

Assisted Suicide (Scotland) Bill

North Ayrshire Council

1. 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?

North Ayrshire Council is adopting a neutral stance on the general purpose of the Bill.

2. Do you have any views on how the provisions in this Bill compare with those from the previous End of Life Assistance (Scotland) Bill?

We are aware that there are a number of significant changes in the provisions between the End of Life Assistance (Scotland) Bill and the proposed Bill currently before the Scottish Parliament. The residency requirement has been removed meaning that in theory an individual can register with a medical practice in Scotland and thereafter immediately commence the declaration process. We believe that this may create fears around so called suicide tourism. The eligibility criteria has been amended, with particular reference to removal of s4(4) of the original Bill, and we are aware that this may be considered by some to be an improvement. The requirement for psychiatric assessment in the area of establishing an individual's capacity has been reduced in the new Bill and we believe that this is a cause for concern. We believe that it is appropriate that assessment of capacity is only carried out by medical practitioners with a particular expertise in capacity and mental health. The original Bill was more prescriptive relative to the location in which the act of suicide should take place and it may be considered that the relaxation of this is an improvement. We note that the original Bill allowed an individual 28 days in which to end their life and this has now been reduced to 14 days. It is further noted that other jurisdictions do not prescribe the process in such a way and we suggest that this would be advantageous. Finally, in the original Bill a designated practitioner was to be present at end of life. This has been amended to being a licensed facilitator to 'use best endeavours' to be with the person when they commit the final act. We would question whether this provides adequate safeguards for the individual and would recommend that further consideration should be given to the appropriateness of this.

3. The Bill precludes any criminal and civil liability for those providing assistance, providing the processes and requirements set out in the Bill have been adhered to. Do you wish to make any comment on this?

We would identify that the particular use of language within the proposed Bill is alien to criminal and civil practitioners in Scotland without good reason. The section on essential safeguards is particularly complex to follow and 'good faith' is not defined within the Act. We would recommend that consideration should be given to the inclusion of specific criminal liabilities.

4. The Bill outlines a three stage declaration and request process that would be

required to be followed by an individual seeking assisted suicide. Do you have any comment on the process being proposed?

We would recommend that in relation to the individual's capacity to embark upon the proposed declaration and request process that an assessment of capacity is routinely carried out by a s22 (Mental Health (Care and Treatment) (Scotland) Act 2003) approved medical practitioner.

5. Do you have any comment on the provisions requiring that the person seeking assisted suicide must have a terminal or life-shortening illness, or a progressive condition which is either terminal or life-shortening?

Whilst we would not expect to be involved in the diagnosis of these provisions, we note that the provisions are subjective and open to interpretation.

6. Are you satisfied with the eligibility requirements as regards age, capacity, and connection with Scotland as set out in the Bill?

We note that the eligible age in the proposed Bill is 16 but would recommend that this might require review in relation to other legislation pertaining to the age of legal capacity in Scotland. We again recommend that the assessment of an individual's capacity is routinely carried out by a s22 (Mental Health (Care and Treatment) (Scotland) Act 2003) approved medical practitioner. We are concerned that the residency requirement has been removed and would recommend that an individual be registered with a GP in Scotland for a specified period of time before becoming eligible for the provisions of the Bill.

7. Do you have any comment on the roles of medical practitioners and pharmacists as provided for in the Bill?

We would not be best placed as a local authority to comment on the role of medical practitioners and pharmacists. However, we note that the proposed Bill makes no provision for conscientious objection and would suggest that this be considered further.

8. Do you have any comment on the means by which a person would be permitted to end his/her life under the Bill?

We note that the type of assistance required to assist an individual to end their life requires careful definition and a level of expertise that we would recommend be best met by experienced medical practitioners.

9. Do you have any comment on the role of licensed facilitators as provided for in the Bill?

We would propose that this role is taken on by experienced medical practitioners and that the whole ending of life process is expertly supported and supervised throughout.

As noted above it is proposed that the licensed facilitator 'use best endeavours' to be with the person when they commit the final act. We are concerned that this does not provide sufficient safeguards for the person and would recommend that further consideration should be given to the appropriateness of this.

10. Do you have any comment on the role of the police as provided for in the Bill?

We note that detail about any investigatory process for the police to follow in the event of the proposed Bill being used is currently absent. We would recommend that further consideration should be given to this in order to assist the police.

11. Do you have any comment to make about the Bill not already covered in your answers to the questions above?

In relation to our recommendation to use a s22 approved medical practitioners in every case to establish an individual's capacity, we would suggest that consideration be given to the use of the same medical practitioner to establish the presence or absence of an individual's ability to resist any 'undue influence' in exercising the Bill.

We note that there is no detail in the proposed Bill about what would appear on the individual's death certificate which we believe would be helpful. Additionally, we would recommend that consideration be given to the relationship between this Bill and Fatal Accident Inquiries – this could be linked to additional guidance for the police.

We note that within the Bill and guidance, there is no proposed regulatory body and we believe that this is a gap. We note that such bodies exist in other jurisdictions and serve an important purpose in terms of gathering data, reviewing cases and reporting.

We would not be prepared, as suggested in the draft guidance, to consider taking on the role of licensing authority. This is on the basis that we believe this role should be provided by a medical body but additionally, it potentially would incur costs and have legal implications for North Ayrshire Council.

We would suggest that much of the detail contained in the proposed guidance would be strengthened if it were put into the actual proposed Bill itself.

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