

Assisted dying public consultation

Government of Jersey  
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By email to: [AssistedDying@gov.je](mailto:AssistedDying@gov.je)

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Dear Consultation Team,

### **Assisted dying in Jersey consultation**

The NMC is the independent regulator of nursing and midwifery professionals in the UK. We welcome the opportunity to contribute to the consultation on the full proposals for assisted dying in Jersey. Assisted dying is an issue on which we adopt a neutral stance meaning that we neither support nor oppose attempts to change the law on assisted dying.

Our response focuses on aspects of the consultation that we view as particularly relevant to registered nurses, and where we can best offer our experience and support in our role as regulator. We have therefore set out our response in a letter rather than using the response template.

#### **1 Regulation of nurses in Jersey**

- 1.1 The NMC is responsible for setting education and professional standards, maintaining the register of professionals eligible to practise in the UK and taking regulatory action to protect the public where individual nursing and midwifery professionals do not practise in line with the [NMC Code and standards](#).
- 1.2 Jersey is a Crown Dependency and not part of the UK. The Jersey States Assembly [specifies](#) that all nurses and midwives working in Jersey must be registered with the NMC.
- 1.3 The NMC and the Government of Jersey have signed a Memorandum of Understanding (MOU) which provides a commitment to consult one another

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We're the independent regulator for nurses and midwives in the UK, and nursing associates in England. Our vision is safe, effective and kind nursing and midwifery that improves everyone's health and wellbeing.

Registered charity in England and Wales (1091434) and in Scotland (SC038362)

on any issues which might have significant implications and to refer fitness to practise concerns about nurses and midwives to the NMC.

- 1.4 All registered nursing and midwifery professionals are required to uphold the requirements the NMC Code at all times. The Code specifies registrants must “keep to the laws of the country in which they are practising” (paragraph 20.4). All forms of assisted dying are currently illegal in the UK; therefore it would be unlawful for any nursing and midwifery professional to participate in assisted dying in the UK.
- 1.5 As Jersey is a separate jurisdiction from the UK, professionals practising in Jersey are expected to follow the law of Jersey. Therefore, the NMC Code will not prevent a nurse from participating in assisted dying in Jersey if it becomes lawful to do so under Jersey law.
- 1.6 Any nurse participating in lawful assisted dying in Jersey would be required to follow the NMC Code and the guidance and procedures established by the Assisted Dying Service. We would expect the assisted dying service in Jersey to have processes in place to support assisted dying practitioners in practice, to act first to deal with any concerns about a practitioner, and to refer concerns to us where there is a need for regulatory action to protect the public. We would be happy to work with you to develop a plan for managing concerns involving registered nurses and when you may need to make a referral to us.

## **2 Role of nurses in the Jersey Assisted Dying Service**

- 2.1 The consultation proposes that the role of Administering Practitioner (AP) will be undertaken by a doctor or registered nurse who meet the qualifying criteria and in most instances the AP will prescribe the assisted dying substance. Only professionals on our register who have completed an NMC approved prescribing programme and have their qualification annotated on the NMC register are legally permitted to prescribe. As on 31 December 2022 there were 953 nurses on our register with an address in Jersey, of whom 63 had recorded one or more prescribing qualification (Community Practitioner Nurse Prescriber or Nurse Independent/Supplementary Prescriber).
- 2.2 We support the proposal to require assisted dying practitioners to have completed training prior to working in the Assisted Dying Service and to demonstrate the skills required for the scope of their role. This aligns with the expectation and professional standards in our Code (paragraphs 6.2, 13.5, 18 and 22.3). Nurses are required to keep their skills and knowledge up-to-date and be able to demonstrate this through our [revalidation process](#).
- 2.3 Currently the consultation proposals limit assessment to medical doctors. Should the Government of Jersey wish to extend this we see no regulatory reason why suitably qualified and experienced nurses should not be able to

participate in the assisted dying assessment as well as the delivery process. Our standards equip professionals with a wide range of professional knowledge and clinical skills, including assessing needs and planning care, and many nurses practise in highly complex and specialized roles.

### 3 Conscientious objection

- 3.1 Assisted dying is a sensitive topic that provokes a range of views among the public and health and care professionals. We support the proposal that the new law will provide for a conscientious objection clause so that professionals are not under a legal duty to participate in assisted dying. A legal right to conscientious objection already exists in the UK in two areas, for abortion and human fertilisation. Our Code makes provision for conscientious objection (paragraphs 4.4 and 20.7), and we have also published [conscientious objection guidance](#).
- 3.2 We do not have a view about which tasks should be included in the scope of the conscientious objection clause. However, we agree that a nurse could not refuse on the basis of conscientious objection to carry out tasks which are within the normal range of their work, and which are not directly related to the assessment or delivery of an assisted death. It would be helpful if guidance on this area could be developed to support healthcare professionals.

### 4 Conducting conversations on assisted dying

- 4.1 We support the development of guidance for all health and care professionals to manage conversations around assisted dying and end-of-life options particularly as nurses may be approached first by someone raising the issue of assisted dying.
- 4.2 We expect individuals on our register to provide holistic and person-centred care. They must maintain a professional relationship with people in their care and keep the communication paths open so that they can continue to express their personal feelings, ideas, needs, concerns and expectations. We expect registered professionals to document all conversations and share any insights with colleagues as set out in our Code (paragraphs 8.6 and 16.4).
- 4.3 Paragraph 37 of the consultation states that the professionals required to deliver the Jersey Assisted Dying Service may include on-island and off-island locums and agency professionals. The consultation does not address whether any aspect of the assisted dying process (e.g. conducting conversations on assisted dying or prescribing the substance) could be provided remotely. This issue should be addressed unambiguously in the final legislation and guidance for professionals. Because assisted dying is unlawful in the UK, a registered nurse would not be permitted to participate remotely (e.g. by video conference) in an assisted dying process in Jersey.

Doing so would be in breach of the NMC Code and may be a criminal offence in the UK.

## **5 Waiver of final consent**

- 5.1 We agree with the proposal that the law should include the option for the person to complete a waiver of final consent. The Code requires registrants to act in the best interest of people at all times. They must make sure they have obtained and recorded informed consent before carrying out any action. If an individual does not have the capacity to give consent, registered professionals should keep to all relevant laws about mental capacity that apply on the country in which they are practising.
- 5.2 In our view, if a registered nurse is following the national laws of Jersey, then they should be able to meet the professional standards and the requirements in relation to 'informed consent'.

As your proposals develop, we would be keen to feed back on the legislative drafting and we would be happy to work with you to develop guidance and supporting information for nurses, if that would be helpful.

I do hope you find our comments helpful. Please feel free to contact us if we can help any further.

Yours faithfully,



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Executive Director, Strategy and Insight

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