

## Assisted Suicide (Scotland) Bill

### The Equality and Human Rights Commission

The Equality and Human Rights Commission is the National Equality Body (NEB)<sup>1</sup> for Scotland, England and Wales, working across the nine protected grounds set out in the Equality Act 2010: age, disability, gender, race, religion and belief, pregnancy and maternity, marriage and civil partnership, sexual orientation and gender reassignment. We are an “A status” National Human Rights Institution (NHRI)<sup>2</sup>, and share our human rights mandate in Scotland with our colleagues in the Scottish Human Rights Commission (SHRC).

The EHRC welcomes the opportunity to comment on the general principles of the Assisted Suicide (Scotland) Bill, but will limit our comments to the first of the questions posed in the call for evidence: “Do you agree with the general purpose of the Bill to make it permissible, in the circumstances provided for, to assist another to commit suicide?”

In coming to our view we have not taken a position on the ethics of suicide. We have considerable sympathy with those who seek to end suffering that they find unbearable, but our concern is that any steps to legalise assisted suicide (or assisted dying) reliably safeguard the right to life.

The Bill is intended to create a narrow exception in the legislation which prohibits assisting another person to commit suicide. The question is whether such an exception can be drawn narrowly enough. The proposed safeguards in the Bill – requiring that the individual has capacity and is not depressed, that their illness is terminal, and that they have demonstrated a settled intention to end their life – would be difficult tests to operationalise.

A key argument made by proponents of assisted suicide has been that it is a way of respecting personal autonomy in end of life decisions, allowing an individual with full capacity to choose the time and manner of his or her death and to draw on others’ assistance to bring it about. In the Commission’s view, any such legislation should not introduce or rely on disputed conceptions of individual autonomy<sup>3</sup>, and would have to show that the proposed safeguards are sufficient for their intended purposes.

We note the opposition of many disabled people’s organisations to the idea that genuinely “free” choice over the time and manner of one’s death is possible in a society which routinely makes groundless assumptions about the comparative worth of disabled people’s lives. Evidence from, for example, the Disability Rights Commission’s inquiry into healthcare failures for people with learning difficulties in

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<sup>1</sup> [www.equineteurope.org/-Equality-bodies-](http://www.equineteurope.org/-Equality-bodies-)

<sup>2</sup> [www.ohchr.org/en/countries/nhri/pages/nhrimain.aspx](http://www.ohchr.org/en/countries/nhri/pages/nhrimain.aspx)

<sup>3</sup> For a useful consideration of the different conceptions of autonomy invoked in the assisted dying debate, see Onora O’Neill, “Autonomy and Assisted Suicide”, the text of an address given at the Royal Society of Medicine on 30 June 2010, available at <http://www.livinganddyingwell.org.uk/sites/default/files/LDW%20-%20Report%20-%20Autonomy%20and%20Assisted%20Suicide.pdf>

England and Wales<sup>4</sup>, or the EHRC's reports on disability-related harassment<sup>5</sup>, illustrate some of the negative attitudes towards; and views of the quality of life or personal value, of disabled people.

The independent living movement would argue that the more pressing policy challenge is to realise genuine freedom, choice, dignity and control for all disabled people, and for people at the end of life.

We recognise that some individuals hold that if assisted suicide were lawful, it would allow some people to control the end of their lives; but we also note that there are risks in making this lawful.

We also note that the Crown Prosecution Service in England and Wales has issued guidelines on the factors to be considered when deciding whether to prosecute a case of encouraging or assisting suicide<sup>6</sup>. There may be scope for the Crown Office to develop its own guidance for prosecutors on when cases meet the public interest in Scotland.

Finally, in March 2009, the Commission convened a public debate on the equality and human rights implications of proposed legislation on assisted suicide, in response to the late Margo Macdonald's End of Life Choices (Scotland) Bill. It brought together academics, faith organisations, and end of life and disability equality campaigners. It explores in more depth the legal, moral and policy implications of the debate, and may be of use to the committee<sup>7</sup>.

I hope this information is useful: please do not hesitate to get in touch if I can be of more assistance.

**Alastair Pringle**  
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**The Equality and Human Rights Commission**

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<sup>4</sup> <http://disability-studies.leeds.ac.uk/files/library/DRC-Health-FI-main.pdf>

<sup>5</sup> [www.equalityhumanrights.com/legal-and-policy/our-legal-work/inquiries-and-assessments/inquiry-into-disability-related-harassment](http://www.equalityhumanrights.com/legal-and-policy/our-legal-work/inquiries-and-assessments/inquiry-into-disability-related-harassment)

<sup>6</sup> [www.cps.gov.uk/publications/prosecution/assisted\\_suicide.html](http://www.cps.gov.uk/publications/prosecution/assisted_suicide.html)

<sup>7</sup> [www.equalityhumanrights.com/publication/equal-to-the-end-report-scottish-debate-series](http://www.equalityhumanrights.com/publication/equal-to-the-end-report-scottish-debate-series)