The Scottish Parliament
Pàrlamaid na h-Alba

Finance and Public Administration Committee

Clare Haughey MSP
Convener
Health, Social Care and Sport Committee

28 January 2025

Dear Clare

Assisted Dying for Terminally Ill Adults (Scotland) Bill

As you are aware, the remit of the Finance and Public Administration Committee (the Committee) includes scrutiny of Financial Memorandums (FMs) for Bills. As such, the Committee has been examining the estimated costs and savings of the Assisted Dying for Terminally Ill Adults (Scotland) Bill.

The FM as drafted estimates year 1 and ongoing costs between £277,746 and £358,194 per annum, with the majority of costs falling on NHS health services, including registered medical practitioners, registered nurses, hospitals, and Public Health Scotland.

This figure includes other costs anticipated to fall on the Scottish Government (£54,639 - £92,628 for producing relevant guidance in year 1, £14,312 annual cost for reporting and £33,556 for a review of the legislation after 5 years), on regulatory bodies for training and guidance, and on the Crown Office and Procurator Fiscal Service and the Scottish Courts and Tribunal Service.

Following the Bill's introduction, the Member in charge wrote to the Committee on 17 June 2024[1], providing revised cost estimates, which separate year 1 costs from ongoing costs. According to the 17 June letter, year 1 costs are estimated to be "between £263,434 and £313,882, and ongoing costs rising year on year from between £23,107 and £35,566 in year 2, to between £160,186 and £368,954 in year 20".

A further letter was received on 14 October[2], providing revised costings in relation to clinician hours and potential ongoing cost of prosecutions. As stated in this second letter, "the net effect of these revisions is that […] estimated overall costs of the Bill, shows year 20 estimates as being between £156,067 and £362,230."

[1] Letter from Liam McArthur MSP to the Convener of 17 June 2024
[2] Letter from Liam McArthur MSP to the Convener of 14 October 2024

Contact: Finance and Public Administration Committee, The Scottish Parliament, Edinburgh, EH99 1SP. Email FPA.committee@parliament.scot. We welcome calls through Relay UK and in BSL through Contact Scotland BSL.

Following a call for views on the FM, which ran between 10 June and 16 August 2024 and received 22 responses[3], the Committee took evidence from the Member in charge on 17 December 2024[4].

During this evidence session, we heard that estimating costs has proven to be "extremely challenging and complex, because of a lack of meaningful data and/or precedent in many of the relevant areas". However, the Member argued that the figures in the FM "reflect a justified midpoint of the extremes of opinion and that they provide a reasonable estimate of likely numbers".

As with any FM before us, the Committee does not take a view on the policy set out in the Bill other than to recognise this is a complex and sensitive area, involving deeply held views on all sides of the debate. It is this Committee's role under Standing Orders to examine the extent to which FMs "set out best estimates of the costs, savings and changes to revenues to which the provisions of the Bill would give rise, and an indication of the margins of uncertainty". We seek to approach this scrutiny in a consistent and effective manner.

Direct costs

Our scrutiny of this FM has highlighted potential gaps in the information provided, including underestimates of the direct financial impact as well as of potential wider societal changes. We also found a lack of information on estimated savings that could arise from the Bill. This has led the Committee to conclude that the FM as introduced is not sufficiently comprehensive. We explain our findings in more detail below.

The choice of jurisdictions used for comparison purposes has raised concerns for a number of stakeholders. The FM provides an estimate of the likely number of terminally ill adults in Scotland who would make a declaration to be voluntarily provided with assistance to end their life, and the number of assisted deaths likely to take place, based on case numbers in the state of Oregon in the United States of America, and the state of Victoria in Australia.

It explains that the jurisdictions "were primarily chosen to inform estimated statistics for Scotland due to the amount of data on assisted deaths that they have collated and published. In addition, the assisted dying model in Oregon is very similar to that being proposed in Scotland". Some of the written submissions received by the Committee, however, highlight that the proposals in the Bill are more expansive than the legislation in either Oregon or Victoria and that Canada may be a more appropriate jurisdiction to consider.

The choice of jurisdiction used for comparison purposes has a significant impact on the figures presented in the FM. Based on data from Oregon, the FM assumes that "the number of assisted deaths in Scotland is likely to be low in the first years of operation, and then likely to rise as awareness and understanding of the process increases". As such, it estimates that approximately 25 people are likely to have an

[3] Published responses for Assisted Dying for Terminally Ill Adults (Scotland) Bill: Financial Memorandum - Scottish Parliament - Citizen Space
[4] Official Report

assisted death in year 1 in Scotland, rising to 400 people per year after 20 years of the legislation being implemented.

However, stakeholders suggested that, using the Canadian experience and adjusting for population numbers, “a wide interpretation of the law, which is possible as the Bill is currently written, would mean Scotland could expect 170-180 deaths in year 1, rising to 780-790 in year 3, 1330-1350 by year 5 and continuing to rise steeply”.

It was also noted in written evidence that “modern adopters [of assisted dying] see rapid rises in the numbers of assisted deaths.”

The Committee also explored the potential for an increased number of requests for assisted dying immediately following passage of the Bill. The Member suggested that, based on evidence from elsewhere, “you can quite confidently predict a relatively low number to start off with. The rise in public awareness over time, as well as the rise in public confidence, perhaps, and the confidence of medical practitioners and their ability to get through the required training in order to carry this out, helps to support or explain the increase in numbers that you have seen.”

The Committee is concerned that initial demand, and therefore, costs, may be significantly higher than anticipated given the likely significant rise in public awareness around assisted dying as a result of the wider debate in Scotland and the UK around the respective Bills under consideration, and the lack of timescales attached to life expectancy in the Bill as introduced.

The Member explained to the Committee that the proposed legislation does not create a ‘right to assisted dying.’ Instead, it sets a legal framework within which the service can take place. As explored during evidence, this could give rise to a so-called ‘postcode lottery’, where patients in some areas of Scotland may be unable to access medical professionals who can and are willing to provide the service.

Additional funding may therefore be required to address capacity issues, should demand outstrip available resources. The Member emphasised that the mechanism for annual reporting, and five-year review of the legislation, included in the proposal, will provide an opportunity to address “issues that might require to be addressed through funding streams”. The Committee’s view is that such issues should be addressed in the FM.

The submissions received also identified potential underestimates in relation to the amount of clinical time and additional staff involved in assessments, documentation, arranging independent doctors and liaising with legal authorities. Alongside these, stakeholders identified potential costs associated with setting up the place of death, setting protocols to deal with complications, indemnity and welfare support for professionals involved in assisted dying.

In addition, the Royal Pharmaceutical Society Scotland considers the assumption, in the FM, of £80 for each dose provided to a terminally ill adult to end their own life “is likely to be a huge underestimate of the actual cost for each dose, once all the costs of procurement, storage, facilitation, disposal etc. are considered”. We note, however, that the Society does not provide an alternative cost per dose.

In relation to the availability of welfare support for staff struggling with involvement, the Member noted that "a level of peer support through professional bodies will be necessary and desirable", and suggested that this should grow organically, rather than be introduced through the legislation. The provision of such support, however, will incur costs, which are not currently set out or acknowledged in the FM.

Indirect costs

While the Committee examines the costs of the Bill as drawn, we note that the proposals may have broader financial implications, including as a consequence of societal changes, which are not captured in the FM.

Stakeholders argued, in written evidence, that the proposals may for example have implications for palliative care and for funding for the palliative care sector. Concerns were raised in particular regarding the impact of the Bill on the ability of hospices to raise charitable funds, and the Committee heard calls for further data and research in this area. It was also noted that hospice staff may be involved in the assisted dying process, which would incur costs for these organisations.

The Committee also explored the potential cross-border behavioural impacts arising from this Bill. We heard from the Member in charge that the residence requirement included in the Bill would be unlikely to encourage those wishing to access the service to move to Scotland for this purpose. However, he also noted that while "the residence requirement is firm, […] people may well believe that it needs to be toughened up and extended—the Health, Social Care and Sport Committee might want to look at that."

We note that the accessibility, speed and costs associated with the process in either Scotland or the rest of the UK (should similar UK legislation be passed) could lead to cross-border travel in order to access the service, with financial implications for the NHS.

Potential savings

The FM emphasises that "while providing assisted dying as an option may lead to some cost savings in specific instances, this is not a policy aim of the Bill". It further states that "any savings are likely to be as a result of care no longer being required for a person who has decided to have an assisted death, and a person who may have previously chosen to end their life abroad, at a facility such as DIGNITAS, no longer doing so, due to assisted dying being lawfully available in Scotland".

The FM however does not provide an estimate of such potential savings, citing lack of available data and variations in existing types of end-of-life care and costs.

While recognising the sensitivities around the debate on the policy in the Bill, as well as the Member's statement that "saving money is not and never has been a policy aim of the legislation", Standing Orders require details on potential savings to be provided in all FMs, alongside cost estimates and other changes to revenues arising from the provisions in the Bill. We therefore conclude that estimated savings such as

medical and social care should have been included in the FM and suggest that these are now provided to inform future consideration.

We would invite the Health, Social Care and Sport Committee to consider, as part of your wider scrutiny of the Bill, the evidence received by this Committee on the FM, and to pursue further clarification from the Member in charge of the Bill on the matters highlighted in this letter.

Yours sincerely,

Kenneth Gibson MSP
Convener