Royal College of Physicians

Assisted dying survey 2014

Consultation document

Why is the RCP consulting on this issue?

In 2006, following the introduction into the House of Lords of Lord Joffe's Assisted Dying for the Terminally Ill Bill, the RCP asked our fellows and members for their views on whether or not the law should be changed.

Another, similar, private member's bill, in the name of Lord Falconer of Thoroton, is now before the House of Lords. Given this context, RCP Council believes that it should again provide fellows and members with the opportunity to review how RCP positions itself in this debate. While recognising that this is a contentious and difficult issue for many people, the decision was taken at RCP's Council on 15 July 2014 to consider this issue. A special meeting of RCP Council took place on 30 July and decided to formally consult on this issue.

In order to present a united view of the medical profession, this consultation document has been informed by the document used in 2013 by the Royal College of General Practitioners (RCGP) to consult with its members and fellows. We are grateful to the RCGP for allowing us to update and share their consultation document.

Definitions

While the term 'assisted dying' has no real meaning in law, we have chosen to interpret it as the supply by a doctor of a lethal dose of drugs to a patient who is terminally ill, who meets certain criteria and who requests those drugs in order that they might be used by the person concerned to end his or her life.

Some argue that assisting a terminally ill person to end his or her life is not assisting his or her suicide but assisting the dying process – hence the term 'assisted dying'. Others argue that assisting dying is the function of palliative care. Whatever view one takes, for such acts to become legal the law - and specifically the 1961 Suicide Act – would need to be amended. In what follows, therefore, where the term 'assisted dying' is used, it has the meaning of assisted suicide.

The existing law

Under English law it is illegal, under Section 2(1) of the 1961 Suicide Act, to encourage or assist the suicide of another person. The prohibition applies to doctors as it does to anyone else. Under Scottish law there is no specific prohibition of assisted suicide, but anyone assisting the suicide of another could be charged with murder or culpable homicide.

Among the factors listed by the director of public prosecutions as inclining towards a decision to prosecute is the provision of assistance by a doctor or nurse to a person under his or her care. The policy does not say that such medical assistance will automatically be prosecuted but that it is one of a number of factors to be taken into account in deciding whether a prosecution is to be undertaken.

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The GMC's guidance (2013) on how doctors should handle requests for or indications of intent of assisted suicide states that:

> 'Where patients raise the issue of assisting suicide, or ask for information that might encourage or assist them in ending their lives, doctors should be prepared to listen and to discuss the reasons for the patient's request but they must not actively encourage or assist the patient as this would be a contravention of the law. Any advice or information they give about suicide should be limited to an explanation that it is a criminal offence for them to encourage or assist a person to commit or attempt suicide.'

The bills before parliament

Under Lord Falconer's Assisted Dying Bill, assistance with suicide would be available to persons who are terminally ill, who are thought to meet certain criteria and who request assistance to end their lives. Requests would have to be considered by two doctors, who would be required to satisfy themselves that the person making the request:

a) is terminally ill (defined as having an incurable and progressive condition as a result of which death is reasonably expected within 6 months)
b) has the capacity to make the decision to end his or her life
c) has a clear and settled intention to end his or her life which had been reached voluntarily, on an informed basis and without coercion or duress.

An applicant whose request is approved could be supplied, after the expiry of a 14-day 'cooling off' period, with a lethal dose of drugs for self-administration to end his or her life. The doctor – or a doctor or nurse appointed by the doctor – would be required to deliver the drugs to the person and to remain in the vicinity while these were ingested. The person delivering the drugs might set up a medical device to facilitate ingestion but must not administer the drugs directly to the person.

The late Margo MacDonald's Assisted Suicide (Scotland) Bill is broadly similar to that of Lord Falconer. Its main differences are the inclusion of a preliminary stage, under which a person making a request must have made a declaration, at least a week previously, indicating a willingness to consider assistance with suicide if he or she should become eligible for it; the inclusion of medical conditions which are 'terminal or life-shortening'; and the provision of assistance with suicide via what are called 'licensed facilitators'.

Both bills are private member's bills and are currently before the Westminster and Holyrood parliaments. Neither bill seeks to legalise voluntary euthanasia – ie the administration of a lethal dose of drugs by a doctor directly to a patient.

The RCP's current position

On 15 July 2014, ahead of the second reading debate on Lord Falconer's Bill in the House of Lords, RCP's Council reaffirmed its 2006 position – that it does not believe a change in the law is necessary.

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This policy is based on the 2006 survey, in which 73.2% of UK-based RCP fellows and collegiate members who responded did not believe a change in the law was needed, with 26% believing the law should change. This policy was reaffirmed by the RCP's Council in 2012.

However in view of the current debate in Westminster and Holyrood RCP's Council believes that it would be appropriate to resurvey the views of fellows and members.

Whether the law should be changed is, of course, a matter for parliament. However, the views of the RCP and our fellows and members are important because what is being proposed in these private members' bills is the legalisation of assisted dying, assisted by a doctor.

The RCP and end-of-life care

Following the inquiry into the Liverpool Care Pathway, the RCP is one of 21 organisations comprising the Leadership Alliance for the Care of Dying People (LACDP), an alliance that involved royal colleges, charities, regulators and professional organisations, working together regardless of professional boundaries to produce new Priorities for Care of the Dying Person, published in *One chance to get it right* in July 2014: www.gov.uk/government/publications/liverpool-care-pathway-review-response-to-recommendations

Each member of the alliance is committed to improving end-of-life care. The RCP is committed to continuing to improve the care of dying people, ensuring patient and carer involvement; reviewing education and training programmes with the Joint Royal Colleges of Physicians Training Board to ensure that physicians have the knowledge and skills to deliver holistic compassionate care for dying people; and using our expertise in quality improvement, clinical audit, clinical standards, clinical leadership and palliative care in support of the Priorities for Care.

Positions of other professional bodies

In 2009 the Royal College of Nursing adopted a neutral stance on whether the law should be changed to permit assisted dying.

The position of the Royal College of Psychiatrists is that 'a change in the law is a matter for parliament [to decide]'.

The BMA, the Royal College of Surgeons of England, the Royal College of General Practitioners and the Association for Palliative Medicine are opposed to a change in the law on assisted dying.

It is open to the RCP to reaffirm its opposition to a change in the law, or to support such a change, or to adopt a neutral stance in this matter.

RCP Council is clear that whatever organisational position the RCP adopts it does not prevent individual members from taking a position of their own and expressing their personal views either for or against the legalisation of assisted dying.

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The ethical context

The principle of non-maleficence – that doctors should 'first, do no harm' – is fundamental to the ethical debate around assisted dying. It has underpinned the notion that intentional killing under any circumstances is contrary to the proper role of physicians. The BMA argues: 'Such a change [to the law] would be contrary to the ethics of clinical practice, as the principal purpose of medicine is to improve patients' quality of life, not to foreshorten it'.

Supporters of legalisation of assisted dying argue that it may be more harmful to allow a person to experience extreme or unbearable suffering than to assist the patient's suicide. They may also argue that assisted suicide does not involve a doctor in 'intentional killing' because the doctor is merely providing the person with the means to end his or her own life. The principle of patient autonomy is also frequently cited in support of assisted dying.

Opponents of legalisation argue that a doctor's role is to treat illness and, where that is not possible, to relieve its symptoms but that this does not extend to involvement in a patient's suicide. They argue also that, while legalised assisted suicide might be seen by some strong-minded people as a benefit, it has the potential to put other more vulnerable terminally ill people at risk of harm. They also argue that the law as it stands has the flexibility to deal sensitively with genuinely compassionate circumstances.

Resources to inform the debate

The following additional resources might be useful to inform discussions. These have been selected to reflect a range of issues and opinions. We have included web links to these resources where possible.

- BMA, *What is current BMA policy on assisted dying?*: bma.org.uk/practical-support-at-work/ethics/bma-policy-assisted-dying
- Care not Killing, *Euthanasia and assisted dying*: www.carenotkilling.org.uk/about/faqs/
- Commission on Assisted Dying, *Final report*, 012: www.demos.co.uk/publications/thecommissiononassisteddying
- www.livinganddyingwell.org.uk/sites/default/files/LDW%20-%20Report%20-%20Considering%20the%20Evidence.pdf
- Dignity in Dying, *The law is not working*: www.dignityindying.org.uk/assisted-dying/law-not-working.html
- Godlee, Fiona, *Assisted Dying* in British Medical Journal, 2014: www.bmj.com/content/344/bmj.e4075#xref-ref-9-1
- Halsbury's Law Exchange, *Assisted Dying Bill 2014: Unsatisfactory*, 2014: www.halsburyslawexchange.co.uk/assisted-dying-bill-unsatisfactory/
- House of Lords select committee, A*ssisted Dying for the Terminally Ill Bill – Final Report*, 2005: www.publications.parliament.uk/pa/ld200405/ldselect/ldasdy/86/8602.htm
- Living and Dying Well, Frequently-Asked Questions: www.livinganddyingwell.org.uk/about/faq
- Royal College of Physicians, *Assisted Dying: Position statement*, 2006: www.rcplondon.ac.uk/press-releases/rcp-cannot-support-legal-change-assisted-dying-survey-results

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- Scottish Parliament, *End of Life Assistance (Scotland) Bill*, 2013: www.scottish.parliament.uk/parliamentarybusiness/Bills/21272.aspx
- Saunders, John, *Ethical decision-making in professional bodies* in Clinical Medicine, 2006: www.clinmed.rcpjournal.org/content/6/1/13.full.pdf
- Saunders, John, *What do doctors think about physician assisted suicide?* In Clinical Medicine, 2006: www.clinmed.rcpjournal.org/content/8/3/243.full.pdf
- UK Parliament, *Assisted Dying Bill*, 2014: www.publications.parliament.uk/pa/bills/lbill/2014-2015/0006/lbill_2014-20150006_en_1.htm
- Wessely, Simon and Annabel Price, Ass*isted Dying for the terminally ill: the debate continues*, 2014: www.rcpsych.ac.uk/discoverpsychiatry/thepresidentsblog/presidentsblogassistedsui.aspx

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