



End of Life Assistance (Scotland) Bill

Bill Number:	SP Bill 38
Introduced on:	20 January 2010
Introduced by:	Margo MacDonald (Member's Bill)
Fell:	1 December 2010 - Parliament disagreed to the general principles of the Bill

Passage of the Bill

The End of Life Assistance (Scotland) Bill [SP Bill 38] was introduced in the Parliament on 20 January 2010. The End of Life Assistance (Scotland) Bill Committee (the Committee) was established on 10 February 2010 following a [motion](#)¹ by Mike Rumbles, on behalf of the Parliamentary Bureau. The Committee's remit was to consider and report on the general principles of the Bill. The Committee first met on 2 March 2010, issued its call for evidence on 3 March 2010 and began taking oral evidence on 7 September 2010. The Committee published its [Stage 1 Report](#) on 18 November 2010, with the [Stage 1 debate](#) taking place on 1 December 2010. The Parliament did not agree to the general principles of the Bill, and, as a result, the Bill fell.

Purpose and objectives of the Bill

The aim of the Bill was to "enable persons whose life has become intolerable and who meet the conditions prescribed in the Bill to legally access assistance to end their life" (Policy Memorandum, 2010, para 2). Whilst there was an acceptance that good quality palliative care can ensure a dignified and peaceful death for most people, it maintained that this was not so for a small number of people, thus recognising their autonomy and rights to seek assistance to die.

Provisions of the Bill

The Bill defined end of life assistance as "...assistance, including the provision or administration of appropriate means, to enable a person to die with dignity and a minimum of distress". It then provided for a range of eligibility criteria,

¹ The motion (S3M-5710) was agreed to by division: For 69, Against 48, Abstentions 1.

including that a person seeking assistance be aged 16 years of age or over, and that they have been registered with a medical practice in Scotland for a continuous period of at least 18 months.

The Bill also stated that, to be eligible, a person seeking assistance must either have been diagnosed as having a terminal illness and finds life intolerable, or be permanently physically incapacitated to such an extent as not to be able to live independently and finds life intolerable. Terminal illness was further defined as being a progressive condition where death could reasonably be expected within six months. Intolerability was not further defined on the basis that the test for it was to be a subjective one determined by the person seeking assistance.

To be able to obtain end of life assistance a person would be required to make two formal requests, in writing and witnessed, to be approved by the same designated medical practitioner. The Bill detailed what the designated medical practitioner would have to take into account before approving each request, including that the individual met the eligibility criteria noted above and that all feasible alternatives, including palliative care, had been considered. As part of the process for the first and second request, a psychiatric assessment would be required, where the psychiatrist would meet the applicant and assess capacity as well as discussing a number of matters, including that they were eligible for end of life assistance and discussing the person's feelings and reasons for making the request.

Once the second formal request had been approved, the Bill stipulated that a written, signed agreement be drawn up between the designated practitioner and the requesting person. This would have to cover certain issues, including who is to provide the end of life assistance, and the means by which assistance is to be provided. In addition, assistance was to take place within 28 days from the date the requesting person was informed of approval of their second formal request. However, it also proposed that the agreement did not become effective until the expiry of two clear days from the date of its conclusion.

Parliamentary consideration

The Committee's call for evidence led to in 601 [written responses](#) being submitted. A wide range of views were expressed on the Bill as a whole and on specific elements of the Bill. A SPICe [briefing](#) summarised the written evidence, and was designed to alert Members to the key themes raised by respondents. Based on the written responses, the Committee agreed a programme of evidence sessions which took place in September 2010. It heard from 48 witnesses from a range of backgrounds – academic, legal, health service, health professional, religious and voluntary.

The range and complexity of the evidence received is reflected in the Committee's [Stage 1 Report](#), which was published on 18 November 2010. It first considered the current legal position and the concepts of autonomy and dignity, and the use of comparisons with other jurisdictions. It then looked at

the key provisions in the Bill in detail - the terminology used, the qualifications of designated practitioners and psychiatrists, age, requirements relating to the actual provision of assistance, safeguards for doctors and other professionals, equalities issues and the Financial Memorandum. In the Report, there is a discussion of the evidence received followed by the Committee's recommendation and conclusion on that specific issue. However, the overall conclusion of the Committee was that:

“...the majority of the Committee was not persuaded that the case had been made to decriminalise the law of homicide as it applies to assisted suicide and voluntary euthanasia, termed 'end-of-life assistance' in the Bill, and, accordingly, does not recommend the general principles of the Bill to the Parliament.” (para 257).

The [Stage 1 debate](#) took place on 1 December 2010. There was no whip in place for the debate and, as is common with proposed legislation of this type, the debate was considered to be a matter of conscience for individual Members. One key point of note was that the Scottish Government, through the Cabinet Secretary for Health and Wellbeing, stated the following view:

“Like the bill committee, the Government believes that the current law is clear—it is not lawful to assist someone in committing suicide—and has no plans to change it.” (col 31050).

At Decision Time, 16 Members voted for the Bill, 85 Members voted against and 2 Members abstained. As a result, the Bill fell.

Jude Payne
Senior Researcher