

Lord Falconer's Assisted Dying Bill

Lord Falconer's 'Assisted Dying Bill' seeks to legalise assisted suicide (but not euthanasia) for mentally competent adults (18+) with less than six months to live subject to 'safeguards' under a two doctors' signature model similar to the Abortion Act 1967.

Death takes place after 14 days by self-administering 'medicine' in the presence of an 'assisting health professional'.

A person qualifying under the auspices of the bill must:

- have a clear and settled intention to end his or her life
- be aged 18 or over and resident in England and/or Wales for one year
- have been diagnosed with a terminal illness ('inevitably progressive') and be 'reasonably expected' to die within six months
- have made and signed a witnessed declaration countersigned by two doctors who must examine the patient and both record and confirm 'terminal illness', 'mental capacity' and 'clear and settled intention' without 'coercion or duress' and be satisfied they are informed of 'palliative, hospice and other care available'.

Official Summary of the Assisted Dying Bill (HL) 2014-15

*A Bill To enable competent adults who are terminally ill to be provided at their request with specified assistance to end their own life; and for connected purposes.*¹

The Bill had an unopposed second reading in the House of Lords on 18 July. Committee stage is scheduled for 7 November when the details of the bill will be debated. Report and third reading are expected to follow within weeks.

Care Not Killing is opposed to this bill *both in principle and in detail* on the grounds that it is uncontrollable, unethical and unnecessary, and we are urging peers to reject it at third reading. We outline our specific concerns in this leaflet.

General arguments against the legalisation of assisted suicide and euthanasia

- Any change in the law to allow assisted suicide would place pressure on vulnerable people to end their lives for fear of being a financial, emotional or care burden upon others. This would especially affect people who are disabled, elderly, sick or depressed. The right to die can so easily become the duty to die. Current legislation also protects vulnerable relatives from being subtly coerced into assisting a suicide against their better judgement
- The pressure people will feel to end their lives if assisted suicide is legalised will be greatly accentuated at this time of economic recession with families and health budgets under pressure. Elder abuse and neglect by families, carers and institutions are real and dangerous and this is why strong laws are necessary
- Experience in other jurisdictions, such as Belgium, the Netherlands and the American states of Oregon and Washington, shows that any change in the law will lead to 'incremental extension' and 'mission creep' as some doctors will actively extend the categories of those to be included (from mentally competent to incompetent, from terminal to chronic illness, from adults to children, from assisted suicide to euthanasia). This process will be almost impossible to police
- Euthanasia deaths in the Netherlands have increased by 13-20% per year from 2006 to 2013². Euthanasia now accounts for over 3% of all Dutch deaths. In 2013 there were 42 reports of people who underwent euthanasia because they suffered severe psychiatric problems and 97 cases with dementia. A *Lancet* study³ indicated that in 2010, 23% of all euthanasia deaths were not reported and that 12.3% of all deaths were related to deep-continuous sedation. Under the Groningen protocol 22 babies with spina bifida and hydrocephalus were euthanised over a seven year period⁴
- In Belgium which legalised euthanasia in 2002 there has been a 500% increase⁵ in euthanasia deaths over ten years between 2003 and 2012. High profile cases include Mark and Eddy Verbessem (deaf and blind twins)⁶, Nathan/Nancy Verhelst (depressed following gender reassignment)⁷ and Ann G (anorexia)⁸. Organ donation euthanasia is already practised in Belgium and the country extended the programme to minors earlier this year
- The present law making assisted suicide illegal is clear and right and does not need changing. The penalties it holds in reserve act as a strong deterrent to exploitation and abuse whilst giving discretion to prosecutors and judges in hard cases. It has both a stern face and a kind heart
- Persistent requests for assisted suicide and euthanasia are extremely rare if people are properly cared for so our priority must be to ensure that good care addressing people's physical, psychological, social and spiritual needs is accessible to all. Patients almost always change their minds about euthanasia when they experience good care. A good doctor can kill the pain without killing the patient

- Hard cases make bad law. In a free democratic society we accept limits to our own freedom in order to safeguard the interests of vulnerable others. The primary function of the law is to protect the vulnerable many, not to grant liberties to the determined and desperate few
- British Parliamentarians have rightly rejected the legalisation of assisted suicide and euthanasia in Britain three times since 2006 out of concern for public safety – in the House of Lords (2006 and 2009) and in Scotland (2010) – and repeated extensive enquiries have concluded that a change in the law is not necessary
- The current law is working well. The number of British people travelling abroad to commit assisted suicide or euthanasia is very small (243 at the Dignitas facility in 11 years) compared to numbers in countries that have legalised assisted suicide or euthanasia. With an 'Oregon' law England and Wales would have over 1,200 deaths a year and with a 'Dutch' law over 16,000
- If assisted suicide or euthanasia is legalised any 'safeguards' against abuse, such as limiting it to certain categories of people, will not work. Instead, once any so-called 'right-to-die' is established we will see incremental extension with activists applying pressure to expand the categories of people who qualify for it. Any 'right to die' granted selectively to some people will be ripe for legal challenge under equality law by those who fall outside its boundaries and 'mission creep' will be inevitable
- The vast majority of UK doctors (about 65% in most surveys) are opposed to legalising euthanasia along with the British Medical Association, the Royal College of Physicians, the Royal College of General Practitioners, the Association for Palliative Medicine and the British Geriatric Society
- All major disability rights groups in Britain (including Disability Rights UK, SCOPE, UKDPC and Not Dead Yet UK) oppose any change in the law believing it will lead to increased prejudice towards them and increased pressure on them to end their lives
- Public opinion polls can be easily manipulated when high media profile (and often celebrity-driven) 'hard cases' are used to elicit emotional reflex responses without consideration of the strong arguments against legalisation. But this public opinion is uninformed, uncommitted and unconvincing. Public support for Falconer's Bill drops dramatically from 73% to just 43% when the five key arguments against it are heard⁹

1. <http://bit.ly/1j4lI8h>
 2. <http://bit.ly/1nMlHDR>
 3. <http://bit.ly/1rRTGWC>

4. <http://bit.ly/1u2ET11>
 5. <http://bit.ly/1teGqjv>
 6. <http://bit.ly/1wanbIK>

7. <http://bbc.in/1v9nXkT>
 8. <http://bit.ly/1lBtmV2>
 9. <http://bit.ly/1uQSV0V>

Specific critiques of Lord Falconer's Assisted Dying Bill

- The Bill essentially licenses doctors to end life by dispensing lethal drugs. It therefore carries all the weaknesses already seen in the Abortion Act (i.e. allowing for elastic definitions, fudged paperwork, subjective judgements)
- The determination of 'terminal illness', 'mental capacity' and 'clear and settled wish' are all very difficult to ascertain clinically even in skilled hands and are open to elastic definitions and the pushing of boundaries
- Many of the so-called 'safeguards' in the bill were previously rejected as unsafe when they appeared in Lord Joffe's Assisted Dying Bill in 2006
- The bill does not require the patient to be 'suffering' in any way and yet is being promoted on grounds of 'compassion'. This is illogical as many of those included within its eligibility criteria are not suffering and many not included are suffering
- The bill is being promoted on grounds of 'autonomy' but only applies to mentally competent, terminally ill adults. It is thereby at its very heart discriminatory and will be ripe, once passed, for challenge and extension under equality legislation
- The certifying doctors are not required to know the patient in question
- There is no psychiatrist involved in the determination of 'mental capacity'
- There is nothing about 'approved premises' in the bill meaning that assisted suicide could be carried out anywhere and everywhere
- Although the bill requires the two authorising doctors separately to examine the person and the person's records the declaration form authorising the assisted suicide does not require them to say that they have done so
- Execution, reporting and oversight provisions for authorised assisted suicides are all left for the Secretary of State and Chief Medical Officer to provide. In other words the bill lists eligibility criteria for assisted suicide (terminally ill, mentally competent, settled wish etc) but no real safeguards against abuse which can be properly scrutinised by Parliament.

Care Not Killing – www.carenotkilling.org.uk/falconer-bill

Assisted Dying Bill – <http://services.parliament.uk/bills/2014-15/assisteddying.html>

