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## ASSISTED SUICIDE AND THE LAW

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On Wednesday 23 September 2009, the Director of Public Prosecutions, Keir Starmer QC, published interim guidance on whether or not to prosecute those involved in acts of assisted suicide.

On 30 July, Mr Starmer had been ordered to produce these guidelines by the Law Lords after they had heard the appeal by Debbie Purdy, a multiple sclerosis sufferer. She wanted to know under what circumstances her husband would fall foul of Section 2(1) of the 1961 Suicide Act and be prosecuted for helping her to die at the Dignitas 'clinic' in Switzerland.

Mr Starmer has outlined 16 'public interest factors' likely to favour a prosecution and 13 factors against taking legal action. These are set out in a footnote to this article, but can also be viewed at [www.cps.gov.uk/consultations/as\\_policy.html](http://www.cps.gov.uk/consultations/as_policy.html) This online interim document also includes nine questions which constitute a public consultation exercise closing on 16 December 2009. A final policy will be published in Spring 2010.

Committing or attempting to commit suicide is not in itself a criminal offence – assisting is. The 1961 Act defines assisting a suicide as 'aiding, abetting, counselling or procuring' the suicide of another, and it carries a maximum penalty of 14 years' imprisonment. These new guidelines were not intended to alter the law on assisted suicide – only Parliament should do that. Nor do they provide an individual with any assurance of immunity from prosecution. However, what they do say is that sometimes it will not be unlawful to assist a suicide – if, for example, the victim is a family member, over 18 years old and not suffering from a mental illness or learning difficulty, and is assisted by someone 'wholly motivated by compassion', then that is OK; no prosecution will follow.

On the other hand, those who assist and who might gain financially from the victim's death, are more likely to be prosecuted. Yet most assisters are going to be close family members who will probably, albeit perhaps unintentionally, gain monetarily from the victim's death. So how will compassion be weighed against benefit? In effect the law has been changed – a suicide has been

assisted, a crime has been committed, but now it will be overlooked because it is deemed to be just a crime of compassion.

This legal farrago represents the latest skirmish in a carefully-orchestrated and well-funded campaign by pro-euthanasia proponents, spearheaded by the Dignity in Dying organisation, formerly known as the Voluntary Euthanasia Society (VES). And this is despite the House of Lords rejecting any change in the law in 2006 and the House of Commons doing the same earlier this year by rejecting Lord Falconer’s amendment to the Coroners and Justice Bill.

These guidelines will put the elderly, the infirm and the vulnerable at greater risk. How our country’s bureaucracies, and now even our justice system, have become enamoured with the tick-box agenda. The 1961 Act was pretty unequivocal, now it will be subjected to a fuzzy, sort of 6 ‘for’ versus 2 ‘against’ decision-making process. Next year, or thereabouts, there will be calls for this new-fangled version of the Suicide Act to be repealed because it is unworkable and inequitable. The law will have truly become the ass. After that, ‘clinics’ – such as the one operated by Dignitas in Switzerland – will be franchised across the UK.

Maybe not. But the truly cheerless prospect is this – once the brake on assisted suicide has been slackened – once it is seen as not unlawful – the few victims will become the many. As ever, the history of abortion is the forlorn paradigm. Assisted suicide, as a side shoot of euthanasia, will then grow into the full-blown thing. Then the circle of human destruction will be complete – from womb to tomb – man, the master of his own (and everybody else’s) destiny.

The following are the public interest factors included in Keir Starmer’s interim guidance, in favour of and against a prosecution, published on 23 September 2009:

	<i>Factors in favour of a prosecution</i>	<i>Factors against a prosecution</i>
1	Victim was under the age of 18	Victim had a ‘clear, settled and informed wish’ to commit suicide
2	Victim’s thinking was hindered by mental illness or learning difficulty	Victim ‘indicated unequivocally’ that he or she wanted help
3	No history of wanting to commit suicide	Victim asked personally on his or her own initiative for help
4	No unequivocal statement about wanting to commit suicide	Victim had a terminal illness or incurable disease
5	No request for assistance of suspect to commit suicide	Suspect was ‘wholly motivated by compassion’
6	No evidence of terminal illness or incurable disease	Suspect was ‘the spouse, partner, close relative or close personal friend... within the context of a long-term and supportive friendship’
7	No compassion shown by suspect, who stood to gain from the victim’s death	Suspect’s actions were only of minor influence on the victim
8	Victim pressured to commit suicide	Victim was physically unable to help himself commit suicide

9	Victim could have killed himself or herself without help	Suspect had tried to stop the victim from killing himself or herself
10	Suspect was not related to the victim, nor a close personal friend	Victim pursued 'recognised treatment and care' options
11	Victim did not know the suspect, and the suspect provided help with how to do it, such as pointing victim to a web site	Victim had previously tried to commit suicide, and was likely to do so again
12	Suspect helped more than one victim who were not known to each other	Suspect only reluctantly helped victim in committing suicide
13	Suspect was paid to help with the suicide	Suspect 'fully assisted the police in inquiries'
14	Suspect was paid to care for the victim in a care/nursing home environment	
15	Suspect was aware that the victim intended to commit suicide in a public place	
16	Suspect was a member of a suicide clinic or similar organisation	

[Source: *Interim Policy for Prosecutors in respect of Cases of Assisted Suicide*, published by the Director of Public Prosecutions; *The Daily Telegraph* 24 September 2009].

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