

# Briefing:- Key features of the proposed Assisted Dying for Terminally Ill Adults (Scotland) Bill

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## **About this Brief**

The aim of this briefing is to provide a short overview of a proposal for new legislation to permit “assisted dying” in Scotland. This briefing does not comment on the merits or demerits of the issues or of the proposal, or attempt to summarise the arguments set out in the consultation in support of the proposal.

This briefing is based on information contained in the proposal for consultation published by Liam McArthur MSP on 23 September 2021 available [here](#). Detailed legislation will not be produced unless and until the consultation is concluded and the proposal receives sufficient support from MSPs. Quote marks are used to indicate key phrases from the proposal.

In addition to the proposal for how assisted dying should operate the document also presents evidence and argument in support of new legislation covering: safety, resources, impact on palliative care, equalities and international experience.

## **How is the term “assisted dying” used in the proposal?**

The proposal uses the term “assisted dying” to mean *“the practice whereby a person diagnosed with a terminal illness is given the choice to end their own life, by means of medication provided by a doctor for that purpose.”*

## **Who is Eligible for Assisted Dying?**

To qualify for assisted dying a person must:-

- Be aged over 16 and resident in Scotland for at least 12 months
- Have been diagnosed as having a “terminal illness”. It is proposed that the Bill should adopt the definition of terminal illness used in the Social Security (Scotland) Act 2018 (which is the basis for assessing eligibility for [BASRiS](#)).
- Have mental capacity to make a decision of this nature
- Be making a clear, settled, voluntary decision, in the absence of coercion or duress, to end their life.

## ***What is the Process for the Request and Provision of Assisted Dying?***

### **Step 1: Declaration**

The person who has a terminal illness reaches a clear, settled and voluntary intention to end their life, and signs a declaration in the presence of two independent witnesses.

The declaration must also be signed by a doctor from whom the person has requested assistance to end their life (the attending doctor) and another independent doctor. These doctors must each separately examine the person and their medical records and be satisfied that the person meets the eligibility criteria (see previous section). If either doctor has doubt as to whether the person has capacity they must refer the person to an appropriate specialist for a further opinion.

The attending doctor must also discuss the person's reasons for seeking to end their life, and "*explain any feasible alternatives, which will normally include pain relief, hospice support and other palliative care packages that are available to the patient*".

### **Step 2: Reflection Period**

A period of 14 days must pass before the attending doctor prescribes medication to end the person's life. The time period may be shortened if the person is expected to die within 30 days.

### **Step 3: Prescribing/delivering**

The attending doctor prescribes the medication, which must be delivered to the person by a healthcare practitioner, who must confirm that the person has not revoked or wishes to revoke their declaration. The healthcare practitioner need not be a medic and may be a nurse practitioner.

The healthcare practitioner prepares the medicine for self-administration by the person and must be present when the person takes the medicine.

### ***Documentation***

In addition to the Declaration a questionnaire and follow-up form (completed by the healthcare practitioner in attendance at the death) are sent to a reporting and oversight body for monitoring, safety and research purposes. Assisted dying is not recorded on the death certificate.

### ***What About Conscientious Objectors?***

The proposal indicates that professionals with ethical objections to involvement in the process need not participate themselves, although they would be expected to direct the person requesting assisted dying to a professional who was prepared to participate.