

Assisted Suicide (Scotland) Bill

Together (Scottish Alliance for Children's Rights)

1. About Together

Together (Scottish Alliance for Children's Rights) is an alliance of children's charities that works to improve the awareness, understanding and implementation of the UN Convention on the Rights of the Child (UNCRC) in Scotland. We have over 260 members ranging from large international and national non-governmental organisations (NGOs) through to small volunteer-led after school clubs. Our activities include collating an annual State of Children's Rights report to set out the progress made to implement the UNCRC in Scotland. We also provide a focal point through which Scottish NGOs report to the UN Committee on the Rights of the Child. The views expressed in this submission are based on the general principles of the UN Convention on the Rights of Child (UNCRC) and do not necessarily reflect the specific views of each member organisations.

2. Introduction

Together welcomes the opportunity to offer views on the Assisted Suicide (Scotland) Bill which was introduced to the Scottish Parliament on 13th November 2013.

The Policy Memorandum of the Bill states that the Bill "allows people who actively wish to retain control of their lives to secure a dignified death at a time of their own choosing, instead of having to endure a poor and declining quality of life until such time as they die as a result of their illness or condition."¹ The Bill dictates that for a person to be granted such control, they must be at least 16 years of age.²

Together would like to make the following comments in response to the Bill. Firstly, we take no position on assisted suicide, nor on whether children should have a right to assisted suicide. However, when the issue is being discussed, the rights of children should be taken into account – just as they should be when other important matters affecting their health and wellbeing are being considered:

- If the proposed Bill were to be introduced, Together would want the Committee to consider the impact it could have on the rights of children and young people;
- The proposed legislation could impact on children who have parents, carers or siblings with terminal illnesses or on children and young people who themselves have a terminal illness.
- In all decisions affecting children and young people, the views of a child must be given due weight in accordance with their age and maturity.

¹ http://www.scottish.parliament.uk/S4_Bills/Assisted%20Suicide/b40s4-introd-pm.pdf (pg 1)

² http://www.scottish.parliament.uk/S4_Bills/Assisted%20Suicide/b40s4-introd.pdf (pg 2)

- Together recommends that the Committee looks at comparable legislation to learn from other countries' experiences. Together does not endorse any specific legislation introduced elsewhere – rather recommends that the Health and Sports Committee uses international debate and experience to inform its own deliberations.

3. Key points

It is important to note that children are prone to and suffer terminal illnesses and extreme physical pain just as adults do. When considering the Assisted Suicide (Scotland) Bill, the Health and Sports Committee should consider how the Bill could give better effect to the rights enshrined in the UN Convention on the Rights of the Child. This would be in line with the duty placed on Scottish Ministers to keep under consideration and take steps to further the rights of children and young people through the Children and Young People (Scotland) Act³.

In the consideration of the age threshold of 16 proposed in the Bill, the Health and Sports Committee should note that terminal illnesses do not discriminate based on the age of a person and accordingly, neither should health care. The UN Committee on the Rights of the Child is clear that a child who is capable of forming his or her own views should be assured the right to express those views freely in all matters affecting the child.⁴ The views of a child must be given due weight in accordance with their age and maturity. Article 5 of the Convention also acknowledges children's evolving capacities and parental responsibility to provide guidance to a child in the exercise of his or her rights.⁵ For children of all ages who have the capacity to express an informed view on her or his treatment and health care, this view must be respected and given due weight in decisions regarding how they ought to be treated.

The appropriate method of ensuring that a child's views are heard in health-related matters will vary from child to child and should be assessed on a case by case basis. This approach is in line with the UN Committee on the Rights of the Child's General Comment No. 4 on adolescent health and development⁶ and General Comment No.12 on children's right to be heard.⁷ Together suggests that the Health and Sport Committee reflects on international examples of comparable legislation, such as the recent amendment to Belgium's 2002 euthanasia law. This amendment requires that maturity, rather than age, is given consideration when evaluating if a terminally ill patient has the capacity to make decisions in relation to this law.⁸

The Health and Sports Committee should consider the impact that this Bill could have on the wider families of those making end-of-life decisions. The Bill

³ Scottish Government (2014). *Children and Young People (Scotland) Act 2014*

⁴ UN General Assembly (1989). *UN Convention on the Rights of the Child (Article 12)*

⁵ UN General Assembly (1989). *UN Convention on the Rights of the Child (Article 5)*

⁶ <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsiQqI8qX5Zxh0cQqSRz x6ZfAlCbDzm5DUreYo1tIYOkZcPE%2bQh98dgWJaknr%2bF7jm441Z8qGwY%2f51yCBYAGhdoP935ZqmvuRbTJmw MpuafOz>

⁷ <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.pdf>

⁸ <https://www.crin.org/en/node/39000>

should ensure that children and young people are involved and consulted in decisions relating to the end-of-life care of those close to them, such as parents, carers and siblings.

In order to fully determine how the Bill might affect children and young people's rights, a child rights impact assessment (CRIA) must be undertaken. This will ensure that the Bill is fully assessed in terms of their impact on the rights of children and that the impact is predicted, monitored, and if necessary, avoided or mitigated. This would be in line with the Scottish Government's commitments to children's rights as evident in Part 1 of the Children and Young People (Scotland) Act 2014.⁹

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⁹ *Scottish Government (2014). Children and Young People (Scotland) Act 2014*