Briefing on the Assisted Dying for Terminally Ill Adults (Scotland) Bill - May 2025

Background

The Assisted Dying for Terminally Ill Adults (Scotland) Bill was published at the end of March 2024. This is a private member's bill introduced by Liam McArthur MSP.

Hospice UK provided an initial briefing on the Bill for hospice members at the time it was published. We also held a webinar for members in April 2024 which is still available to view. In November 2024 we provided a further briefing to members on the parliamentary scrutiny process.

The Health, Social Care and Sport Committee issued a call for views summer last year and received 13,821 responses to the short survey and 7,236 responses to the detailed call for evidence. Hospice UK's submission has previously been shared. The Committee took oral evidence between November and February from a range of organisations and individuals. The Committee has now finished its scrutiny of the Bill and this briefing provides a summary of their Stage 1 report.

Stage 1 Report - Summary

The Health, Social Care and Sport Committee has now published (on Wednesday 30th April) its Stage 1 report on the Bill. For most Bills, the lead committee responsible for scrutinising the content of the Bill would publish a report recommending whether or not MSPs should support the Bill when it comes to the Parliament for a Stage 1 vote. For this Bill a different approach has been taken.

This report sums up the evidence the Committee has received while providing very little further comment/analysis of differing perspectives. The report points MSPs towards areas of potential focus or where further work will be needed if the Bill passes Stage 1 but does not provide any strong recommendations. The final recommendation is:

- *In conclusion, given broad recognition across the Parliament that the proposed legalisation of assisted dying is a matter of conscience, the Committee has chosen to make no overall recommendation to the Parliament concerning the general principles of the Bill.*

Stage 1 Report - Focus of the Committee's Points

The Executive Summary of the report pulls forward key points covered in more detail throughout the report. In the order in which they are covered in the report these are:

- **Palliative care** - "*Palliative care provides physical and emotional support to people at the end of life. The Committee believes that everyone who needs it should be able to access good quality palliative care at the end of their lives. Regardless of the outcome of this Bill, we hope the current debate will provide a catalyst for further improvements to be made to the quality and availability of palliative care services in Scotland.*"
- **Human Rights** - two issues are identified for MSPs to consider - the potential for a human rights based legal challenge that could result in eligibility for assisted dying being extended over time; and the extent to which the Bill strikes an appropriate balance between providing a right for terminally ill adults to access assisted dying and the requirement to protect vulnerable groups

- **Safeguards** – suggestion that the Bill could be strengthened via amendments to establish an independent oversight mechanism such as an independent review panel or a potential monitoring role for the Chief Medical Officer
- **Eligibility** – the Committee accepts the lack of a timescale for life expectancy but indicates that further consideration and consultation is needed on minimum age (currently 16) if the Bill passes Stage 1 and the residency criterion should potentially be amended
- **Capacity** – report highlights the need for further consideration/amendments on resource implications for medical professions; ensuring capacity for people with a mental disorder is non-discriminatory; defining eligibility for those with fluctuating capacity
- **Process** – amendments may be needed in relation to
    - clarity around medical practitioners' duty/right to raise assisted dying; safeguards against "doctor-shopping"; provisions for signing by proxy
    - Committee view is that assisted dying should be recorded on death certificate as well as the eligible condition
    - also a question over whether 14-day period of reflection is appropriate; and a statement that detailed guidance on self-administration and provision of assistance would be needed
    - additionally the Committee recognised the current proposal enables integration with existing services but says *"it may also be appropriate to explore via amendments whether specific aspects of assisted dying would be better delivered on a standalone basis, in particular to ensure consistent access across the country"*
- **Conscientious objection** – amendments are needed to provide clarity and certainty; the Committee's minimum expectation is that medics will refer on to a colleague who does not object; a "no detriment" clause for staff (who choose to be involved or not) should be considered; the Committee note Liam McArthur's willingness to explore an opt-in model and consider this warrants further debate/amendment if Bill progresses to Stage 2
- **Institutional objection** – "*Irrespective of whatever position the Parliament takes on allowing or prohibiting institutional objection, we believe amendments will be needed should the Bill progress to Stage 2 to provide further clarity so institutions understand how they will be permitted to act should the Bill become law."*
- **Training costs** – significant discrepancies in training cost estimates; if Bill becomes law the Scottish Government should set out how it intends to meet training costs without negatively affecting available funding for existing services
- **Coercion** - alternative models should be explored further via amendment if the Bill progresses to Stage 2; and mechanisms for reviewing and updating guidance should be considered
- **Competence of the Bill** - *"We welcome the Scottish Government's commitment, should the Bill progress beyond Stage 1, to open dialogue with the UK Government with a view to resolving these. We call on the Scottish Government to keep the Parliament regularly updated on progress."*
- **Information, reporting and review provisions** - additional detail/information should be collected as part of the reporting and review process; additionally the Committee has suggested potentially including: *"a 'sunset clause', meaning the legislation could not remain in force beyond a defined period without a further vote in the Parliament"*

Stage 1 Report - Hospices and Palliative Care

Within the report there is a section specifically on palliative care. Similar to other sections of the report this often presents opposing points of view without reaching any conclusion. The two key areas of focus within this section are:

- Palliative care as a driver of assisted dying
- Effect of assisted dying on palliative care

Within this palliative care section, Children's Hospices Across Scotland (CHAS) are quoted:

> *"There are important questions about access, equity of funding, and ensuring that the appropriate palliative care services are there. Even if this bill were not to proceed and parliamentarians were not to support it, the need for palliative care would remain; and, even if parliamentarians do support it and it becomes law, there would be many people who may wish to access assisted dying, but for whom palliative care would be necessary and would provide significant relief and support for many, many years prior to death."*

The Committee recommendations in relation to palliative care are:

- *Throughout its scrutiny of the Bill at Stage 1, the Committee has heard compelling evidence of the overarching importance, irrespective of whether or not the Bill becomes law, of ensuring that everyone who needs to is able to access good quality palliative care at the end of their lives. The Committee hopes that, regardless of the outcome, the current debate on assisted dying will provide a catalyst for further attention to be given towards improving the quality and availability of palliative care services in Scotland.*
- *Should the Bill progress beyond Stage 1, the Committee highlights to the Scottish Government the importance of giving ongoing careful consideration to how the Bill, if it becomes law, will interact with all other key aspects of end-of-life care provision, including palliative care.*

Palliative care and hospice references do appear throughout the rest of the report as well. These references include one of the recommendations at the conclusion of the **Views for and against assisted dying section**:

> *The Committee notes evidence from other jurisdictions that there has been a general tendency towards the number of people requesting assisted dying increasing over time following legalisation. Some have argued that such trends are a cause for concern while others take the view that such a trend should not, in and of itself, be considered concerning. Should the Bill progress to become law, the Committee considers it important for such trends to be monitored in conjunction with other factors including the availability of palliative care and social care.*

Hospice UK is quoted in relation to three areas:

Conscientious objection:

In its written submission, Hospice UK was in agreement that there may be other reasons not related to conscience that might prompt professionals to not want to be involved:

> *"The framing of this decision by medical professionals as being one of conscientious objection is not necessarily helpful. Some professionals may have no issue with assisted dying being legalised but would wish to not participate in order to protect their own mental health and wellbeing."*

Opt in model

Hospice UK outlined what they perceived to be some additional benefits of an 'opt in' model:

> *"An opt in model for health professionals would have the advantage of providing clarity to both healthcare professionals and members of the public (through a statutory care navigator service) of how best to access an assisted dying service if this Bill is passed. It would also allow the Scottish Government/NHS to accurately map where the service is available. For individuals, health care professionals and organisations this could provide assurance and transparency."*

Training for hospice staff if assisted dying is legalised

Hospice UK flagged the importance of ensuring, if assisted dying were to be legalised, that all staff working in hospices were provided with an appropriate level of training:

> *"Regardless of whether or not assisted dying is delivered in any charitable hospice, based on the eligibility criteria proposed in the Bill the vast majority of adults supported by hospices would be*

eligible to request assisted dying. This means that all staff (and potentially volunteers) working within Scottish hospices would need, at the minimum, further training on:
• how requests for assisted dying should be handled
• what the process is if a patient wishes to access an assisted death
• updates to existing training on how to have difficult conversations"

It concluded:

"The development and delivery of any training programme or materials must include staff employed by non-statutory organisations (such as hospices or care homes)."

Other hospice references include:

The Humanist Society in relation to institutional objection in Australia:

For example, if a patient is in hospice care and the institution says, "We're having nothing to do with assisted dying—we won't even allow people on our premises to do an assessment process", that has a massive negative impact on patients. They might have to withdraw to their home, which can have an impact on their care.

Totara Hospice (NZ) in relation to the period of reflection within the assisted dying process set out by the Bill:

Two weeks is a very long time for some people if they continue to suffer. It is reasonable for others. The point being - make sure that the reflection period is patient centred and supports patient choice and does not inadvertently become a tool for bias or barrier.

What's Next - Stage 1 Debate and Vote

The Stage 1 vote on whether the general principles of the Bill are supported by MSPs is due to take place on Tuesday 13th May. This issue is viewed as a matter of conscience and will be a free vote for all MSPs, including members of the Government.

There are three possible outcomes from this vote:

- The Bill is not supported and falls at this point
- The Bill passes and moves to Stage 2. At this point it would be expected to be referred back to the Health, Social Care and Sport Committee for further scrutiny but it would be possible for the Stage 2 process to be assigned to a different committee. During Stage 2, any MSP can propose amendments to the Bill.
- The Bill is referred back to the Health, Social Care and Sport Committee for a further report on the general principles of the Bill (delaying the Stage 1 vote)

We will provide a briefing to MSPs highlighting our key messages, hoping to inform the debate. While we believe it is not our role to support or oppose a change in the law, we strongly believe that the assisted dying debate must include discussion about how to make high-quality palliative and end of life care available and accessible to everyone. This will be the focus of our briefing to MSPs - that there should be additional investment in palliative care, and specifically sustainable funding for hospices, *regardless* of the outcome of the vote.

Further Information

Our private page for hospice members provides information on activity happening across the UK in relation to assisted dying: Assisted dying: information for members | Hospice UK

The Hospice UK position statement on assisted dying is publicly available: Assisted Dying | Hospice UK

If you have any further queries please email policyscotland@hospiceuk.org