two recommendations about this matter as follows:

- the committee recommends that the Commonwealth Government amend the *Criminal Code Act 1995* (Cth) by inserting a definition declaring that 'suicide' does not include voluntary assisted dying carried out lawfully pursuant to a law of a state or territory; and
- the committee recommends that as a matter of urgency the Commonwealth Director of Public Prosecutions issue prosecutorial charging guidelines indicating that the offences in sections 474.29A and 474.29B of the *Criminal Code Act 1995* (Cth) will not be prosecuted where a doctor or other person is acting in accordance with the procedure outlined in state or territory voluntary assisted dying laws.

The Honourable Anastacia Palaszczuk MP, Premier and Minister for Trade, wrote to the Honourable Scott Morrison MP, Prime Minister, earlier this year asking that urgent action be taken to amend Commonwealth legislation, to ensure persons providing information about Queensland's VAD scheme are not liable under the Commonwealth Criminal Code offences of using a carriage service to publish or distribute material that counsels or incites committing or attempting to commit suicide.

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The Prime Minister has replied advising the Commonwealth Government will not take action regarding this matter and that the resolution of this issue is a matter for the Queensland Government.

The Queensland Government is particularly concerned that the Commonwealth Government's position on this matter will impact individuals suffering and dying in Queensland's regional, rural, and remote areas. Access for these categories of people to our VAD scheme will be greatly impaired if forms of communication involving a carriage service cannot be used to obtain relevant information and advice, for example, through telehealth services. Similar concerns are held about the possible criminal liability of health practitioners who lawfully, under the Queensland legislation, provide advice about the VAD scheme.

Due to the primacy of Commonwealth law under the Australian Constitution, the only way to definitively resolve this issue is for the Commonwealth Government to amend the Commonwealth Criminal Code to expressly exclude participation in lawful state VAD schemes. The issue is relevant to a number of other jurisdictions that have enacted VAD schemes. Accordingly, I am of the view that this matter would benefit from discussion by Attorneys-General at our upcoming meeting.

I have copied our Commonwealth, State and Territory counterparts into this correspondence.

If you have any questions in relation to the above, I invite you to contact my Chief of Staff, Laura Fraser Hardy, on (07) 3719 7400 or at [laura.fraserhardy@ministerial.qld.gov.au](mailto:laura.fraserhardy@ministerial.qld.gov.au).

Yours sincerely



**Shannon Fentiman MP**

Attorney-General and Minister for Justice

Minister for Women and Minister for the Prevention of Domestic and Family Violence

Member for Waterford

cc

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Attorney-General and Minister for Industrial Relations  
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(3)

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