

Briefing: - Key features of the Assisted Suicide (Scotland) Bill

1. About this Briefing

The aim of this briefing is to provide a short overview of the Assisted Suicide (Scotland) Bill introduced to parliament on 13th November 2013. The Bill provides a process for people meeting certain eligibility criteria to seek assistance to end their lives and to afford protection in law for those providing assistance, where the terms of the Bill are met.

This briefing does not comment on the merits or demerits of the Bill. The Bill and associated papers can be downloaded at

<http://www.scottish.parliament.uk/parliamentarybusiness/Bills/69604.aspx> .

This briefing is based on the Bill itself rather than the associated Explanatory Notes and Policy Memorandum, which give context and an interpretation of how the Bill might work in practice. Quote marks and italics are used to indicate key phrases from the Bill.

2. Who can get Assistance for Suicide? Eligibility Criteria:-

To qualify for assistance a person must:-

- Have mental capacity to make an informed decision (using definitions adapted from the Adults with Incapacity (Scotland) Act 2001)
- Be registered with a medical practice in Scotland
- Be aged over 16
- Have an *illness* that is, for them, either terminal or life-shortening **or** have a *condition* that is, for them, progressive and either terminal or life-shortening.
- Declare that their quality of life is unacceptable and that they see no prospect of improvement in their quality of life.

3. What is the Process for the Request and Provision of Assistance to Commit Suicide?

A flowchart showing the process is in Appendix 1. The Bill contains detailed forms for all the declarations, requests and statements in the process.

Preliminary Declaration of Willingness to Consider Assisted Suicide

A person wanting assistance to commit suicide must make a preliminary declaration using a standardised format stating:-

- That they are giving notice that at some future point they may apply for assisted suicide
- That they are making this declaration voluntarily

- That they are not acting under any undue influence and that they understand that they can cancel this declaration.

This declaration must be witnessed by one person confirming that to the best of their knowledge the person making the declaration is not acting under undue influence and understands they can cancel the declaration. Witnesses must not stand to gain from the person's death, be involved in their medical care or be a relative of the person (although they should be "acquainted" with the person).

This preliminary declaration can be made at any time during a person's life after their 16th birthday e.g. before the person is ill or has any concerns about quality of life. The declaration must be added to the person's medical records. However, 7 days must elapse after making the declaration before they can proceed to the next stage – the First Request for Assistance (see next section).

Sequence of Written Requests for Assistance and Required Statements by Doctors

After making a preliminary declaration, and as long as 7 days have then elapsed, the person can make a written request for assistance in committing suicide to a doctor. The doctor must discuss the nature and effect of the request with the person. The doctor must also refer the request to a second doctor who must also discuss the request with the person. Both doctors must then complete written statements confirming that:- "*to the best of their knowledge*" the request is voluntary and "*in particular has not been persuaded or similarly influenced by any other person to make it*"; and that in their opinion the person meets the eligibility criteria (see 2 above). The doctors have to state that "*I am of the opinion that he/she has an illness that, for him/her, is either terminal or life-shortening or a condition that, for him/her, is progressive and either terminal or life shortening.*" The doctors don't have to state which applies. Each doctor also has to state that "*I am of the opinion that his/her* conclusion (as set out in the above request) that his/her* quality of life is unacceptable is not inconsistent with the facts currently known to me.*" The doctors also have to state that they are satisfied that the paper work for the preceding process is all in order (e.g. signed, witnessed, not cancelled, added to medical records) and that the 7 day time lapse has been observed.

There is then a 14 day waiting period following which the person seeking assistance can make a second request for assistance. The person can wait as long as they like before making a second request – the first request will not become invalid with the passing of time. The second request is similar to the first but with the additional declarations that the person understands that this is the final step in the procedure, that they have arranged "*to have the services of a licensed facilitator*" and that they understand the suicide must take place within 14 days of the request being recorded in their medical records. The doctors involved in the second request can be the same as or different to those involved in the first request. Each must discuss the request with the person and

then complete a statement which is basically the same as that required in the first request.

Each stage in the process may be cancelled (in writing) without this invalidating earlier stages. The paper trail for the whole process is kept in the person's medical records.

The Suicide

The Bill explicitly precludes euthanasia. The Bill itself doesn't appear to mention prescriptions or prescribing processes but does refer to "*drug or other substance or means dispensed or otherwise supplied for the suicide*"

Who Assists the Suicide?

The role of the Licensed Facilitator is to use best endeavours to:-

- Provide whatever practical assistance the person requests, before, during and after the suicide (or attempted suicide)
- To provide the person with comfort and reassurance
- To be with the person when the drug/substance/other means is used/taken
- To remove from the person after the 14 day deadline any drugs/substance/other means
- To report the death or attempted suicide to the police.

The Bill gives Scottish Government powers to appoint, direct and regulate an authority to license Facilitators. The Facilitator must be over 16, not related to the person committing suicide, not a professional involved in their care nor standing to benefit from the person's death.

What About Conscientious Objectors?

The Bill does not make specific provision for individuals with a conscientious objection to participation in the process.

Some Key Differences from the previous Consultation Proposal (2012)

- Some of the wording and definitions in the eligibility criteria have changed (e.g. "terminal" has become "terminal or life shortening" and "intolerable" has become "unacceptable")
- The proposal for voluntary "pre-registration" has been scrapped and replaced with the mandatory "Preliminary Declaration of Willingness to Consider Assisted Suicide".
- The Bill does not reference the exploration of alternatives to suicide.
- The proposal to video the assisted suicide has been dropped.
- The time limit from the second request to the suicide has reduced from 28 days to 14.

Mark Hazelwood

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Appendix 1- Flowchart Illustrating the Process for the Provision of Assistance to Commit Suicide

