

## **Assisted Suicide (Scotland) Bill**

### **The Salvation Army Scotland Office**

**Preamble:** Having examined the Assisted Suicide (Scotland) Bill, The Salvation Army is of the opinion that what is proposed does not differ significantly from the previous End of Life Assistance (Scotland) Bill. We therefore find ourselves opposed to its intent. We conclude that the risks inherent in legalising assisted suicide still outweigh any benefits that might accrue.

#### **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?**

With regards to the issue of choice in relation to assisted suicide, we acknowledge the strength of the momentum for legalising assisted suicide, which has been well illustrated in the policy memorandum. We acknowledge that public opinion on the matter is likely to get stronger as an issue of common humanity. The Salvation Army believe that the wider social context is crucial to any debate on this subject. Choice always has a context, and the context of our society has changed and is changing. We simply acknowledge that.

However, we remain fundamentally opposed to the change in the law that is in the proposed Bill. We are persuaded that in order to sustain justice for the vulnerable in our competitive and individualistic society there would have to be very powerful safeguards in the law to prevent the exploitation of the weak and vulnerable.

We note the proposed safeguards in the draft Bill. However changes in the law tend to create their own momentum, and this is acknowledged by comments in section 54 of the Policy Memorandum which states 'there may be an opportunity for further developments in the law that would offer hope to other categories of people seeking assistance to do'. This implies widening the scope of legislation. Indeed, the commentary also states 'I no longer propose to extend eligibility to people who are permanently physically incapacitated to such an extent as not to be able to live independently, if their condition is not terminal', but clearly this is an aim for the future.

#### **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?**

There is no longer a requirement for consultation with a psychiatrist. This flies in the face of respected expert opinion, notably The Royal College of Psychiatrists. It has observed: 'As physicians who work routinely with very vulnerable people, we find ourselves deeply concerned by the pressures that legalisation of PAS could impose upon our patients'.

Furthermore, in assessing patients requesting Physician Assisted Suicide, a psychiatrist may also be expected to provide an assessment of the patient's decision-making ability. This is particularly necessary in the light of the

prevalence of depression in this patient group.

We are pleased to note previous comments made by both supporters and opponents of previous consultations have assisted with a change in tone within the Bill. However, the general direction of the Bill remains the same and therefore we are unable to support its intentions.

**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?**

A claim by the doctor that he/she acted in 'good faith' and believed that the requirements of the law were satisfied, is virtually impossible to disprove.

**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?**

The safeguards in the Bill all relate to the individual who may seek assisted suicide and others involved in the assisted suicide process, they do not relate to society. Human beings are essentially social; each of us is dependent on others for physical and spiritual survival and flourishing. It is impossible for a person to ask for assistance to end their life without that affecting their family and community. The safeguards included in this Bill focus only on the individual who may wish to end their life.

The Bills assertion that 'only the person concerned, assuming they have full capacity, has the right to decide whether their life has become intolerable', the GP, apart from determining if the request is legitimate under the terms of the Bill, must also decide if death is merited ie if the patient is better off dead than alive. (See Endorsement of first and second requests by the medical practitioner - paragraphs 9c & 11c) However, desire for death is strongly influenced by expert palliative care and potentially reversible symptoms such as pain and depression. Deciding on the latter is in the remit of a psychiatrist.

**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?**

We do not consider the proposed eligibility requirements are robust.

There is a fundamental difference between someone who is 'terminally ill', 'life-shortening' and as 'a progressive condition which is either terminal or life-shortening' but who because of incapacity are not able to live life independently. As there is no clear definition, there is ambiguity as to what is actually being legislated for and therefore it is difficult to comment on the categories of people who would qualify for assisted suicide under this Bill.

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

Of major concern would be that the proposals set the lower age limit at sixteen. Our opposition to the Bill in principle notwithstanding, we believe it is entirely inappropriate that assisted suicide should be offered to a sixteen year old. It is not possible that a final and definitive judgement regarding the intolerability of their life might be made by a person who has not yet achieved maturity, particularly when it is entirely accepted within the terms of the Bill that such a perception is necessarily subjective.

Regarding capacity, the proposed Bill reads:

## 12 Capacity

- (1) For the purposes of sections 9(2) (a) and 11(2) (a), a person has capacity to make a request if the person—
- (a) is not suffering from any mental disorder (within the meaning of section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)) which might affect the making of the request, (and so on)

Under the act quoted, 328 (1) (a) 'mental disorder' means 'mental illness', amongst other disorders. We would therefore point out that:

'mental illness' includes clinical depression. Such a diagnosis requires a psychiatric report, which is now not allowed for.

from the same act - sections 234 and 235 - surgical treatment for a patient with a 'mental disorder' that is intended to 'destroy brain tissue', (does not PAS do this?), requires the approval of:

- i a designated medical practitioner who is not the patient's responsible medical officer.
- ii two other persons (not being medical practitioners) appointed by the commission for the purposes of this subsection

The proposed Bill does not allow for these steps to be taken.

Effective psycho-therapeutic treatment is possible with the terminally ill. Studies show that patients respond to therapy, they also show an improved quality of life as well as a loss of the desire to hurry towards death, by unnatural means. Treatment such as this should be offered and made available when appropriate.

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

The BMA and majority medical opinion remains opposed to assisted dying. This legislation requires that members of the medical profession are active participants in the process of assisted suicide. It is agreed that there is a role for the medical profession to support people at the end of their lives; however, that role should not include making provision for the intentional ending of life. To our mind what is proposed will fundamentally change the relationship between medical professionals and the society they serve. This is a point of principle that goes beyond the individual practitioner and the individual patient. While a

conscience clause would enable individuals to opt out of participation in this process, we remain uneasy with this proposal.

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

Because we remain fundamentally opposed to the intent of the Bill we feel no further comment is necessary

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

Under the new proposals the GP need not be present when Assisted Suicide is undertaken. Evidence shows that the process of dying is not always as peaceful as is expected or supposed. Many complications can occur, such as muscle spasms, extreme gasping and vomiting. Patients may not become unconscious or they may linger much longer than expected. A doctor is the only one equipped and qualified to deal with such distressing events.

We do welcome the removal from the original consultation the suggestion of filming the work of the facilitator.

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

We have no substantive comment to make

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

Logic suggests that the scope of this Bill could be widened significantly in the future, far beyond what is now envisaged.

For us, that is where the problem will lie if a change in the law is based on the notions of choice and autonomy. If you accept assisted suicide on the basis of autonomous choice, how can you simply leave it to a very restricted group who are believed to be terminally ill? Logically, sooner or later, it would have to be extended.

For example, PAS rests on the judgement that some patients are better off dead, and it is the doctor who chooses whether to end a life by deciding if ending life is in the best interests of his patient. So if PAS is justified under these circumstances, why should not individuals who are not terminally ill also seek the option of assisted suicide?

Furthermore, if a doctor is capable of judging that a patient would be better dead, can he not do so for an incompetent patient?

If death benefits the competent patient with condition 'x', why not for an incompetent patient with the same condition at a similar stage?

These are logical steps that will propel the process down the slope to

euthanasia. That is even before considering the experience of other jurisdictions e.g. in the Netherlands, where the Groningen protocol has allowed euthanasia of newborns since 2004. This was something

**Conclusion:**

We note within the policy memorandum and other documents that supporters of the proposal continues to receive letters, emails and phone-calls from people who support attempts to bring about a change in legislation. We have previously acknowledged and understand the difficult situations that people who may wish to take the decision to end life face. However, the desire of an individual needs to be balanced against the general good of society and in particular those who may find themselves weak and vulnerable. We do not accept that the right of an individual is paramount over the good of society as a whole. To our mind law, under which all are equal, exists so that people can be protected, especially the vulnerable. When law seeks to move outside that sphere it exceeds its proper function.

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