

1. What is the law on physician-assisted dying in the UK?

1. Lord Advocate, Frank Mulholland QC. Written evidence on the Assisted Suicide (Scotland) Bill (ASB 178).
2. Scottish Parliament (2015) *Official Report: Health and Sport Committee, Tuesday 13 January 2015. Session 4*. Scottish Parliament: Edinburgh. Para. 24.
3. Crown Prosecution Service (2019) [Latest Assisted Suicide Figures](#), Update as of 31 January 2021.

Northern Ireland

Euthanasia is illegal and could be prosecuted as murder or manslaughter.

'Assisting or encouraging' another person's suicide is illegal under s.13 of the Criminal Justice (Northern Ireland) Act 1966, which extends the Suicide Act 1961 to Northern Ireland.

The Public Prosecution Service (PPS) examines individual cases to decide whether to prosecute. That decision is guided by offence-specific guidelines published in 2010.

England and Wales

Euthanasia is illegal and could be prosecuted as murder or manslaughter.

'Assisting or encouraging' another person's suicide is prohibited by s.2 of the Suicide Act 1961, as amended by the Coroners and Justice Act 2009.

The Director of Public Prosecutions (DPP) examines individual cases to decide whether to prosecute. That decision is guided by offence-specific guidelines published in 2010.

Since April 2009, there have been 167 cases referred to the Crown Prosecution Service (CPS), three of which have been successfully prosecuted. (3)

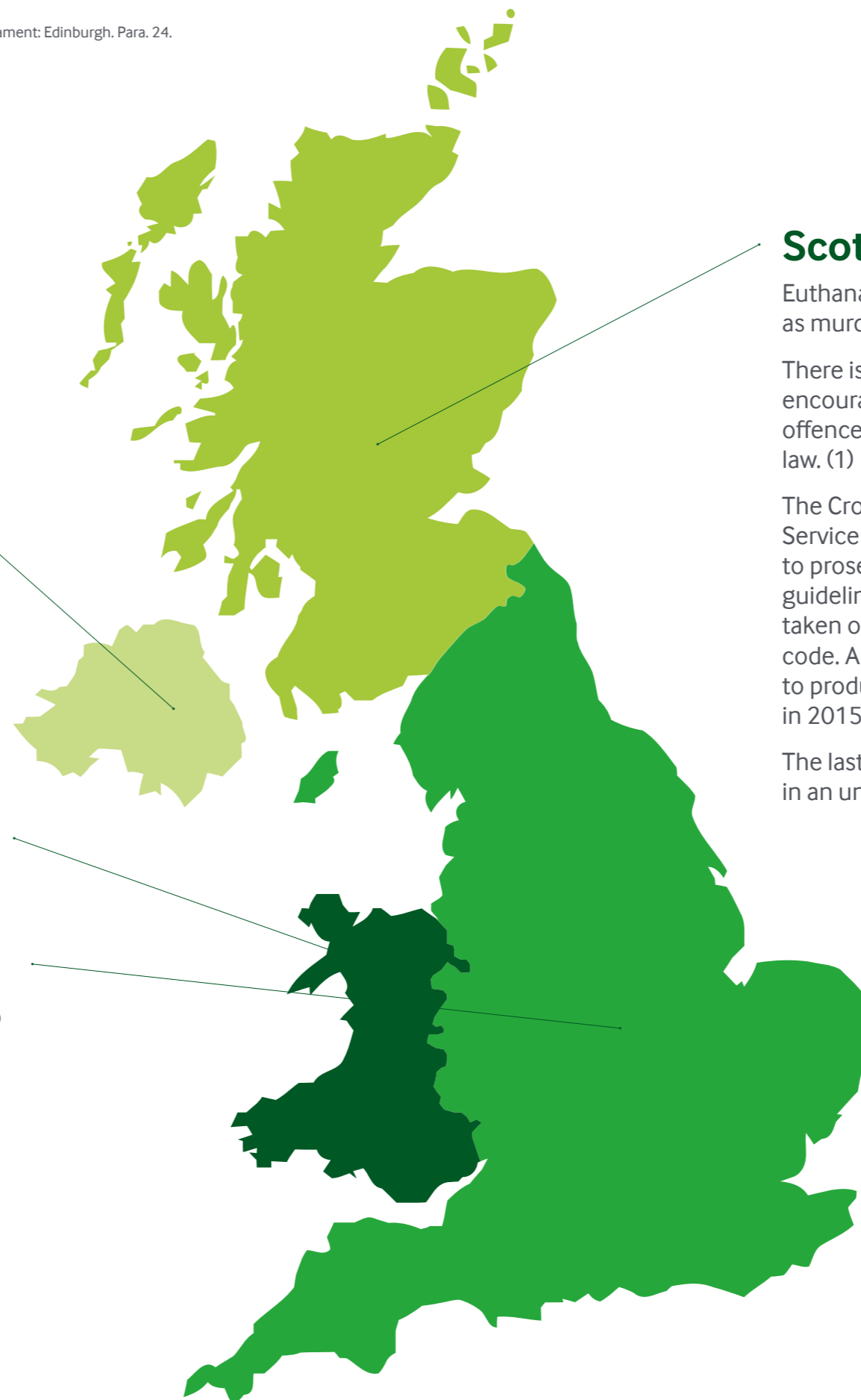
Scotland

Euthanasia is illegal and could be prosecuted as murder or manslaughter.

There is no specific offence of assisting or encouraging suicide in Scotland. Any suspected offence would be dealt with under homicide law. (1)

The Crown Office and Procurator Fiscal Service (COPFS) makes the decision whether to prosecute. There are no offence-specific guidelines in Scotland and the decision will be taken on the basis of the general prosecution code. A legal challenge to compel the COPFS to produce offence-specific guidelines failed in 2015.

The last known prosecution was taken in 2006, in an unreported case. (2)



2. Current legislative proposals in the UK

Assisted Dying Bill – England and Wales

Baroness Meacher, a former social worker, crossbench peer and the Chair of Dignity in Dying, introduced [a private members bill](#) on assisted dying on 26 May 2021. The Second Reading is expected to take place in the autumn.

Eligibility criteria

The Bill seeks to “enable adults who are terminally ill to be provided at their request with specified assistance to end their own life”. It applies only to people who:

- are over the age of 18;
- have a terminal illness;
- have the mental capacity to make the decision;
- have made a voluntary request to end their own lives; and
- have been ordinarily resident in England and Wales for at least a year.

“Terminally ill” is defined in the Bill as having an inevitably progressive condition, diagnosed by a doctor, which cannot be reversed (as opposed to alleviated) by treatment and where, as a result of which, death is reasonably expected within six months.

Process and application to the High Court

Under the Bill a terminally ill person who wants assisted dying would need to make an application to the High Court by way of a declaration of their voluntary, settled, informed wish to end their own life.

The declaration, which can be withdrawn at any time, would need to be:

- witnessed by a non-family member, not involved in the person’s care; and
- countersigned by a doctor from whom the assisted death had been requested (the “attending doctor”) and a suitably qualified independent doctor. The two doctors would need to affirm that the person:
 - met the eligibility criteria under the Bill; and
 - had been informed of the palliative, hospice and other care that was available.

Where there was any doubt about the capacity of a person to make the declaration, the opinion of an independent psychiatrist would need to be sought.

The High Court would confirm that the declaration was valid and then provide a date on which it would take effect.

Provision of assisted dying

Following confirmation from the High Court, the Bill would permit the attending doctor to prescribe medication for that person to end their own life. The medication could be delivered to the patient by that doctor, another doctor or a nurse but only after two weeks have passed since the declaration took effect.

While the medication must be self-administered, the health professional would be permitted to prepare a medical device or otherwise help the person to self-administer.

The health professional would need to remain with the person until they died or until they had decided not to take the medicine, in which case it would be immediately removed and returned to the pharmacy as soon as was practicable.



Governance, monitoring and reporting

The Bill has provisions to permit the Secretary of State to publish a code of practice for, among other things:

- the assessment of a person seeking assisted dying;
- the counselling to be made available; and
- the arrangements for delivering medicines and the degree of assistance that can be provided.

The Chief Medical Officer for either England or Wales is required to monitor assisted dying under the Bill's provisions and report annually to either Parliament or the Senedd.

Conscientious objection

The Bill includes a clause stating that "A person is not under any duty (whether by contract or arising from any statutory or other legal requirement) to participate in anything authorised by this Act to which that person has a conscientious objection."

Assisted dying – Scotland

On 21 June, Liam McArthur MSP lodged a Bill with the Scottish Parliament that would allow terminally ill people in Scotland (provided they had lived there for at least 12 months) to end their lives. At the time of writing a copy of the proposed Bill was not publicly available; however, [media reports](#) indicate that, like the Bill proposed by Baroness Meacher, two doctors would need to confirm that a person met the eligibility criteria and had the mental capacity to make the decision. Commenting on the Bill, Mr McArthur stated that "It has strong safeguards that put transparency, protection and compassion at its core and is modelled on legislation that has passed rigorous testing in other countries around the world."

More information about the Bill will be added here as soon as it is available. A consultation on the proposed legislation is due to take place in the autumn.

BMA

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