WRITTEN SUBMISSION TO SCRUTINY PANEL 7th NOV 2025 (Assisted Dying Law)

(Dr John Stewart-Jones / Jersey Dying Well Group)

For the attention of Scrutiny Panel Members: Deputy Louise Doublet, Deputy Catherine Curtis and Deputy Sir Philip Bailhache

I am providing a written submission on the Lodged Law on Assisted Dying. I am doing so as an individual and as Chair of the Jersey Dying Well Group.

I have made previous submissions over the past few years which are attached, and my great concern was that Route 1 (Terminal Illness) and Route 2 (Chronic Illness) were being proposed, and I am so thankful that Route 2 was rejected at the last States Assembly Debate on Assisted Dying. However, together with many others in Jersey the Jersey Dying Well Group members are opposed to the Law Lodged due for Debate on 20th January 2026.

Our concerns are many, but there are **4 main points** that provide a simplified overview but are not comprehensive of all that is of concern.

These are Coercion; Capacity; Cost and Care.

<u>Coercion of the Vulnerable:</u>

Even with the proposed training of the 2 doctors involved in assessing the risk of coercion, it is impossible to completely exclude coercion. This can be from others with an intent of personal gain, or from within the person themselves as they feel a burden to others, including to their carers or family. Feeling a burden has been recorded as the incentive for requesting Assisted Dying / Suicide of well over 40% of applicants in Oregon since the law was first introduced.

There is an increased risk to those who would already have more frequent suicidal ideation, such as those with Bipolar Depression; Anorexia Nervosa; and Autism. When combined with a physical illness there is an increased risk of suicide. Depression that is treatable, and which is often associated with symptoms of anxiety can be combined with a physical illness. The proposed law even includes fear of possible suffering from the illness or medical treatment, whether there is likely to be any such suffering or not. *(Pages 33 & 34 - Article 25 - Paragraphs 163 – 166 of the Draft Law Report.)* The person should be encouraged to be assessed by a Medical Specialist for their condition as well as a Specialist in Palliative Care who will be able to provide a more realistic understanding of what may or may not happen regarding possible symptoms due to the disease or medical treatment.

This could conflict with Paragraph 248 b. (page 48) *'to coercively or dishonestly induce a person to request an assisted death, or to decide to end their life by assisted dying, or conversely to withdraw their request for an assisted death.'*

Disability:

Although Jersey has had consultations with a relatively small number of people with disabilities, there has been a strong response by disability groups in response to the proposed UK Bills. In November 2024 the BBC reported that more that 350 disabled people's organisations have formed a coalition to oppose the Assisted Dying Bill.

EXTRACT: CARE Article August 2024: https://care.org.uk/news/2024/08/disability-groups-oppose-fresh-attempts-to-legalise-assisted-suicide

Major disability groups, including Disabled People Against Cuts (DPAC) and Not Dead Yet UK, have been vocal in their opposition. DPAC recently held a protest in Parliament Square, urging the new Labour Government to reject any moves towards legalising assisted suicide.

Not Dead Yet UK expressed deep concern about the Falconer Bill, stating, "Like many disabled people, we are conscious that attempts to build legalised suicide into healthcare can be profoundly discriminatory – if a non-disabled person wants to die, their doctor does not give them the means to kill themselves." They added, "We want the same care and respect to be given to terminally ill people if they are suicidal. "Instead of legalising assisted suicide, the group advocates for improved access to palliative care and addressing the underlying issues of dignity and feelings of being a burden.

They also argue that proposed safeguards will fail to protect disabled people, saying, "In reality, these safeguards are virtually impossible to implement effectively. "Polling commissioned by SCOPE shows that the majority of people with disabilities (64%), including nearly three-quarters of young disabled people, are concerned about legalising assisted suicide. Many worry it could lead to pressure on disabled individuals to end their lives prematurely. END OF EXTRACT

Unintended coercion could result from medical staff initiating the consideration of Assisted Dying with the patient, who may see it as a recommendation, even if this was not intended, although alternatively, there could also be unconscious bias present.

United Nations Committee on the Rights of Persons with Disabilities (UN CRPD)

A written submission by the European Centre for Law and Justice (ECLJ) to the United Nations Committee on the Rights of Persons with Disabilities on 30th May 2025 (Word Doc text attached) and proceedings were opened against France on 23 June 2025 under Article 36-1 Convention on the Rights of Persons with Disabilities.

'In a letter dated 23 June 2025, the Committee requested clarification from the Government of France on the proposed law on the right to assisted dying. The letter states that it has "received credible information indicating that the approval of [the

proposed law] would constitute a violation of the State party's obligation to respect, protect and fulfil the right to life of persons with disabilities".'

Extract from UN CRPD Letter 23/6/25: The Committee has received credible information indicating that if the above-mentioned piece of legislation is approved, it would result in an infringement of the duty of the State party to respect, protect and guarantee the right to life of persons with disabilities.

The information available to the Committee also indicates that the proposed piece of legislation, if approved, would create a false dichotomy regarding the concept of "choice" setting up the premise that if persons with disabilities are suffering, it is valid for the State Party .to enable their death without providing safeguards that guarantee the provision of support, and on the basis of ableist assumptions that de-emphasize the myriad of support options that could allow persons with disabilities to live dignified lives, and about the failure of the State Party to ensure arrangements for living independently and in the community, including the lack of independent accessible and affordable housing, individualized support, and equal access to services in the community. (End of Extract)

I have attached this letter and other relevant documents as follows:

- INT_CRPD_FUL_FRA_63700_E
- ECLJ Analysis
- ECLJ letter re France

Relevant Links

- **Protection of the human rights and dignity of the terminally ill and the dying (1999)** https://assembly.coe.int/nw/xml/xref/xref-xml2html-en.asp?fileid=16722&lang=en
- **Protecting human rights and dignity by taking into account previously expressed wishes of patients (2012)** https://pace.coe.int/en/files/18064/html
- Tom Cross KC & Ruth Kennedy

  https://www.christian.org.uk/wp-content/uploads/Tom-Cross-KC-and-Ruth-Kennedy-Opinion.pdf

APPENDIX 6 TO REPORT Human Rights Notes on the Draft Assisted Dying (Jersey) Law 202-

It states the following (page 118): **These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.**

The Opinion by Tom Cross KC and Ruth Kennedy is contrary to the conclusion in Appendix 6

https://www.christian.org.uk/wp-content/uploads/Tom-Cross-KC-and-Ruth-Kennedy-Opinion.pdf

Extract:

1. We are asked to advise on whether, if it were enacted in its present form, the Terminally Ill

Adults (End of Life) Bill ("the Bill") would be compatible with the European Convention

on Human Rights ("the ECHR").

2. In summary, our view is that it would not be compatible. That is because, without

justification, it contains no adequate safeguard protecting the position of those with

disabilities where suicidal ideation is more likely, and who are, because of that feature of

their disability, more likely to express a clear and settled wish to die. By virtue of Article 14

of the ECHR, disabled persons enjoy special protection from discrimination, including in

the enjoyment of the right to life under Article 2 of the ECHR.

The Leadbeater Bill on Assisted Dying is presently being scrutinised in the House of Lords, and the next session is on Wednesday 12th November 2025 at 2.15 pm which should be of interest:

Terminally Ill Adults (End of Life) Bill: Potential Impact on the Human Rights of Disabled People – Oral Evidence.

https://committees.parliament.uk/work/9434/terminally-ill-adults-end-of-life-bill-potential-impact-on-the-human-rights-of-disabled-people/

Capacity

"**The Jersey Capacity and Self-Determination (Jersey) Law 2016**

been derived from and is very similar to the UK Mental Capacity Act 2005

and as such all the statements that have been made in the UK in relation to the problems with utilizing this legislation to manage capacity assessment for assisted dying hold true for the proposed Jersey law. I enclose an extract from the article attached: 'Why physician-assisted suicide has no place in the NHS' to explain the key points.

<u>Extract</u> from the article attached: 'Why physician-assisted suicide has no place in the NHS'

ROLE OF THE MENTAL CAPACITY ACT (2005)

Under the proposed legislation, the assessment of mental capacity in relation to PAS would be conducted in accordance with the Mental Capacity Act 2005 (MCA), which governs most treatment decisions in the NHS, except those that also fall under the Mental Health Act 1983/2007 (MHA) in psychiatric settings. The MCA presumes capacity and provides a semi-structured assessment framework when an individual is thought to lack capacity. The requirement for capacity assessments in the context of PAS effectively reverses this presumption, pathologising the decision to die from the outset. The MCA was not designed to govern decisions involving the deliberate ending of one's life, which carries unique ethical and existential dimensions. Nor does it incorporate safeguards reflecting the irreversibility of such choices. It was developed primarily to assess when someone lacks capacity, particularly in the context of refusing treatment, not to affirm capacity for life-ending decisions.

No studies have evaluated the application or suitability of the MCA in the context of PAS. It is likely to be inadequate for this purpose, particularly given the known challenges involved in assessing whether someone can truly 'use or weigh' information while experiencing significant distress at the end of their life. If PAS should be approved for use in the NHS, a bespoke capacity assessment model, purpose-built for PAS, should be developed and evaluated through clinical trials.

WHY PSYCHIATRISTS?

While psychiatrists routinely conduct capacity assessments under both the MHA and the MCA, these occur within the context of mental illness and relate to decisions about treatment, risk and discharge planning. Within psychiatric practice, suicidality is regarded as a symptom of psychopathology, not as an expression of autonomous, capacitous decision-making. Suicidal ideation prompts a medical intervention precisely because the individual is judged to lack capacity. As pointed out by the Royal College of Psychiatrists this foundational orientation would create significant tension if psychiatrists were asked to assess the capacity of individuals seeking PAS. Psychiatrists would be placed in a contradictory role. They would be expected to validate a decision for the purpose of PAS that they would ordinarily interpret as a manifestation of mental disorder, while continuing to detain individuals under the MHA for expressing similar thoughts in other contexts.

<u>(End of extract)</u>

I understand that the Royal College of Psychiatrists have submitted a submission to Jersey, but they also made a statement why they cannot support the UK Bill for AD also outlining concerns about the assessment of capacity:

https://www.rcpsych.ac.uk/news-and-features/latest-news/detail/2025/05/13/the-rcpsych-cannot-support-the-terminally-ill-adults-(end-of-life)-bill-for-england-and-wales-in-its-current-form

The inclusion of the concept of a "waiver" in the proposed Jersey law if the person loses capacity is extremely problematic as many people towards the end of life may experience fluctuating capacity and it could result in an assisted death that the person was not ready to accept. It also allows the possibility of coercion from others pushing forward an assisted death using the waiver. I note that the proposed UK law is not entertaining such a notion as a waiver because of the problematic and unsafe nature of it under current capacity legislation and we would ask that Jersey reconsider this whole notion."

Cost

Implementation Cost:

The cost of the training and implementation of the proposed AD Law in Jersey is calculated as £2.7 Million in the first 3 years which is disproportionate to the numbers involved, especially when the persons who choose Assisted Dying and an even larger number of other people requiring Specialist Palliative and End of Life care would benefit from that funding being invested in this area of care.

Following introduction of laws for AD, the numbers have increased in other jurisdictions and will continue to do so in Jersey with further increased costs. The Assisted Dying Service will be fully funded but palliative care will not be, despite this have a wider benefit to more people using this service in Jersey.

Health Funding Deficit:

Jersey Health and Care has to make over 10 million savings to be able to come in within budget in 2026. There is no funding for new initiatives to improve the health of the people of Jersey and many vital areas like mental health, medicine and surgery are having to cut jobs to be able to make the savings. In some areas whole services may have to be closed. There are also many vital strategies (such as the dementia strategy, the suicide prevention strategy and the neurodiveristy strategy) which have got no addtional funding to try to make their goals a reality for the people of Jersey. Social care

is struggling to be able to afford to fund care packages and placements and also need to make considerable savings. We are concerned that the assisted dying service will offer a service to a small number of people and use a large amount of the Health and Care budget to achieve this when more vital services to promote life and care will miss out of the funding.

Penalty for Offences:

On page 125 (Explanatory Notes) regarding Articles 44-53 it states the following:

'The penalty specified for an offence is the maximum penalty. If the penalty is a fine of level 3 on the standard scale, the maximum penalty is £10,000'

This refers to a list of offences in which it may or may not be proportionate.

However, one of the offences is 'Coercing or dishonestly inducing a decision about assisted dying'.

The decision here could be for or against as it is not clear. The coercion to go ahead with assisted dying must surely be more of a concern than a relative or loved one trying to make the person considering assisted dying.

The fine would seem small if an unscrupulous person were to subtly coerce / persuade them into going ahead when the financial gain to them could be many multiples more.

Safe Zones and Freedom of Speech: These are not required as there has been no public demonstrations by opponents of the introduction of the law. There are no other jurisdictions in any other countries that have such zones.

The concerns regarding this are expressed in the article in the Daily Mail as a result of a MSP suggesting they be introduced in Scotland:

https://www.dailymail.co.uk/news/article-15236053/Ex-Green-minister-Patrick-Harvie-fire-plan-set-buffer-zones-assisted-dying-clinics.html

"His idea echoes the protest-free buffer zones created by fellow Green MSP Gillian Mackay through her Abortion Services (Safe Access Zones) Act last year. That law specified a 200m exclusion zone around hospitals and clinics.

Mr Harvie's amendment would empower ministers to 'establish safe access zones' for premises used for assisted dying, but leave them to fill in the details.

Gordon Macdonald, chief executive of Care Not Killing, which opposes the Assisted Dying legislation, warned the plan could 'create censorship zones in large parts of the country'.

He cited the experience of the US state of Oregon, where 80 per cent of assisted suicides occur at home and added: 'We could see, in theory, buffer zones of 200m round the homes of the vast majority of patients.

'Family members, doctors, priests, nurses or anyone else who in any way seeks to influence the patient not to commit suicide risks being criminalised.

'Priests might be banned from giving the last rites or a church nearby might be banned from holding a public meeting on the subject of assisted suicide.

'A GP surgery near a care home might have to take down the Samaritans poster from the notice board in the waiting room. It could ban a family member from crying.

'Yet there has been no evidence of harassment of people applying for assisted suicide or euthanasia anywhere in the world.

'Patrick Harvie reveals his true colours with such a Draconian, dangerous, selfish, unnecessary and totalitarian proposal.'

Mr McArthur said: 'I welcome the fact that colleagues have lodged their own amendments aimed at strengthening and improving the Bill.

'In relation to the amendment on "safe access zones", I am not aware of these operating in other jurisdictions.

'As it's likely that people who choose to have an assisted death may do so at home and not necessarily in a specific hospital setting, it is difficult to see how this would replicate what we've seen with abortion clinics.

Care

(Palliative & End of Life Care)

The Provision of adequate Palliative Care before Law passed:

The States of Jersey Assembly agreed not to proceed with the introduction of the proposed AD Law until Palliative Care was adequate.

Please see attachment with references:

- **The impact of Assisted Dying on Palliative Care (v2) (Attached)**

Claims are often made that palliative care is unaffected or improves when assisted dying is legalised. The reality is very different and evidence from assisted dying (AD) jurisdictions around the world does not support

- **Why physician-assisted suicide has no place in the NHS (Attached)**

Sheila Hollins , Ilora Finlay , Ruslan Zinchenko

ABSTRACT

The UK is currently debating legislation to allow physician-assisted suicide for competent, terminally ill adults. Though not explicit, it is likely to be delivered through the National Health Service (NHS). International evidence shows that integrating assisted suicide and euthanasia into mainstream healthcare increases uptake and rate of growth as well as broadens eligibility criteria. In this editorial, we argue that it should not be part of the NHS, since it is not a medical treatment, lacks a robust evidence base and fails to meet regulatory standards. The proposed framework for assessing decision-making capacity is unsuitable, and psychiatrists are not the right clinicians to be involved.

Note on the following article: The Jersey Dying Well Group is fully opposed to Assisted Dying as are those who may suggest a civil law with Assisted Dying outside of healthcare. This is a pragmatic stance by some of the group as the harmful risks of Assisted Dying within healthcare are of such great concern that should a law be introduced then it would be a preferable alternative.

- **Reframing assisted dying through the civil law: possibilities and challenges for the UK (Attached)**

Jennifer Hardes Dvorak ,1 Claud Regnard, 2 Amy Proffitt,3 Ramona Coelho ,4 Leonie Herx 5

ABSTRACT

Background: *Current proposals for assisted dying in the UK are based on embedding it within a medical, healthcare model. This model is revealing challenges in safeguarding, monitoring and the impact on healthcare. Objective To explore if a different model is a safer, pragmatic and realistic alternative. Methods Existing medical models of assisted dying are reviewed and previously suggested alternatives are considered. The option of a socio-legal model is explained and examined in detail, including costs and likely*

numbers. Findings The authors propose that a socio-legal, civil law model that sits outside of healthcare is the most socially nuanced and ethical mode of regulation.

Conclusions: *A socio-legal model retains the choice to end life but would ensure greater social safeguarding of vulnerable persons. It also enables healthcare professionals and organisations to focus on healing and care.*

Conclusion:

A Specialist Palliative Care Consultant who is part of the Jersey Dying Well Group has studied the Draft law and has noted the following flaws:

- The failure to separate the assessment from the assisted death allows mistakes to be hidden.
- The use of 2 isolated doctors making assessments without any requirement for monitoring or consultation greatly increases the risk of errors, bias, discrimination, negligence and even criminality.
- Doctors are not trained to detect coercion or abuse which is usually well hidden by the abuser.
- An open-ended prognostic-limit will allow any vulnerable individual to access an assisted death. This includes young people with autism, anorexia and anyone with a disability.
- No lethal drug/dose has ever been assessed for efficacy and safety by any drug regulatory authority anywhere in the world.
- Less evidence exists for assisted dying than ever existed for thalidomide before it was licensed for use in 17 countries.
- Palliative care either stalls or reduces in jurisdictions with assisted dying.
- Switzerland has for 80 years run assisted dying almost entirely separate from health care. The Swiss Academy of Medical Sciences says the following (attached):

  "Assisted suicide is not a medical action to which patients could claim to be entitled, even if it is a legally permissible activity."

  There are so many complications that this proposed law will have if it is passed and implemented. Once implemented there will be no going back, and it will have a seismic effect on medical care and societal values.

We would ask that States members reconsider their stance and vote against this law.

Dr John Stewart-Jones
Retired GP and Chair on behalf of the Jersey Dying Well Group.
7th November 2025