



*Updated 20 January 2020*

## Assisted dying

This briefing has been produced for the Westminster Hall debate - 'The law on assisted dying' on Thursday 23 January 2020.

### Overview

Periodically the Royal College of Physicians (RCP) surveys its UK membership on the topic of assisted dying.<sup>1</sup> The most recent survey of our membership took place in February 2019, when 6,885 members responded. At the same time they agreed on the questions, the RCP Council<sup>2</sup> set out the parameters by which the results of the survey would be considered. They decided that the RCP would adopt a 'neutral' position unless 60% of UK fellows and members said the RCP should be in favour of or opposed to a change in the law.<sup>3</sup>

The RCP position was decided at a meeting of Council on 21 March 2019. Following discussion of the survey results, the majority of voting members of Council present voted for the RCP to **adopt a neutral position (36:1)**.

By adopting a neutral position, the RCP is clear that it **neither supports nor opposes a change in the law**. A neutral position allows the RCP to respect the differing opinions of UK members and fellows on this important subject. The RCP held a [neutral position in 2006](#).

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<sup>1</sup> Defined by the RCP as: 'The supply by a doctor of a lethal dose of drugs to a patient who is terminally ill, meets certain criteria that will be defined by law, and requests those drugs in order that they might be used by the person concerned to end their life'

<sup>2</sup> RCP Council is made up of 42 people, the significant majority of whom are physicians. Twenty members of Council are elected by the fellowship and 12 by specialty society members. A full list of members is published [here](#).

<sup>3</sup> RCP Council reflected on the result of the poll in 2014, in particular that the position was set by fewer than 50% of those who responded to the survey. The position therefore didn't necessarily reflect the diverse range of views held by the UK membership who could say they were for, against or neutral towards a change in the law. With this in mind, Council decided that the RCP would require a super majority of 60% before setting out any firm policy position for or against a change in the law.



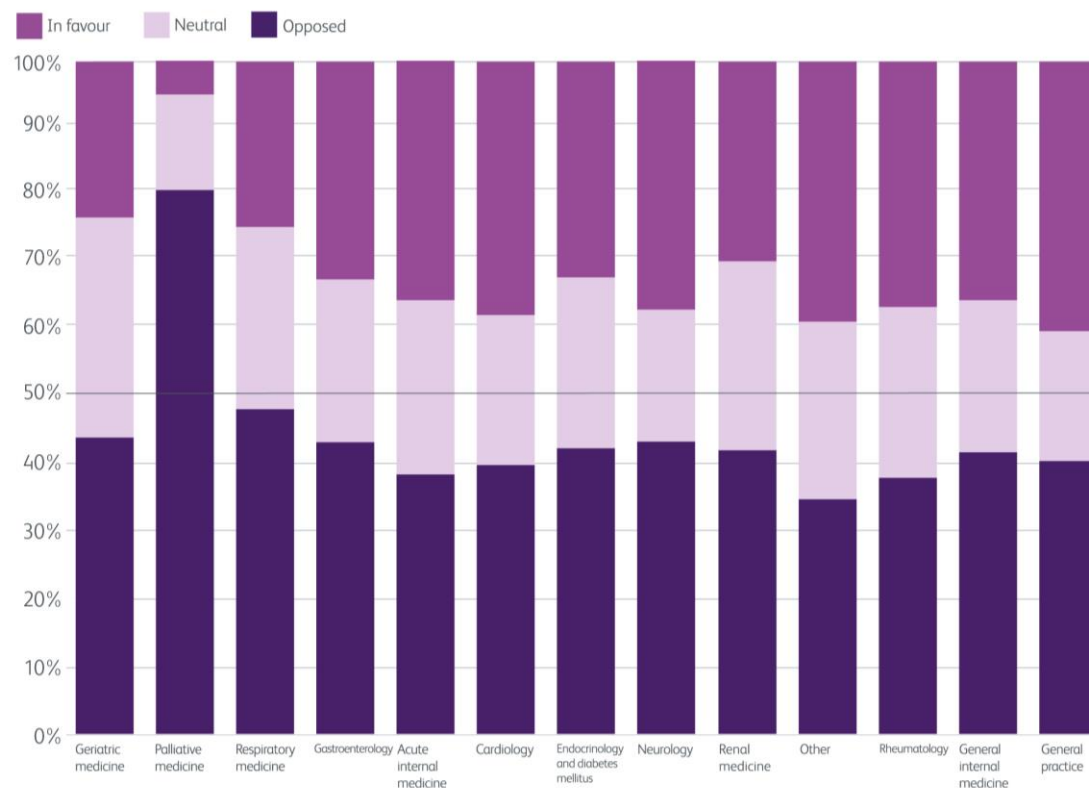
## Survey detail

In the 2019 survey, the RCP asked UK members and fellows three questions. The response rate was 29% (6,885). The questions and results of the survey were:

1. What should the RCP's position be on whether or not there should be a change in the law to permit assisted dying? **Opposed 43.4%, In favour 31.6%, Neutral 25%**

There was **no simple majority**, reflecting the differing views of our membership. We have broken down the results by specialty, for those with over 200 votes. The [breakdown](#) clearly shows the majority view held by the palliative medicine community. Across the other specialties there is no simple majority for any one position.

What should the **RCP's position** be on whether or not there should be a change in the law to permit assisted dying? By specialty  $\geq 200$  responses





**2. Do you support a change in the law to permit assisted dying? No 49.1%, Yes 40.5%, Undecided 10.4%**

In 2006, 73% of respondents did not support a change in the law and in 2014 this was 57.5%. Personal opinion among physicians has therefore changed significantly with time, from three-quarters of the membership not supporting a change in the law in 2006 to less than half in 2019 (49.1%).

**3. Regardless of your support or opposition to change, if the law was changed to permit assisted dying, would you be prepared to participate actively? No 55.1%, Yes 24.6%, Don't know 20.3%**

The percentage of fellows and members saying that they would be prepared to participate in assisted dying if the law changed increased from 21.4% to 24.6%. The percentage saying no to this fell by a similar amount, from 58.4% to 55.1%.

## Legal challenge

It was reported in the media both before and after the survey closed that a handful of our members and fellows would seek to legally challenge any move in position of the RCP on the law and assisted dying. This group issued proceedings seeking judicial review of the RCP's decision to launch the survey. The group also applied for an injunction to prevent release of the survey results. The claimants withdrew the injunction application shortly before it was due to be considered by a judge on the 21st March 2019.

On 21 March, The Hon Mrs Justice Elisabeth Laing DBE considered the application for a judicial review at the High Court of Justice. In her judgment, **she refused permission** for the claimants to move forward with a judicial review on a number of grounds. Notably, she stated: *'I will consider the rationality and reasons challenges together. The Defendant's approach is not arguably irrational. The issue is controversial, and, as Professor Goddard pointed out in his 9 January 2019 bulletin to members (summary grounds, paragraph 29), if both sides recruit those with a 'neutral' view to one of two points of view, one possible approach is to require a 'super majority' if the Defendant is to change its public position.'*<sup>i</sup>

The claimants were entitled to an oral hearing at which this decision would be reconsidered. They initially exercised this right, but subsequently abandoned their claim before the hearing took place.



We understand that the claimants sought permission from the Charity Commission to bring proceedings under charity legislation, but the Charity Commission did not grant such permission. The claimants then made an application before the High Court to obtain leave to bring legal proceedings against the RCP, despite the Charity Commission's refusal. In an order dated 22 October the Claimant's application was granted.

The Claimants are still considering further legal challenge and we remain in discussion with them. As of the 20 January 2020 there is outstanding legal action against the RCP, nor is the RCP under investigation by the Charity Commission.

### **Our continued role in the debate**

The RCP has surveyed its members on assisted dying in 2006, 2014 and 2019. The RCP Council will consider a further survey in 2024, five years after the 2019 survey.

Assisted dying is an emotive issue and it is important that the range of views held by RCP's members is reflected as fairly as possible. Ultimately any change to the law is a decision for parliamentarians and wider society.

In the years ahead the RCP will continue to ensure that the voice of physicians is heard, but we will not be actively campaigning on this issue. We will, however, continue to provide advice to politicians and governments if requested, as we did in 2018 when asked by ministers in Guernsey.

### **Contact**

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<sup>i</sup> Dr David Randall, Dr Dermot Kearney, Dr Kathryn Myers, Dr Adrian Treloar v The Royal College of Physicians [2019] CO/875/2019.