



Assisted Suicide Policy

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1.0 Rationale

2.0 on page 6 of this policy sets out the actions you need to take if you believe that an adult may be considering assisted suicide.

The purpose of the policy is to help staff in organisations to determining how to respond to incidents of assisted suicide or information that an assisted suicide may occur.

The Care Act Statutory Guidance (2020) states that 'safeguarding duties apply to an adult who:

- has needs for care and support (whether or not the local authority is meeting any of those needs).
- is experiencing, or at risk of, abuse or neglect.
- as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect.'

The adult with care and support needs experiencing, or at risk of abuse or neglect is referred to as 'the adult' in this policy.

The Care Act Statutory Guidance states that local authorities must make enquiries, or cause others to do so, if they reasonably suspect an adult with care and support needs is, or is at risk of, being abused or neglected. The purpose of the enquiry is to decide whether or not the local authority or another organisation, or person, should do something to help and protect the adult.

An Assisted Suicide is when:

"a person commits an offence under section 2 of the Suicide Act 1961 if he or she does an act capable of encouraging or assisting the suicide or attempted suicide of another person, and that act was intended to encourage or assist suicide or an attempt at suicide."

(CPS, 2010, updated 2014)

The Local Authority has a duty to act when it is informed of a proposed assisted suicide involving an adult (with care and support needs, aged 18 or over). This must be investigated as a safeguarding enquiry under section 42 of the Care Act. However, it must also be noted that the Crown Prosecution Service and Association of Chief Police Officers state that the police are responsible for investigating all cases of encouraging or assisting suicide. The local authority must co-ordinate their actions with those of the Police to ensure it does not jeopardise their investigation.

The Suicide Act (1961)

Section 1 of the Suicide Act 1961 abrogates the rule that suicide is punishable as a criminal act. The law does not prohibit or penalise the decision of a competent person to take his or her own life. As such the Court has no basis in law for exercising its jurisdiction to prevent a competent

person from taking his or her own life. It is, however, a criminal offence to assist an individual to commit suicide under Section 2 of the Suicide Act 1961.

The law relating to the aiding, abetting, counselling, or procuring suicide under Section 2 of the Suicide Act 1961 has been amended by Sections 59 Coroners and Justice Act 2009 and came into force on 1st February 2010 under Coroners and Justice Act 2009 (Commencement No. 3 and Transitional Provision) Order 2010.

The Ministry of Justice released [Circular 2010/03](#) detailing the purpose of the change in the law. The amendment does little to alter the actual offence which was contained in Section 2 of the 1961 Act as enacted, but there is growing concern about misuse of the internet to promote suicide and suicide methods. There has been widespread condemnation of the sort of internet sites which might assist mentally vulnerable but otherwise healthy people – particularly young people – to take their own lives. The amendment under Section 59 of the 2009 Act attempts to clarify that such acts will be caught by Section 2 of the 1961 Act. This means that the person committing the offence need not know the other person or even be able to identify them for the offence to take place under the amended Section 2. In other words, the law applies to online actions in exactly the same way as it does offline. The amendment also incorporates inchoate offences i.e. incomplete acts such as aiding and abetting a suicide attempt is prohibited by the criminal law and may now be prosecuted under the 1961 Act. The Government's [Online Harms White Paper](#) (2020) sets out plans for a new system of accountability and oversight for tech companies. It highlights concerns about some social media groups and threads targeting people with chronic pain and depression selling opioids that could be used to assist suicide. The [National Confidential Inquiry into Suicide and Safety in Mental Health](#) (2017) reports that suicide-related internet use was reported in around 80 suicides by young people each year. This was most often searching for information about suicide methods or posting messages with suicidal content.

Section 2 of the 1961 Act as amended provides:

“Section (2) Criminal liability for complicity in another’s suicide.

(1) A person (“D”) commits an offence if:

(a) D does an act capable of encouraging or assisting the suicide or attempted suicide of another person, and

(b) D's act was intended to encourage or assist suicide or an attempt at suicide.

(1A) The person referred to in subsection (1) (a) need not be a specific person (or class of persons) known to, or identified by, D.

(1B) D may commit an offence under this section whether or not a suicide, or an attempt at suicide, occurs.

(1C) an offence under this section is triable on indictment and a person convicted of such an offence is liable to imprisonment for a term not exceeding 14 years.

(2) If on the trial of an indictment for murder or manslaughter of a person it is proved that the deceased person committed suicide, and the accused committed an offence under subsection (1) in relation to that suicide, the jury may find the accused guilty of the offence under subsection (1)."

2A Acts capable of encouraging or assisting

(1) If D arranges for a person ("D2") to do an act that is capable of encouraging or assisting the suicide or attempted suicide of another person and D2 does that act, D is also to be treated for the purposes of this Act as having done it.

(2) Where the facts are such that an act is not capable of encouraging or assisting suicide or attempted suicide, for the purposes of this Act it is to be treated as so capable if the act would have been so capable had the facts been as D believed them to be at the time of the act or had subsequent events happened in the manner D believed they would happen (or both).

(3) A reference in this Act to a person ("P") doing an act that is capable of encouraging the suicide or attempted suicide of another person includes a reference to P doing so by threatening another person or otherwise putting pressure on another person to commit or attempt suicide.

2B Course of conduct

A reference in this Act to an act includes a reference to a course of conduct, and a reference to doing an act is to be read accordingly."

This means that where an individual who intends to commit suicide requires the assistance of another by reason of his or her disability to carry out the decision alone, it follows that it will require criminal conduct of another.

In February 2010, the Crown Prosecution Service produced a [policy for Prosecutors in respect of cases of assisted suicide \(CPS, 2010\)](#) which is available on their website

This policy was issued as a result of the decision of the Appellate Committee of the House of Lords in R (on the application of Purdy) v Director of Public Prosecutions (2009). This case required the DPP to clarify his position as the factors relevant for and against prosecution in cases of assisted suicide. As a result of this guidance the Law has not been changed or decriminalised the activity of assisting someone to commit suicide but is there to help decide what circumstances will be taken into account when prosecution is being considered. There is no general definition or distinction as to the 'type' of people who would be more or less likely to be prosecuted under Section 2 of the 1961 Act, however paragraph 43(14) on page 6 of the CPS policy states that a person is **more** likely to be prosecuted where:

*“the suspect was acting in his or her capacity as a medical doctor, nurse, other healthcare professional, a professional carer [whether for payment or not], or as a person in authority, such as a prison officer, **and the victim was in his or her care.**”*

It is therefore important that when staff, are informed of a case of assisted suicide to respond in an appropriate and timely manner.

2.0 What to do if you believe that an adult may be considering assisted suicide

The Crown Prosecution Service policy for Prosecutors in respect of cases of assisted suicide states:

“The police are responsible for investigating all cases of encouraging or assisting suicide.”

The Association of Chief Police Officers issued a statement in 2013 notifying that:

“The police service is responsible for investigating cases of encouraging or assisting suicide, whether the actual suicide takes place in the UK or abroad and whenever we receive information or intelligence about such a case, these investigations are pursued.”

Therefore, the Police must be notified if staff in any organisation are made aware of an individual's intention to commit suicide with the assistance of another person. They must also raise a Safeguarding Adult Concern in accordance with [West Midlands Adult Safeguarding Policy and Procedures](#)

The Local Authority then has the following duties in such cases:

1. To make enquiries under section 42 of the Care Act (2014) of the adult to consider what is his or her true position or intention and to decide whether or not the local authority or another organisation, or person, should do something to help and protect the adult.
2. To consider whether he or she is legally competent to make and carry out his or her decision and intention.
3. To consider whether any other (and if so, what) influence may be operating on his or her position and intention and to ensure that he or she has all relevant information and knows all available options.
4. To consider whether to invoke the jurisdiction of the Court of Protection so that the question of competence could be judicially investigated and determined.
5. In the event of the adult being mentally competent to give effect to his or her decision, that should not preclude the giving of advice or assistance in accordance with what are perceived to be his or her best interests.
6. Where there are reasonable grounds to suspect that the commission of a criminal offence may be involved, to draw that to the attention of the Police.
7. In very exceptional circumstances, to invoke the jurisdiction of the Court under Section 222 of the Local Government Act 1972.
8. Arrange a multi-agency meeting. Representation must include the Safeguarding Adults Team, the Police, and a representative from the County Council's Legal Services Division.
9. Ascertain if the individual is likely to be acting alone. If the person is being assisted to travel to carry out an assisted suicide, then the person assisting them to travel needs to be visited jointly by social worker and the police to explain the consequences of assisting somebody to travel.

In addition to the above staff in any organisation must take the following action if a proposed assisted suicide comes to their attention:

1. Dial 999 if it is an emergency.
2. Discuss the duties outlined above with their line manager and agree an action plan to include:

3. Raise a Safeguarding Adult Concern with the local authority Safeguarding Adults Team (using the [Online form for reporting an adult safeguarding concern](#))
4. Inform the Police to report a crime or potential crime to the Police. You can phone the non-emergency number 101.
5. Gather background information about the individual and their family/carers. For example, is there adult acting alone or is someone assisting them? Are they planning to travel to carry out an assisted suicide?

3.0 Determining Legal Competence and Mental Capacity

It is of key importance to determine if the individual has the mental capacity (Mental Capacity Act 2005) and is legally competent to make the decision to end their life. There is a legal presumption in favour of capacity and people can make unwise decisions. The presumption of capacity can be rebutted by evidence that the adult is unable to:

- (a) understand the information relevant to the decision,
- (b) retain that information,
- (c) use or weigh that information as part of the process of making the decision, or
- (d) communicate his decision (whether by talking, using sign language or any other means).

For example, the adult may not understand the issues, or fully appreciate the consequences, or may be unduly influenced by the views of others or by undue concern of the burden the individual's condition imposes on others.

If the individual is deemed not to have capacity, then advice should be sought from legal services to ascertain if the Local Authority should apply to the Court of Protection and or the High Court for an injunction to restrain a criminal act, for example, a prohibition preventing a party from removing the adult at risk from the country.

Mental capacity must be determined, and the assessment recorded on the relevant documentation.

4.0 What to do if you are aware that an assisted suicide has taken place

If staff, are made aware of a situation where an assisted suicide has taken place then the following action must be taken:

- Inform the Police.
- Referral to Adult Protection Team
- Discuss with line manager.
- Ascertain if any professional knew about the individuals intention to die via assisted suicide.

5.0 Review of the Policy

This policy will be reviewed and changed in line with changes in national guidance.

6.0 Bibliography

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