

Proposed Assisted Dying for Terminally Ill Adults (Scotland) Bill

Introduction

A proposal for a Bill to enable competent adults who are terminally ill to be provided at their request with assistance to end their life.

The consultation runs from 23 September 2021 to 22 December 2021.

All those wishing to respond to the consultation are strongly encouraged to enter their responses electronically through this survey. This makes collation of responses much simpler and quicker. However, the option also exists of sending in a separate response (in hard copy or by other electronic means such as e-mail), and details of how to do so are included in the member's consultation document.

Questions marked with an asterisk (*) require an answer.

All responses must include a name and contact details. Names will only be published if you give us permission, and contact details are never published – but we may use them to contact you if there is a query about your response. If you do not include a name and/or contact details, we may have to disregard your response.

Please note that you must complete the survey in order for your response to be accepted. If you don't wish to complete the survey in a single session, you can choose "Save and Continue later" at any point. Whilst you have the option to skip particular questions, you must continue to the end of the survey and press "Submit" to have your response fully recorded.

Please ensure you have read the consultation document before responding to any of the questions that follow. In particular, you should read the information contained in the document about how your response will be handled. The consultation document is available here:

[Consultation Document](#)

[Privacy Notice](#)

I confirm that I have read and understood the Privacy Notice attached to this consultation which explains how my personal data will be used.

On the previous page we asked you if you are UNDER 12 YEARS old, and you responded Yes to this question.

If this is the case, we will have to contact your parent or guardian for consent.

If you are under 12 years of age, please put your contact details into the textbox. This can be your email address or phone number. We will then contact you and your parents to receive consent.

Otherwise please confirm that you are or are not under 12 years old.

No Response

About you

Please choose whether you are responding as an individual or on behalf of an organisation.
Note: If you choose "individual" and consent to have the response published, it will appear under your own name. If you choose "on behalf of an organisation" and consent to have the response published, it will be published under the organisation's name.

on behalf of an organisation

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

No Response

Please select the category which best describes your organisation

Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)

Optional: You may wish to explain briefly what the organisation does, its experience and expertise in the subject-matter of the consultation, and how the view expressed in the response was arrived at (e.g. whether it is the view of particular office-holders or has been approved by the membership as a whole).

The Church of Scotland is a Christian church

Please choose one of the following:

I am content for this response to be published and attributed to me or my organisation

Please provide your Full Name or the name of your organisation. (Note: the name will not be published if you have asked for the response to be anonymous or "not for publication". Otherwise this is the name that will be published with your response).

Church of Scotland

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number.

We will not publish these details.

Aim and Approach - Note: All answers to the questions in this section may be published (unless your response is "not for publication").

Q1. Which of the following best expresses your view of the proposed Bill?

Fully opposed

Please explain the reasons for your response.

The proposed Assisted Dying for Terminally Ill Adults (Scotland) Bill, if it was to become a new law, would allow terminally ill adults in Scotland to ask for assistance in ending their own lives.

Although the term "assisted dying" is used in the title of the proposed Bill, what is actually being proposed is assisted suicide: a change in the law to make it legal, in certain situations, to provide assistance to actively end the life of another person.

A recent public survey for the Westminster All Party Parliamentary Group for Dying Well indicates that there is confusion about what the term "assisted dying" means. Only 43% of those interviewed correctly identified that the legal term "assisted dying" meant providing people with lethal drugs to end their life, with many respondents thinking instead that it means hospice, palliative and other forms of supportive care at the end of life, or giving terminally ill people the option of ending life-prolonging treatment. This proposed "Assisted Dying" Bill is about the right to have assistance to complete suicide.

The Church supports the existing law and protections around the end of life, and is opposed to a change to allow legally assisted suicide, or any other form of assisted dying.

Our experience in congregations and communities is about coming alongside people who are vulnerable and those seeking refuge, to provide support for those experiencing trauma and to walk with people through the valley of the shadow of death. The Church has extensive experience in caring, particularly for those at the end of their lives. The Church of Scotland seeks to show the love of Christ in supporting all--including those in our society who are most vulnerable.

While reaffirming the importance of caring for those approaching the end of their lives and supporting the extension of the provision of palliative care, the General Assembly of the Church of Scotland has consistently and repeatedly expressed its opposition to any change in the current law which precludes assisted dying in all its forms (including assisted suicide, physician-assisted suicide and euthanasia). This opposition is based on our Christian faith and involves concerns around the principle of assisted dying, around the application of the law in practice, and also the effect which any change is likely to have on the provision of care - in particular palliative care.

Principle: The current societal prohibition on killing is clear; to move away from this would involve more than a simple modification of the law, but would represent a significant shift from which there would be no return. This would have profound effects on how society regards those in our communities who are vulnerable. This is not just the elderly and infirm, but also those with disabilities, and those who are unable to speak up to protect themselves.

Practice: In other jurisdictions where assisted dying has been allowed, the experience of framing and maintaining safeguards has been fraught with difficulties, and frequently subject to removal or relaxation of restrictions to eligibility. In Canada, the law from 2016 has been amended in 2021 to remove the requirement for terminal illness, and there is currently debate to extend eligibility even further. Similar patterns have also been noted in the Netherlands: the law, passed in 2002, "has contributed to a normalization of physician-assisted dying and has led, due to its unavoidably flexible and ambiguous nature, to an expansion of its practice."

The acceptance by a society of legally assisted dying profoundly changes relationships not only between health professionals and patients, but also within families. As First Minister Nicola Sturgeon has put it: "I am... fundamentally concerned about the difficulty that will, I think, always and inevitably be present in determining that someone who has chosen to end their life has not been subjected to undue influence."

Palliative care: We would advocate for the provision of more and better palliative care. Evidence is emerging from other jurisdictions that allowing assisted dying has had a negative effect on the provision of palliative care. In Canada, for example, participants in a research study "reported that Medical Assistance in Dying had consumed limited resources that would otherwise be used to provide palliative care". The end of a person's life involves not simply the point of death, but also the way in which they experience their final days and weeks. Were assisted dying to be introduced into the equation, the relationship between those cared for and those who have the duty to care (including family, health and social care professionals, but also society in general) is irredeemably altered. Life is lived and death experienced as part of community and society.

Q2. Do you think legislation is required, or are there other ways in which the Bill's aims could be achieved more effectively? Please explain the reasons for your response.

This legislation is NOT required.

In the vast majority of cases, properly delivered palliative care can effectively address the physical suffering of a terminally ill person. What is required is an improvement in the provision of end-of-life care, delivered by healthcare professionals with the relevant expertise.

Physical pain is not the major issue here. Loss of autonomy (87%), impaired quality of life (86%), and loss of dignity (69%) were the most common reasons for pursuing assisted dying in Oregon and Washington .

Palliative care not only includes medical assistance but endeavors to provide non-clinical support and the right environment for patients and their families to work through their distress. We would assert that it is important that the physical, emotional and spiritual needs of people approaching the end of their lives must be adequately addressed.

Q3. Which of the following best expresses your view of the proposed process for assisted dying as set out at section 3.1 in the consultation document (Step 1 - Declaration, Step 2 - Reflection period, Step 3 - Prescribing/delivering)?

Fully opposed

Please explain the reasons for your response, including if you think there should be any additional measures, or if any of the existing proposed measures should be removed. In particular, we are keen to hear views on Step 2 - Reflection period, and the length of time that is most appropriate.

As detailed above, we are opposed to assisted dying in principle. We also note with concern the negative effect which the introduction of assisted dying legislation has had on the provision of palliative care in other countries and states. Research has found that Medical Assistance in Dying has impacted palliative care providers personally and created new barriers to their relationship with patients; participants described how Medical Assistance in Dying has contributed to further stigmatization of palliative care and increased distress of individual palliative care providers around assisted death .

The introduction of assisted dying would profoundly change the relationship between those who require care and those who care for them - whether in a professional or a personal capacity.

Q4. Which of the following best expresses your views of the safeguards proposed in section 1.1 of the consultation document?

Fully opposed

Please explain the reasons for your response.

It is essentially impossible to effectively implement any safeguards which will ensure that no abuse of assisted suicide legislation takes place. In places where assisted dying has been legalised, analysis shows that this leads to an erosion of the protection of the most vulnerable in society. For example, a significant number of deaths by assisted dying in Belgium in 2013 were reported to be without consent- the elderly, the confused and those in a coma .

The supposed safeguard is based on the idea for assistance in dying is restricted. However, evidence from other jurisdictions is that, once legislation is passed, eligibility criteria are quickly loosened, and effective policing of these eligibility criteria is either lax or so impracticable as to be nigh on impossible. As Belgian legal scholar Etienne Montero has said: "The Belgian experience teaches that ... it is very difficult to maintain a strict interpretation of the fixed legal conditions."

In addition, in countries such as Belgium and The Netherlands where legislation has been in place for a number of years, there is now evidence of a gradual widening of the categories of persons considered for assisted suicide with respect, for example, to age and the seriousness of the condition they are living with. As noted previously, Canada, Oregon, Belgium and the Netherlands have all expanded their criteria for

Q4. Which of the following best expresses your views of the safeguards proposed in section 1.1 of the consultation document?

assisted dying.

This is of particular concern here: as currently framed, "suffering," although mentioned often, does not seem to be a prerequisite for the provision of assisted dying in the proposed legislation. This clearly leaves space for the sort of widening of categories of eligibility which has been seen in other countries, which greatly concerns us.

Q5. Which of the following best expresses your view of a body being responsible for reporting and collecting data?

Fully opposed

Please explain the reasons for your response, including whether you think this should be a new or existing body (and if so, which body) and what data you think should be collected.

There is good evidence, from Belgium and elsewhere, that such attempts to police the practice of assisted dying is ineffective. Research indicates that death certificates substantially underestimate the frequency of euthanasia as a cause of death in Belgium and are therefore an unreliable tool for monitoring its practice. Among doctors who affirmed that they had not reported a case of euthanasia, 18% stated that they did not do so because reporting was "too much of an administrative burden" .

Despite this evidence, since euthanasia was legalised in 2002, the Belgian Commission charged with overseeing the practice has only referred one case to the Public Prosecutor - and the doctors involved were acquitted.

As Raus et al. pointed out, "Due to the anonymity and the concise nature of the reporting form, the Commission is unable to check whether particular legal criteria are in fact met, even though that is its main task. Furthermore, due to the Commission's composition and the authority it has taken upon itself, it might actually function as a shield, rather than a monitoring body."

There is thus a serious lack of accountability in Belgium relating to euthanasia and assisted dying procedures, which results in a lack of protection of the most vulnerable. The lack of accountability in other countries concerns us, as there is nothing to indicate the same will not happen in Scotland.

Q6. Please provide comment on how a conscientious objection (or other avenue to ensure voluntary participation by healthcare professionals) might best be facilitated.

As indicated previously, we are concerned that legislation allowing assisted dying will fundamentally alter the relationship of trust between those who provide healthcare and those who are being cared for. While provision must be made for healthcare professionals to withdraw from involvement in the act of assisted suicide against their wishes or personal beliefs, our concerns go much deeper.

Financial Implications

Q7. Taking into account all those likely to be affected (including public sector bodies, businesses and individuals etc), is the proposed Bill likely to lead to:

don't know

Please indicate where you would expect the impact identified to fall (including public sector bodies, businesses and individuals etc). You may also wish to suggest ways in which the aims of the Bill could be delivered more cost-effectively.

We are very concerned with the implications regarding assisted dying being seen as providing a cost saving for health care. This is based on analysis from Canada (see footnote on page 28 of the consultation

Q7. Taking into account all those likely to be affected (including public sector bodies, businesses and individuals etc), is the proposed Bill likely to lead to:

document), which states that:

"A cost analysis of assisted dying in Canada was undertaken in 2017 and concluded that "Medical assistance in dying could reduce annual health care spending across Canada by between \$34.7 million and \$138.8 million, exceeding the \$1.5–\$14.8 million in direct costs associated with its implementation. In sensitivity analyses, it was noted that even if the potential savings are overestimated and costs underestimated, the implementation of medical assistance in dying will likely remain at least cost neutral."

We are very concerned that the consultation indicates that the consideration of healthcare costs may be a factor in the legalization of assisted dying.

Equalities

Q8. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation?

Negative

Please explain the reasons for your response. Where any negative impacts are identified, you may also wish to suggest ways in which these could be minimised or avoided.

As indicated previously, we are concerned that the introduction of assisted dying would have a disproportionate negative effect on the most vulnerable in our society - including the old, the voiceless, and those with disabilities. It has been argued that restrictions around previous assisted dying bills were discriminatory. Were it implemented, it is likely there would be immediate claims that the proposed McArthur Bill is discriminatory in that it only permits assisted dying for those who are terminally ill and for those who have sufficient hand function and swallow to self-administer the medication. For example, a person with motor neurone disease may not be in the last 6 months of life nor be able to self-administer lethal medication. Therefore it is likely that, on grounds of equality, the legislation would be challenged in the courts and found wanting. There would then have to be introduction of doctor-administered medication and also removal of the terminally ill requirement, which would put the entire disability community at risk.

Sustainability

Q9. In terms of assessing the proposed Bill's potential impact on sustainable development, you may wish to consider how it relates to the following principles:

- living within environmental limits
- ensuring a strong, healthy and just society
- achieving a sustainable economy
- promoting effective, participative systems of governance
- ensuring policy is developed on the basis of strong scientific evidence.

With these principles in mind, do you consider that the Bill can be delivered sustainably?

Unsure

General

Q10. Do you have any other additional comments or suggestions on the proposed Bill (which have not already been covered in any of your responses to earlier questions)?

Name of the Bill: As noted above, there is evidence from surveys of confusion among the public about what 'assisted dying' means, with many people thinking it relates to hospice care, palliative treatment and other forms of supportive care at the end of life or giving terminally ill people the option of ending treatment to prolong life. This "Assisted Dying" Bill is about the right to have assistance to attempt or complete suicide. Suicide is a term which is widely understood: the Bill should be renamed to allow a better and more informed public debate about important and sensitive issues.

Palliative care: A further concern is around the effect that the acceptance of assisted dying has on the provision of palliative care. There is evidence that, in those jurisdictions where assisted dying is allowed, there has been an impact on palliative care providers personally and on their relationships with patients; the consumption of palliative care resources to support assisted death was also noted . As Prof Claud Regnard, Honorary Consultant in Palliative Care Medicine in Newcastle-upon-Tyne has pointed out, in Canada, hospice funding has been withdrawn because they refused to participate in assisted deaths. While the intention may have been to extend choice, in practice, due to finite resources, an inevitable tension between providing assisted suicide and those caring for the dying will develop. In addition, official reports reveal that many whose death is assisted are not in the last phase of their illness but may choose that course for fear of being a burden- in Canada in 2019, 34% of those who were euthanised cited "perceived burden on family, friends or caregivers" as one of their main reasons for requesting assistance in dying .

Suicide: Scotland is already staggering under the burden of a higher rate of suicide than any other part of the UK. While many work to support those who are at risk due to self-harm or suicide, we feel that to allow a legally assisted form of suicide would send the wrong signal to this who are most vulnerable.

In conclusion: Were assisted dying to be introduced in Scotland, the relationship between those cared for and those who have the duty to care (including family, health and social care professionals, but also society in general) would be irredeemably altered. The end of a person's life involves not simply the moment of their death, but also the way in which they experience their final days and weeks.

While many who advocate assisted dying would point to the principle of autonomy and argue that one should have freedom to choose the timing and manner of one's own death, it must be remembered that all of our decisions and actions have effects on others. Life is lived and death experienced as part of community and society.

The Church of Scotland seeks to show the love of Christ in supporting all - including those in our society who are most the vulnerable. While respecting the sincerity of those promoting change, we remain opposed to any proposals to amend the law around assisted suicide.