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Deputy Louise Doublet
Chair, Assisted Dying Review Panel
States Assembly
Jersey

Sent via email

23 July 2025

Dear Deputy Doublet

Assisted Dying Review Panel

Thank you very much for seeking the BMA's views on the proposed Draft Assisted Dying (Jersey) Law.

The BMA represents doctors and medical students from across the UK and Crown Dependencies who hold a wide range of views on physician-assisted dying. In September 2021, following a survey of our membership, the BMA's annual policymaking conference (the Annual Representative Meeting (ARM)) voted to adopt a neutral position on whether the law should be changed to permit physician-assisted dying. This means that the BMA neither supports nor opposes a change in the law. Nevertheless, we have always been clear that our position of neutrality does not mean that we will be silent on this issue.

Over a period of 18 months, the BMA's Medical Ethics Committee undertook a significant piece of work to determine how we could best protect and represent our members in response to legislative proposals to permit assisted dying. Within the context of our neutral position on whether or not the law should change, we identified those issues that would significantly impact on doctors, *if* the law were to change, and considered what position the BMA should take on them. The views arising from this work were approved by all four BMA Councils and have formed the basis of our engagement with legislators across the UK and Crown Dependencies.

The key points we are seeking in any legislation to permit assisted dying are:

1. an 'opt-in' model for doctors to provide assisted dying
2. a right to refuse to carry out activities directly related to assisted dying, for any reason
3. statutory protection from discrimination

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4. assisted dying arranged, but not necessarily delivered, as a 'separate service' (e.g. a network of doctors who provide the service)
5. no duty to raise, or prohibition on raising, the issue of assisted dying with patients
6. an official body to provide information and support for patients
7. open and transparent regulation
8. the collection and publication of data
9. a post-death review for every assisted death, as and when they occur
10. provision for safe access zones

Previous engagement

Jersey's initial policy proposals had already been published before we started our work and we found the information within them incredibly helpful. Most of the points above had already been included in the proposals. We had very positive and constructive engagement with the policy team, which focussed on the small number of issues that were not already included. All these points are now covered in the draft law, although there are a few areas where we would like to see some further amendments (see below).

We have also had helpful discussions with the team about some cross-jurisdictional issues that are causing us concern (see below). This problem is still unresolved but is a matter for the UK Government to address and, although it will impact on Jersey, it is not within the gift of the Jersey Government.

Potential impacts (positive or negative) on your sector or community

As we are neutral, it would not be appropriate for us to comment on this question, except to say that all the points that we wanted to see in any legislation have been included in the draft law. These points were intended to protect our members and give them the maximum amount of choice, whatever their views and intentions with regard to assisted dying. They were also designed with the interests of patients in mind, both those who may wish to access assisted dying and those who may be concerned about this option being available. We have deliberately not taken a position on some of the detailed questions around eligibility and safeguards which, we believe, are matters for society to decide.

Areas of ambiguity or concern and suggestions for improvement or clarification

<u>Individual's life expectancy, suffering and treatment – Article 23</u>

We welcome the recognition that life-expectancy is not a precise science and that doctors need to use their professional judgement when making these assessments. The current drafting should provide them with reassurance that they would be protected, provided their decisions were made

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'reasonably' and 'based on their medical knowledge and on the assessment of the individual'. It is also important that doctors' decisions are not judged with the benefit of information that has come to light atter the event**.** It would be helpful, and reassuring for doctors, to add an additional point to Article 23(2) saying:

(c) based on the information available at the time.

General right to refuse – Articles 34 and 35

The wording of the right to refuse and the examples of activities that would be deemed as 'participation' cover the issues we have identified that our member may reasonably wish to refuse.

Most of the activities listed in Article 35(2) as not considered to be 'participation' appear reasonable and sufficiently distant from the assisted dying process itself to fit within that category. The exception to this, however, is:

35(c)(ii) – acting in the role of a member of the Committee or the Review Panel

Although this is not participating in a particular case, or the actual process of an assisted death, these roles require a high degree of involvement in the broader provision of assisted dying. This activity therefore seems fundamentally different to the other activities listed, where the fact the individual is seeking an assisted death is, to a large extent, incidental to the service they are providing. Including these roles as an example of something that is not 'participation' seems to distort the reasonably clear line between what type of activities constitute 'participation' and which do not; this unnecessarily introduces ambiguity into this important provision which could lead to further questions about interpretation.

We believe that some of our members would feel morally compromised by 'enabling' the process to this extent; and would be very uncomfortable with reviewing the details of individual deaths; and would perceive acting as a member of the Committee or Review Panel as 'participation' in assisted dying.

We would therefore wish to see 35(c)(ii) removed from this list.

We understand that the intention behind this provision is to cover a person who is in a role which is required as part of the membership (such as Chief Medical Officer) where there is no, or very limited, choice of candidate. We would welcome some more consideration of how this could be managed, particularly for individuals who are already in-post before this role is added to the job.

Employment protection – Article 36

We are very pleased to see this important protection included in the draft law. There is, however, a gap that needs to be filled. The current wording does not appear to extend to self-employed practitioners, such as GP partners. For example, a doctor who works three days a week as a GP and is also contracted to provide services for the Jersey Assisted Dying Service would not appear to be

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protected if they applied to be a partner in another practice and were rejected because of the other partners' opposition to assisted dying. We would like to see this provision extended to cover those who work outside an employer-employee context.

Compliance with professional guidance

The use of the term 'professional guidance' is likely to cause confusion as that is the terminology used for GMC/BMA/Royal College guidance; 'operational guidance' (or similar) would be clearer.

Any other concerns

Patients from Jersey receiving specialist treatment in England

We are aware that some patients from Jersey receive specialist care in England. Those specialist doctors, who are treating patients (in England) who are eligible for – and may wish to choose – assisted dying in Jersey, would still be bound by the terms of the Suicide Act 1961. This means that if they do, or say, anything (whilst in England) that might be perceived as 'encouraging or assisting' their patient to have an assisted death in Jersey, they would be committing a criminal offence.

We have been in contact with the Director of Public Prosecutions and the General Medical Council about this issue to try to establish whether, in those circumstances, our members would be likely to face criminal or regulatory sanctions. Even if they would not, the BMA cannot advise its members to commit a criminal offence.

We have tried to seek an amendment to the Terminally Ill Adults (End of Life) Bill at Westminster to extend the protection provided by Clause 32 of that Bill to include doctors providing assistance under legislation in other parts of the UK or Crown Dependencies. Such an amendment has thus far, however, been deemed to be out of scope. Given the very significant implications for our members, we are asking the UK Government to find a way (either through the current Westminster Bill or otherwise) to ensure that doctors who find themselves in this situation are not expected to commit a criminal offence in order to support their patients.

Doctors from England could travel to Jersey to carry out assessments or to give a formal opinion for a patient who is seeking assisted dying in Jersey. Wider discussions that arise in other consultations, about end-of-life care, which could touch upon assisted dying would, however, remain very risky for our members and could lead to such discussions being actively discouraged or curtailed – to the detriment of those patients.

Any help or support you are able to provide in raising this issue and encouraging the UK Government to find a workable solution to this problem, which could affect the care of patients living in Jersey, would be very gratefully received.

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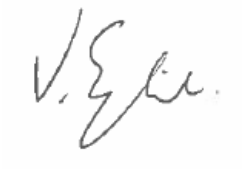
Safeguards for all individuals in the process of assisted dying

In view of our neutral position, we have not considered, or commented on, the adequacy or otherwise of the safeguards in the Proposals. We have limited our interventions to the list above and a small number of additional points (such as the cross-jurisdiction issue) that would potentially put our members at risk.

I hope this is helpful. Please do not hesitate to get in touch if you require any further information.

Yours sincerely,



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