

Consultation Response

Palliative Care Matters for All:
strategy consultation

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Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Health and Medical Law sub-committee welcomes the opportunity to consider and respond to the Scottish Government consultation: Palliative Care Matters for All: strategy consultation.¹ The sub-committee has the following comments to put forward for consideration.

Consultation Questions

Question 5a Do you agree with strategy outcome 3 and the proposed actions being developed to deliver this outcome?

We have concerns of the potential significant burden which may be placed on organisations to provide data that will be analysed to provide an "equitable" care structure across society. From our understanding, this would come from all organisations providing palliative care. It is not clear if this requirement also to charities that offer hospice care or support to those receiving end-of-life care, whether organisations can opt out of providing that data, and how this would be funded. We also have concerns around who would be responsible for completing the data and whether funds raised for charities could end up being used to provide data used by the state.

Question 7a. Do you agree with strategy outcome 5 and the proposed actions being developed to deliver this outcome?

We have some concerns regarding the widespread sharing of individuals' care plans. End-of-life care involves very personal choices. It could involve requested access to assisted dying, future loss of capacity, advance choices, power of attorney arrangements, etc. It is our understanding that there is no reference to AWI issues through the strategy paper and consultation questions. It is not clear whether an individual could opt out of some of the information being shared.

¹ [Palliative Care Matters for All: consultation - gov.scot](https://www.gov.scot/consultations/Palliative_Care_Matters_for_All_consultation)



Question 10a. Do you agree with strategy outcome 8 and the proposed actions being developed to deliver this outcome?

Training and education could be a significant issue here, and we are unclear if this is mandatory. We have concerns over a greater reliance on social care organisations to provide palliative care to save money. We consider that palliative care requires highly trained individuals' skills and expertise. This is a highly specialist area of medical and nursing care.

Question 11. Please add any further comments you have about the draft strategy outcomes and actions here

Individuals receiving palliative care are highly vulnerable. The use of medication to manage pain might and any impact on ability to give informed consent must be considered. We would hope to see more evidence of protective measures or evidence of a senior person with oversight responsibilities for the individual receiving palliative care. MDT discussions should be considered. While there is some reference to empowering individuals, adequate oversight is needed so that vulnerable people aren't put at risk.

We note from the consultation paper that many of the proposed changes are referred to being made in the context of the National Care Bill ([National Care Service \(Scotland\) Bill | Scottish Parliament Website](#)). We note that there is currently no timetable for progressing this Bill, and that the Scottish Government has indicated that it requires time “to fully reflect the range of views expressed in [the] approach to the Bill” before moving matters forward ([National Care Service: Ministerial statement - gov.scot](#))



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