

Health, Social Care and Sport Committee
Tuesday, 5 November 2024
29th Meeting, 2024 (Session 6)

Assisted Dying for Terminally Ill Adults (Scotland) Bill

Note by the Clerk

Background

1. Liam McArthur MSP introduced the Assisted Dying for Terminally Ill Adults (Scotland) Bill in the Scottish Parliament on 27 March 2024. The Health, Social Care and Sport Committee was designated as lead committee for Stage 1 consideration of the Bill on 16 April 2024.
2. Under the Parliament's Standing Orders Rule 9.6.3, it is for the lead committee to report to the Parliament on the general principles of the Bill. In doing so, it must take account of views submitted to it by any other committee. The lead committee is also required to report on the Bill's Financial Memorandum, taking account of any views submitted to it by the Finance and Public Administration Committee.
3. The Bill and its accompanying documents are available on the [Scottish Parliament website](#).
4. The Scottish Parliament Information Centre (SPICe) have published a [briefing on the Bill](#).

Purpose of the Bill

5. According to the [policy memorandum accompanying the Bill](#): "The aim of the Assisted Dying for Terminally Ill Adults (Scotland) Bill is to allow mentally competent terminally ill eligible adults in Scotland to voluntarily choose to be provided with assistance by health professionals to end their lives".
6. The policy memorandum further states: "The Bill establishes a lawful process for an eligible person to access assisted dying, which is safe, controlled and transparent, and which the Member believes will enable people to avoid the existential pain, suffering and symptoms associated with terminal illness, which will in turn afford the person autonomy, dignity and control over their end of life".
7. The Bill contains 33 sections and 5 schedules, which can be broken down as follows:

Sections 1 to 3 establish the lawfulness of the provision of assistance to a terminally ill eligible adult to end their own life, and deal with the criteria which must be met in order for a terminally ill adult to be eligible to request, and be

provided with, assistance to end their life in accordance with the provisions of the Bill.

Sections 4 to 14 set out the preliminary procedural steps which must be taken, and how criteria will be assessed and determined, in order for a person to be eligible to be provided with assistance to end their life.

Sections 15 to 20 deal directly with the provision of assistance to an eligible terminally ill adult for them to end their life by self-administered means. This includes provision that there is no duty on anyone, including registered medical practitioners and other health professionals, to participate in the process if they have a conscientious objection to doing so, and also provides that it is not a crime to provide an eligible person with assistance where the requirements of the Bill have been met, and that there is also no equivalent civil liability. These sections also deal with the process after a terminally ill adult has died as a result of taking the substance supplied, including the completion of a final statement and how to record the death on the death certificate.

Sections 21 to 33 deal with general and final provisions which include making it an offence to coerce or pressure a terminally ill adult into requesting an assisted death, provisions relating to the collection and reporting of data, the publication of an annual report, and a requirement to review the Act after five years of operation.

Schedules 1 to 4 contain the forms which are required to be completed, signed and witnessed at various stages of the process. These consist of a first and second declaration form, in which a terminally ill adult asks to be provided with assistance to end their life, two medical assessment statement forms, to be completed by registered medical practitioners, which assess eligibility, and a final statement form, to be completed after a death has taken place.

Schedule 5 sets out reasons why a person is disqualified from being a witness or proxy for the purposes of the Bill.

8. Further details on the Bill can be found in the [Explanatory Notes](#) and [Policy Memorandum](#) accompanying the Bill.

Scrutiny

9. The Committee issued two calls for evidence which were open for submissions between Friday 7 June and Friday 16 August 2024:
 - A short survey for people who wished to express general views about the Bill as a whole.
 - A detailed call for evidence for people, groups, bodies or organisations who wished to comment on specific aspects of the Bill.
10. The Committee received 13,821 responses to the short survey. Individual responses to this survey were not published, instead a summary of these responses will be published on the Committee's webpage.

11. The Committee received 7,236 responses to the detailed call for evidence, published on Citizen Space. The published submissions can be reviewed here: [Assisted Dying for Terminally Ill Adults \(Scotland\) Bill: Detailed Consultation – Call for Views - Scottish Parliament - Citizen Space](#)
12. The Scottish Parliament Information Centre (SPICe) produced an [overview of high-level quantitative results](#) from both calls for views. SPICe is in the process of producing summary analysis of written submissions to both calls for evidence, to be published in due course.
13. The Committee agreed the following programme of evidence at its meeting on 1 October 2024:

Week 1	<ul style="list-style-type: none"> • Introduction by the Non-Government Bills Unit (in private) • Consideration of the implementation of Assisted Dying in other jurisdictions
Week 2	<ul style="list-style-type: none"> • Legal, human rights and equalities considerations • Mental health considerations, including safeguards, assessing capacity and psychological support
Week 3	<ul style="list-style-type: none"> • Impact on, and considerations for, healthcare professionals • Impact on, and considerations for, palliative care
Week 4	<ul style="list-style-type: none"> • Informal engagement with adults with learning disabilities (in private)
Week 5	<ul style="list-style-type: none"> • Impact on, and considerations for, those with long-term conditions • Impact on, and considerations for, disabled people
Week 6	<ul style="list-style-type: none"> • Groups that support assisted dying • Groups that oppose assisted dying
Week 7	<ul style="list-style-type: none"> • Considerations of the Bill for law enforcement • Scottish Government
Week 8	<ul style="list-style-type: none"> • The Member in charge of the Bill

14. The Finance and Public Administration Committee issued a [call for views](#) on the estimated financial implications of the Bill as set out in its accompanying [Financial Memorandum](#). This was open for submissions between 10 June 2024 and 16 August 2024 and received 22 submissions published on [Citizen Space](#).
15. At its meetings on 28 May and 10 September 2024, the Delegated Powers and Law Reform (DPLR) Committee considered the delegated powers contained in

the Bill at Stage 1. The DPLR Committee published its [report](#) on 20 September 2024.

Today's meeting

16. During today's session, the Committee will consider the implementation of Assisted Dying in Victoria, Australia. The Committee will take evidence from:

- Ben White, Professor of End-of-Life Law and Regulation from the Australian Centre for Health Law Research
- Katherine Waller, Voluntary Assisted Dying Training - Project Manager from the Australian Centre for Health Law Research, and
- Julian Gardner AM, Chairperson of the Voluntary Assisted Dying Review Board

Assisted Dying in Victoria

17. Further information about the application of assisted dying law in different jurisdictions, including Australia, is provided in the [SPICe briefing on the Bill](#).

18. In relation to Victoria specifically, assisted dying law is contained in the [Voluntary Assisted Dying Act](#) and the [Voluntary Assisted Dying Regulations](#). The Act came into force on 19 June 2019.

19. People can ask for voluntary assisted dying in Victoria if they meet all the following conditions:

1. They must have an advanced disease that will cause their death and that is:
 - likely to cause their death within six months (or within 12 months for neurodegenerative diseases like motor neurone disease)
 - causing the person suffering that is unacceptable to them.
2. They must have the ability to make and communicate a decision about voluntary assisted dying throughout the formal request process.
3. They must also:
 - be an adult aged 18 years or over
 - have been living in Victoria for at least 12 months
 - be an Australian citizen or permanent resident.

20. Medical practitioners with appropriate experience and who have completed voluntary assisted dying training can help a person through the process. Access to voluntary assisted dying requires two doctors to agree that the person is eligible.

21. The law provides the option of conscientious objection for medical practitioners and other health practitioners, such as nurses and pharmacists. This includes that they do not have to:

- provide information or support about voluntary assisted dying
- assess a person for voluntary assisted dying
- supply or administer the substance used for voluntary assisted dying.

**Clerks to the Committee
November 2024**