

The divergent fates of assisted dying in Scotland and Jersey offer lessons for future legislation

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Just a few weeks apart, parliaments in Scotland and Jersey voted on assisted dying legislation with very different outcomes. The Assisted Dying for Terminally Ill Adults Bill was rejected in Scotland while a [draft law](#) on assisted dying was approved in Jersey [1, 2]. The Terminally Ill Adults (End of Life) Bill for England and Wales is likely [to fall](#) in the House of Lords despite being approved by the House of Commons and the prospect of it returning in the future is [uncertain](#) [3, 4]. It is important to consider the factors contributing to varying outcomes and reflect on what can be learnt from Jersey and Scotland.

The legislative proposals in Scotland and Jersey have key differences [1, 2]. The Scottish bill bears greater similarity to the one going through the Westminster Parliament. Two doctors must assess eligibility, approve the assisted dying decision, and then one doctor prescribes the medication that the patient self-administers. The Jersey law goes further: the drugs can be self-administered or be administered by a doctor if the patient chooses.

Another major difference is that the Jersey law permits a waiver of requirement for future capacity, similar to the legal position in Canada [5]. This means that, in addition to their consent form, patients can sign a waiver that allows an assisted death to proceed if they lose capacity by the time the drugs are administered, if the waiver has been signed a doctor can still administer the life ending drugs. The draft law passed in Jersey is far more permissive than the assisted dying bill that failed in Scotland: so why has one succeeded where the other has failed?

Undoubtedly the main difference between the proposed legislation is that one was a government draft law and the other was a member's bill. The Jersey Government spent several years exploring how they would propose a draft law and implement assisted dying. As well as an [ethical review](#), wide level consultation was conducted with healthcare teams in Jersey and professional organisations representing healthcare workers based in the UK, such as the British Medical Association, General Medical Council, and the Royal Colleges [6]. The [Assisted Dying Review Panel](#) appointed external expert advisers to review the draft law [7]. Over two years, the panel

scrutinised and proposed several amendments to the law, leading to additional safeguards within the approved law. As a government-backed draft law brought forward by the Jersey Council of Ministers, this allowed for more resources to explore international legal models, safeguards, ethical, policy and regulatory concerns, and crucially allowed more time.

Jersey's Council of Ministers is also highly representative. The population of about 108,000 people in Jersey has 49 elected representatives compared with 129 members of Scottish parliament for a population of about 5.5 million in Scotland. People know their representatives in Jersey. Representatives embraced this close contact and included external input, there was [extensive public consultation](#) and open meetings with ministers on the assisted dying draft law [8]. All this was [underpinned](#) by the recommendations from a [Citizens' Jury on Assisted dying](#) in 2021 [6, 9]. Dialogue between the government and public helped shape Jersey's approved law. Individual submissions were taken seriously and responded to in [reports](#) and [recommendations](#) [10, 11].

The Scottish bill had far less time for external input. As a member's bill, it had time constraints and had minimal resources to support pulling the bill together. As with the bill in England and Wales, it drew upon learning from previous unsuccessful bills, but with a far less exhaustive consultation process than in Jersey. The bill came up against late challenges around the regulation of health professionals which could only be answered through the Westminster parliament because of [devolution issues](#) [12].

The Scottish bill progressed further than any previous attempts at legal reform, and there may well be another bill in the not-too-distant future. Any future bill would need to be [reconsidered](#) due to complex constitutional issues about the Scottish Parliament's ability to legislate on such matters [12]. Therefore, assisted dying is unlikely to be addressed by another member's bill.

There are some clear lessons to be drawn from Jersey's approach for proponents of any further attempt to reform the law in England and Wales or Scotland. Firstly, government-backed initiatives for law reform avoid the barriers posed by limited resources and time encountered by private member's bills. Assisted dying will result in a major change for society – any law reform requires time and input from a range of sources. This creates a serious challenge for proponents of a change in legislation because, other than the [Green Party](#), none of the major political parties in Scotland, Wales or England see assisted dying as a matter of party policy [13].

Secondly, public consultation should be enhanced. For England, we can draw upon existing evidence of public consultation from the [Nuffield Council on Bioethics' Citizens' Jury on Assisted Dying](#), held in 2024 [14]. However, it will be important to explore public opinion further and whether it has changed during recent debates.

We are now in a position where Jersey and the Isle of Man have passed their own laws on assisted dying, but are waiting for Royal Assent. All eyes will be on whether this assent is given and how the laws are implemented. For any future legal reform in Scotland or elsewhere in the UK, the question remains whether, in the absence of government backing, any private members bill on assisted dying will be supported with sufficient time, consultative input, and resources to be approved.

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