



Submission to the Commission on Assisted Dying

April 2011

Introduction

Assisted dying is a complex subject that raises challenging ethical and practical questions for hospice care. The whole ethos of hospice and palliative care is that it 'intends neither to hasten nor postpone death'. This philosophy is a cornerstone of hospice care in the UK.

This submission has been developed with input from our member hospices and expert committees. Help the Hospices recognises that across society, there is a range of different views, and we respect the right of everyone to take an individual position. It is our view that the question of whether there should be a change in the law is one for society to consider and for the parliaments and assemblies across the UK to decide. Our position is therefore neutral, and nothing in this submission should be taken as being in support of, or opposed to, a change in the law.

For hospices, the issue is not about the right to live or to die. It is about the right to be cared for – the right to more care, better care and appropriate care.

We welcome the debate about assisted dying, and the important role that it plays in raising awareness about the importance of improving care for people affected by terminal illness and other forms of suffering. We are aware that some organisations have chosen not to respond to the commission's call for evidence. We believe that it is important to engage in the debate about assisted dying. For us a key part of that debate should be about how to give everyone the best possible care and support at the end of life, irrespective of their postcode, age or condition.

We believe that:

- All patients and their families should be made aware of options for hospice and palliative care, and should be offered an individual assessment of their needs to make sure that appropriate palliative care is being provided.
- Palliative care should be routinely available to all who need it, and governments across the UK should make sure that public funding is made available to increase the availability of palliative care, whether provided by the NHS, social care services, national organisations, or local hospices.
- Greater education and training is needed to dispel the myths about what is possible and available to support suffering at the end of life.

- 1. Do you think that it is right that, in certain circumstances, the DPP can decide not to prosecute a person who assists another person to commit suicide?**

The independence of the Crown Prosecution Service (CPS) is a cornerstone of our justice system. It is the role of the CPS to determine whether prosecutions for almost any offence are in the public interest. Help the Hospices believes that it is appropriate that this principle applies to decisions about prosecutions for the offence of aiding or abetting an assisted suicide under the Suicide Act 1961.

We note that the guidance for prosecutors published by the Director of Public Prosecutions (DPP) in February 2010 set out the factors that prosecutors should consider when determining whether a prosecution under the Suicide Act 1961 is, or is not, in the public interest.

- 2. Do you think it is right that it is currently illegal for a doctor or another healthcare professional to assist somebody to commit suicide and that a doctor is more likely to be prosecuted for providing assistance than a friend or family member who provides assistance?**

Help the Hospices believes that it is right that actions by a care professional are treated differently from actions by a friend or family member. Doctors and other healthcare professionals have a unique role in providing and coordinating the best possible care for a person, and have unique responsibilities to make sure that any action they take is within both existing law and professional guidance.

In our view, the guidance for prosecutors provides a helpful framework to guide the decisions of healthcare professionals. In July 2010, Help the Hospices produced information for our member hospices based on the DPP guidelines and the regulatory framework in which hospice care is provided.

- 3. Does the DPP policy currently provide sufficient safeguards to protect vulnerable people?**

In our view, it would be impossible for any prosecution guidance to provide sufficient safeguards to protect vulnerable people.

- 4. Do you think that any further clarification of the DPP policy is needed? Or has the DPP policy already gone too far?**

The prosecution guidelines have not yet been sufficiently tested to establish whether they provide adequate clarification for prosecutors in determining whether a prosecution is in the public interest.

In our view, professional bodies have a responsibility to provide guidance for their members, within the existing law, to help guide decision making at the point of care.

5. Do you think there should be change in the law to create a legal framework that would allow some people to be assisted to die in certain circumstances?

As stated above, Help the Hospices has a neutral position on whether there should be a change in the law relating to assisted dying. We recognise that there is a range of views on the subject across society, and believe that the question of whether there should be a change in the law is one that should be taken by the parliaments and assemblies of the UK.

Help the Hospices is not aware of any hospice that currently supports a change in the law to legalise assisted dying in any form, or any that considers that a change in the law would be in the best interests of the people it cares for.

Eligibility and safeguards

6. The 2005 Assisted Dying for the Terminally Ill Bill sought to provide access to an assisted death only for those who have been diagnosed with a terminal illness, who have mental capacity, who are experiencing unbearable suffering and are over the age of 18. If some form of assisted dying were to be legalised, who do you think should be eligible for assistance?

Pain and suffering are much more than physical in nature. The concept of 'total pain' is central to modern hospice and palliative care. Dame Cicely Saunders defined it as the suffering that encompasses "all of a person's physical, psychological, social, spiritual, and practical struggles". Hospice care provides a holistic approach to care that focuses on each of these components of pain in equal terms. Help the Hospices believes that the concept of total pain provides a helpful clarification of a potentially subjective definition of 'unbearable suffering'.

We believe that there should be a much greater investment in care and support services, including hospice care, education and training, to seek to alleviate pain in all its forms and provide the best possible care to people at the end of life.

7. If some form of assisted dying were to be legalised, what safeguards would be required to protect vulnerable people?

The concept of vulnerability is well established in health and social care services for adults and children, and there are long-established safeguards in place to protect vulnerable adults and children. In addition, there are also

safeguards in place to protect people in decisions about withholding and withdrawing life prolonging treatment.

8. What do you think are the main risks (both to individuals and to society) that would be associated with legalising any form of assisted dying?

The risks associated with a potential change in the law have been well documented. There is a very real risk that a change in the law might have a negative impact on the provision of high quality palliative and end of life care.

In our view, the risk of abuse of vulnerable people is the key danger, whether that abuse takes the form of coercion or the internalisation of a self-perceived 'duty to die'. As our population ages, Help the Hospices remains concerned that the fear of sub-standard care and support could become one of the principal drivers in encouraging people to explore options for an assisted death.

We are also concerned about the potential impact on relationships between people and their care professionals, and the risk that this could result in a loss of trust.

In addition, any potential change in the law must take account of the fact that people other than the patient themselves would be affected by a decision to access assisted dying – including friends and family, and staff providing care to the person.

9. If some form of assisted dying were to be legalised, who do you think should make the decision on whether somebody who requests an assisted death should be eligible for assistance? Should this decision be made by doctors, by an independent judicial body such as a tribunal, or by another type of organisation?

Help the Hospices is not able to provide a response to this question, without clarity about the nature of any potential legislation.

The role of doctors and end of life care

10. If some form of assisted dying were to be legalised, should doctors be able to take a role in assisting those who request assistance to die?

a. If yes, what actions should doctors be able to take?

b. If no, please explain your reasoning.

Help the Hospices is not able to provide a response to this question, as it is unclear what the definition of 'assisting' would be.

11. If some form of assisted dying were to be legalised, what provisions would be required to protect doctors and other healthcare professionals who are ethically opposed to assisted dying?

Help the Hospices is not able to provide a response to this question, without clarity about the nature of any potential legislation.

Some hospices take the view that assisted dying should not be a hospice role, because of the potential conflict with the values of hospice and palliative care, the impact on the perception of the hospice, and the possible implications for patient care.

12. Could assisted dying have a complementary relationship to end of life care or are these two practices in conflict?

Help the Hospices believes that everybody should have the right to the best possible care and support, and that education and training has a key role to play in achieving this. The priority should always be about caring for the individual and their needs within the established legal framework.

13. If the law was to be changed to permit some form of assisted dying, what forms of assistance should be permitted? Should assisted suicide be permitted? Should voluntary euthanasia be permitted?

We are concerned that in the public debate about assisted dying, there is a widely held misunderstanding about the difference between assisted suicide, voluntary euthanasia, and the issues associated with the withholding and withdrawing of life-prolonging treatment. It is essential that the ongoing public debate about whether society should authorise a change in the law seeks to clarify these important distinctions.

14. Should those who wish to be assisted to die, but are physically unable to end their own lives, receive assistance to die? If yes, what assistance should be provided?

Please refer to our response to question 13 above.

About Help the Hospices

Help the Hospices is the leading charity supporting hospice care throughout the UK. We want the very best care for everyone facing the end of life.

The majority of hospice care in the UK is provided by our member hospices. Care is given free of charge to the patient and their friends and family. It can be at home, in the hospice and in the community and can be for days, months or years. We are here to represent and support our members. We work with our members and other organisations as they strive to grow and improve hospice and palliative care throughout the UK and across the world.

Our services are here to support hospice people and champion the voice of hospice care. They include a wide range of training and education programmes, informative and practical resources for hospice staff, work to influence government policy and support for quality care and good practice.

For more information

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