

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

REQUÊTE

ASSISTED DYING

The States are asked to decide:-

Whether, after consideration of the Requête titled “Assisted Dying” they are of the opinion:-

To direct that:

1. The States agree in principle to the development of a suitable legal regime to permit assisted dying in Guernsey subject to and conditional upon:
 - a. the development of appropriate and effective capacity legislation and any other legislation which may be required; and
 - b. proposition 2.
2. The Policy & Resources Committee establish a working party with such membership as it sees fit and having consulted appropriately (for example, with members of the public, the Committees *for* Health & Social Care and Home Affairs, the Guernsey Disability Alliance, relevant UK bodies such as the British Medical Association) to report back to the States of Deliberation within 18 months with recommendations for a suitable legal regime, including consideration of *inter alia*:
 - a. the legal and professional obstacles required to be overcome in order to permit assisted dying in Guernsey;
 - b. whether it shall be a requirement that the individual is terminally ill and, if so, the means by which that shall be defined and determined;
 - c. whether it shall be a requirement that the individual shall physically administer the final act to themselves or whether it shall be permitted for others to assist;
 - d. whether there should be a requirement for individuals to be locally resident;
 - e. what measures are required to protect the vulnerable and prevent abuse of the legislation;
 - f. the numbers and roles of doctors under any proposed assisted dying legislation and whether they would be permitted to have any conscientious objection to an individual’s request; and

- g. the age at which an individual shall have capacity for purposes of consenting under the assisted dying legislation.
- 3. The Policy & Resources Committee liaise with the States of Alderney to consider whether and how the States of Alderney and the States of Guernsey could work together to minimise the duplication of effort necessary to consider the issues in order to develop a suitable policy and legal regime to permit assisted dying in both islands.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

Requete Assisted Dying

THE HUMBLE PETITION of the undersigned members of the States of Deliberation SHEWETH THAT:

1. At the September 2002 States' meeting, a Requete entitled 'Death with Dignity,' placed by the then Deputy Patricia Mellor and signed by thirteen other Members of the States of Deliberation, received majority support. Consequent to the States' resolution, the then Advisory and Finance Committee was instructed to:

"..carry out appropriate investigations and consultations with whomever it deems fit, and thereafter, but at the earliest opportunity, to bring a report to the States of Deliberation, on the implications of allowing Doctor Assisted Death or some other similar Death With Dignity Legislation to be implemented within Guernsey, and containing the Committee's recommendations in connection with this matter."

2. The Advisory and Finance Committee established the Death with Dignity Working Party under independent chairmanship to consider the social, legal, medical, ethical and spiritual issues. The Working Party investigated the position in a number of jurisdictions around the world, including those that permitted assisted dying at the time, such as the state of Oregon in the United States of America, the Netherlands, Belgium and Switzerland. The Working Party's report was passed to the Policy Council, as the successor to the Advisory and Finance Committee following the changes to the system of government in 2004.

3. The Policy Council presented a States Report¹ which stated:

"However, after careful consideration of the Working Party's report, the Policy Council, by a majority supports and recommends the majority view i.e. that there should be no change to the present legal position in order to support euthanasia in any form.

"The Policy Council further recommends that the Health and Social Services Department be directed to progress the Working Party's recommendations in the three associated issues detailed above, i.e.

- *the provision of palliative care;*
- *clarification of the position on advance directives, and*
- *clarification of the position on the proper use of double effect medication."*

4. A minority report of the Working Party produced by Deputy Peter Roffey and also endorsed by Deputies Hunter Adam and Francis Quin recommended that Guernsey should legislate to facilitate assisted dying, utilising a system similar to that in force at that time in the state of Oregon in the United States of America. The minority report recognised that if the States resolved to support assisted dying, in whatever form, there would be constitutional and legal issues that would require resolution before legislation could be drafted.

¹ 2004 Billet XVI, p 1401

5. Following debate in October 2004, including on an amendment laid by Deputy Peter Roffey that gave the States of Deliberation an opportunity to support the minority report, the States resolved to accept the Policy Council's recommendations.
6. In the intervening 14 years since that debate, the number of jurisdictions that permit assisted dying has increased, including the State of California, the State of Washington (2008), Canada (2016) and the State of Victoria (2017.) There have been several high profile legal cases heard in the UK, including that of Debbie Purdy, Diane Pretty and Tony Nicklinson that have tested the boundaries of the common law in England & Wales and the meaning of a right to private life, protected under Article 8 of the European Convention on Human Rights; and there have been several attempts by parliamentarians in Westminster to introduce permissive legislation, including Lord Joffe's 'Patient (Assisted Dying) Bill' (2003,) Lord Faulkner's Assisted Dying Bill (2014) and Rob Marris's private members' Assisted Dying Bill (2015). In the same period, society has continued to evolve in other matters of social policy and personal conscience. For example, the adoption and acceptance of equal marriage legislation would have been inconceivable in 2004. In the same period, Guernsey's international identity has continued to evolve, including the signing with Her Majesty's Government in the United Kingdom of the international identity framework agreement in 2009. Consequently, there is now a greater expectation that as a mature, independent jurisdiction, Guernsey is capable of fundamentally different policy and legal approaches to these highly sensitive issues, compared to the UK.
7. The Policy Council's proposals for capacity legislation were agreed by the States of Deliberation in November 2013, following consideration of its report on the Disability and Inclusion Strategy. At that time, the States agreed to direct the Health and Social Services Department to research and develop options for capacity legislation and report back to the States of Deliberation on this matter. Resource constraints and other higher priorities have meant that the requisite legislation has not yet been enacted although it is a priority of the Committee for Health & Social Care. It is recognised by your Petitioners that appropriate and effective capacity legislation is an essential pre-requisite to any legislation permitting assisted dying in order that it can be clearly determined who has the requisite capacity.
8. Your Petitioners take note that in December 2017, the States of Alderney debated without resolution the matter of assisted dying.
9. Your petitioners are of the view that individuals are entitled to a safe and peaceful death and accordingly mentally competent adults should have the right to seek assistance to ensure this outcome.
10. Subject to and conditional upon the adoption of appropriate and effective capacity legislation and any other legal or policy changes that may be necessary, it is the opinion of your Petitioners that, having regard to developments since 2004, it is now appropriate for Guernsey to adapt and adopt an assisted dying regime appropriate to the needs of the community.

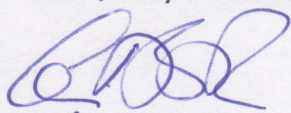
THESE PREMISES CONSIDERED, YOUR PETITIONERS humbly pray that the States may be pleased to direct that:

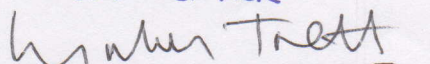
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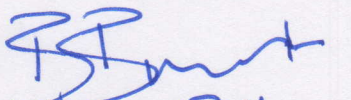
AND YOUR PETITIONERS WILL EVER PRAY

GUERNSEY

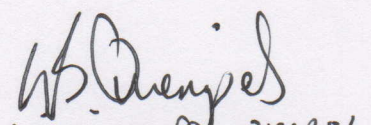
This 7th day of February 2018

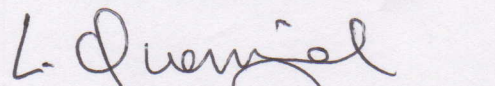

GAVIN S. PIER

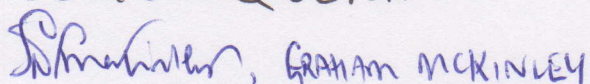

LYNDON TROTT


B. L. BREHAUT




LAURIE QUERIPEL


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PETER ROFFEY