

## **Senedd Member Briefing: Member Debate on Assisted Dying**

Wednesday 23 October 2024

### **Introduction**

This briefing has been prepared by the Royal College of Psychiatrists Wales to inform the member debate on assisted dying being held on Wednesday 23 October 2024. The full motion, tabled by Julie Morgan MS, is [available here](#).

The briefing provides information on: key terminology; the role of psychiatry in assisted dying/assisted suicide; the work of the College on this matter to date; the status of current proposals across the UK and Crown Dependencies; and current thinking on further relevant considerations.

The Royal College of Psychiatrists is the professional medical body responsible for supporting psychiatrists throughout their careers and setting and raising standards of psychiatry. The College aims to improve the outcomes of people with mental illness and intellectual disabilities and improve the mental health of individuals, their families and communities. RCPsych Wales represents more than 600 consultant and trainee psychiatrists in Wales.

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### **Terminology**

There is no consensus within or outwith the RCPsych about a single term that should be used when discussing the practice of assisting people to end their own lives. Terms vary in meaning, implication and interpretation, and include 'assisted dying,' 'assisted suicide,' 'medical assistance in dying,' 'physician assisted suicide,' 'voluntary assisted dying' and 'voluntary euthanasia.'

In this briefing, we have elected to use the term 'assisted dying/assisted suicide.' The use of this term is intended to reflect the lack of consensus on the most appropriate description of the practice.

The term 'assisted dying/assisted suicide' refers to the legally permitted practice of assisting people to end their own lives, including through either the prescription of lethal drugs by medical professionals for self-administration and the active administration of lethal drugs by medical professionals with the intended result of death.

It does not however encompass the refusal, cessation of, or withdrawal from treatment. It is also distinct from suicide, which, in this context, may be defined as the act of ending one's own life voluntarily and intentionally without assistance from a legally permitted service.

## The Role of Psychiatry

In countries where assisted dying/assisted suicide is legal, psychiatrists may be asked to provide an expert opinion regarding a person's decision-making capacity. In other words, and as the motion puts it, whether the person is 'of sound mind'. However, evidence as to the effectiveness of capacity assessments as a safeguard for assisted dying/assisted suicide services is limited.

A [2022 comparison](#) of official reporting across jurisdictions where assisted dying is legal found significant variance in the kinds of information published within officials reports, and that many jurisdictions do not report data measures. This means that reporting on safeguards varies greatly with few measures published in most jurisdictions.

There is a broader question as to whether psychiatrists should be involved in every application process, including applications in which a person does not have a known mental illness. Mental illness is often not identified and there is a risk that primary assessing clinicians who are not psychiatrists will not pick up on mental disorder in any given process.

There is also a need to consider resources; as things currently stand, psychiatry and mental health services do not have the resources or capacity to add a significant number of capacity assessments to an already overstretched workload.

## College Work on Assisted Dying/Assisted Suicide

Currently, RCPsych does not have a public position on assisted dying/assisted suicide.

In early 2024, the College convened a working group to consider the matter of assisted dying/assisted suicide. The working group has representation from across the UK and Channel Islands.

On Friday 18 October, the College launched a survey of our members in Wales, England, Northern Ireland and the Crown Dependencies. The survey will close on 4 November. Responses will enable us to inform parliaments in the UK and Crown Dependencies about the views of psychiatrists on a change in law. We will also be able to disaggregate data by nation.

Members in Scotland have already been surveyed following the introduction assisted dying legislation at Holyrood earlier this year.

Our end goal is to develop a position statement/set of College views which consider important aspects of assisted dying/assisted suicide relevant to: people with mental illnesses, intellectual disabilities and neurodevelopmental conditions; psychiatry; and the services in which psychiatrists work.

## Status of Current Proposals

There are now assisted dying/assisted suicide proposals that cover Wales and England, Scotland, Jersey and the Isle of Man. More information about these proposals is listed below.

### Wales and England

- In 2023, the College submitted written evidence to the UK Parliament's Health and Social Care Committee inquiry into assisted dying/assisted suicide (for Wales and England). This submission is available [here](#).
- There are Private Member's Bills before both the House of Commons and the House of Lords.
- The first reading of Kim Leadbeater MP's [Assisted Dying Bill](#) took place in the Commons on Wednesday 16 October. The Bill will have its second reading on 29 November.
- The second reading of Lord Falconer's [Assisted Dying Bill](#) in the Lords is set to take place on 15 November.

### Scotland

- Liam McArthur MSP (Liberal Democrats) introduced his [Assisted Dying for Terminally Ill Adults \(Scotland\) Bill](#) in March 2024.
- RCPsych Scotland submitted written evidence on this Bill to the Scottish Parliament's Health and Social Care Committee, which is publicly [available here](#).
- The assisted dying/assisted suicide lead for RCPsych Scotland, Stephen Potts, has been invited to give oral evidence on Tuesday 12 November.
- The session will consider "mental health considerations, safeguards against coercion, assessing capacity, the influence of physical illness on mental health, the interaction between the Bill and existing capacity/mental health legislation and access to psychological support."

### Jersey

- In 2023, the College responded to the Government of Jersey's consultation on assisted dying/assisted suicide. The feedback report, including details of the College's submission, is available [here](#).
- Earlier this year, the States Assembly voted in favour of assisted dying proposals for terminally ill people.
- The Minister for Health and Social Services in Jersey will now bring a draft law to the States Assembly in 2025.

### Isle of Man

- In May this year, a majority of the House of Keys voted for the introduction of a Private Members' Bill for terminally ill adults.

- In July, the House of Keys voted in favour of progressing the Assisted Dying Bill, which could make assisted dying available from 2027 to residents who are mentally competent and have less than 12 months to live.
- The Bill will now pass to the Legislative Council (Parliament's upper chamber), which can amend the legislation but not vote it down.
- If passed, it could receive Royal Assent in 2025 and come into effect by 2027.

## **Further Considerations**

### Eligibility Criteria

We do not currently have a view on the eligibility criteria for an individual to access assisted dying/assisted suicide services. The College is actively undertaking work in this area and will set out its views in the near future.

However, we know that physical conditions commonly co-exist and interact with mental health conditions. Emotional distress is also common in people with life limiting illness and is associated with a wish to hasten death.

Moreover, after passing legislation and implementing an assisted dying/assisted suicide service, some jurisdictions have moved, or have looked to move, to broaden diagnostic criteria to include mental illness.

### Capacity Assessments

A significant concern of ours as a College is that important detail will be omitted from legislation and left to the relevant professions to work through in its implementation.

In particular, we are concerned that detail regarding capacity assessments for assisted dying/assisted suicide will be light and subsequently left to psychiatrists to develop through amendments to the relevant code of practice. This is concerning as, taken alone, codes of practice can lack legislative force, and gaps between the details of a code of practice and legislation in this context would be particularly problematic.

### Co-occurring Mental and Terminal Physical Illnesses

A person who has a terminal physical illness is more likely to have a mental illness. It would be unusual for a person who had a terminal physical illness to not be impacted mentally.

One could argue that it would be contradictory to allow people with a mental illness to be eligible for the practice on the basis of a co-occurring terminal physical illness, while at the same time excluding those with a mental illness who do not also have a terminal physical illness on the basis of impaired capacity. Would a mental illness not also impair the capacity of those with a physical terminal illness?

A person's decision to choose assisted dying/assisted suicide is likely to be influenced by how successful treatments are. This is particularly important for palliative care. People at end of life deserve high quality psychiatric treatment and research suggests that if depression is treated in people with a physical terminal illness, their wish to hasten death lessens.