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 Apostolic Church UK (Scotland) is a Christian church representing hundreds of people throughout Scotland and, as part of a UK-wide movement, thousands of people throughout the UK. Medical professionals working in palliative care participated alongside a church delegate, subject to the approval of the ministers of the church, in the preparation of this response. (https://acuk.online/)

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).

The Apostolic Church UK in Scotland: Scottish Charity No. 037835

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.
We recognise this proposed bill is intended to help Scotland become a more just and compassionate society, and we affirm that motivation. However, we are saddened that the co-signers of this proposed bill believe legalising suicide will achieve that goal. (We note that the rebranding of 'assisted suicide' as 'assisted dying' appears to soften the reality of what is in fact proposed.) We oppose this proposed law for several reasons.

In support of legalising assisted suicide in Scotland, the proposal states, without substantiation, that the Carter vs. Canada case showed that "there is no moral or ethical basis for the current blanket ban on assisted dying based on the sanctity of life".

On the contrary, we emphatically assert that in fact there is a firm moral basis for the existing ban in Scotland. This is demonstrated in R (on the application of Conway) vs Secretary of State (2018), which denied a request for assisted suicide for multiple moral and ethical reasons. These include the challenge of obtaining certainty concerning length of life, breakdown in doctor-patient trust, potential for coercion, potential for complications in the medical procedure for assisted suicide, the challenge in practice of those tasked with assessing the patient, the advance made in palliative care, and the risk the proposal will extend to others.

We wish to elaborate on several of these reasons.

Despite assurances in the proposal, we would find our trust in the medical community erode if assisted dying is legalised, because it represents a fundamental shift in the historic role of doctors and nurses: they have never been tasked with actively ending human life but preserving it. An assisted dying law fundamentally compromises this caring profession – a fact more than 200 doctors expressed in a letter to the Scottish Government this July. Furthermore, an assisted dying law may harm the will to live for some people who would otherwise have courageously pressed through a difficult diagnosis – further violating the physician's oath, 'do no harm'.

As a Christian church we affirm that all human life is sacred because it is given by God and bears the image of God. The state has a moral and ethical duty to protect human life and not to take it. This is not only a Christian belief, but a universal conviction, reflected in society's consistent acceptance of Scotland's homicide and manslaughter laws.

Our society expresses its value of every human life by striving to prevent self-harm and suicide, be it through drug overdose intervention (note Scotland's recent billboard campaign), the Samaritans' helpline, and world class emergency services. In all these instances, where the individual feels their life is not worth living, the state exerts its power to prevent that individual exercising their autonomy to end their life. We believe the state is right and duty bound to do so. This right to life is protected under Article 1 of the Human Rights Acts 1998 and ECHR Article 2.

This proposal contradicts society's instinctive value of human life. It proposes that every human life is valuable and worth respecting, even against the individual's autonomous will, except when someone decides it isn't. This bill proposes that the state may set aside its moral duty to honor human life and instead may make the moral decision that some human lives are no longer worth protecting. This means people are valued based on their age, life expectancy, quality of life expected, and physical capabilities rather than their intrinsic value.

Assisted suicide does not honor individual's autonomy and freedom. While suicide is an autonomous act, it is one which destroys autonomy and freedom (Oliver O'Donovan). Moreover, this is not a private matter up to individuals to decide what is right for them, because if we legalise suicide for some, it cheapens human life for all. Additionally, the state cannot say it is simply allowing people their choice or accommodating what is already taking place; the state assumes a moral position and responsibility here for what it permits. We cannot support the state assuming the role of adjudicating the relative value of some human lives as less than others. This is for the simple reason that the state did not give that life in the first place, and therefore it does not have the authority to take it or to legalise it being taken.

An assisted dying law would undermine trust in the state's commitment to care for all of human life from the cradle to the grave, not least because of the risk of the incentive of probable cost savings to the state of assisted suicide over palliative care. We note the proposal's cost analysis of assisted dying in a Canadian context, resulting in a net annual savings of $CAD 30-130 million (p28, fn 124). We recognise

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

that finance has been a factor considered in assisted dying conversations internationally. To what extent is finance a factor here, and to what extent would financial savings motivate extending assisted dying to a wider sector of people in the future? In Oregon patients have been pressured to choose assisted suicide rather than treatment in order to save costs (Susan Donaldson James, "Drug Deaths Cause Uproar in Oregon," ABC News, August 6, 2008). To what extent would elderly people feel the need to kill themselves in order not to be a burden on others or on the NHS? How humane is it to place this option before vulnerable people, and how great is the risk of abuse, whether intended or not? We are concerned that this proposed law risks creating a voluntary form of eugenics. Creating such a law would compromise the state's credibility as protector of the lives of its citizens.

Such legislation poses a true risk for the vulnerable who can feel like they are a burden. In the US state of Oregon, where assisted suicide legislation has been in force for many years, between 40 and 60% of people have given 'perceiving self as being a burden to others' as a reason for choosing to kill themselves (Oregon Death with Dignity Act: 2020 Data Summary, https://tinyurl.com/ywzrh8f5).

Furthermore, doctors are not able to consistently predict how long someone's life will last, or whether it will improve. Evidence-based experience of the co-authors of this response have seen numerous instances where care home patients were given a poor prognosis where death was expected, yet this was followed by a full recovery. People put in hospices to die have lived such long lives after they were expected to die that they moved into nursing homes and got back on their feet, ate, drank, and had amazing times with families, living 2-3 more years.

Additionally , we strongly deny the proposal's assertion that legalising assisted suicide is not a slippery slope. The evidence clearly affirms that it is. For example, in Netherlands, Belgium and Canada, laws which were initially tightly written have soon become laws which permit more and more of the population to access assisted suicide. In the Netherlands the euthanasia laws now extend to people experiencing dementia; in 2020, 96 people were euthanised who had dementia (www.knmg.nl/infographic-euthanasie/) In Belgium, 'The category 'mood disorder' also has the most evident increase in the absolute number of euthanasia over the years.' (https://wfrtds.org/belgium-analysis-of-euthanasia-in-cases-of-dementia-and-psychiatry/). Belgium now allows mentally ill patients to access euthanasia, without any terminal illness. In Canada, beginning in 2023 assisted suicide will be legal for mental health reasons. Thus, once these laws are made, it is commonplace for the goalposts to be moved. Moreover, in this respect, contrary to the proposal's assertion, assisted dying does compromise the most vulnerable, not only the elderly who fear being burdensome, but particularly, as the law very possibly expands, the mentally ill.

We appreciate the author's concern that some are dying in pain, and we, too, oppose this taking place. The health care professionals contributing to our response believe these instances, though tragic, are both rare and, importantly, preventable. Moreover, research shows that debilitating pain is infrequently the reason chosen for assisted suicide (24% in research cited by Emily Barone, "See Which States Allow Assisted Suicide," Time, 3 November, 2014). Nevertheless, with adequate staff training and palliative care nurses, it is possible to keep a therapeutic level of pain treatment in place so no one needs to die in pain. We support greater funding for palliative care which gives a patient comfort while they approach their natural death, without ever crossing the line to intentional killing or assisting suicide. In addition to training of medical staff, greater education of the public on what levels of care are available would relieve people of the fear of pain and discomfort associated with death. Assisted death is not the only and certainly not the best option.

We disagree with the assumption that someone seeking suicide is likely to be in a reasonable frame of mind to make such a decision. This is not typically assumed in other cases of suicidality. Terminally ill patients frequently experience depression. Depression is a major factor in decision making, and it would be irresponsible of lawmakers to put into the hands of depressed people the power to make a final and unalterable decision for death which they would not have made under better psychological circumstances. However, the medical professionals co-authoring this response have found that when they are given specialised care, depressed individuals in care homes typically have a significant turn around. We believe a more humane approach is diagnosing and adequately addressing depression. With the right treatment in place, they may reach a much different level of mental health and peace with their situation.

For these reasons, we do not believe that legalising assisted suicide is compassionate, just, or progressive.

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.

No, we do not believe legislation is required.

The document states, 'The aim of the proposal is to enable mentally competent adults who are terminally ill to be provided with assistance to end their life at their request.' For the reasons stated above, we do not believe this aim is just, compassionate, or progressive in any positive sense, and therefore we do not believe this aim should be achieved. We ask Parliament to consider whether this aim is a bad answer to the good question of how to help people die well. We believe the duty of the Scottish Parliament is to set aside this proposed bill and also to critique its aim as well-intended but patently harmful not only to individuals but to society, and to invest in helping people with a terminal diagnosis to live a better and more comfortable life.

Should Parliament consider bringing in this assisted suicide bill, we believe the definition of terminal illness is far too broad. The definition, 'a progressive disease which can reasonably be expected to cause their death' means that it is also possible the illness will not cause their death, and also possible that it will not do so at any time soon, perhaps not even for years or decades. Even if 'terminal illness' were restricted to a predicted number of weeks or months the patient has left to live, such predictions may also be incorrect, as note in R (on the application of Conway) vs Secretary of State (2018). We oppose any legalised assisted suicide, but should it become law, the boundaries around what degree of terminal illness qualify should be tightly limited in order to avoid the unintended consequence of assisting the suicide of those who may well have significant positive opportunities still ahead of them, albeit amidst the real challenges.

Additionally, should the Scottish Parliament consider bringing in this assisted suicide bill, it should not make assisted suicide available to people as young as 16 years old. While this is the age of majority in Scotland, brain development, including that relating to decision making, is not yet completed until around age 24 (M. Arian et al, "Maturation of the adolescent brain" (2013) https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3621648/) , which should be considered a minimum age for such a law.

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.
We are opposed to this law for reasons previously stated. However, if such a law is put into place, before a declaration of intent can be made, we believe extensive counselling and support should be provided to the patient. The reflection period should not be weeks but many months or, if possible, a year or more, during which the patient can receive continued treatment for any mental health factors such as depression which are influencing their wish to die ("Treatment – Clinical Depression" https://www.nhs.uk/mental-health/conditions/clinical-depression/treatment/) . As discussed above, where underlying depression is untreated, how can the patient be considered fit to make such a final decision? Furthermore, if the issue is lack of pain relief, more time should be given to try alternatives. Our medical panel notes that clinicians have frequently found though one pain medication is unsuccessful, another will be successful.

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.
We agree that, should such a law be created, safeguards are needed, but we believe those proposed are

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

inadequate. Moreover, we do not think it is possible to adequately safeguard a system of assisted dying to prevent its misuse and tragic unintended consequences. 'The risk of harm of changing the law outweighs the risk of harm if we leave the law as it is' (Prof Katherine Sleeman, Prof of Palliative Care at King's College London).

Nevertheless, should an assisted dying law be created, safeguards should assure that all care options are exhausted both on a psychological level and on a pain management level. There should be a psychiatric evaluation of the patient by two separate specialists rather than leaving that responsibility to general practitioners. As stated previously, underlying psychological and pain issues should be treated. Examining doctors should follow a strict protocol of steps to be worked through, i.e. 'what treatments have we tried?' Furthermore, there should be rigorous safeguards to prevent 'doctor shopping' and detailed levels of accountability to assure integrity and appropriate independence of action and opinion among doctors involved.

Most importantly, at every stage there must be careful safeguards to reduce the risk of pressure being placed on the patient to choose to end their life.

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.
We oppose the proposed scheme for collecting data in which data collection on assisted dying statistics take place through a separate agency, and the death by suicide is not registered as such on the death certificate. If we have understood this correctly, this is simply false reporting and misleading.

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

We support the existing guidance for conscientious objection as far as it goes, but believe it should go farther. There should be full protection at every level of the process, so no one is required to act against conscience. For example, doctors should not be required to make a referral for a procedure which goes against their conscience. Second, we are concerned that if assisted suicide is legalised, it will create tension in medical teams in close knit work environments between those who do and do not support it, leading to reductions in morale and quality of care. Unfortunately, we do not see how this unintended consequence can be avoided should such a law be created.

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:

a significant reduction in costs

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 believe this would create a net reduction in public costs and we are concerned that it is not possible to

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:

eliminate this as a motivating factor behind the bill. That is, parliamentarians are being asked to consider withholding the present legal protection of the lives of terminally ill individuals in light – in part, at least – of the cost of their care.

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.
We believe this proposed bill devalues the lives of the permanently disabled and diminishes their dignity. We do not believe there is a way to minimise or avoid this.

The bill does not at any point take into account the rights of an unborn child if the individual seeking assisted suicide is pregnant. This is a necessary consideration. We believe the rights of the unborn child need to be taken into account as per ECHR Article 2.

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?

No

Please explain the reasons for your response.
The premise of this proposed bill is that some lives should not be protected by the state. This does not help us build a strong, healthy and just society. It brings the unintended consequence of devaluing life not only of the individual but of every member of society.

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)?

We are concerned this bill is part of a larger culture of devaluation of life. For example, we've seen in care homes where the default approach is DNACPR (do not attempt CPR). We see 65+ year olds come to a care home and one of the first conversations is, 'Will you sign a DNACPR?' We see families ask that elderly people cease to be given food and drink after a stroke, who could reasonably live.

Therefore, we would ask the Scottish Parliament to carefully consider the philosophical basis for an assisted dying bill. What beliefs lead us to think that some lives are worth protecting, others not? Moreover, please consider the logical outworking of that philosophy: what will our nation become if we allow a philosophy that devalues some human lives to shape the laws of the land?