

If you are found not eligible for voluntary assisted dying

Summary

Some people who wish to access voluntary assisted dying may not meet the eligibility criteria. If this happens, your health practitioner will explain your options and provide support.

To access voluntary assisted dying in the ACT you must meet all the eligibility criteria:

- be an adult aged 18 years or older
- have lived in the ACT for at least the last 12 months, or you have been granted a residency exemption
- been diagnosed with a medical condition that is advanced, progressive and expected to cause death
- be experiencing intolerable suffering
- can demonstrate decision-making capacity in relation to voluntary assisted dying, and
- be acting voluntarily and without coercion.

There are different points in the process where a health practitioner may find you are not eligible for voluntary assisted dying.

If you are not eligible for voluntary assisted dying at this time, you may be found eligible in the future if your circumstances change.

If you are told you may not be eligible to access voluntary assisted dying

Your healthcare team can provide advice and information about voluntary assisted dying, or they may refer you to the Voluntary Assisted Dying Care Navigator Service. However, only a medical or nurse practitioner that is authorised to provide voluntary assisted dying services can confirm if you are eligible.

If you ask your healthcare team for information about voluntary assisted dying, they may tell you that you are unlikely to be found eligible for voluntary assisted dying. This could be because you:

- do not have an advanced and progressive medical condition that is expected to cause your death
- are under the age of 18
- do not have decision-making capacity in relation to voluntary assisted dying
- do not appear to be acting voluntarily or without coercion, or

Voluntary assisted dying



- do not meet the residency requirements.

If this happens, your healthcare team will ask you some further questions to make sure you get the care, symptom management, information or support you need.

Some health professionals may have an objection to voluntary assisted dying because of cultural or religious beliefs. This is called a conscientious objection. If this is the case, they must provide you with the contact details in writing of the Voluntary Assisted Dying Care Navigator Service.

If you are found not eligible after the **first assessment**

Your coordinating practitioner can assess you as not eligible for voluntary assisted dying if they **are not** satisfied you:

- meet all the eligibility criteria, and/or
- understand the information given to you about voluntary assisted dying.

If your coordinating practitioner decides you are not eligible for voluntary assisted dying at this time, they will:

- explain why you are not eligible, and
- give you a written copy of their decision.

Your eligibility could change if your circumstances change and/or your condition deteriorates.

What you can do

If your coordinating practitioner assesses you as not eligible for voluntary assisted dying at this time you can:

- make a new first request to a different health practitioner, or
- if your circumstances change, make a new first request to the same coordinating practitioner at a different time.

If you do this, the voluntary assisted dying process **will start from the beginning.**

If you are found not eligible after the **consulting assessment**

Your consulting practitioner can assess you as not eligible for voluntary assisted dying if they are not satisfied you:

- meet all the eligibility criteria, and/or
- understand the information given to you about voluntary assisted dying.

Voluntary assisted dying



If your consulting practitioner decides you are for voluntary assisted dying at this time, they will:

- explain why you are not eligible, and
- give you a written copy of their decision.

If your consulting practitioner decides you are not eligible, your coordinating practitioner may refer you to a different practitioner for another consulting assessment.

What you can do

If your coordinating practitioner does not refer you for another consulting assessment, you can:

- make a new first request to a different health practitioner, or
- if your circumstances change, make a new first request to the same coordinating practitioner at a different time.

If you do this, the voluntary assisted dying process **will start from the beginning**.

If your coordinating or consulting practitioner assesses you as not eligible for voluntary assisted dying at this time, they will talk to you about other care and support available to you. This could include:

- discussing how your healthcare team can help ease any physical symptoms, or psychological, social or spiritual distress you may be experiencing
- giving you referrals to relevant health professionals, and
- organising additional support from a specialist palliative care team (if one is not already involved in your care).

If you are found not eligible after the final assessment

Your coordinating practitioner may find you not eligible if they are concerned that you:

- do not have decision-making capacity and/or
- are not acting voluntarily and without coercion.

If your coordinating practitioner decides that you are not eligible for voluntary assisted dying at this time, they will:

- explain why you are not eligible
- give you a written copy of the decision.

What you can do

If your coordinating practitioner is not satisfied you still have decision-making capacity and are acting voluntarily and without coercion, you can:

Voluntary assisted dying



- make a new first request to a different practitioner
- if your circumstances change, make a new first request to the same practitioner at a different time.

If you do this, the voluntary assisted dying process **will start from the beginning**.

You can also apply to have the decision reviewed by the ACAT.

If the pharmacist has concerns during the supply visit

If you have decided to take the voluntary assisted dying substance yourself (self-administration), a pharmacist from the ACT Voluntary Assisted Dying Pharmacy Service will deliver the substance to you and explain how to use it. If the pharmacist believes you do not understand the information given to you, they may contact your coordinating practitioner before proceeding.

What you can do

If a pharmacist does not supply you the voluntary assisted dying substance kit, you can:

- ask to reschedule the supply of the substance, and
- ask your coordinating practitioner if you can change to practitioner administration if you cannot take the substance yourself.

If the administering practitioner has concerns before administration

Before administering the substance to you, your administering practitioner will check if you:

- have decision-making capacity, and
- are acting voluntarily and without coercion.

If your administering practitioner has any concerns about you meeting these conditions, they will not administer the substance. Your coordinating or administering practitioner will talk to you about other care and support available to you.

What you can do

If your administering practitioner does not administer the substance, you can ask to reschedule the administration of the substance at another time. At this time, the administering practitioner will again check that you have decision-making capacity and are acting voluntarily and without coercion prior to administering the substance.

Voluntary assisted dying



Review process

If your coordinating practitioner decides you are not eligible to access voluntary assisted dying at this time, they will explain their reasons for the decision and provide you with information about your right to have the decision reviewed by ACT Civil and Administrative Tribunal (ACAT).

The ACAT is an independent body that makes and reviews a range of administrative, commercial, and personal matters in the ACT. In relation to voluntary assisted dying, ACAT can only review decisions made by a coordinating or consulting practitioner regarding:

- if you have decision-making capacity in relation to voluntary assisted dying
- if your decision to access voluntary assisted dying is made voluntarily and without coercion
- if you have lived in the ACT for at least the previous 12 months.

ACAT can also review decisions made by the Director-General, ACT Health and Community Services Directorate, regarding refusing to grant a residency exemption.

These are called reviewable decisions. ACAT cannot review decisions about disease-related eligibility criteria, as they are best decided by a practitioner.

More support

The following services and website are also available to support you:

- [Palliative care options in the ACT](#)
- ACT Voluntary Assisted Dying Care Navigator Service on 02 51241 888 – open from Monday to Friday 8:30am to 5:00pm (excluding public holidays)
- [Lifeline](#) on 13 11 14 – open 24 hours for crisis telephone support
- [Griefline](#) on 1300 845 745 – open 8am to 8pm, 7 days a week
- Transcultural Mental Health Line on 1800 648 911 – open Monday to Friday between 9am and 4.30pm. Speak to clinicians who understand your culture and can communicate in your language
- 13YARN on 13 92 76 – open 24 hours for crisis telephone support. Yarn with an Aboriginal or Torres Strait Islander Crisis Supporter

Voluntary assisted dying



Acknowledgements

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