

Call for Evidence on the End of Life Assistance (Scotland) Bill

Response from the Scottish Council of Jewish Communities

The Scottish Council of Jewish Communities welcomes the opportunity to comment on the End of Life (Scotland) Bill, and to express our grave concern at the proposals therein.

Halachah (Jewish Law) regards human life as being sacrosanct. Its value is absolute, not relative to a person's age or health, and it is certainly not something that can be ended at will. The commandment of *Pikuach Nefesh* (saving life) is central to Jewish belief - the Talmud states that "*one who saves a single life is regarded as if he had saved the whole world*" and other religious obligations must (not "may") be set aside in order to do so.

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

The responsibilities of a medical practitioner should relate only to the preservation of life and the alleviation of pain and distress, not to a deliberate intention to terminate life. Furthermore, we do not agree that a person should have his or her life deliberately terminated, or death deliberately hastened.

The language employed in the Bill and associated documents minimises what is being proposed. The people it purports to want to assist are not even those relying on life support systems about whom there may be debate as to whether they are actually "alive". It is about people who are indisputably alive. The correct word for facilitating the transition from life to death is "killing", not "end of life assistance", and any argument for legislating to permit it should be prepared to stand under that description. To do otherwise is to rely on a sophistical redefinition, not on the facts of the matter.

Judaism is unequivocally opposed to both euthanasia and suicide, and sets great store by genuine end of life assistance, namely the dedicated care given to patients in their final illness by members of the health care team. Jewish religious tradition gives clear guidance to those caring for terminally ill patients and for the patients themselves. Expressed simply, the principle is that it is forbidden to do anything that will hasten death. An eminent authority on Jewish law and ethics, Rabbi J.D. Bleich, has stated, in summarising the Jewish view on euthanasia: "*Any positive act designed to hasten the death of the patient is equated with murder in Jewish law, even if the death is hastened only by a matter of moments. No matter how laudable the intentions of the person performing an act of mercy-killing may be, his deed constitutes an act of homicide.*" (Judaism and Healing, Ktav Books, 1981).

However, whilst it is not permitted to shorten life neither is it permissible artificially to prolong the process of dying, and a patient has no obligation to accept burdensome treatment even when it might appear to be his or her best option. Furthermore, adequate pain relief supplied with the sole intention of relieving pain and distress is permitted by *Halachah* even if there is the possibility that the patient's life may be shortened in consequence. Since this is a complex area, consultation with doctors and a competent religious authority may be required to establish what is necessary for each individual patient.

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

This presupposes physician-assisted suicide to be acceptable. We do not agree that this is the case.

We are particularly concerned that young adults could be put under pressure to request “end of life assistance” if, for example, they were aware that their family had moved to Scotland whilst they were still a child in order to facilitate such a request once the child was 16. The premise of the Bill is that a person under 16 is not competent to make such a request. However, 16 year-olds in this situation will effectively have made – or have had made for them – this decision whilst still under age, and may feel compelled to abide by it, the more especially if their siblings have had to move school, and parents change job, or become unemployed as a result.

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

This presupposes physician-assisted suicide to be acceptable. We do not agree that this is the case.

Experience shows that doctors are not always able to anticipate the course of an illness to predict accurately when death might occur. However, information about a patient's prognosis provided in the context of a request from a patient for assistance to terminate his or her life, may exert considerable psychological pressure, causing the patient to feel a burden on family and friends if he or she does not request an assisted premature death. We believe it to be intrinsically wrong that anyone should be placed in this position.

Furthermore, a person's view of what is “intolerable” is liable to change according to factors other than his or her experience of illness or incapacitation. For example, it is not uncommon for a person who does not believe life worth living on one day, desperately to wish to live long enough to attend a wedding or see a grandchild when an engagement or pregnancy is revealed on the next. It is not tenable to rely on a criterion that is not only subjective, but which may be subject to complete reversal in response to factors that have no bearing on the extent of a person's illness or level of incapacitation.

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?

This presupposes physician-assisted suicide to be acceptable. We do not agree that this is the case.

It is not, in our view, possible for either witnesses or “designated practitioner” to make a safe determination that an individual “*is making the request voluntarily*” since the person concerned may feel constrained to withhold information that would lead to a contrary determination. Moreover, being ‘voluntary’ does not preclude a request from having been made as a result of real or perceived pressure. We are concerned that some people may feel pressured to request assistance to end their life because they believe that otherwise they will be a financial burden to their family or to the NHS, but that this may not always be apparent. The simple presence on the statute book of a law legalising a form of euthanasia would in itself introduce an additional psychological pressure on patients. No-one should be forced into a position where they feel obliged to evaluate their life in such terms, and it is our view that this Bill will tend to devalue life and relegate it to being a commodity.

We are also extremely concerned by the requirement that both the designated practitioner and psychiatrist must discuss “*all feasible alternatives to proceeding under this Act ...; [and] the forms of end of life assistance which may be provided*”, and believe it to be entirely unacceptable that the deliberate ending of life should be regarded as one of a range of healthcare provisions.

Do you consider the level and nature of safeguards as set out in the Bill to be appropriate?

This presupposes physician-assisted suicide to be acceptable. We do not agree that this is the case.

Despite assertions to the contrary in the Policy Memorandum, we do not believe that the proposed safeguards can be relied on to ensure that an individual does not feel under pressure to request "end of life assistance". A decision to die can never be an unforced decision; in its nature, it relates to illness, concern about the impact that one is having on others, reflection on limited alternatives, and even on the perceived attitude of the health care team. If, for example, any of the witnesses, designated practitioner, or psychiatrist believes that, were they in the situation of the requesting person, they would find life intolerable, this view will undoubtedly be communicated, by tone and body language, if not in words, and will be an additional pressure on the person to proceed. The position of trust which they occupy in relation to a person requesting "end of life assistance", would itself lend weight to their view, whether explicitly stated or only implied.

We are also concerned that the proposed lawful killing may become a cover for murder. The death of a burdensome relative may be welcome to some people, and though the proposed safeguards might limit the scope for direct abuse, a considerable potential still exists for indirect abuse.

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

Almost everyone who is in the situation where assisted dying might be considered, in a regime where suicide is permitted, falls under some pressure to comply. If the Bill were to be enacted it would inevitably place a moral and emotional burden on those who are already suffering.

Judaism believes that all people, including the dying, should be invested with dignity, and that the dying should be treated with the greatest respect. It disagrees absolutely with the suggestion that a dignified death is one that is "assisted" to take place before its natural time, and is entirely opposed to the putative ethic on which the Bill is based. Indeed we would regard the basis of these proposals as entirely unethical, and, accordingly, cannot support the Bill to any degree.

Note: The Scottish Council of Jewish Communities (SCoJeC) is the representative body of all the Jewish communities in Scotland comprising Glasgow, Edinburgh, Aberdeen, and Dundee as well as the more loosely linked groups of the Jewish Network of Argyll and the Highlands, and of students studying in Scottish Universities and Colleges. SCoJeC is Scottish Charity SC029438, and its aims are to advance public understanding about the Jewish religion, culture and community. It works with others to promote good relations and understanding among community groups and to promote equality, and represents the Jewish community in Scotland to government and other statutory and official bodies on matters affecting the Jewish community.

In preparing this response we have consulted widely among members of the Scottish Jewish community.