

DOCUMENT CONTROL	
Title:	Disclosure / Discovery of Assisted Suicide Policy
Version:	5
Reference Number:	CL099
Scope:	
The policy applies to all staff working within Pennine Care NHS Foundation Trust and those service users / carers in receipt of care from Pennine Care NHS Foundation Trust.	
Purpose:	
The policy aims to provide direction for staff in how to respond to incidents of assisted suicide or information that an assisted suicide may occur.	
Requirement for Policy	
Legislation – Suicide Act 1961	
Keywords:	
Suicide, Assisted	
Supersedes:	
Version 4	
Description of Amendment(s):	
Updated from the Chief Coroner's Office	
Owner:	
Patient Safety Lead	
Individual(s) & group(s) involved in the Development:	
<ul style="list-style-type: none"> • Matt Walsh 	
Individual(s) & group(s) involved in the Consultation:	
<ul style="list-style-type: none"> • Clinical governance leads and the Suicide Prevention & Self-harm Group • Patient Safety Improvement Group 	
Equality Impact Analysis:	
Date approved:	9th August 2018
Reference:	CL099 – EIA099

Freedom of Information Exemption Assessment:	
Date approved:	12 th July 2018
Reference:	POL2018-13
Information Governance Assessment:	
Date approved:	12 th July 2018
Reference:	POL2018-13
Policy Panel:	
Date Presented to Panel:	8 th August 2018
Presented by:	Zoe Molyneux
Date Approved by Panel:	8 th August 2018
Policy Management Team tasks:	
Date Executive Directors informed:	21 st August 2018
Date uploaded to Trust's intranet:	10 th August 2018
Date uploaded to Trust's internet site:	10 th August 2018
Review:	
Next review date:	August 2021
Responsibility of:	Patient Safety Lead
Other Trust documentation to which this policy relates (and when appropriate should be read in conjunction with):	
CL122	Safeguarding Families Policy
CL019	Clinical Risk Assessment & Management Policy
CO010	Incident Reporting, Management & Investigation Policy
HR001	Conduct and Disciplinary Policy
Policy Associated Documents:	
Other external documentation/resources to which this policy relates:	
CPS2010	Policy for Prosecutors in Respect of Cases of Encouraging or Assisting Suicide
	Suicide Act 1961 - https://www.legislation.gov.uk/ukpga/Eliz2/9-10/60/section/2
CQC Regulations	
This guideline supports the following CQC regulations:	
9	Person Centred Care
12	Safe Care & Treatment

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1. INTRODUCTION

The topic of assisted suicide generates debate on a variety of levels and by definition it is an issue that affects healthcare staff both as individuals and as health professionals. Although a rare event, from 1 April 2009 up to 31 January 2018, there have been 138 cases referred to the CPS by the Police that have been recorded as assisted suicide. Of these 138 cases, 91 were not proceeded with by the CPS. 28 cases were withdrawn by the Police.

At the time of this policy there are currently two ongoing cases. Three cases of assisted attempted suicide have been successfully prosecuted. One case of assisted suicide was charged and acquitted after trial in May 2015 and seven cases were referred onwards for prosecution for homicide or other serious crime.

There is a clear distinction between end of life decisions taken as part of palliative care (advance care planning) and acting to end life, a feature of assisted suicide. The Royal College of Nursing believes that when patients are offered skilled palliative end of life care requests for assisted suicide may become less frequent.

As a partner organisation of Local Safeguarding Adults Board this policy was approved by the Trust Safeguarding Adults Working Group, Suicide Prevention Group, End of Life Care Pathway Group and Risk and Clinical Governance Group.

When and why people express a wish to die may include:

- People with life threatening illnesses approaching the end of life.
- Those with progressive irreversible conditions who predict a future situation in which they perceive their quality of life as being extremely poor and who see no potential for improvement
- Those with mental health, substance misuse and learning disability issues for whom continuing to live feels like a major challenge
- Individuals coping with complex debilitating or multiple long term conditions.

2. PURPOSE

The policy aims to provide direction for staff in how to respond to incidents of assisted suicide or information that an assisted suicide may occur.

3. RESPONSIBILITIES, ACCOUNTABILITIES AND DUTIES

All Staff

All staff will have responsibility for following the policy in the event that a service user discloses:

- Their intention to commit assisted suicide
- May be considering assisted suicide

- What to do if staff become aware that an assisted suicide has taken place.

Service Managers/Leads will ensure that all staff are aware of this policy and that staff comply with the policy.

Patient Safety Improvement Group in relation to patient safety

Integrated Safeguarding Strategy Group will be responsible for reviewing any changes that are required within the policy.

Trust Solicitor will offer legal advice and support in the event this is required.

4. GUIDANCE

Further guidance regarding the application of this policy in practice can be gained from members of the Trust Safeguarding Adult Group or the Professional Leads for Safeguarding Adults. In addition Royal College of Nursing guidance "When someone asks for your assistance to die" is available on the Trust Intranet site for Safeguarding Adults.

5. RATIONALE

The Local Authority has a duty to investigate a proposed assisted suicide where the individual concerned is considered vulnerable. Statutory Guidance defines a "vulnerable adult" as a person ***"who is or may be in need of community care services by reason of mental or other disability, age or illness; and who is or may be unable to take care of himself, or unable to protect him or herself against significant harm or exploitation"*** (DOH 2000).

Assisted Suicide is illegal in all parts of the United Kingdom and under the Suicide Act 1961 carries a maximum penalty of 14 years imprisonment.

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)

Furthermore, if an individual (A) arranges for someone else (B) to do an act that is capable of encouraging or assisting the suicide or assisted suicide of another person (C) and B carries out the act then A is treated by the law as having committed an offence.

A prosecution is more likely to be required if there are public interest factors involved in the case, for example:

- The victim was under 18 years of age
- The victim did not have capacity to reach an informed decision to commit suicide
- The suspect was acting in his capacity as a medical doctor, nurse or other health care professional, a professional carer, or as a person in authority and the person was in his or her care.

For further information regarding public interest factors, please see the [Policy for Prosecutors in respect of Cases of Encouraging or Assisting Suicide](#).

An advance decision to refuse treatment is a statement of future wishes. If it is valid and applicable it has the same effect as if it were made by a patient who has the capacity to make it at the time it becomes relevant. Where an advance decision exists staff should discuss its relevance in a multi-disciplinary meeting and their Line Manager and if necessary take legal advice. Advance decisions may cover a patient's wish to refuse treatment that might prolong life if they become physically incapacitated or a 'do not attempt cardiopulmonary resuscitation' decision. A patient cannot use an advance decision to insist on any specific treatment or to request anything unlawful such as help committing suicide.

Once the Local Authority is informed of a proposed assisted suicide involving a vulnerable adult it cannot ignore the position. 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 so as to prevent a competent person from taking his or her own life. It is, however, a criminal offence as defined above to assist an individual to commit suicide. Section 2 of the 1961 Suicide Act states that:

- *(1) A person who aids, abets, counsels or procures the suicide of another, or an attempt by another to commit suicide, shall be liable on conviction on indictment to imprisonment for a term not exceeding fourteen years...*
- *(4) No proceeding shall be instituted for an offence under this section except by or with the consent of the Director of Public Prosecutions*

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 that will require criminal contact of another.

In February 2010, the Crown Prosecution Service produced a policy for Prosecutors in respect of cases of assisted suicide (*CPS, 2010*). This policy was issued as a result of the decision of the Appellate Committee of the House of Lords – *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. See link to the CPS Policy.

<https://www.cps.gov.uk/publication/assisted-suicide/>

As a result of this guidance the Law has not been changed or decriminalised the activity but is there to assist in deciding what circumstances will be taken into account when prosecuting. **It is therefore important that when staff are informed of a case of assisted suicide that the case is dealt with appropriately and in a timely manner.**

MPs have rejected plans for a right to die in England and Wales in their first vote on the issue in almost 20 years. In a free vote in the House of Commons on 11 September 2015, 118 MPs were in favour and 330 were against plans to allow some terminally ill adults to end their lives with medical supervision

6. WHAT TO DO IF YOU BELIEVE THAT A VULNERABLE PERSON MAY BE CONSIDERING ASSISTED SUICIDE

If staff are made aware of an individual's intention to commit suicide with the assistance of another, staff must report this to a senior manager and to their Local Authority Safeguarding Team and ensure that the following is considered and completed:

- To investigate the position of a vulnerable adult to consider what is his or her true position or intention
- To consider whether he or she is legally competent to make and carry out his or her decision and intention
- 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
- To consider whether he or she was legally competent to make and carry out his or her decision and intention
- To consider whether to invoke the jurisdiction of the Court of Protection so that the question of competence could be judicially investigated and determined
- In the event of the adult not being competent, to provide all such assistance as may be reasonably required both to determine and give effect to his or her best interests
- In the event of the adult being competent to allow him or her in any lawful way to give effect to his or her decision although that should not preclude the giving of advice or assistance in accordance with what are perceived to be his or her best interests
- 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
- In very exceptional circumstances, to invoke the jurisdiction of the Court under Section 222 of the Local Government Act 1972.

In addition to the above, workers must take the following action if a proposed assisted suicide comes to their attention:

Discuss the duties outlined above with your line manager and agree an action plan to include:

- Referral to Local Authority & Pennine Care – Safeguarding Adult Team
- Inform Police in public protection team, in relevant division immediately.
- Gather as much back ground information about the individual and their family/carers as possible
- 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
- Arrange a planning meeting. Representation must include Adult Protection Coordinator, the police and a representative County Council's Legal Services Division. Pennine Cares Trust Solicitor should be consulted.

7. DOCUMENTATION

Staff must document all conversations and actions taken in the event they are informed of an individual's intention to complete suicide with assistance from others.

8. CURRENT LEGAL POSITION

Encouraging or assisting another person to complete suicide remains a criminal offence, carrying a potential 14-year prison sentence and all cases will be referred to the CPS in England or Wales, or the PPS in Northern Ireland. Parliament has also made explicit that an offence occurs when individuals disseminate information via media, such as the internet, which would be likely to encourage other people to end their lives.

9. RESPONDING TO PATIENT REQUESTS

The BMA advises doctors to avoid all actions that might be interpreted as assisting, facilitating or encouraging a suicide attempt. This means that doctors should not:

- Advise patients on what constitutes a fatal dose
- Advise patients on anti-emetics in relation to a planned overdose
- Suggest the option of suicide abroad
- Write medical reports specifically to facilitate assisted suicide abroad
- Facilitate any other aspects of planning a suicide

Patients have rights of access to their own medical records under the General Data Protection Rules, and where a patient makes a subject access request, doctors are obliged to provide the requested information, subject to certain exemptions.

10. PATIENTS WANTING TO TRAVEL ABROAD FOR ASSISTED SUICIDE

In October 2009, it was reported that the Swiss authorities planned to tighten the rules on "suicide tourism" in response to the increasing number of people requesting assisted suicide there.

Patients do not necessarily have to be terminally ill but if Swiss legislation is tightened this may require patients to present two medical opinions, declaring their disease incurable and stating that death is expected within a few months. A medical opinion about the patient's mental competence is also likely to be required. If these provisions are adopted by the Swiss Parliament, more UK doctors may be asked to provide such reports. While suicide or travelling abroad to receive assisted suicide are not illegal, facilitating suicide, which may include helping someone to receive assisted suicide abroad, is a criminal offence. The BMA advises doctors not to offer or agree to provide medical reports if they are aware that they will be used to obtain assisted suicide, as this could be seen as facilitating that process. Similarly, doctors should not accompany a patient going abroad

for assisted dying. Although as yet no doctor providing a report nor any accompanying person has been prosecuted for helping patients to travel abroad to end their lives, doctors need to be aware of the possible legal implications of these, or any other actions, which might be seen as encouraging or facilitating suicide.

11. 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 of an individual's inability to assimilate the issues, or to fully appreciate the consequences, or being 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 vulnerable adult from the country.

Mental capacity must be determined and the assessment recorded on the relevant documentation and kept with the service user's healthcare file.

12. WHAT TO DO IF YOU ARE AWARE THAT AN ASSISTED SUICIDE HAS TAKEN PLACE

The Police are responsible for investigating all cases of assisted suicide.

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

- Inform senior manager
- Referral to Safeguarding Adults Team
- Inform Adult Protection Police immediately (Public Protection Intelligence Unit – PPIU)
- Ascertain if any professional knew about the individuals intention to die via assisted suicide

13. EQUALITY IMPACT ANALYSIS

As part of its development, this document was analysed to consider / challenge and address any detrimental impact the policy may have on individuals and or groups protected by the Equality Act 2010. This analysis has been undertaken and recorded using the Trust's analysis tool, and appropriate measures will be taken to remove barriers and advance equality of opportunity in the delivery of this policy / procedure

14. FREEDOM OF INFORMATION EXEMPTION ASSESSMENT

Under the Freedom of Information Act (2000) we are obliged to publish our policies on the Trust's website, unless an exemption from disclosure applies. As part of its development, this policy was assessed to establish if it was suitable for publication under this legislation. The assessment aims to establish if disclosure of the policy could cause prejudice or harm to the Trust, or its staff, patients, or partners. This assessment has been undertaken using the Trust's Freedom of Information Exemption Guide, and will be reviewed upon each policy review.

15. INFORMATION GOVERNANCE ASSESSMENT

This Policy has been analysed to ensure it is compliant with relevant information law and standards as in place at the time of approval, and are consistent with the Trust's interpretation and implementation of information governance components such as data protection, confidentiality, consent, information risk, and records management.

Compliance will be reviewed against any changes to legislation / standards or at the next review of this document.

16. SAFEGUARDING

All staff have a responsibility to promote the welfare of any child, young person or vulnerable adult they come into contact with and in cases where there are safeguarding concerns, to act upon them and protect the individual from harm.

All staff should refer any safeguarding issues to their manager and escalate accordingly in line with the Trust Safeguarding Families Policy and Local Safeguarding Children/Adult Board processes.

17. MONITORING

The effective application of this policy / guideline, including adherence to any standards identified within will be subject to monitoring using an appropriate methodology and design, such as clinical audit.

Monitoring will take place on a biannual basis and will be reportable to the Quality Group via the Clinical Effectiveness and Quality Improvement Team.

18. REVIEW

This policy / guideline will be reviewed three-yearly unless there is a need to do so prior to this; e.g. change in national guidance.

19. REFERENCES

Crown Prosecution Service (2010) Policy for Prosecutors in respect of Cases of Encouraging or Assisting Suicide. Available at: <https://www.cps.gov.uk/publication/assisted-suicide>

Department of Health (2000) No Secrets: Guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/194272/No_secrets_guidance_on_developing_and_implementing_multi-agency_policies_and_procedures_to_protect_vulnerable_adults_from_abuse.pdf. Last accessed on 15.01.2016

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Suicide Act 1961

Freedom of Information Act 2000

Equality Act 2010