

**Scottish Council on Human Bioethics**

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**Briefing to the UK House of Lords Select Committee on the Assisted Dying for the Terminally-Ill Bill [HL]****Assisted Dying for the Terminally-ill Bill [HL]**

1. The Scottish Council on Human Bioethics would, first, like to thank the Select Committee on the Assisted Dying for the Terminally-Ill Bill for this opportunity to submit written evidence relating to the aforementioned bill.
2. The laws in the United Kingdom relating to euthanasia and assisted suicide are addressed by the following legal provisions:

**England and Wales****Euthanasia:**

In England and Wales, the term euthanasia is not defined in law and would be regarded as murder. In these countries, murder is a common-law offence.

In the medical setting, R v Cox (1992) confirmed that if a medical professional carried out an action with the intention of ending life, whether or not for compassionate reasons or at the patient's request, this would constitute murder.

**Assisted suicide:**

Assisted suicide is covered in England and Wales by the Suicide Act 1961, section 2 (1) which states that:

*"A person who aids, abets, counsels or procures the suicide of another, or an attempt by another to commit suicide, shall be liable on conviction on indictment to imprisonment for a term not exceeding fourteen years."*

**Scotland****Euthanasia:**

The term euthanasia is not defined in Scottish law and would be regarded as murder. In Scotland, murder is also a common-law offence.

**Assisted suicide:**

In Scotland, assisted suicide is not specifically defined in legislation. Assisting suicide may constitute the "art and part" of murder or culpable homicide.

3. The Scottish Council on Human Bioethics is of the opinion that if the Assisted Dying for the Terminally Ill Bill was enacted:

- it would be impossible to ensure that all acts of assisted dying were truly voluntary. Indeed, there would always be a risk that, in some cases, non-voluntary euthanasia would be undertaken on patients who were not able to communicate their wishes to healthcare professionals.
- concerns would exist that vulnerable people - the elderly, lonely, sick or distressed - would feel pressure, whether real or imagined, to request death, so that they are 'not a burden'.
- the manner in which society views both death and disability would change. People who are difficult or costly to care for may then be seen as second class citizens.
- it would fundamentally change the role of doctors and other healthcare professionals, whose role has always been to cure and care for their patients, not to kill them. It would also change the relationship of trust between healthcare professionals and patients.

**4. The Bill is inaccurate and ill-advised in assuming that assisted dying may be a solution to the fears relating to suffering as a patient approaches death.** Indeed, it does not take proper consideration of developments in the hospice movement and palliative care which allow pain and distressing symptoms of disease to be adequately alleviated in all but the most extreme cases. Experience shows that once people are comfortable and their fears concerning suffering have been addressed, they often change their minds about wanting to end their lives. And even in the extremely rare cases where suffering does not respond to treatment there is the possibility, with the informed consent of the patient, of using artificial transient sedation. Thus, there is absolutely no reason for anyone to die in pain.

**5. The Bill would undermine the principle that not person can ever loose their dignity.** Human dignity is endowed, in an equal measure, to all persons on this earth. If this crucial principle is denied, it would enable society to consider the

unacceptable notion that some persons are of less 'worth' or have less dignity than others.

## 6. The near unanimity of European countries do not accept euthanasia or assisted suicide.

In a document covering euthanasia and assisted suicide, prepared by the Council of Europe and published on the 20th of January 2003, which contains the replies to a questionnaire from 34 countries of the Council of Europe and the USA, only Belgium and the Netherlands indicated that active euthanasia was permissible in their legislation (though it remains unlawful).

With respect to assisted suicide, only three countries (The Netherlands, Estonia and Switzerland) indicated that their legislation would not regard such an undertaking as an offence provided certain conditions were met. [1]

Thus, when the primary intention is to end the life of a patient through an intervention (including the withdrawal of life-sustaining treatment), then this intervention would be prohibited in most Council of Europe member states.

If, on the other hand, a physician follows good medical practice and addresses the best interests and well-being of the patient and this practice has, as a side effect, the shortening of the patient's life, then no objections would be normally brought against the physician in all the countries concerned. The doctor's intention is the critical distinction between euthanasia and good palliative care.

## 7. The Bill would breach Article 9.c. of the Council of Europe Parliamentary Assembly Recommendation 1418 (1999) which states that:

*The Assembly therefore recommends that the Committee of Ministers encourage the member states of the Council of Europe to respect and protect the dignity of terminally ill or dying persons in all respects by upholding the prohibition against intentionally taking the life of terminally ill or dying persons, while:*

- i. recognising that the right to life, especially with regards to a terminally ill or dying person, is guaranteed by member states, in accordance with Article 2 of the European Convention on Human Rights which states that "no one shall be deprived of his life intentionally";*
- ii. recognising that a terminally ill or dying person's wish to die never constitutes any legal claim to die at the hand of another person;*
- iii. recognising that a terminally ill or dying person's wish to die cannot of itself constitute a legal justification to carry out actions intended to bring about death.*

8. Since euthanasia and assisted suicide are not reserved matters for the UK Westminster Parliament under the Scotland Act 1998, Schedule 5 (Reserved Matters), Part II (Specific Reservations), Head J (Health and Medicines), it would be appropriate for the house of Lords to consult the Scottish Parliament prior to any report being drafted.

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1. This document on euthanasia can be found at <http://www.coe.int/bioethics>. Look for euthanasia.