

ASSISTED SUICIDE (SCOTLAND) BILL

MEMORANDUM BY THE SCOTTISH GOVERNMENT TO THE SCOTTISH PARLIAMENT HEALTH AND SPORT COMMITTEE

Introduction

1. This memorandum has been prepared by the Scottish Government to assist consideration by the Health and Sport Committee of the Assisted Suicide (Scotland) Bill (“the Bill”), which was introduced by the late Margo MacDonald MSP on 13 November 2013. Patrick Harvie MSP, as an additional Member in Charge of the Bill, will continue the Bill’s progress through the Parliament in the normal way.

Background

2. The main provision of the Bill is to give any person who meets particular eligibility requirements the right to request assistance to end their own life. It will decriminalise the actions of those who assist a qualifying person to end their own life within the parameters set by the Bill.

3. The provision of the Bill would be applicable to individuals over 16 years of age, registered with a medical practice in Scotland and considered to be mentally competent who have a terminal or life shortening illness and find life intolerable.

4. The Bill would require completion of three stages of request/assessment for assisted suicide. This would include an initial declaration which can be made at any point throughout a person’s life and does not require them to be at that time terminally ill. There would then be a first formal request and second formal request which could only be made under the eligibility criteria. These requests would involve assessment by 2 medical practitioners and involve a cooling off period between them.

5. The Bill suggests that if approved a request for assisted suicide would see a medical practitioner issue a prescription for appropriate medication to enable the individual to end their life which would be dispensed by a pharmacist. There is no requirement within the Bill for medical practitioner to be involved in the assisted suicide beyond this.

6. The Bill would create ‘licenced facilitators’ who would be required to assist the individual end their life and would remain close by until such times as the individual has died or decided not to proceed with the assisted suicide. The facilitator would also be required to advise the police of the death.

Consultation

7. The consultation period ran from 23 January to 30 April 2012 and attracted responses from 55 organisations/ groups and 793 individuals. The consultation process also resulted in a number of Ministerial Correspondence cases.

8. In terms of the total number of responses received 33% (281) were for the proposed bill with 64% (546) against, 3% (21) were undecided.

9. A large proportion of those who opposed the bill gave non-substantive responses (that is, they either gave no reason for their response or adopted other people's/campaign responses.) If these responses were excluded the position would be 59% in favour and 35% against.

Financial Implications

Number of likely cases/ requests for assisted suicide.

10. The financial memorandum attached to the Bill relies heavily on the evidence from the state of Oregon, USA. Scottish Government considered evidence from Oregon, but also from Washington State, Netherlands and Belgium. Resulting estimates of the likely number of cases was between 55 and 110 cases per year. The financial memorandum suggests 120 so is broadly consistent.

Costs to government

11. Neither Scottish Government nor the memorandum were able to quantify in any detail the set up cost of appointing and licensing organisations that will train and licence facilitators. The memorandum suggests a rough cost of around £850 to identify and appoint the organisation.

12. The memorandum states (paragraph 15) that the licensing authority would not be funded by the Scottish Government but also suggests that any organisation, once licensed, could seek funding from the Scottish Government unless Ministers choose to only license organisations that are able to absorb the costs. There is no discussion of whether this is likely or feasible (no example organisation) so is a potential Scottish Government cost.

13. A potential cost was identified in the form of provision of information to the public and to health professionals about the change to the law should the Bill be passed. Provision of reading material only (leaflets) would cost around £100,000 to £150,000. If it was felt necessary to disseminate information via the media then the cost would be around £400,000.

NHS/Health Board costs

14. **Training costs:** the memorandum suggests that these would be met from within existing budgets as there is an on-going need to update changes in practice and legislation. However these may be additional.

15. A pharmacist will have to indicate their willingness to be involved in Assisted Suicide by "opting in" to be listed as such and to be listed the pharmacist will have to complete mandatory CPD training¹. The numbers are expected to be relatively small (and would include pharmacy technicians), and costs would mainly be in the initial set up for the training course/ training resource as well as assessments/certification and a register of those trained. There will also be a cost for

¹ Communication from NHS Education for Scotland

annual reviews/updates. Depending on the type of training/resource required this is likely to be in the order of £5,000 - £10,000 for pharmacy².

16. It is not possible to quantify the cost for GPs; it is unclear whether there would be mandatory training for all or if it would be similar to the pharmacy proposal and involve an opt in or an opt out. Workshop providers are paid £75.86 per hour for CPD training. Costs would depend on the number of GPs attending and length of training.

17. The 'opt in' approach could lead to a risk that clinicians willing to be involved are disproportionately impacted financially by the assumption that costs will be absorbed by the practice.

18. The memorandum notes that the Bill does not aim to make financial savings as a result of people dying earlier than they otherwise would have and therefore requiring less care but it does note the possibility of this being an implication of the Bill. It is not possible to quantify by how much an individual's life might be shortened. Research from the Netherlands estimated that just under half of the assisted deaths shortened the life of the patient by less than a week³.

19. IT costs: In the consultation NHS National Services Scotland identified changes required to two GP IT systems (EMIS and InPS Vision), the GP out-of-hours system Adastra and others such as the electronic Palliative Care Summary (ePCS) and the Emergency Care Summary (ECS) and the ePharmacy systems. This will have financial implications for NHS Scotland.

Individual costs

20. The memorandum notes the possible avoidance of costs if the only alternative is to travel to another jurisdiction.

21. Paragraph 38 states that there will be no cost to the individual in terms of the assessment by the GP. The Bill assumes that GPs would agree to undertake assessments and complete the process, including prescribing the lethal medication, but it is not made explicit if this would become part of the GMS. If it was not part of GMS then theoretically GPs may charge a fee. The BMA suggest charging from £28 to £58.50 for completing a complex certificate and £124.50 for a written report without exam, with detailed opinion and a statement on the condition of patient⁴.

²Communication from NHS Education for Scotland

³ Van der Heide A. End-Of-Life Practices in the Netherlands under the New Euthanasia Act. *New England Journal of Medicine*. 356;1957 -65

<http://content.nejm.org/cgi/reprint/356/19/1957.pdf>

⁴ <http://bma.org.uk/practical-support-at-work/pay-fees-allowances/fees/fees-a-to-z>

Current Scottish Government policy

22. Neither suicide nor attempted suicide is a criminal offence in Scotland. Under Scots law, an act of euthanasia by a third party, including physician-assisted suicide, is regarded as the deliberate killing of another, and would be dealt with under the criminal law relating to homicide. Assisting or attempting to assist a suicide will constitute a criminal offence in Scotland as common law. Doctors are bound by both law and professional ethics and cannot take or be required to take any action that conflicts with either of those duties.

23. Scottish Government is committed to ensuring there is a cohesive, person centred and sustainable approach to Palliative and End of Life Care service provision across the NHS in Scotland, regardless of an individual's diagnosis. .

24. Living and Dying Well (2008), Scotland's first national action plan for palliative and end of life care, set the direction for service planning and delivery. The plan and the actions in the subsequent Building on Progress report (2011) are being implemented in a collaborative way with stakeholders from across the various sectors and is highly regarded.

25. The Scottish Government committed in March 2014 to the development of a Strategic Framework for Action to provide additional focus to support high quality palliative and end of life care. The development of the Strategic Framework for Action will be linked with our 2020 Vision for Health and Social Care, ensuring that the Scottish Government's commitment to a high quality palliative and end of life care for all is clear to everyone involved in this aspect of care.

26. A revised remit for a newly constituted National Advisory Group for Palliative and End of Life Care (to replace the Living and Dying Well National Advisory Group) was agreed in early 2014. The Scottish Government will work with the new NAG to support the development of the Strategic Framework for Action.

Conclusion

27. The Scottish Government recognises the importance of giving full consideration to these sensitive issues which touch on the lives of many people. The parliamentary process will ensure that all the issues around assisted suicide will be fully debated by the Scottish Parliament and the Scottish Government has indicated that this will be a matter of conscience and members, including Ministers, should be given the right to vote as such.

Person-Centred and Quality Team
The Quality Unit
Health and Social Care Directorates
The Scottish Government

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