

BUSINESS

ASSISTED DYING BILL FOR TERMINALLY ILL ADULTS (SCOTLAND) BILL AMENDMENT TO BE MOVED AT STAGE 3

In Section 14A, page 9, line 17 leave out from <including> to end of line 22.

Effect

This amendment removes subsection 14(A)(4)(a)(i)-(v) from the Bill.

Reason

Section 14A(4)(a) sets out multiple, distinct functions for advocacy services provided to individuals considering requesting assistance to end their own life in accordance with this Act. It is unclear how these functions would operate in practice or how independent advocates would be expected to discharge them, particularly given the potential burden and the wide scope of the duties proposed. We do not consider that these subparagraphs are necessary, given that the opening provision already captures the core intention of ensuring that persons have access to appropriate advocacy support.

In addition, we note that the inclusion of a requirement relating to the provision or facilitation of legal guidance (section 14A(4)(a)(i)) is unusual and falls out with the ordinary functions of independent advocacy services as understood within existing statutory frameworks such as the Mental Health (Care and Treatment)(Scotland) Act 2003. Advocacy services typically support individuals to express their views and safeguard their rights, but they do not ordinarily provide legal advice or act as intermediaries for accessing legal advice. Introducing such a role may create confusion about the boundaries between advocacy and regulated legal services, with risks for both advocates and the individuals they support.

We would therefore suggest that the detailed subparagraphs in section 14A(4) should be removed from the Bill, with any additional expectations instead addressed through secondary guidance or a code of practice. This would reduce the risk of introducing substantial new concepts and obligations that go beyond existing statutory advocacy frameworks on the face of the Bill, which may create operational challenges.