Assisted Dying Bill (Tynwald) 2023

October 2023

Manx Duty of Care (MDOC) is an informal grouping of Manx Health and Social Care workers who oppose the intentional killing of patients by assisted suicide or euthanasia.

Key points

- The Assisted Dying Bill 2023, promoted by Dr Alex Allinson, is a Private Members' Bill currently scheduled for second reading in the House of Keys on 31 October 2023.
- The Bill would permit not only assisted suicide but also euthanasia - more radical than anything permitted in the United States or recently proposed in the United Kingdom.
- The Bill would allow mentally competent adults aged 18 years and older, with a terminal illness, and who have been ordinarily resident in the Island for not less than one year, to request and be provided with medical assistance in ending their life.
- Terminal illness is defined as an expectation of death within six months. However, such prognoses are **notoriously difficult to determine with certainty**.
- In other jurisdictions where assisted dying has been legalised for the terminally ill, further expansion of the law has almost always followed.
- The results of the Isle of Man public consultation on assisted dying showed that more participants (49.61%) opposed the legislation than supported it (49.01%).
- The UK Parliament has resoundingly rejected several recent attempts to legalise assisted suicide, most recently in 2015 and 2022.

Background

- The Tynwald rejected an assisted dying Bill by 17 votes to 5 in 2015[1] and chose not to pursue a further Bill in 2020.[2]

Provisions of the Bill

Eligibility - Section 4

- A person must have a terminal illness, be aged 18 or over, be ordinarily resident in the Island for at least one year, and must make a valid declaration in accordance with Section 6 as to their settled intention to end their own life.

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[1] bbc.co.uk/news/world-europe-isle-of-man-31110603

[2] manxradio.com/news/isle-of-man-news/assisted-dying-sparks-five-hour-tynwald-debate

- A similar residency requirement in Oregon has recently been removed. It is probable there would be pressure over time for a similar loosening of the law in the Isle of Man, leading to the likelihood of '**suicide tourism**'.[3]

Terminal Illness - Section 5

- The Bill defines a terminal illness as one that is diagnosed by a registered medical practitioner, and is inevitably progressive and irreversible.
- Furthermore, as a consequence of the illness, it will be reasonably expected for the applicant to die within six months.
- However, treatment which **only temporarily relieves symptoms of an inevitably progressive condition without reversing them is not to be regarded as treatment** under the Bill.
  - There is a danger the Bill could be interpreted in a way that would permit people with conditions usually considered to be treatable to request assistance in dying.
  - Legislation in Oregon, where a diagnosis of a terminal illness that will lead to death within six months is also required[4], has been used to permit assisted suicide for patients with conditions including anorexia, diabetes, hernias and arthritis.[5]

Assistance in dying - Section 7

- The Assisted Dying Bill would legalise *both* **assisted suicide**[6] (self-administration of life-ending drugs) *and* **euthanasia**.[7]
- Section 7(5) states that the person seeking assistance in dying must decide whether to self-administer the medicine (assisted suicide), or to request an assisting health professional (AHP) administers the medicine (euthanasia).

Problems with the Bill

- Terminal illness prognoses
  - It is extremely difficult to determine terminal illness prognoses with certainty. The Marie Curie charity states "It can be difficult for healthcare professionals to predict exactly how long someone with a terminal illness will live".[8] The Association for Palliative Medicine opposes assisted suicide on the basis that "Assessing capacity is extremely complex

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[3] nytimes.com/2022/03/29/us/oregon-suicide-residency.html

[4] oregon.gov/oha/ph/providerpartnerresources/evaluationresearch/deathwithdignityact/pages/faqs.aspx#whocan

[5] oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/EVALUATIONRESEARCH/DEATHWITHDIGNITYACT/Documents/year24.pdf

[6] See Section 7(6).

[7] See Section 7(7).

[8] mariecurie.org.uk/who/terminal-illness-definition

and estimating prognosis is unreliable".[9]

- Research from the Marie Curie Palliative Care Research Department at University College London in 2016 found that the accuracy of prognoses for terminal illness can range from 78% to a mere 23%.[10]

- Expansion of eligibility criteria
  - There has been a rapid expansion in eligibility criteria in jurisdictions where assisted suicide/euthanasia was first permitted solely for the terminally ill.
  - In Canada, 'Medical Assistance In Dying' (MAID) was legalised in 2016 for the terminally ill but the requirement for death to be "reasonably foreseeable" was removed in 2021[11]. Canada has also approved, in principle, the extension of MAID to include people with mental illness[12] and is considering including minors in its eligibility criteria[13].
  - Such expansion is almost inevitable under human rights challenges whereby permitting assisted dying for one group of people but not others could be considered discriminatory[14].
  - Campaign groups are already seeking to expand the eligibility criteria[15] in the Isle of Man to include incurable and intolerable suffering. "Intolerable suffering" is subjective and very hard to measure. In the Netherlands, such criteria has been used to permit an assisted death for a woman with tinnitus.[16]
- The introduction of euthanasia
  - By allowing euthanasia as well as assisted suicide, the Bill goes much further than recent proposals in the UK or what is permitted in the US.
  - Allowing healthcare professionals to administer euthanasia would fundamentally change the relationship between physicians and their patients and removes the safeguard that is created by the requirement for individuals to self-administer the means of their death.

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9 apmonline.org/wp-content/uploads/2020/10/AS-position-statement-Final.pdf

10 mariecurie.org.uk/globalassets/media/documents/policy/appg/all-party-parliamentary-group-for-terminal-illness-report-2019.pdf p.24

11 justice.gc.ca/eng/cj-jp/ad-am/bk-di.html#s1

12 justice.gc.ca/eng/cj-jp/ad-am/bk-di.html#s1

13 justice.gc.ca/eng/cj-jp/ad-am/bk-di.html#s1

14 See youtube.com/watch?v=B1_Cli5P2To

15 bbc.co.uk/news/world-europe-isle-of-man-66044721

16 bmcmedethics.biomedcentral.com/articles/10.1186/s12910-018-0257-6/tables/1

- Conscientious objection
    - Although Section 8 of the Bill contains a conscientious objection clause, evidence from other jurisdictions reveals that, even where similar provisions apply, medical professionals may face discrimination for objecting to assisted suicide and/or feel pressured into acquiescing to requests for assistance in dying[17], while in Canada, supporters of assisted suicide are now questioning whether conscience protections ought to remain.[18]
- The danger of coercion
    - While the Bill seeks to guard against coercion, in reality this is almost impossible as demonstrated in other jurisdictions with similar laws.
    - In Canada, over 35% of individuals who died by medical assistance reported being motivated by being a "perceived burden on family, friends or caregivers".[19]
    - In Oregon, 48% of those who have received an assisted death reported concerns over being a burden on others, whereas only 28% have been concerned about pain.[20]
    - Once assisted dying is legal, there is a danger vulnerable and elderly people will feel obliged to consider it so as not to burden their loved ones.
- Assisted dying does not always lead to a peaceful death
    - In Oregon, annual complication rates with assisted deaths have been as high as 14.8%. Patients are reported to have experienced difficulty swallowing, drug regurgitation and seizures, and have even regained consciousness after ingesting the 'lethal' drugs.[21]
    - Other complications in assisted dying include vomiting and death taking many hours.[22]
    - Instead of legalising assisted dying, there should be greater investment in palliative and social care. Modern palliative care is extremely effective in managing pain. A palliative care doctor in the Netherlands has reported that assisted dying "becomes a substitute for learning how to relieve the suffering of dying patients".[23]

For more information please contact: ***enquiries@manxdoc.com***

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17 Pressure in dealing with requests for euthanasia or assisted suicide. Experiences of general practitioners | Journal of Medical Ethics

18 bmcmedethics.biomedcentral.com/articles/10.1186/s12910-023-00950-9

19 canada.ca/content/dam/hc-sc/documents/services/medical-assistance-dying/annual-report-2021/annual-report-2021.pdf (Chart 4.3)

20 oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/EVALUATIONRESEARCH/DEATHWITHDIGNITYACT/Documents/year25.pdf p.14

21 ncbi.nlm.nih.gov/pmc/articles/PMC9270985/

22 rnz.co.nz/news/in-depth/439441/euthanasia-what-happens-if-the-drugs-don-t-work

23 committees.parliament.uk/writtenevidence/117017/pdf/ p.8