End of Life Assistance (Scotland) Bill

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Thank you for giving West Dunbartonshire Council the opportunity to comment on proposed Bill. The proposal to permit physician assistance to persons who wish to end their own lives is both radical and controversial, falling between private values and morals and the need for clear legal and public policy on the matter. What is not in doubt is the desire of many for proper debate of the issues, set against fixed opinions of various individuals and organisations. For that reason itself, the debate around the Bill is welcomed, and it is hoped that the process can lead to greater clarity in the law and in public policy on end of life choices.

The Bill will highlight a number of moral dilemmas, legal complexities and differing beliefs and opinions on this question. That the matter should be debated publicly is not in doubt. What is not clear, in an area of great legal complexity and moral, spiritual and personal beliefs, is the course that we should follow on the matter and that is why this response outlines some of the arguments and dichotomies rather than giving a definitive answer to all of your questions.

Some issues worth considering:

1 Eligibility

Subsection 1(b) may allow “end of life tourism” or in the context of Scotland within the free borders of the United Kingdom, though it is difficult to legislate against this and presumably any legislative timescale limits around eligibility may result in some people who move to Scotland (for example) as part of a normal family move – which could be construed as unfair.

Subsection 2(b) requires further consideration as it states that someone who “is permanently physically incapacitated to such an extent as not to be able to live independently and finds life intolerable” may be eligible under the Bill. This could be interpreted as allowing some people to end their life for social, rather than health, reasons and that would be entirely wrong.

2 Capacity

Evaluation of capacity in an individual, for example in the Adults with Incapacity legislation, does not rely solely on evaluation by a consulting health professional. This is a legal process, often lengthy, and regularly involves social workers who are mental health officers. The question of evaluating capacity solely for the purpose of choosing to end ones’ life with assistance needs further consideration and debate – particularly as to whether the judgement of capacity should fall solely to a psychiatrist.

3 Age
This is one of the most complex issues raised. The age at which younger people are presumed to have rights and responsibilities varies enormously in different areas of legislation and public policy. You will be aware of the Justice Secretary’s recent announcement of a move to raise the age of criminal responsibility from the current age of eight to twelve, while the Adults with Incapacity (Scotland) Act 2000 defines an adult as “someone who has reached the age of sixteen years”. Our children’s hearing system of care and protection defines a child as someone who has not attained the age of sixteen years or someone over sixteen but who has not reached eighteen years and in respect of whom a supervision requirement is in force.

An important question here is whether or not young people under a certain age may be regarded as capable and a secondary question may be whether or not the excellent children’s hearing system should determine eligibility/capability on a case by case basis. Irrespective of differing views here, the proper care and protection of children must be balanced by the right of the child to make certain decisions for themselves.

4 Waiting Period

A waiting period of only 15 days seems too short to overcome situations of acute periods of depression or mood swings in some people who have suffered traumatic episodes of ill-health. It is not clear what the purpose of the stipulation of a maximum waiting time of 30 days serves. The difficulty in specifying a fixed waiting period is in trying to meet differing individual circumstances with a universal minimum waiting time period. Medical conditions, their prognosis and the stage of the disease of a chronic and/or degenerative condition, could each suggest different lengths of waiting period.

5 Designated Practitioners and Psychiatrists

Both the above people in this process should be required to state formally that there is no evidence of cohesion or persuasion from family, friends or professionals involved with the patient, and that they have no known interests or family links to the patient.

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