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Assisted dying in Jersey consultation: National Secular Society input

This response is made on behalf of the National Secular Society.

The NSS is a not-for-profit, non-governmental organisation founded in 1866, funded by its members and by donations. We advocate for separation of religion and state and promote secularism as the best means of creating a society in which people of all religions and none can live together fairly and cohesively. We seek a diverse society where all are free to practise their faith, change it, or to have no faith at all. We uphold the universality of individual human rights, which should never be overridden on the grounds of religion, tradition or culture.

More information about our organisation can be found here:

<https://www.secularism.org.uk/about.html>

The National Secular Society's position

We believe that patient autonomy includes the right of mentally competent adults to make a voluntary and settled decision regarding the time, setting and manner of their death. We recognise there is scope for reasonable disagreement on the eligibility criteria for accessing assisted dying.

Island Global Research polling found 90% of islanders support a law to allow terminally ill, mentally competent adults to avail themselves of assisted dying and only 3% believe that Jersey should wait for Westminster to act first.¹

The vast majority of terminally ill patients do not avail themselves of assisted dying, even in jurisdictions where it has been decriminalised. As such, assisted dying should be correctly understood as complementary to rather than in competition with high quality palliative care. It is entirely consistent to believe that assisted dying should be legal while well-funded, gold-standard palliative care should be available to all.

But it is undeniable that even the best palliative care cannot alleviate all suffering in all cases. This suffering can come in many forms, including but not limited to: physical pain, nausea, immobility, incontinence and indignity.

It is well known that, even where access to high quality palliative care is available, serious illness is associated with a higher risk of suicide. A 2022 Office for National Statistics analysis found, for example, that the suicide rate in English patients with low survival cancers was 2.4 times higher than the general population.² There is no reason to believe this data would not be replicable in Jersey.

Marjorie Wallace CBE, chief executive of mental health charity SANE, has said traditional suicide prevention measures "are not an appropriate response" for those who are nearing the end of life and wish to ease the dying process, because their motivation is "to shorten death, not shorten life".³

The potential criminalisation of assisted dying increases the risk of botched suicides amongst this group. Without the assistance of a medical professional, these individuals lack the means and expertise to end their lives in a peaceful and dignified manner. Furthermore, the lack of an explicit legal framework exposes those who might seek to assist such patients, even when motivated entirely by compassion, to prosecution.

Those with substantial financial means may elect to travel to Dignitas in Switzerland to receive medical help in ending their lives. Indeed, since 2002, almost 500 Britons have resorted to travelling to Dignitas in Switzerland.⁴ At an average cost of £10,000, however, this option remains out of reach for many.

Accessing assisted dying abroad is not only problematic because it excludes the less well off in our society: Travelling to Dignitas necessarily requires an individual to be at a stage in their illness where they are still physically able to travel. This means some patients will feel forced into availing themselves of assisted dying abroad earlier than they otherwise would were it legal domestically.

¹ <https://www.islandglobalresearch.com/View?id=2232>

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<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/suicideamongpeoplewithseverehealthconditionsengland/2017to2020>

³ <https://www.dignityindying.org.uk/news/hundreds-of-terminally-ill-brits-take-their-own-lives-in-uk-each-year-latest-estimates-suggest/>

⁴ <https://www.statista.com/statistics/1095576/dignitas-accompanied-suicides-from-gb/>

Thus, the current law is pressurising patients into ending their lives prematurely in an alien setting, away from their home, family and friends.

By contrast, assisted dying was legalised in Oregon 1997 for terminally ill, mentally competent patients. Available evidence suggests it has been implemented safely and effectively.⁵ Of the 36,498 deaths in Oregon in 2017 only 143 resulted from assisted-dying. It has not, as opponents have suggested, lead to “widespread euthanasia”.

Indeed, in 35% of cases, individuals prescribed aid-in-dying medication did not ultimately use it. Rather it served as peace of mind that it would be available were their suffering to become intolerable – a form of so called “emotional insurance”.

And, as of 2018, Disability Rights Oregon, a state-based disability advocacy group, had not received a single complaint of actual or attempted abuse under the Oregon Death with Dignity Act.

Furthermore, the implementation of a safe and effective assisted-dying framework has not come at the expense of high quality palliative care. In 2019, the Center to Advance Palliative Care ranked Oregon’s palliative care system 12th in the country with an A grade, scoring of 88.9 out of a possible 100.⁶

The NSS believes everyone should have their say when it comes to assisted dying reform. However, religious dogma should not be considered a rational, compassionate, or legitimate basis for policy making. It is not for the state to impose religious dogma on citizens. Furthermore, religious groups should not resort to fearmongering and misinformation in their efforts to oppose assisted dying.

Religious opposition to assisted dying reform in Jersey

Philip Eagan, Catholic bishop of Portsmouth, wrote in a 2021 pastoral letter: “[l]et there be no death-clinics in Jersey”.⁷ He said legalised assisted-dying would be “difficult or impossible to control” despite compelling evidence to the contrary from Oregon, Australia and New Zealand.

His claim that those at the end of life need “support, comfort and care, good pain control” fails to confront 2019 Office of Health Economics data from England which shows that even with universal access to hospice care, 6,394 people a year experience no pain relief in the final three months of their life.⁸ This equates to 17 people every day.

In 2022, the Christian Institute falsely claimed that Jersey had voted to “legalise euthanasia”, even though assisted dying and euthanasia are materially distinct medico-legal concepts.⁹ Its article added that Jersey residents would “be able to request to be killed in cases”. Again, this appears to be a wilfully misleading account of what assisted dying entails: the patient must self-administer aid-in-dying medication. It cannot be administered by a doctor.

The Institute’s Ciarán Kelly invokes a sanctity of life style argument by claiming that the legalisation of assisted dying would “deny the value of every person as an individual made in the image of God”. It is undeniable that the religious sanctity of life view – the idea that God created human life, only God has the right to end it – is a key driver of opposition to greater patient choice at the end of life.

⁵ https://cdn.dignityindying.org.uk/wp-content/uploads/DiD_ASSISTED-DYING-IN-OREGON_REPORT_AW_9_SINGLE-PAGES.pdf

⁶ <https://reportcard.capc.org/>

⁷ <https://www.cbcew.org.uk/bishop-egan-asks-jerseys-catholics-to-oppose-plans-to-legalise-assisted-dying/>

⁸ <https://www.ohe.org/publications/unrelieved-pain-palliative-care-england#>

⁹ <https://www.christian.org.uk/news/jersey-consults-on-dangerous-assisted-suicide-and-euthanasia-proposals/>

While individuals are entitled to their theological positions, they cannot be used as a cudgel to restrict the end of life decisions of mentally competent, terminally ill adults.

Some religious groups in Jersey, however, have come to recognise that theological objections to assisted dying increasingly fail to resonate with the public, and have sought to cloak their religious arguments and, indeed, the religious nature of their opposition to assisted dying in secular terms.

'Jersey Dying Well', for example, is chaired by John Stewart-Jones.¹⁰ Its website notes he is a "retired GP". It fails to mention, however, that he is also a prominent member of the Jersey Evangelical Alliance – which opposes assisted dying on religious grounds - and a pastor at Freedom Church.¹¹

Furthermore, Jersey Dying Well fails to declare on its website its links with the Westminster all party parliamentary group on dying well, which is chaired by evangelical Christian Danny Kruger MP and funded by Christian Action Research Education (CARE).

In opposition to the most recent attempt at legislative reform in England and Wales, Danny Kruger claimed Baroness Meacher's bill, which allowed for assisted dying only in terminally ill, competent adults, would lead to "widespread euthanasia of the elderly and disabled". CARE falsely claim that legalising assisted dying would "impose on doctors a duty to kill".¹²

The Jersey Evangelical Alliance has also sought to conflate assisted dying and euthanasia.¹³ It appeals to the protection of the "vulnerable in our society, including people with disabilities" despite 2015 Populus polling which showed, in fact, support for assisted dying amongst the disabled community (86%) exceeded that in the general public (84%).¹⁴

The Alliance's reverend Drew Walker gave a presentation to the assisted dying citizen's jury in 2021 which included unnuanced and misleading claims such as "Assisted Suicide is not the best course of care" and "Assisted Suicide opens the door to the abuse of the most vulnerable".¹⁵

This is to ignore, deliberately or otherwise, that the absence of a legal framework includes no prospective safeguards for patients: a patient found to have availed themselves of assisted dying only has their wishes examined retrospectively. The motivations of their family members are only scrutinised after the patient's death comes to light. The clinical opinion of the patient's doctor is only solicited after the fact.

In the same evidence session, professor David Albert Jones of the Anscombe Bioethics Centre falsely claimed that there is "broad consensus between very different religions on this issue". In fact, 2013 YouGov polling showed 72% of Anglicans; 69% of Jews and Sikhs; and 56% of Catholic support legalisation of assisted dying.¹⁶

¹⁰ <https://www.idwg.co.uk/our-team>

¹¹ <https://www.jerseyevangelicalalliance.org.je/assisted-dying>

¹² <https://care.org.uk/cause/assisted-suicide>

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<https://static1.squarespace.com/static/5d2346b25e98b80001fb6187/t/6149e75a284e044a6fcca43e/1632233309762/Assisted+Suicide+Leaflet.pdf>

¹⁴ <https://www.dignityindying.org.uk/news/poll-assisted-dying-support-84-britons/>

¹⁵ <https://www.gov.je/Caring/AssistedDying/pages/citizensjuryonassisteddying.aspx>

¹⁶ <https://yougov.co.uk/topics/politics/articles-reports/2013/12/16/three-four-support-changing-assisted-dying-law>

Furthermore, a 2019 Populus poll showed 80% of religious people support the legalisation of assisted for mentally competent, terminally ill adults.¹⁷ Separate polling suggests 53% of religious people believe it is wrong for religious leaders to campaign against assisted dying.¹⁸

Jones's claims that faith leaders broadly oppose assisted dying reform is further undermined by the existence of the "religious alliance for dignity in dying", which enjoys support from prominent clerics such as the former archbishop of Canterbury, George Carey. Carey has said his views are "in step with the vast number of Christians who see the need for change".

The group's chair, Rabbi Dr Jonathan Romain, has said: "We must puncture the myth that religious people oppose assisted dying. Anti-choice religious leaders and groups don't speak for the majority. We must work together to make the compassionate case for assisted dying."

In the course of a 2021 debate in the States Assembly, the dean of Jersey, the very rev Mike Keirle, raised concerns that legalisation of assisted dying could erode the trust between doctors and patients.¹⁹ On the contrary, it is the *absence* of an explicit legal framework that is more likely to endanger the doctor-patient relationship and inhibit frank conversation on end of life decisions. This is because patients who wish to discuss a desire for assisted dying with their doctor may be reluctant to broach the topic if they fear their doctor could be prosecuted.

Finally, the Church of England is the established church in Jersey and, while Jersey has its own legislature, it is nonetheless worth noting the views expressed by some of the 26 Anglican Bishops who enjoy seats in the UK's House of Lords by right.²⁰

Martin Warner, bishop of Chichester, used his *ex officio* position in a 2021 debate on assisted dying to opine: "God does not inflict evil on people". Speaking on the National Secular Society podcast, Baroness Meacher recalled a conversation with an unnamed lord spiritual in which he said "I don't know that I believe in autonomy."²¹

Conclusion

The law concerning assisted dying should seek to uphold the right to exercise a genuinely autonomous choice. The religious views of some, however sincerely held, should not restrict the freedoms and choices of others.

We recognise that there is scope for reasonable disagreement on this issue and welcome intellectually honest debate around it. We urge the States Assembly to be mindful of theological opponents of assisted dying obfuscating their language, motivations and funding.

¹⁷ <https://yonderconsulting.com/poll-archive/Dignity-in-Dying-GB-poll-11-24-March-2019-Q1-Q2-tables-for-publication.pdf>

¹⁸ <https://www.thetimes.co.uk/article/dying-with-dignity-faith-leaders-are-out-of-touch-on-assisted-dying-say-followers-pphx3wg87>

¹⁹ <https://www.dailymail.co.uk/news/article-10243041/Jersey-paves-way-legalise-assisted-dying.html>

²⁰ <https://www.jerseydeanery.je/about>

²¹ <https://www.secularism.org.uk/podcast/2021/09/ep-56>