

BRIEFING: ASSISTED DYING DEBATE

My Death, My Decision - July 2019

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About us

My Death, My Decision is a grassroots not-for-profit organisation that campaigns for a compassionate and balanced approach to assisted dying in the UK. We believe that everyone deserves access to excellent palliative care but that mentally competent adults, who are either terminally ill or facing incurable suffering, should be able to decide for themselves the manner and timing of their own death. Through the work of our members, supporters, patrons, and activists we aim to broaden the public debate on assisted dying and seek to secure changes in the law.

The law on assisted dying

Helping someone to end their life is a criminal offence that carries a maximum sentence of 14 years in England and Wales, provided the Director of Public Prosecution (DPP) consents.¹ Following the landmark ruling in Debbie Purdy's 2010 case, the DPP clarified the factors tending for and against a prosecution, with factors including:²

- acting in your capacity as a medical professional, with the person in your care, tending for prosecution
- the absence of a voluntary, clear, settled, and informed decision tending for prosecution
- a wholly compassionate motivation tending against prosecution

In 2014 Jane Nicklinson, the widow of locked-in sufferer Tony Nicklinson, and Paul Lamb, who is paralysed from the neck down, challenged the law on assisted dying in the Supreme Court. With a notable dissent from the now President, Lady Hale, the court held that Parliament should be afforded the opportunity to debate the issue before the courts would rule on whether the law is incompatible with the human rights of those who are both terminally ill and incurably suffering.³ Since then three bills have been introduced to Parliament attempting to legalise assisted dying.⁴ However, all three related only to those with six or fewer months left to live.

The case for an inclusive and balanced law

We believe that the right to die should be seen as a fundamental human right, and that those who are either terminally ill or facing incurable suffering should have the option of a peaceful, painless, and dignified death. Unlike some organisations, we don't consider terminal illness to be a reliable measure of someone's suffering or quality of life, and are conscious that such a restriction poses a specific problem as it is common for life expediencies to fluctuate. Just as compassion for others motivates people to support assisted dying for those who are terminally ill, we believe it should also underscore support for those like Tony Nicklinson or Paul Lamb.

- According to research from the **Assisted Dying Coalition**, which My Death, My Decision helped to co-found, more than one person a week now travels from Britain to Switzerland to end their life because they cannot request a peaceful death at home. Prior to 2015, it was estimated that one person every fourteen days made this journey. These journeys are often difficult and isolating, with many people forced to sacrifice their opportunity to say goodbye to their loved ones, to protect them from being prosecuted.⁵

1 The Suicide Act 1961. Section 2(1) and Section 2(2A) Suicide Act 1961.

2 The Crown Prosecution Service. Suicide: Policy for Prosecutors in Respect of Cases of Encouraging or Assisting Suicide. 2014. <https://www.cps.gov.uk/legal-guidance/suicide-policy-prosecutors-respect-cases-encouraging-or-assisting-suicide>

3 R(Nicklinson) v Ministry of Justice [2014] UKSC 38, para 321

4 Lord Falconer. Assisted Dying Bill. House of Lords. 2014. <https://publications.parliament.uk/pa/bills/lbill/2014-2015/0006/15006.pdf>
Rob Marris MP. Assisted Dying (No.2) Bill. House of Commons. 2015. <https://publications.parliament.uk/pa/bills/cbill/2015-2016/0007/16007.pdf>
Lord Hayward. Assisted Dying Bill. House of Lords. <https://publications.parliament.uk/pa/bills/lbill/2016-2017/0042/17042.pdf>

5 The Assisted Dying Coalition. 'Number of UK citizens going to Switzerland to seek an assisted death' https://humanism.org.uk/wp-content/uploads/2019-2-1-KM-Assisted-Dying-Briefing_-_Number-of-UK-citizens-going-to-Switzerland-to-see-an-assisted-death-1.pdf; BBC. 'Assisted Suicide: One Briton a fortnight goes to Switzerland. 2014. <https://www.bbc.co.uk/news/uk-28876130>

- Now more than ever, as society has become increasingly adept at extending the length of life, but not its quality, the right to decide the manner and timing of your own death should be seen as a fundamental human right. Forcing individuals to end their life abroad undermines this right, as the physical demands of travelling abroad can compel those with progressive conditions to end their lives sooner than would they otherwise wish, and many cannot afford the £10,000 cost of an assisted death in Switzerland.⁶
- Patients often fail to confide in their doctors, when they intend to end their life abroad, because they fear their doctor will make it more difficult for them by withholding medical records.⁷ In reality, this measure doesn't stop anyone from having an assisted death. However, when unable to trust their doctors, patients often seek advice from unqualified or unethical sources, who may only give them partial information.⁸ We believe the best way to protect patients, and doctors, is an early system of open and honest conversation.
- According to a National Centre for Social Research survey, commissioned by My Death, My Decision, 93% of the public support legalising the option of assisted dying for the terminally ill, in at least some circumstances, and up to 88% of the public support legalising the option of assisted dying for those facing incurable suffering.⁹ We believe, as the majority of the public do, that dying through a long and drawn-out illness, or through the inhumane process of starvation, as Tony Nicklinson did, does not honour the compassion or dignity that those at the end of their life deserve.

Popular Counterarguments

Palliative care is an important choice which has brought relief to many people suffering in the UK. My Death, My Decision strongly believes that everyone deserves access to high quality palliative medicine. However, we do not think that palliative care and assisted dying should be mutually exclusive. Northern Belgium has demonstrated, for over a decade, that palliative medicine and assisted dying work best when they work in tandem: 70% of people who request an assisted death in the Flanders region of Belgium also receive palliative care.¹⁰ Moreover, a comprehensive study by the European Association of Palliative Care recently concluded: 'There is evidence of advancement of palliative care in countries with legalised euthanasia, also after the legalisation of euthanasia and/or assisted suicide. The idea that legalisation of euthanasia and/or assisted suicide might obstruct or halt palliative care development thus seems unwarranted and is only expressed in commentaries rather than demonstrated by empirical evidence.'¹¹

The protection of **vulnerable people** is of the utmost importance, however opponents of assisted dying should be equally concerned with protecting those living in constant pain from prolonged suffering. There is no credible evidence from countries or territories which have legalised assisted dying, that vulnerable people will be pressured to end their life. In fact, the most comprehensive study by Professor Battin et al concluded the exact opposite. The study looked at evidence from two different models, Orgeon and the Netherlands, and concluded: 'Where assisted dying is already legal, there is no current evidence for the claim that legalised PAS [physician-assisted suicide] or euthanasia will have disproportionate impact on patients in vulnerable groups.'¹²

The Declaration of Geneva, the modern iteration of the **Hippocratic Oath**, begins with a pledge to: 'respect the autonomy and dignity' of a patient, before it requires a doctor to pledge to respect life.¹³ Perhaps unsurprisingly a majority of doctors and nurses therefore support changing the law on assisted dying. This attitude is similarly reflected in the policy of several high profile medical organisations, who have either not taken, or have adopted a neutral stance, on assisted dying including: The Royal College of Physicians,¹⁴ The Royal Society of Medicine, The Royal College of Nursing, and The Royal College of Psychiatrists.¹⁵

6 My Death, My Decision. 'New Report on Outsourcing Assisted Dying to Switzerland'. 2017. <https://www.mydeath-mydecision.org.uk/new-report-outsourcing-assisted-dying-switzerland/>

7 General Medical Council. 'Guidance for the Investigation Committee and case examiners when considering allegations about a doctor's involvement in encouraging or assisting suicide. 2013.

https://www.gmc-uk.org/-/media/documents/DC4317_Guidance_for_FTP_decision_makers_on_assisting_suicide_51026940.pdf

8 It has been predicted that anywhere between 4 - 10% of doctors and other healthcare professionals engage in illicit end of life practices. Roger Magnusson. 'Euthanasia: above ground, below ground'. British Medical Journal. 2004. <https://jme.bmj.com/content/30/5/441>

9 My Death, My Decision. 'New Research finds up to 93% of people consider assisted dying acceptable in at least some situations, even if rarely.' 2019. <https://www.mydeath-mydecision.org.uk/wp-content/uploads/2019/03/Briefing-on-NatCen-assisted-dying-poll.pdf>

10 Sigrid Dierrickx et al. 'Involvement of palliative care in euthanasia practice in a context of legalised euthanasia: A population-based mortality follow-back study'. Sage Journals. 2017. <https://journals.sagepub.com/doi/full/10.1177/0269216317727158>

11 Clare Dyer. 'Legalisation of assisted dying does not harm palliative care, study concludes'. British Medical Journal. 2011. <https://www.bmj.com/content/343/bmj.d6779>

12 Margaret Battin et al. 'Legal physician-assisted dying in Oregon and the Netherlands: evidence concerning the impact on patients in "vulnerable" groups'. Journal of Medical Ethics. 2007. <https://www.ncbi.nlm.nih.gov/pubmed/17906058>

13 World Medical Association. 'Declaration of Geneva'. 2018. <https://www.wma.net/policies-post/wma-declaration-of-geneva/>

14 Jacky Davis. 'Most UK doctors support assisted dying, a new poll shows: the BMA's opposition does not represent members.' British Medical Journal. 2018. <https://www.bmj.com/content/360/bmj.k301>

15 Royal College of Physicians. 'No majority view on assisted dying moves RCP position to neutral'. 2019. <https://www.rcplondon.ac.uk/news/no-majority-view-assisted-dying-moves-rcp-position-neutral>; <https://bit.ly/2IUe0Ti>