

# Citizen Participation and Public Petitions Committee

19th Meeting, 2022 (Session 6), Wednesday  
21 December 2022

## PE1972: Allow Assisted Dying for people with long-term mental illness and consenting capacity

|                         |  |
|-------------------------|--|
| <b>Petitioner</b>       | Kevin Sutherland   |
| <b>Petition summary</b> | <p>Calling on the Scottish Parliament to urge the Scottish Government to ensure all future legislation on assisted dying includes provisions for access to assisted dying for anyone of adult age suffering from a long-term mental illness, and/or who has compelling philosophical reasons for wanting to terminate their lives, provided they:</p> <ul style="list-style-type: none"><li>• have sought psychological or psychiatric assistance, which resulted in no change to their condition; and</li><li>• continue to have consenting capacity.</li></ul> |
| <b>Webpage</b>          | <a href="https://petitions.parliament.scot/petitions/PE1972">https://petitions.parliament.scot/petitions/PE1972</a>  |

### Introduction

1. This is a new petition that was lodged on 19 October 2022.
2. A full summary of this petition and its aims can be found at **Annexe A**.
3. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe B**.
4. While not a formal requirement, petitioners have the option to collect signatures on their petition. On this occasion, the petitioner elected to collect this information. 40 signatures have been received.
5. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered. A response has been received from the Scottish Government and is included at **Annexe C** of this paper.

## Action

The Committee is invited to consider what action it wishes to take on this petition.

**Clerk to the Committee**

## Annexe A

# PE1972: Allow Assisted Dying for people with long-term mental illness and consenting capacity

## Petitioner

Kevin Sutherland

## Date lodged

19 October 2022

## Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to ensure all future legislation on assisted dying includes provisions for access to assisted dying for anyone of adult age suffering from a long-term mental illness, and/or who has compelling philosophical reasons for wanting to terminate their lives, provided they:

- have sought psychological or psychiatric assistance, which resulted in no change to their condition; and
- continue to have consenting capacity.

## Previous action

I have contacted Liam McArthur MSP to suggest amending his Proposed Assisted Dying for Terminally Ill Adults (Scotland) Bill.

## Background information

I believe that any change in the law in Scotland to allow assisted dying should include those suffering with incurable mental health issues. They should be allowed to make a case to end their own life due to the mental suffering they have to endure - which can be just as torturous and painful as any physical condition.

Many people travel abroad to end their lives in a controlled environment. It is imperative that we allow those who are fully aware, and understand what they are asking, to be granted the wish to die with dignity here in Scotland.

I have been very vocal & public about my own situation on this matter. I have currently decided to travel to Belgium to undertake an assisted suicide, where this has been legal for nearly two decades like several other European countries. I would like Scotland to come in line with the progressive policies of other countries and the ECHR.

I know so many people in the same situation as me who don't have the means to travel. People seeking a humane end to their lives are therefore forced to suffer in silence. They should be allowed to end their own lives on their terms. This should be an option so that people don't feel the need to make dangerous suicide attempts with often tragic consequences for all. I wish the Scottish Parliament and the Scottish Government to consider this element in any future legislation on assisted dying.

## Annexe B

The logo for SPICe (The Information Centre) is a purple rounded rectangle. The text 'SPICe' is in white, with 'The Information Centre' and 'An t-Ionad Fiosrachaidh' in white text on a dark blue background to the right.

The Information Centre  
An t-Ionad Fiosrachaidh

### Briefing for the Citizen Participation and Public Petitions Committee on petition PE1972: [Assisted dying for people with long-term mental illness and consenting capacity](#), lodged by Kevin Sutherland

#### Brief overview of issues raised by the petition

The petition is calling on the Scottish Parliament to urge the Scottish Government to ensure all future legislation on assisted dying includes provisions for access to assisted dying for anyone of adult age suffering from a long-term mental illness, and/or who has compelling philosophical reasons for wanting to terminate their lives, provided they:

- have sought psychological or psychiatric assistance, which resulted in no change to their condition; and
- continue to have consenting capacity.

#### Law on Assisted Dying in Scotland

In Scotland it is not a criminal offence to commit suicide or attempt to commit suicide, and there is no specific legislation that governs ending your own life or assisted dying.

However, assisting in the death of another may give rise to liability for murder or culpable homicide, and limited case law in this area means there is uncertainty around what actions would be lawful or unlawful. As a result, those assisting in someone's death could be at risk of criminal charges.<sup>1</sup>

---

<sup>1</sup> Robson, K and Harvie-Clark, S (2015) [Assisted Suicide \(Scotland\) Bill](#). SPICe Briefing SB 15-02

## Mental Illness and Capacity

Capacity generally refers to the ability of a person to make decisions for themselves and manage their own affairs. In Scotland, the law presumes an individual has capacity unless it is proven otherwise, and the presence of a mental illness does not automatically mean a person lacks capacity.

## Proposed Member's Bill

On 22 September 2021, Liam McArthur MSP lodged a draft proposal for a Bill to enable assisted dying for adults who are terminally ill.

A [consultation on this proposal ran until 21 December 2021](#).

The [proposed Assisted Dying for Terminally Ill Adults \(Scotland\) Bill](#) would “enable competent adults who are terminally ill to be provided at their request with assistance to end their life.”

An [analysis of the consultation was recently published](#) showing 76% of respondents were supportive of the proposal and 21% were opposed. The remaining responses were either partially supportive or partially opposed.

Some of the responses raised the issue of widening eligibility beyond those with a terminal illness. Others also raised how people with mental health problems should be treated under the proposed legislation.

Having gained support from the required number of MSPs and parties, the Member can now introduce a Bill in the Scottish Parliament.

The [final proposal for the Bill](#), which sets out the specific terms upon which a bill can be drafted, has now been lodged. This restricts a draft Bill to allowing “competent adults who are terminally ill to be provided at their request with assistance to end their life”.

While other Members could bring forward amendments at stages 2 & 3 seeking to alter the scope of the Bill, the Bill as introduced would be limited by what is in the final proposal.

## Scottish Government Action

There has been no specific action by the Scottish Government on assisted dying.

A [review of mental health law and capacity law reported recently](#) but – at the time of writing - the Scottish Government has not yet responded to the report.

## Scottish Parliament Action

There have been three previous attempts to legislate in this area:

- **2004:** Jeremy Purvis MSP lodged a proposal for a bill [to allow capable adults with a terminal illness to access the means to die with dignity](#). The Bill did not receive the required number of supporting MSPs (18) to be introduced.
- **2010:** Independent MSP, Margo MacDonald introduced the [End of Life Assistance \(Scotland\) Bill](#) to enable persons whose life has become intolerable and who meet the conditions prescribed in the Bill to legally access assistance to end their life. The Parliament did not agree to the general principles of the Bill on 1 December 2010, by 85 votes to 16 (with two abstentions), and the Bill fell.
- **2013:** Margo MacDonald MSP introduced the [Assisted Suicide \(Scotland\) Bill](#) ('the 2013 Bill') for certain people who are approaching the end of their lives to seek assistance to end their lives at a time of their own choosing, and to provide protection in law for those providing that assistance. Margo MacDonald lived with Parkinson's disease and died in 2014. At this time, Green MSP, Patrick Harvie, took over as the Bill's sponsor. The Parliament did not agree to the general principles of the Bill on 27 May 2015, by 82 votes to 36, with no abstentions, and the Bill fell.

**Kathleen Robson**  
**SPICe Researcher**

[18/10/2022]

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at [spice@parliament.scot](mailto:spice@parliament.scot)

Every effort is made to ensure that the information contained in petition briefings is correct at the time of publication. Readers should be aware however that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

## Annexe C

Scottish Government submission of 27  
October 2022

PE1972/A: Allow Assisted Dying for people with  
long-term mental illness and consenting capacity

The Scottish Government would not support any legislation or amendment with regards to the petition to allow Assisted Dying for people with long-term mental illness and consenting capacity.