



Disability and Assisted Dying Laws Policy Briefing

Proposals are being developed in both Westminster and Holyrood to allow assisted dying for people who are terminally ill, if they request it. These proposals will be based on legislation in Oregon, which restricts access to people who are expected to die within six months (by contrast with the more permissive legislation in e.g. the Netherlands, where it is open to patients enduring 'unbearable suffering' even if their illness is not terminal).

Some people in Scotland and England & Wales oppose legalization because of fears about the effects that assisted dying laws might have on people with disabilities. This policy briefing identifies several arguments of this kind and summarises the relevant evidence and academic research. It concludes that **assisted dying laws should not be opposed on the basis of the views, welfare, respect or healthcare of people with disabilities**. Instead, respect for disabled people's autonomy gives some reason to legalize assisted dying, at least for people expected to die within six months.

This conclusion is supported by four key findings:

1. People with disabilities are not generally opposed to assisted dying laws.
2. Assisted dying laws do not harm people with disabilities.
3. Assisted dying laws do not show disrespect for people with disabilities.
4. Assisted dying laws don't damage healthcare for people with disabilities.

This briefing is based on a research paper currently under review. The paper is available on request, along with a full list of references to the underpinning studies: please e-mail the author if you want to find out more.

I. People with disabilities are not generally opposed to assisted dying laws.

Opponents of assisted dying often claim that there is consensus amongst people with disabilities that assisted dying should be prohibited.

In reality, this picture of unanimity isn't borne out by the evidence. A recent survey of 140 disability rights organisations in the UK indicated that only 4% explicitly oppose assisted dying laws. A substantial majority either remain silent (84%) or explicitly endorse neutrality (4%) on assisted dying.¹ The position of Disability Rights UK is representative:

¹ Box, G. & Chambaere, K. (2021) Views of disability rights organisations on assisted dying legislation in England, Wales and Scotland: an analysis of position statements. *Journal of Medical Ethics*. Published online first 5 January 2021. doi: 10.1136/medethics-2020-107021.

This is a complex issue on which people hold different, passionately held views. Disability rights UK respects those different views.²

People with disabilities themselves ‘do not oppose assisted dying with one voice ... at a minimum the views of the wider community are more mixed than the views of their leaders’, as prominent disability rights campaigner Professor Tom Shakespeare says.³ Polling suggests strong support for assisted dying laws amongst people with disabilities, at roughly the same level as in the general population.

It is therefore wrong to oppose assisted dying laws on the grounds that people with disabilities oppose them. That shows disrespect for the perspectives of many people with disabilities, and fails to take seriously the full spectrum of opinion.

2. Assisted dying laws do not harm people with disabilities.

Opposition to assisted dying laws often focuses on the ideas that such laws are especially harmful to people with disabilities, that safeguards inevitably fail, and that there will be a ‘slippery slope’ from apparently rigorous protections to loose and harmful practices.

These fears aren’t borne out when we test them against the evidence. Systematic reviews have examined the uptake of assisted dying amongst vulnerable people, including people with disabilities. One found that ‘there is no clear evidence of a slippery slope’ of higher or increasing uptake of assisted dying in vulnerable groups.⁴ Another concluded that the hypothesis that people with disabilities might be disproportionately impacted ‘does not seem to be borne out’, and that

In no jurisdiction was there evidence that vulnerable patients have been receiving euthanasia or physician-assisted suicide at rates higher than in the general population... data do not indicate widespread abuses of these practices.⁵

This conclusion is reinforced if we look directly at empirical studies. One study of Oregon and the Netherlands found no evidence of heightened risk for people with disabilities and non-terminal conditions, and ‘no current factual support for so-called slippery-slope concerns’.⁶ Another from Belgium found no disproportionate impact on people with disabilities, nor an especial increase in requests made or granted to people with disabilities.⁷

In total, ten studies have explored this question, looking at data from all jurisdictions where assisted dying is legal. None have found evidence of harm, disproportionate impact, or a slippery slope in protection. This includes Oregon, whose comparatively restrictive regime is the model for proposed legislation in the UK, and also more permissive jurisdictions. One might expect the latter to show more signs of risk for people with disabilities, but in fact that is not the case.

2 Disability Rights UK (2015). Our position on the proposed Assisted Dying Bill. <https://www.disabilityrightsuk.org/news/2015/september/our-position-proposed-assisted-dying-bill> (accessed 30 July 2021).

3 Shakespeare, T. (2016) Just what is the disability perspective on disability? *Hastings Center Report* 46: 31-32.

4 Rietjens, J.A.C. et al. (2012) Medical end-of-life decisions: does its use differ in vulnerable patient groups? A systematic review and meta-analysis. *Social Science and Medicine* 74: 1282-1287.

5 Emanuel, E.J. et al. (2016) Attitudes and Practices of Euthanasia and Physician-Assisted Suicide in the United States, Canada, and Europe. *JAMA* 316:79–90.

6 Battin, M.P. et al. (2007). Legal physician-assisted dying in Oregon and the Netherlands: evidence concerning the impact on patients in “vulnerable” groups. *Journal of Medical Ethics* 33: 591-597.

7 Dierickx, S. et al. (2015) Comparison of the expression and granting of requests for euthanasia in Belgium in 2007 v 2013. *JAMA Internal Medicine* 175: 1703-6.

3. Assisted dying laws do not show disrespect for people with disabilities.

Another concern sometimes expressed is that assisted dying laws are disrespectful, by communicating that disabled lives are less worth living and reinforcing stereotypes about people with disabilities. Relatedly, it is sometimes worried that assisted dying laws lead to people with disabilities being manipulated or pressured into choosing to die.

This line of thought is mistaken about the core of the argument *for* assisted dying laws. The idea is not that some lives are less worth living, but that each individual must decide what makes their life worth living, whether it remains so in their own eyes, and what to do about it.⁸ This principle of equal respect for individual autonomy is what Baroness Hale evoked when she said

It is not for society to tell people what to value about their own lives ... If we are serious about protecting autonomy we have to accept that autonomous individuals have different views about what makes their lives worth living.⁹

Moreover, this line of argument against assisted dying itself shows disrespect for people with disabilities. As Christopher Riddle puts it:

Denying people with disabilities the right to exercise autonomy over their own life and death says powerfully damaging things about the disabled, their abilities, and their need to be protected.¹⁰

Some people with disabilities themselves voice the objection that it is disrespectful to deny them assisted dying in the name of 'protection'. Participants in one study 'often expressed concern that disabled people may be especially vulnerable to being denied end-of-life choices because of the way they are devalued in society', and that 'people with disabilities may be denied choice because they are assumed incompetent to make their own decision'.¹¹

There are some challenges when we consider cases where capacity is hard to determine, because cognitive functioning or communication is impeded. But a blanket prohibition is the wrong way to respond to the challenges, because it relies on pejorative stereotypes and ignores ways that appropriate support can facilitate autonomous decision-making for people with intellectual disabilities. So, there is strong reason to think that assisted dying laws do not show disrespect to people with disabilities. In fact, the opposite is true.

4. Assisted dying laws don't damage healthcare for people with disabilities.

Some people have worried that assisted dying laws will undermine other aspects of the healthcare system, for example by undercutting support for e.g. palliative care, or undermining trust between doctors and patients.

In fact, assisted dying laws tend to go hand in hand with greater support for palliative care, financially and otherwise. And it is reassuring that in jurisdictions where assisted dying is legal, we

8 Colburn, B. (2020) Autonomy, voluntariness, and assisted dying. *Journal of Medical Ethics* 46: 316-319.

9 quoted in Delamothe, T. (2009) Assisted dying: what's disability got to do with it? *BMJ* 339:b3446.

10 Riddle, C.A. (2017) Assisted Dying & Disability. *Bioethics* 31: 484-9.

11 Fadem et al (2003) Attitudes of People with Disabilities towards Physician-Assisted Suicide Legislation: Broadening the Dialogue. *Journal of Health Politics, Policy and Law* 28: 977-1001

see very high levels of trust in doctors, and the best communication between doctors and their patients concerning end-of-life decisions. In the UK, polling suggests that few patients would come to distrust their doctors if assisted dying were legalized.

Conclusion

People sometimes oppose assisted dying laws because of understandable and serious concerns about their effects on people with disabilities. However, those concerns aren't borne out in the evidence. In fact proper respect for people with disabilities requires recognising their autonomy in this key domain, and not withholding it in the name of 'protection'. So, this briefing has two key recommendations:

1. Assisted dying laws should not be opposed on the basis of the views, welfare, respect or healthcare of people with disabilities;
2. Respect for people with disabilities speaks in favour of assisted dying laws where we can determine that capacity and communicative ability are present.

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