

Assisted Suicide (Scotland) Bill

My Life, My Death, My Choice

1. Introduction

My Life, My Death, My Choice is an independent campaign supported by the Humanist Society Scotland, Friends At The End (FATE) and the Scottish Secular Society. The purpose of the campaign is to support the Assisted Suicide (Scotland) Bill, initially proposed by Margo MacDonald MSP and now being led by Patrick Harvie MSP with the backing of MSPs from other parties including Mary Fee MSP, Jackson Carlaw MSP, Liam McArthur MSP and Bill Kidd MSP.

It is important to make clear that what is being proposed in this Bill is assisted suicide, not euthanasia. The Bill would require the patient to take the final action which causes their death, likely to be ingesting a lethal barbiturate. No-one, including a doctor or the facilitator, is allowed to administer this medication for them. This will remain a criminal act.

Our campaign understands that assisted suicide is a controversial matter but we believe a mature society should be able to discuss difficult issues honestly and openly. Scottish voters feel strongly about the Bill, with 69% supporting and only 13% opposing the legislation.¹ Furthermore, nearly 2500 people have already signed a petition calling on MSPs to approve the Bill.

2. Current situation – excellent palliative care is limited by current criminality of assisted dying

My Life, My Death, My Choice is determined to ensure that the measures in this Bill will complement the excellent palliative care that is already on offer in Scotland, not undermine it. The great majority of people approaching death can have distressing symptoms relieved by doctors, nurses, carers or religious or secular counsellors. Palliative care specialists have made huge improvements to the management of end-of-life symptoms and we believe that investment in these services should continue and even increase.

However, most health professionals recognise that a very small number of patients do not get satisfactory relief of their distress, be that physical, psychological or spiritual and these are the people for whom assisted suicide is being proposed. Decriminalising this act would allow the voice of this few to be heard and a compassionate extension of palliative care.

It should be stressed that the Bill is significantly different from the previously proposed End of Life Assistance Bill. The new Assisted Suicide (Scotland) Bill is more focussed and limited in scope, includes stronger safeguards to protect vulnerable groups and also introduces the role of a facilitator who must be

¹ <http://www.lifedeathchoice.org.uk/news/news/poll-shows-over-two-thirds-of-scots-in-favour-of-assisted-suicide-bill/>

trained and registered.

The focus of this legislation is about enabling individuals to take action to end their own life with no direct involvement of anyone else. Key improvements in this Bill include:

- A simpler and more clearly defined process that must be followed for assisted suicide to be legal.
- Limiting eligibility, while implementing strong safeguards to protect vulnerable groups and prevent coercion.
- Clarifying that no family member or individual who can benefit financially can be involved at any stage.
- Defining the geographical criteria to prevent “suicide tourism”
- A requirement for licensed facilitators who will provide well-defined practical assistance and comfort.

3. Why legislation is needed – enabling the voice of the few

Modern medicine now means that people are living longer and, because of technology and social media, are more aware of the implications and realities of terminal and life shortening conditions such as cancers, and several neurological conditions. This allows them to consider their own treatment options in advance and in more detail that would previously have been possible.

Many will recognise from their own experience a situation where a person would like to have seen their suffering ended by “a merciful release”. The current law that makes assisting suicide a crime means that neither the patient nor the health professional can easily broach the subject without risk of criminal action or suspicion of professional wrongdoing. Is there any other medical situation where a doctor is not allowed, or obliged, to honestly answer a question from a patient?

4. The Bill – decriminalising the true application of care within a regulating framework

My Life, My Death, My Choice believes that the current version of the Bill would help the small number of people affected each year whilst striking the right balance of protecting vulnerable groups through a clear process through so the public understand what is permitted and what the role is of different actors in the process.

On the specific questions asked by the Committee regarding the Bill, the campaign responses would be:

- The **three-stage declaration process** is simple to understand whilst still providing adequate safeguards to protect vulnerable individuals.
- Limiting the Bill to those only with **terminal or life-shortening illnesses or a progressive condition** makes it easier for individuals and doctors to determine if someone is eligible for the process. Blurring

the lines beyond this could lead to people not suitable believing they are eligible or doctors being unclear as to the process.

- The **eligibility requirements** of the Bill should be tight and strictly enforced to prevent so-called “suicide tourism” or allow the legislation to flex beyond what is intended. It must be understood that this Bill only applies to Scotland and, even then, will only apply to a very small number of people each year. The legislation must not be allowed to slip and expand unintentionally.
- Our campaign believes strongly that two **medical practitioners** should be required to certify on two separate occasions that an individual meets the medical criteria to take part in the process to certify this after time has passed provides time for mature consideration by both the doctor and patient. We also believe that it is important that **no doctor should be forced to take part** and should be free to request additional tests or assessments from outside experts prior to making a decision.
- My Life, My Death, My Choice believes that **pharmacists** should be subject to similar safeguards. The Royal College of Pharmacists have produced a policy paper on this subject and, were the Bill to pass at Stage 1, we would seek to work closely with them and other organisations to ensure the Bill is practical and contains sufficient safeguards.
- The campaign does not believe that any new agency or body is required to monitor **operation of the Bill**. Training guidelines for facilitators would be laid down by the Scottish Government centrally. Instances of those applying for the process at different stages would be reported to the NHS in a similar way to other information and published regularly, similar to the situation in the US State of Oregon. Any abuse of the system would be a criminal offence and, because of the process and safeguards in place, would be reported to the police.
- A key new feature of this Bill is the inclusion of a **facilitator**. We believe that this addition of an independent, trained individual adds a further safeguard for the Bill as they will only be permitted to act if they are content the process has been properly followed. Furthermore, they will be in a position to comfort and support a person at the end of their life. They will not be permitted to take an active role in an individual’s death.

5. International examples

(i) Oregon

The Bill being proposed is closest in scope and process to the Death With

Dignity Act (DWDA)² passed in the US State of Oregon in 1997. That law was passed twice through state-wide citizens initiatives and has not been amended. My Life, My Death, My Choice believes this shows that passing a similar law in Scotland would not inevitably lead to it being expanded in future.

Because it has been in operation for such a long period, there are significant amounts of data available to measure performance. This is collected each year by law and published as part of an annual report.³ The population of Oregon (3.9 million) is also comparable to that of Scotland (5.3 million) so gives some insight in to the likely numbers of people who might use the process each year were similar legislation enacted here. The key figures from Oregon are:

- An average of just 73 people complete the process per year and receive a prescription.
- Of those, an average of 47 people die per year as a result of taking medication through DWDA.
- DWDA allows the overwhelming majority of patients (97.2% in 2013) to die in their own home.
- Consistently, the three most frequently mentioned end-of-life concerns expressed by those in the DWDA process were: loss of autonomy (93.0% in 2013), decreasing ability to participate in activities that made life enjoyable (88.7% in 2013) and loss of dignity (73.2% in 2013).

These figures indicate that if the same process applied in Scotland, only a very small number of people would make use of the measures outlined in the Assisted Suicide (Scotland) Bill. The difference between those receiving the prescription and those who take it (35% received the prescription but did not take it in 2013) perhaps indicates that having the comfort of the choice to end their own life was helpful.

(ii) Other US states

- **Washington** State (population 6.9 million) passed a similar law to Oregon in 2009. According to the figures available so far, in 2009 there were 63 individuals given lethal medication and 36 used it (57%). In 2010, 87 individuals were given lethal medication, 51 used it (59%).
- In 2013, **Vermont** also passed a law similar to that of Oregon and Washington but no data is yet available.
- A court judgement in **Montana** in 2013 ruled that rights granted under the state's living will law, "The Rights of the Terminally Ill Act," form the

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<http://public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Pages/index.aspx>

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<http://public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Pages/ar-index.aspx>

basis for permitting physician “aid in dying”. The court did not officially legalise assisted suicide but said that, if charged with assisting a suicide, a doctor could use the patient’s request as a defence.⁴

(iii) European Countries

- It is well known that **Switzerland** allows assisted suicide. However, a key difference in their law is that they allow foreign citizens to also use the law. This is not included in the Bill and is not something our campaign could support.
- The **Netherlands, Belgium and Luxembourg** also have in place laws but these all allow physician assisted suicide which is not what is being proposed by the Bill in Scotland. We believe the most important thing is to allow individuals to make the final decision and take action to end their lives in certain circumstances. However, we would not support doctors being permitted to administer lethal drugs directly and believe the final choice and action should only be with the patient concerned.

6. Conclusion

My Life, My Death, My Choice strongly support the principles of the Assisted Suicide (Scotland) Bill and hopes the Health & Sport Committee will recommend to the Scottish Parliament that it be approved at Stage 1. We believe the strong public support in Scotland, over two-thirds, and the large number of people who have actively declared their support for the Bill places a duty upon the Scottish Parliament to consider the Bill in detail through the Stages 2 and 3.

Were the Bill to be approved at Stage 1, our campaign is keen to establish a dialogue with all sides and interest groups to ensure the final version of the Bill is as clear as possible and includes strong safeguards to protect vulnerable groups.

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⁴ <http://www.patientsrightscouncil.org/site/montana/>