BMA House
Tavistock Square
London WC1H 9JP

T 0207 383 6228

E ethics@bma.org.uk

BMA

England

Mr Carlos Phillips
Office of the Clerk of Tynwald
Legislative Buildings
Finch Road
Douglas
Isle of Man, IM1 3PW

4 January 2024

Assisted Dying Bill 2023

Dear Mr Phillips

I am very grateful for the opportunity to provide evidence to the committee on behalf of the British Medical Association, a professional association and trade union with members across the UK and the Crown Dependencies. The committee has already received a copy of the letter we sent to Dr Allinson MHK in advance of the Second Reading of his Assisted Dying Bill. That letter sets out the work the BMA has been undertaking on this topic, and our views on the general approach taken in the Bill. I do not plan to repeat that information here but, rather, this letter supplements that very broad approach with some of our more detailed views on the 'operational and technical' issues that are relevant to the Bill as requested.

It is important to be clear that the BMA is neutral on assisted dying. This means that we neither support nor oppose a change in the law. We have a responsibility, however, to represent the views of our members in discussions on any legislative proposals. Where the BMA's support is expressed for a position on a particular issue, this should not be taken as support for a change in the law but should be interpreted as the BMA's position 'if' assisted dying were to be legalised.

As mentioned in our letter to Dr Allinson MHK, the BMA has focussed on those issues that would significantly impact on doctors if the law were to change. Our more detailed views on the operational and technical issues are set out below.

Delivering assisted dying in practice

A separate service

A very significant issue for doctors if assisted dying were legalised is how it would be delivered in practice. The BMA does not believe that assisted dying should be integrated into existing care pathways (whereby a patient's GP, oncologist or palliative care doctor would, at the patient's request, provide assisted dying as part of the standard care and treatment they provide). In the BMA's view, it would be better for assisted dying to be set up as a separate service that would accept referrals from other professionals and/or self-referrals. This need not prevent a doctor who wanted to do so from assisting their own patients, but this would be arranged, and potentially managed, through a different pathway.

There are different ways this type of service delivery could be organised, and it is not for the BMA to comment on the details of this, but the advantages of having this separation include that it would:

- help to reassure those doctors who did not want to participate that there would be no pressure on them to do so;
- give patients a clear pathway to access the service that would not be dependent on the views of their treating doctor;
- ensure that those doctors participating in assisted dying would have the necessary training, experience and both practical and emotional support; and
- help to ensure consistency and facilitate oversight, research, and audit of the service.

Patient information service

If assisted dying were legalised, it is important that doctors who do not wish, or do not feel confident, to provide information to patients about assisted dying have somewhere they can direct patients to, in the knowledge that they will receive accurate and objective information. It is also important for patients who may meet the eligibility criteria to know where and how to obtain the information they need without the requirement to go through their doctor. The BMA would, therefore, support the establishment of an official body (with legal accountability) to provide factual information to patients about the range of options available to them, so that they can make informed decisions. For those wishing to be considered for assisted dying, this service should also be able to provide both information and support to navigate the process.

Funding

The BMA does not wish to provide detailed comment on how any future assisted dying service should be funded if it were legalised, but we believe the following points are important. If Tynwald decides to change the law on assisted dying, the Government must ensure that additional funds are made available to ensure that the service is properly resourced, and that funding and workforce are not diverted from other healthcare services. If it is legalised, they should also ensure that assisted dying is made available to all those who meet the eligibility criteria on an equitable basis.

Oversight and monitoring

Regulation

Although it is not the role of the BMA to determine the most appropriate form it should take, we strongly support the establishment of an independent and transparent system of oversight,

monitoring and regulation of assisted dying if it were legalised. This is essential to ensure appropriate standard-setting, quality assurance and to maintain public confidence.

Collection and publication of data

Openness and transparency will be very important if assisted dying is legalised. There should, therefore, be a requirement for data to be collected centrally about all assisted deaths and for aggregated data to be published on a regular basis.

Post-death review

If assisted dying were legalised, the BMA would support the introduction of a system for routinely reviewing all assisted deaths as an important part of oversight and monitoring, to maintain trust and confidence in the service.

Review committees, to assess all deaths following assisted dying, have been set up in a number of countries including New Zealand, Australia, the Netherlands and Canada. Their role is to retrospectively review each individual case after a death has occurred, to ensure that the correct process had been followed. Any problems or breaches identified and requiring further investigation or action are then referred on to the relevant organisations. Reviewing the details of individual deaths – including identifying the time to death and any complications or unforeseen circumstances that arose – can also lead to improvements in how cases are managed from a medical perspective and help to identify learning points for those delivering the service.

I do hope this further written evidence is helpful to the committee's scrutiny of Dr Allinson MHK's Bill. Should you require further explanation of any of the points raised in this or the BMA's earlier submission to the committee, please do not hesitate to contact my colleague Veronica English at ethics@bma.org.uk.

Yours sincerely

Dr Andrew Green
Deputy Chair of Medical Ethics Committee
MEC lead on physician-assisted dying