

Written evidence to the End of Life Assistance (Scotland) Committee's call for evidence on the End of Life Assistance (Scotland) Bill by the British Humanist Association. May 2010.

About the British Humanist Association (BHA)

The British Humanist Association (BHA) is the national charity representing the interests of the large and growing population of ethically concerned, non-religious people living in the UK. It exists to support and represent people who seek to live good and responsible lives without religious or superstitious beliefs. It is committed to human rights and democracy, and has a long history of active engagement in work for an open and inclusive society and for a rational approach to public ethical issues.

The BHA's policies are informed by its members, who include eminent authorities in many fields, and by other specialists and experts who share humanist values and concerns.

Introduction

We are pleased to give evidence to the End of Life Assistance (Scotland) Committee's call for written evidence on the End of Life Assistance (Scotland) Bill. We would also welcome the opportunity to provide oral evidence at the next stage of the Committee process.

In this memorandum we take the opportunity to set out our position in relation to the law on assisted dying in the UK generally and on the End of Life Assistance (Scotland) Bill specifically.

Our position on assisted dying

Humanists defend the right of each individual to live by her¹ own personal values, and the freedom to make decisions about her own life so long as this does not result in harm to others. Humanists do not share some of the attitudes to death and dying held by some religious believers, in particular that the manner and time of death are for a deity to decide or that interference in the course of nature is unacceptable.

Currently, the needs and autonomy of patients in Scotland and the rest of the UK are often disregarded. Compassionate doctors, who follow the wishes of their terminally ill and severely suffering patients by assisting them to die, risk being charged with assisting suicide or murder. The current system sometimes also results in close relatives being faced with immensely difficult choices: whether to assist a loved one who is begging for help to put an end to their suffering knowing that it is unlawful, or to deny their loved one the death they want. We do not believe that anyone should be put into the position of having to make such choices, or indeed into a position where they believe that they have no other option but personally to end the life of

¹ Read 'her or his'

someone they love. Those few terminally ill and suffering people who are able to travel abroad to die, often die before it is necessary because they need to do so at a time when they are still able to travel.

Being able to die, with dignity, in a manner of our choosing must be understood to be a fundamental human right – a position supported by the recent landmark judgment in the Purdy case, where our highest court ruled that Convention rights are invoked at end of life. Legalising assisted dying would ensure that strict legal safeguards are in place which would empower people to utilise their right to make rational choices themselves over their end of life care, free from coercion. The choice of an assisted death would not be instead of palliative care for terminally ill people, but a core part of comprehensive, patient-centred approaches to end of life care.

Considerations of the End of Life Assistance (Scotland) Bill

The BHA considers the End of Life Assistance (Scotland) Bill to be sensible, ethical and forward-thinking; that it contains strict medical and legal safeguards of the types and level that are necessary to protect people from malice; and that it is an enabling Bill that would endow people with real choices at end of life.

We support the policy objectives of the Bill as set out in the End of Life Assistance (Scotland) Bill *Policy Memorandum*, not least its contention that ‘the quality of a person’s death is indivisible from their quality of life, as death is simply the last part of life. It therefore follows that the person concerned should have the same right to attempt to ensure for themselves a peaceful and dignified death.’

We believe that the focus of the Bill is centred on respect for, and the upholding of, human rights. That focus is absolutely to be welcomed and supported.

- **Do you agree a person should be able to request end of life assistance from a registered medical practitioner?**

Yes – a person should be able, legally, to request end of life assistance from a registered medical practitioner.

- **Are you satisfied with the requirements for age and connection with Scotland as set out in the Bill?**

The BHA’s position is to allow mentally competent adults to be able to choose an assisted death. We are happy that the Bill provides safeguards to ensure that those choosing an assisted death are mentally capable, and that they are protected against coercion.

The Bill requires persons to be 16 and to have been registered with a medical practice in Scotland for 18 months, and for the person to be mentally capable of making the request. The age requirement reflects that those 16 years old and over are considered to be adults in Scotland. This is not true of the rest of the United Kingdom, where the age to be considered an adult is 18 years old and over.

The BHA would like to see assisted dying legalised throughout the UK. When such a change happens there will undoubtedly need to be discussion about whether or not to have a uniform age limit across all UK countries. Until such time however, we support the Bill's proposition that, in line with Scottish law, those 16 years and over may choose an assisted death.

- **Are you satisfied with the two categories of people who would qualify to be assisted under the terms of the Bill?**

The BHA is satisfied with the two categories of people who would qualify to be assisted under the terms of the Bill: someone a) who has been diagnosed as terminally ill and finds life intolerable; or b) is permanently physically incapacitated to such an extent as not to be able to live independently and finds life intolerable.

Much of the BHA's campaigning on the issue of assisted dying focuses on the need to reform the law in order to legalise assisted dying for terminally ill people. This is of high importance, and we understand the urgency of such a reform in the law, which would permit those who are definitely in the last stages of life to die in a manner of their choosing.

It is also the BHA's position for the law to be reformed to allow those who are incurably suffering, permanently incapacitated and who find their lives intolerable to choose an assisted death. We believe that a compassionate law is one that respects the wishes of people who have decided that their lives hold no quality for them. People should have the right to choose a painless and dignified end, either at the time or beforehand, perhaps in a "living will". The right circumstances might include, but are not limited to: extreme pain and suffering; helplessness and loss of personal dignity; permanent loss of those things which have made life worth living for this individual.

Individuals should be allowed to decide on such personal matters for themselves; if someone in possession of full information and sound judgement decides that her continued life has no value, her wishes should be respected.

To postpone the inevitable against the wishes of an individual with no intervening benefit is not a moral act.

- **The Bill outlines a several stage consent and verification process that would be required to be followed for an eligible person to receive end of life assistance. Are you satisfied with this process?**
- **Do you consider the level and nature of safeguards as set out in the Bill to be appropriate?**

Taking these two questions together, the BHA's position is that any reform in the law to legalise assisted dying must be accompanied by strict legal and medical safeguards. Such strict legal and medical safeguards would greatly protect vulnerable people from coercion or making decisions when they did not have the mental capacity to do so.

We believe that the Bill contains a number of important, stage-by-stage, safeguards, which are both medical and legal. It is good, for example, that there are strict checks to ensure that requests are voluntary and those witnessing the requests do not have a financial or other interest in the person's death. It is also important that there are requirements for psychiatric as well as other medical checks.

- **Do you have any other considerations on the Bill not included in answers to the above questions?**

We believe that the Bill's approach towards the method of end of life assistance increases choice and autonomy for those at end of life and should be supported. We also believe that it is not permissive or directive over medical professionals, allowing them to make the best decisions about the means of death with and for their patients.

Of particular importance is the requirement in the Bill that, regardless who provides the end of life assistance, the registered medical practitioner must be present at end of the requesting person's life. It provides to allow for some action by a registered medical practitioner should something go wrong and the end of life assistance administered fail. This requirement is an additional safeguard to ensure that the means of death is as humane, dignified and pain-free as possible. This is to be welcomed.

These provisions to allow action by the registered medical practitioner are important. There is no rational moral distinction between allowing someone to die and actively assisting them to die in these circumstances: the intention and the outcome (the death of the patient) are the same in both cases, but the more active means is probably the more compassionate one.

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