INTERIM POLICY FOR PROSECUTORS IN RESPECT OF CASES OF ASSISTED SUICIDE

7 December 2009

RESPONSE

From

the *NOT DEAD YET UK* network

Introduction

We are a group of disabled people who have actively campaigned against assisted dying and assisted suicide. In 2006, in response to Lord Joffe's Assisted Dying for the Terminally Ill Bill, we formed a group called Not Dead Yet UK (affiliated to Not Dead Yet, a similar grouping established years previously in the United States). The purpose of this international network of disabled people is actively to oppose moves to legalise assisted suicide, assisted dying and euthanasia. Not Dead Yet UK's (NDY UK's) members are disabled people with physical and sensory impairments, learning difficulties and/or mental illness. We do not share any common faith or religious belief. We have come together to combat the well-orchestrated campaigns aimed at legalising assisted suicide and assisted dying.

We welcome and appreciate this opportunity to comment on the interim policy. We consider this to be such an important issue that it cannot be adequately addressed by merely responding to the questions posed in the consultation document. Therefore, our

response is set out in this document and three supporting appendices.

Appendix 1 contains brief responses to the questions contained in the Interim Policy. This should not be read in isolation. Its purpose is only to ensure there can be no doubt as to our reasoned objections to the questions, their inappropriateness and their potentially damaging implications.

Appendix 2 is a general Policy Statement from NDY UK produced in response to calls for the legalising of assisted dying and assisted suicide.

Appendix 3 contains information about members of the small sub-group that have produced this response on behalf of NDY UK.

Background

Parliament has twice in the last four years decided that it has no wish to change the current law, which prohibits assisted suicide, assisted dying and euthanasia. Campaigners for change in the law have repeatedly narrowed the criteria for those potentially eligible to avail themselves of a change in the law. Their challenge is to find a formula that Parliament will accept for a person's life to legally be prematurely ended. Once that battle has been won, it will be far easier to argue that others should enjoy the same 'right' to an early death. It is for this reason that Parliament has been so

clear in rejecting all measures brought before it for a change in the law.

Whilst it is certain that their campaign will continue with new Private Members' Bills, each more tightly drawn than the last, campaigners are now also trying a second tactic. They are seeking to change the law by the back door, by creating the impression that those who assist in a suicide will be immune from prosecution. By doing this they seek to undermine the current law to such an extent that Parliament may feel itself obliged to change the law. We see the case of Purdy - v - the DPP in this context. Whilst the case concerns an individual, we see it as having far-reaching implications in seeking to invalidate the current law by highlighting a lack of enforcement and legitimising the status quo of generally not prosecuting those who assist another person to die.

This action is taking place at a time when many people are fearful of the future both individually and collectively. As a population, we are living longer than before, extended family is not what it once was, social care budgets are under threat, and care homes are closing. People are increasingly becoming frightened of becoming terminally ill or disabled, of pain, of not receiving adequate treatment or support, of using-up financial resources, of being a burden to loved ones and/or the state, of being abused when ill and/or vulnerable, of loss of independence, dignity, self-determination. These fears play into the hands of those arguing for assisted suicide as a way for the individual to keep or regain control, to maintain dignity and to safeguard the well-being and happiness of loved ones by removing the burden of care.

This is compounded by a general ignorance and lack of understanding of disability and terminal illness. Most people's only knowledge of Motor Neurone Disease or Multiple Sclerosis will have been to see Diane Pretty and Debbie Purdy in the media. Small wonder then that fear is the first reaction of many newly diagnosed people, who will remain anxious about what the future holds for them.

One only need look at the reasons given for wanting assisted dying in the state of Oregon, USA between 1998 and 2007, to realise that the lack of confidence people have that their lives will be adequately supported by health and social care support, is a primary reason behind the request.

> ***Characteristics and end-of-life care of 341 DWDA patients who died after ingesting a lethal dose of medication, Oregon, 1998-2007***
> *As in previous years, the most frequently mentioned end-of-life concerns were: loss of autonomy (100%), decreasing ability to participate in activities that made life enjoyable (86%), and loss of dignity (86%). During 2007, more participants were concerned about inadequate pain control (33%) than in previous years (26%).*[1]

This is recognised by campaigners for the rights of disabled and terminally ill people. It is underpinned by government policy and

[1] Seventh annual report on Oregon's Death With Dignity Act year7.pdf

legislation to further increase the choice and control available to severely disabled and terminally ill people. These include,

- Social Care; individualised budgets, personalisation of care services, direct payments and independent living support.
- Personal Health Budgets Pilots
- Welfare Reform Act (Right to Control, support services)

In addition, Lord Ashley's Independent Living Bill is currently before the House of Lords, providing a focus on the importance of supported living.

All these measures are designed to ensure consistent and better outcomes for disabled and terminally ill people by putting them in control of the services they receive. They are rightly warmly to be welcomed but their introduction demonstrates the fact that many disabled people and terminally ill people have not received the support they need to live independent lives. Without free, tax-funded care for all disabled people, how can anyone be sure that there are not financial pressures that might push people towards wanting to take their own lives?

Cultural context

Whilst financial pressures, or perceptions of financial pressures, may be important, equally important (or more important) will be factors influenced by society's view of disability and terminal illness. This is highly relevant as such factors affect not only people seeking an assisted suicide but also all members of society

that interact with them: family members, friends, health care professionals, lawyers, those in the media, etc. It has direct bearing on how cases of assisted suicide have been treated to date.

Over the last 10 years there have been 117 cases of assisted suicide of British people at the Swiss Dignitas suicide apartment. Eight of these have been referred to the DPP for a decision as to whether a prosecution is needed in the public interest. They include the case of Daniel James (a tetraplegic who travelled to Switzerland only 18 months after his accident!). In that case the DPP took the view that it would be totally wrong to prosecute his mother. She had been punished enough by her experience. It was clear she had tried everything in her power to stop him seeking assisted suicide and she is still haunted every day by eventually relenting and accompanying him to Dignitas.

The problem here is that his severe disability was seen as the rationale for his desire for an assisted suicide. The fact that his disability was permanent was seen as justification that his attitude to it was also permanent. To put it another way, his wish to die was considered acceptable because he was a disabled man. The same desire to die in a non-disabled person of either sex or any age would be considered to be unreasonable and potentially a sign of mental illness; indeed there are Government targets to reduce the suicide rate; young unemployed people, to take one example, are not encouraged to die because their lack of hope is founded on reality but rather there is an expectation that they should be supported to live. To many people Daniel James's desire to end

his life, whilst wholly undesirable and deeply regrettable, was understandable (i.e. they empathised with it) for no other reason than that he was a disabled person. This "understanding" of a disabled or terminally ill person's wish to die is deeply demeaning to other disabled people and sends out entirely the wrong message to those newly disabled or diagnosed with a terminal illness. Indeed, society's "understanding" of Daniel James's decision may have contributed directly to it. At the very least it is disability discrimination.

Not Dead Yet UK's members include Dr Ian Basnett, a talented Junior Physician working in hospital medicine who broke his neck in a rugby accident. He has talked openly about how clear he felt that life was not worth living for a long time after his accident. He is under no doubt that he would have done the same as Daniel James during these years. He is now thankful that that choice was not open to him and is deeply concerned that the DPP's new guidance has been influenced by the Daniel James's case. He says that, if Daniel James had not become tetraplegic but his wish to die was the result of some other life changing event - say, the death of a child - society, which includes psychiatrists, doctors and lawyers, would say he had post traumatic stress disorder and needed support to come to terms with that loss. Suicide would never have been considered a rational response. To see suicide as the right solution is to abandon hope. Severely ill and terminally ill people do not deserve society to give up on them. There will always be individuals who ask for society to be complicit in their premature deaths. Society must treat them as everyone else is

treated, as people with rights and responsibilities, able to make a contribution to our collective well being.

This is reflected in the law as it currently stands in offering protection both to persons wanting assistance to end their lives and to those that might assist them. This second group, in not wishing to contribute towards the act of suicide, may draw strength from knowing that it is a criminal offence. This is particularly important because we are aware of the potential “tunnel vision” that may occur amongst individuals seeking an assisted suicide. This leads them to close their minds to alternatives as they seek to demonstrate their “settled view” that this is the only option acceptable to them. They may also see the need to concentrate on negative aspects of their personal circumstances in an effort to demonstrate to others the unbearability of their circumstances. Naturally, this will be a very distressing time for loved ones as their efforts to be positive and to promote alternative outcomes are rebuffed. It is clear that they need strong support in such circumstances, both from professionals and extended family and friends if they are not to abandon hope. As the case of Dr. Basnett demonstrates, that support may need to be provided for years before the victim is able to consider alternatives to a premature death. The case of Daniel James is an example of a victim exerting such influence upon his mother to the point where she felt obliged to accede to his demands.

Members of NDY UK argue that it is wrong for a person to ask for another’s assistance to die, as it is wrong for that person to provide

such assistance. This is often viewed with surprise because society's default position is that the disabled or terminally ill victim is a powerless, tragic figure whose wish to die, unless in doubt, should be acceded to. The assisted suicide is viewed as an act of compassion, regardless of the consequences for the assister. Society does not consider the victim selfish for demanding something that is likely to have a profound impact on, and could actually ruin, another person's life. NDY UK believe it is profoundly unhelpful for society to be endorsing or encouraging any disabled person to see their request for assistance to die as reasonable or completely understandable. It serves only to confirm the 'tunnel vision' of the victim and hardens their view. It is the worst kind of discrimination to believe that disability or terminal illness excuses a person from sharing the responsibilities of every other citizen.

DPP INTERIM POLICY – SPECIFIC POINTS

We consider the House of Lords Judgment in the case of Purdy v DPP represents an opportunity to provide greater clarity than the Interim Policy allows. Rather than seeking to codify the status quo, we urge the DPP to re-draw the policy so as to give the clearest possible advice to prosecutors and thereby also to those who may potentially seek an assisted suicide, their families, friends, professionals who care for them and all others with an interest in this issue. We believe such clarity can be achieved whilst still providing the DPP with the discretion that he is required by law to exercise in every case. Such clarity will benefit everyone, including

disabled and terminally ill people, by enabling them to better plan their lives by consideration of the life chances available to them. Options that are outside the law are less likely to be considered, if there is clear guidance as to what is and is not acceptable.

Historical context

The law is clear that it is an offence to assist another person to commit suicide. Yet no one has been prosecuted for the offence. This has led many people to suppose, incorrectly, that the law as it stands is not working properly. In fact, the law is working as it should: the penalties it holds in reserve are able to deter assistance with suicide, while the discretion afforded to the DPP not to prosecute enables any instances of truly compassionate assistance to be dealt with appropriately. With the law as it stands, we have deterrence combined with compassion.

It is received wisdom that the public at large are in favour of the legalising of assisted suicide despite such a measure having been rejected by Parliament. The public perception is that the lack of prosecutions indicates back-door approval (or acceptance) of assisted suicide. The case of Purdy v DPP was brought to test this hypothesis. As a result of the Law Lords' Judgment the DPP has been given the impossible job of drawing up a policy that explains how he reaches prosecution decisions in cases of assisted suicide without at the same time, and inadvertently, legitimising the practice.

We believe the Interim Guidance has adopted the wrong approach and that the Final Guidance should revert to **first principles**, even

if this means acknowledging that prosecutions have not been brought in the past when perhaps they should have been.

The reasons for the current situation can be readily understood. When the first person travelled to Switzerland for an assisted suicide, they may have done so unaided. If they received assistance, it is unlikely that anyone was aware an offence had been committed. Most likely, assistance was provided by friends or family who, together with the victim, had been struggling with a deteriorating and undoubtedly, difficult situation. However the decision to travel to Switzerland was made, the resultant death will have left the assister(s) grieving. Even if the case came to the attention of prosecutors, it is easy to understand why they would not wish to prosecute: the victim was willing, advocating for his/her death, the perpetrators suffered as a consequence of their actions and posed no threat to anyone else. They deserved sympathy rather than to be treated as criminals. Conviction was by no means certain, especially if a jury was moved by compassion for their plight. The crime was unique and highly unlikely to be copied. So the case was not pursued. The second case was most likely treated much like the first and the third too. As case numbers began to rise at some stage an unwritten protocol was established by precedent if nothing else.

Now, sometime after the 100th case, the Law Lords have asked the DPP to make clear the facts and circumstances to which he has regard in reaching decisions of this nature. Pertinently, the Swiss Government has decided that the activities of organisations like Dignitas need to be reviewed and the procedures under which they

operate tightened. What was once the rare case has now become "death tourism", prompting them to take a fresh look at Dignitas and other so-called clinics offering assisted deaths to foreigners.

Final Guidance should make clear the presumption that anyone assisting another to commit suicide will be prosecuted. There are strong reasons for this,

- It will make clear that the law is there for a reason and will be upheld
- It will protect those who feel they may be pressured or coerced into seeking an assisted suicide
- It will give reassurance to those who feel they are or will become a burden on family, friends and/or the state, that society values their lives and does not want to see them ended prematurely
- It will give comfort to those newly diagnosed with terminal illnesses that society does not have any expectation of them seeking an assisted suicide
- It will provide a safeguard to those with or prone to bouts of depression that requests for an assisted suicide made during such an episode will not be acted upon
- It will strengthen the hand of family members, friends, medical and social care professionals that society has the expectation that they will not comply with requests that a potential victim may make for an assisted suicide and they may reasonably refuse such requests

- It will protect such people from committing acts which are final, cannot be undone and which they may take reluctantly and/or come to deeply regret
- It will provide strength to those working in palliative care and in the hospice movement that society has an expectation that all lives should come to a natural end and that their services are valued and resourced appropriately
- With the option of an assisted suicide closed, victims, their families and friends are more likely to be open to other options available to them, such as palliative care, supported living, independent living, personalised care, personalised budgets, etc.
- Poor, degrading and inadequate care and medical services are less likely to be tolerated if the solution of an assisted suicide is removed.
- It will reduce the likelihood of lives being taken in error because a victim had a change of heart or was subject to influence or coercion
- It will reduce the risk of medical complications or other problems associated with failed suicide attempts, e.g. when a person is too ill to commit the final act of suicide
- It will put the brakes on a growing negative culture, which does not value the lives of all people equally. A culture that fears severe disability and terminal illness.
- It will send out a very clear message that all people should be protected under the law, in the same way, with the same respect. It will not single out a particular group for different

treatment on the grounds of their medical condition. It will therefore not discriminate on grounds of disability or illness.

Against this strong set of principles, the DPP must continue to exercise his discretion as required by law. Whilst the Final Policy should endorse Parliament's firm view that assisted suicide is not acceptable, it will not be appropriate to prosecute in some cases.

Many of the cases to date before the DPP have shown that assisters have provided assistance with great reluctance and only after being subject to great and prolonged pressure from victims. Therefore, the DPP must take account of the relationship between the victim and the assister. In practice, many assisters say they acted unwillingly and only after protracted and persistent pressure from the victim. Whilst we consider that it is as wrong to seek an assisted suicide, as it is to provide assistance, we accept that, where the assisters are close family members who are unable to counter the 'tunnel vision' of the person seeking assistance, it may be appropriate for the DPP to decline to prosecute. However, to suggest, as the Interim Guidance does, that the simple fact that the assister was a spouse or close family member of the victim constitutes *per se* a argument against prosecution is in our view hazardous. While many relationships between seriously ill and disabled people and their families are loving and supportive, others are not so.

Naturally, anyone prosecuted under the law, will be able to mount a defence in Court and, if convicted, to plead in mitigation before sentence is passed. It is unlikely that the Courts will treat convicted

persons harshly. However, the circumstances of each case will be examined in open Court. This will be much more satisfactory than the present situation in which the reasons for not prosecuting are generally not known.

It should be borne in mind that for all laws, the purpose of prosecution is to act as a deterrent to would-be lawbreakers by giving a clear signal that perpetrators will be held accountable for their actions. It is not to generate work for the Courts. An increase in the number of prosecutions is not a sign of success. A reduction in the number of offences committed is the goal. For the reasons given earlier in this document we do not belief that there will be a flood of prosecutions if the Final Guidance is as we propose. Instead it will provide comfort to disabled and terminally ill people, their families, friends and the professionals they interact with that they will be treated equitably with other citizens.

Appendix 1

We give below brief responses to the questions asked in the Interim Guidance. This appendix must not be read in isolation. It's purpose is only to high-light the inappropriateness of most of the questions.

	FACTORS IN FAVOUR OF PROSECUTION	Y/N	REMARKS
1	The victim was under 18 years of age.	Y	Yes but only to the extent that a child seeking an assisted death will not be able to exert the same level of influence over assister(s) as might an adult. Otherwise irrelevant under law in which assistance is wrong whatever the age of the victim.
2	The victim's capacity to reach an informed decision was adversely affected by a recognised mental illness or learning difficulty.	Y	Yes but only to the extent that such a victim must be protected even when able to exert overwhelming influence over assister(s).
3	The victim did not have a clear, settled and informed wish to commit suicide; for example, the victim's history suggests that his or her wish to commit suicide was temporary or subject to change.	N	Highly subjective and discriminatory. Would not be considered in case of a non-disabled or not terminally ill person seeking assistance to end their life.
4	The victim did not indicate unequivocally to the suspect that he or she wished to commit suicide.	Y	Yes but it must not follow that the victim indicating unequivocally is sufficient reason for not prosecuting.
5	The victim did not ask personally on his or her own initiative for the assistance of the suspect.	Y	Yes but only to the extent that persistent personal requests for assistance are essential for the only factor against prosecution we consider relevant to apply.
6	The victim did not have: > a terminal illness; or > a severe and incurable physical disability; or > a severe degenerative physical condition; from which there was no possibility of recovery.	N	Highly pejorative and discriminatory. Would not be considered in case of a non-disabled or not terminally ill person seeking assistance to end their life.
7	The suspect was not wholly	N	Highly subjective and

	motivated by compassion; for example, the suspect was motivated by the prospect that they or a person closely connected to them stood to gain in some way from the death of the victim.		discriminatory. Disabled & terminally ill people know that compassion can often be misguided and based on false premises. Would not be considered relevant in case of a non-disabled or not terminally ill person seeking assistance to end their life.
8	The suspect persuaded, pressured or maliciously encouraged the victim to commit suicide, or exercised improper influence in the victim's decision to do so; and did not take reasonable steps to ensure that any other person did not do so.	Y	Yes but question reveals society's prejudice against disability and terminal illness. Usually, it is the victim who persuades, pressures or maliciously encourages assister(s) to provide assistance against their instincts and beliefs.
9	The victim was physically able to undertake the act that constituted the assistance him or herself.	Y	Yes but only to the extent that a person who could commit suicide but prefers to make others complicit in the act should be easier to resist.
10	The suspect was not the spouse, partner or a close relative or a close personal friend of the victim.	N	Wholly irrelevant. Spouses, partners and close relatives are just as likely to have mixed/conflicting motives as anyone else.
11	The suspect was unknown to the victim and assisted by providing specific information via, for example, a website or publication, to the victim to assist him or her in committing suicide.	Y	In view of the fast developing world of new media and cases already of "cyber bullying" this has the potential to be relevant in more cases in future.
12	The suspect gave assistance to more than one victim who was not known to each other.	Y	Giving assistance to more than one victim suggests a disregard for the current law.
13	The suspect was paid by the victim or those close to the victim for their assistance.	Y	Payment suggests a willing accomplice in the act rather than someone acting under pressure or influence by the victim.
14	The suspect was paid to care for the victim in a care/nursing home environment.	Y	Yes care/nursing home staff need this "just say no" protection in case residents seeks to pressure/influence them.
15	The suspect was aware that the victim intended to commit suicide in a public place where it was reasonable to think that members of the public may be present.	Y	Any person aware that another may attempt suicide should be expected to seek to prevent the act or seek assistance from others, e.g. police, social services to prevent such an act.
16	The suspect was a member of an	Y	Giving assistance in such

	organisation or group, the principal purpose of which is to provide a physical environment [whether for payment or not] in which to allow another to commit suicide.		circumstances suggests a disregard for the current law.

	FACTORS AGAINST PROSECUTION	Y/N	REMARKS
1	The victim had a clear, settled and informed wish to commit suicide.	N	Highly subjective and discriminatory. Would not be considered in case of a non-disabled or not terminally ill person seeking assistance to end their life.
2	The victim indicated unequivocally to the suspect that he or she wished to commit suicide.	N	Not strong enough. The test must be whether the victim exerted such pressure upon the suspect that the suspect was unable to resist.
3	The victim asked personally on his or her own initiative for the assistance of the suspect.	N	Not strong enough. The test must be whether the victim exerted such pressure upon the suspect that the suspect was unable to resist.
4	The victim had: > a terminal illness; or ☸ a severe and incurable physical disability; or ☸a severe degenerative physical condition; from which there was no possibility of recovery.	N	Highly pejorative and discriminatory. Would not be considered in case of a non-disabled or not terminally ill person seeking assistance to end their life.
5	The suspect was wholly motivated by compassion.	N	Highly subjective and discriminatory. Disabled & terminally ill people know that compassion can often be misguided and based on false premises. Would not be considered relevant in case of a non-disabled or not terminally ill person seeking assistance to end their life.
6	The suspect was the spouse, partner or a close relative or a close personal friend of the victim, within the context of a long-term and supportive relationship.	N	Wholly irrelevant. Spouses, partners and close relatives are just as likely to have mixed/conflicting motives as anyone else.

7	The actions of the suspect, although sufficient to come within the definition of the offence, were of only minor assistance or influence, or the assistance which the suspect provided was as a consequence of his or her usual lawful employment.	N	In view of the fast developing world of new media and cases already of "cyber bullying" this has the potential to be relevant in more cases in future.
8	The victim was physically unable to undertake the act that constituted the assistance him or herself.	N	Highly subjective and discriminatory. A person who could drink poison unaided could be assisted to climb onto a roof and be pushed from it.
9	The suspect had sought to dissuade the victim from taking the course of action, which resulted in his or her suicide.	N	Almost all suspects will have initially balked at the idea and will have needed persuading. That is not sufficient. They must have been pressured into assisting (see 12 below).
10	The victim has considered and pursued to a reasonable extent recognised treatment and care options.	N	Far too loosely drawn. Refer to case of Dr. Ian Basnett in main response.
11	The victim had previously attempted to commit suicide and was likely to try to do so again.	N	Highly discriminatory. Very prejudicial to people with mental illness whether diagnosed or not and/or fear of future with deteriorating physical condition.
12	The actions of the suspect may be characterised as reluctant assistance in the face of a determined wish on the part of the victim to commit suicide.	Y	This is the only potentially acceptable factor against prosecution but this needs to be much more tightly drawn. There must be evidence of the suspect resisting pressure and seeking advice and support from health and social care professionals to achieve alternative outcomes.
13	The suspect fully assisted the police in their enquiries into the circumstances of the suicide or the attempt and his or her part in providing assistance.	N	This is highly dangerous and suggests to potential suspects that a full and frank confession is all that is needed to escape prosecution.

Appendix 2

NDY UK policy statement

June 2005

Disabled people have become increasingly anxious about the dangers associated with the call for assisted dying to be legalised in the UK. The idea that disabled people, including those who do not have long to live, are "better off dead" is not new. We believe individual disabled people's suicidal cries for help come from a lack of proper practical, emotional and medical support needed to live dignified lives, rather than from the 'suffering' they experience as a result of a medical condition. Such loss of hope – which forces some to see death as their only option – is easily misinterpreted in a society that continues to see and treat disabled people as second class citizens. Lives less valuable. People who experience terminal illness and severe disability are not immune to society's view of us. We are at risk of being easily exploited by the 'right-to-die' movement or, worse, by family, friends and health care professionals. Their attitude is prejudiced (by society's general cultural attitudes) and in many cases a subjective assumption about a situation not yet experienced.

We oppose policies that single out individuals for legalised killing based on their medical condition or prognosis. This includes helping people to die whether by killing them, or by withdrawal or withholding of treatment, in the name of compassion and mercy.

What do advocates for changes in the law say?

Those arguing for assisted dying legislation say it is not about disabled people. They say it is to be restricted to those who are in the **process of dying,** and to children and adults without capacity, whose intolerable suffering cannot be alleviated by medical intervention. **They say it is possible to make such a distinction.**

What is the reality?

The distinction between disability and terminal illness is a myth. Definitions of 'terminal illness' can never be precise. For example people with Multiple Sclerosis are disabled people and yet they are the people targeted most frequently as beneficiaries of assisted dying legislation. This serves only to create a false distinction between those who will be legally able to request assisted dying and others who will not. In this way, proponents claim they seek a small change in the law. **But this is the beginning of a process and policy that can be steadily opened wider and wider until any person may assist another disabled person to die without consequence. We believe state sanctioning of assisted suicide will inevitably switch the traffic lights from red to green on this issue.**

NDYUK believe the majority of people who would be affected by assisted dying legislation are disabled people. Disabled people, including people with

learning difficulties and survivors of mental health systems have demonstrated clear reasons to resist the legislation. They have asked for a national representative voice to put forward their fears - NDYUK has answered that call.

People already have the right to refuse unwanted treatment. Suicide is no longer illegal. Making it legal to assist someone to die does not give that person a 'new' human right – it provides a new immunity from justice for those who provide the assistance. Assisted suicide must not just be another medical treatment option, and it must not be made any part of routine health care. In these days of cost cutting in the NHS and social care, assisted dying/suicide could all too easily become an attractive 'treatment' remedy.

We believe that legalising assisted dying/suicide will inevitably lead to increasingly adverse judgements about the quality of life of disabled people. This will undoubtedly begin to affect the many disabled people who cannot speak for themselves and who have not requested death. Research in the Netherlands has shown that legalising assisted suicide has led to nearly a quarter of overall intentional killings of patients happening without request. This research has also shown that intentional killings, by either withdrawal of treatment without the patient's permission or by deliberate over-doses of symptom control, have increased. Nowhere is there evidence to show that **legalising assisted dying has deterred medical practitioners from intentional killings, or that the number of these killings has declined.**

If we give in to the demand to assist in a suicide we are reinforcing attitudes that say that the lives of disabled people are not worth living – that they are a particular burden to themselves, their relatives and friends, and the state. These negative attitudes are faced by disabled people all the time. This discrimination does not just happen at moments of crisis or imminent death, they are the underlying reason why society is so inaccessible to disabled people and excludes and isolates us systematically.

NDYUK's position links with that of the Disability Rights Commission (2000/2006). In their policy statement on assisted suicide they say there are a number of steps that need to be taken before we contemplate assisted dying legislation:

- Abolishing discriminatory guidelines and practice on withholding and/or withdrawing life-saving treatment for disabled people;
- Producing demonstrable reductions in discrimination and inequalities in health services;
- Improving the quality and capacity of palliative care provision equally across the country and ensuring supply does not lag behind demand (as is currently the case);
- Implementing effective rights to independent advocacy and communication support; and
- Implementing rights to independent living to create a society where all disabled people are able to participate fully as equal citizens.

Appendix 3

Respondents

The consultation response was prepared and written by a group of disabled people who are either a part of the NDY UK network, or lead a national representative organisation of or for disabled people. Each individual is a leader in equality and human rights for disabled people. We therefore believe this response reflects and represents the voice of many thousands of disabled people in the U.K. who oppose the legalising of assisted suicide and assisted dying for terminally ill or severely disabled people.

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Organisations of disabled people endorsing this response

Royal Association for Disability Rights (RADAR)
National Centre for Independent Living (NCIL)
UK Disabled People's Council (UK DPC)
Disabiliy Awareness in Action (DAA)

Changing Perspectives

Southampton Centre for Independent Living

Report author - Baroness Campbell of Surbiton, DBE

House of Lords