

CROWN PROSECUTION SERVICE: CONSULTATION ON PUBLIC INTEREST GUIDANCE FOR SUICIDE PACT AND 'MERCY KILLING' TYPE CASES



Response from Humanists UK, April 2022

ABOUT HUMANISTS UK

At Humanists UK, we want a tolerant world where rational thinking and kindness prevail. We work to support lasting change for a better society, championing ideas for the one life we have. Our work helps people be happier and more fulfilled, and by bringing non-religious people together we help them develop their own views and an understanding of the world around them. Founded in 1896, we are trusted to promote humanism by 100,000 members and supporters and over 100 members of the All-Party Parliamentary Humanist Group.

We have unique expertise at the intersection of medical ethics and human rights law. Drawing upon that expertise, we have long supported attempts to legalise assisted dying for those who have made a clear decision, free from coercion, to end their lives and who are physically unable to do so themselves. In recent years we have intervened in all the court cases on assisted dying, and have supported parliamentary attempts to legalise assisted dying for the terminally ill. We are a co-founder of the Assisted Dying Coalition, the national coalition working for assisted dying.

RESPONSE TO CONSULTATION QUESTIONS

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Question 1

Do you think that the categories of cases to which these additional factors apply are appropriate?

Yes

Question 2



Can you expand on your answer to question 1?

Humanists fundamentally believe in taking a compassionate, empathetic, and evidence-based approach to both life and death. We believe that modern laws should reflect that ethos and prosecution should only be made in the public interest. We believe that suicide pacts and 'mercy killings' are likely to include an element of both compassion and empathy, and therefore that must be taken into account. These cases should be treated differently to other murder and manslaughter cases.

It seems likely that most suicide pacts and mercy killings relate to the quality of life or impending death of the deceased. The current blanket ban on assisted dying further exacerbates this situation, as subjects may not be able to see any options outside of a suicide pact or mercy killing.

We believe the same reasoning behind the case of Debbie Purdy, who died in 2014 after an 'agonising' wait for death and forced the DDP to clarify its position on assisted dying, should be applied to these cases. The Purdy case established that it was not in the public interest to prosecute people who assist a dying loved one to end their life where they have been wholly motivated by compassion and are acting on the settled wish of that person.

In the absence of legislation that permits compassionate, safeguarded, assisted dying, we believe that it is not in the public interest to prosecute subjects involved in 'mercy killings' or suicide pacts.

Question 3

Do you agree that the factors considered should be broadly consistent with those set out in the assisted suicide policy?

Yes

Question 4

Can you expand on your answer to question 3?

We think that there are many broad similarities between assisted dying, mercy killings, and suicide pacts. All three typically include the subject seeking an end to physical suffering, all include them wanting the autonomy to choose the manner, timing, and method of their own death, and all will include at some point close friends or family members.

The circumstances of both failed suicide pacts and mercy killings are likely to be highly traumatising and emotional life events. The subjects involved in carrying out the acts involved will often have to weigh up an incredibly difficult act of conscience, choosing between the best interests or wishes of a loved one and the law. We believe it would not be in the public interest to add additional trauma to this by prosecuting those involved, had they been motivated in the same ways as set out in the assisted suicide policy.

Since those carrying out mercy killings and suicide pacts and those assisting suicide face similar moral and ethical dilemmas, we believe it is right that they are treated equally in the eyes of the law.

Question 5



Are there any further factors in favour of prosecution that should be included?

No

Question 6

What further factors in favour of prosecution should be included if you replied Yes to question 5?

N/A

Question 7

Are there any further factors tending against prosecution that should be included?

Yes

Question 8

What further factors tending against prosecution should be included if you replied Yes to question 7?

We believe that the deceased having a terminal illness or intolerable, incurable suffering should be added as a factor tending against prosecution. The incurably ill and unbearably suffering have a severe lack of options in the UK which forces them to extremes, often asking loved ones to help them end their suffering. Furthermore, people who suffer from debilitating illnesses such as motor neurone disease are often unable to take action by themselves and must therefore ask friends, family, or other loved ones to assist them. This places an unavoidable moral dilemma for those asked to carry out the mercy killing between helping someone they care about and the law. These people should be treated with empathy and compassion.

In addition, point 6 of the public interest factors tending against prosecution states: 'the suspect reported the death to the police and fully assisted them in their enquiries into the circumstances and their part in it.' This point should be expanded to include the intent to self-report to the police. This would impact cases where the subject has not had the time or opportunity to report to the police, despite clearly intending to do so. If the subject were to perform a 'mercy killing' of a sick relative and then be arrested either immediately after the act or on route to the police station to self-report, then the subject will not meet point 6 of the criteria even if they had clear intent to do so. This should be taken into account.

Question 9

Please provide any other feedback you wish to share around how the revised guidance could be improved?

Humanists believe that meaning in life is something we create for ourselves, rather than something divinely inspired; and if someone's life is one of pain, it may be that that person does not think it possible to live a meaningful and fulfilling life. Humanists recognise that all life is valuable but believe someone's quality of life is also important when making decisions about life and death. We value human beings' personal autonomy and believe they should have the right to make their own decisions about how they live and die.



We support bringing the guidance on mercy killing and suicide pacts in line with that on assisted dying. It will allow prosecutors to take a compassionate and empathetic approach to prosecution. However, although this is out of the scope of this consultation, we wish to also make clear that we strongly believe that an assisted dying law would be the safest and most humane way forward. An assisted dying law would introduce stronger safeguards, an additional level of personal autonomy, and would greatly reduce the need for mercy killings or suicide pacts. We believe robust safeguards under the law are the only feasible way to protect the most vulnerable people in society.

Many of the cases that require guidance on public interest factors around prosecution only do so because of the current law on assisted dying. We believe that no-one should be prosecuted for assisting a mentally competent person in their informed decision to end their own life.

For more details, information, and evidence, contact Humanists UK:

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